

PAPERS RELATING TO  
THE 1999 MINISTERIAL  
EXAMINATION OF  
GURKHA PENSIONS  
AND GRATUITIES

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23 December, 1999.

TERMS OF REFERENCE FOR THE WORKING GROUP ON GURKHA  
PENSIONS AND GRATUITIES

Membership:

Chairman: Minister(AF)  
Ex officio adviser: CDL

Members: Deputy Command Secretary (P&S) AG  
Col HQ Brigade of Gurkhas  
MOD Legal Adviser  
Hd Sec(O)  
DSPPol (Pensions)  
DPS(A) Col PS10(A)  
APC SEC  
Brig DSPS(A)  
FCO SAD

Secretariat: AG Gurkhas

Associate members: HQ Land BGS  
DPR(A)  
DASD  
DA Kathmandu/Commander BGN

Other members may be co-opted as necessary by the Working Group.

AIM:

To examine the British Gurkha service pensions and gratuity schemes in order to recommend to Minister (AF) any appropriate changes necessary within the context of the Tri-Partite Agreement (TPA).

OBJECTIVE:

To achieve fair and balanced pensions and gratuities for British Gurkhas which provide appropriate financial provision in relation to their Service in the British Army whilst recognising their status as Nepalese citizens and their return to Nepal on discharge.

SCOPE:

In discussions consideration will be given to:

- The political, legal, financial, economic and administrative implications of any recommendation.
- Consultation with the FCO on the political aspects of the TPA and the inter-governmental sensitivities in connection with India and Nepal.

- The Government Actuarial cost of living analysis (Nepal/UK).
- The DSS on War Widows pensions.
- Consultation with BHC Delhi and HMA Kathmandu
- Indian Army Pay and Pension Regulations and State benefits for disability and death.
- Pensions and gratuities made to British Army personnel.
- The Nepalese Parliamentary Committee on Gurkha pensions.
- Casework on Gurkha issues.
- Membership of British Army Insurance schemes.
- Gurkha Welfare Trust implications.

FINDINGS:

Report to Minister(AF) by 17 December 1999.

Proposed timetable for Working Group on Gurkha Pensions and Gratitudes.

Statement in Armed forces Personnel Debate to examine Gurkha pensions and gratuities within the context of the TPA .....	1 Jul 99
Notification to India and Nepal (via FCO) of intention to examine Gurkha pensions and gratuities .....	2 Jul 99
Agree Working Group Terms of Reference with Minister(AF) .....	16 Jul 99
Emerging findings .....	27 Aug 99
First Draft report .....	30 Sep 99
Final Draft report for circulation .....	3 Dec 99
Minister(AF) final approval .....	by 17 Dec 99

# **MINISTER(AF)'S EXAMINATION OF GURKHA PENSIONS AND GRATUITIES REPORT**

## **INTRODUCTION**

1. The death of SSgt Balaram Rai and Lt Gareth Evans in Kosovo highlighted the differences in the levels of death in service payments paid to British Gurkhas in comparison to their British Army counterparts. The subject generated a great deal of press and parliamentary interest. As a result a Working Group chaired by Min (AF) was established to examine British Gurkha pensions and gratuities in order to recommend any appropriate changes within the context of the Tri-Partite Agreement.

## **AIM**

2. To examine British Gurkha pensions and gratuities in order to recommend to Minister (AF) any appropriate changes necessary within the context of the Tri-Partite Agreement (TPA).

## **BACKGROUND**

3. In 1947, at the time of the partition of India and the United Kingdom, the Tri-Partite Agreement (TPA) was signed between the Governments of India and Nepal and the UK. The TPA remains the internationally recognised basis which enables Nepalese troops to be recruited and deployed in the British and Indian armies on a broadly comparable basis and, at the same time, protects the Gurkhas' status as Nepalese subjects throughout their service. Whilst the TPA has in the past and can continue in the future to be interpreted flexibly, the fundamental principles remain extant and will need to be adhered to in the spirit in which the agreement was written.

4. The TPA envisages that British Gurkha pay and pension rates will be linked to the Indian Army pay and pensions regulations. The last major review of pay and pensions was as a result of the 1996 5<sup>th</sup> Indian Government Pay Commission. This commission reports every 10 years and recommends pay and pensions awards for the Indian Army, which are then applied to British Army Gurkhas. Other changes continue to be implemented as notified by India.

5. Under the terms of the TPA all Gurkhas are discharged in Nepal and pension payments take no account of the cost of living outside Nepal. Pensions are paid immediately after completion of 15 years service, and increments for additional service and cost of living increases are applied from this point. A total of 26,574 British Gurkha pensioners, as at 1 October 99, were in receipt of a monthly pension from the UK Government ranging from £300 to £1000 a year divided between, 1378 officers, 19762 other ranks and 5434 family pensioners (widows and children). Gurkha pensions are paid net of tax and up to 100% of the pension can be passed on to a soldiers widow until her death or remarriage, and then to any unmarried children, up to the age of 25 years, or dependant parents in line with Indian Army pensions.

6. A revised package of Terms and Conditions of Service were introduced when on 1 July 1997, the majority of the Brigade of Gurkhas transferred to the UK after the withdrawal from Hong Kong. This revision corrected a number of anomalies that had arisen over the years and

included married accompanied service in the UK for the first time. Gurkha net take home income was also brought broadly into line with that of comparable British servicemen by the introduction of a 'Universal Addition'. This replaced the 'Gurkha Addition', a cost of living allowance, permitted by the TPA, that varied according to the theatre served in. Pensions were not reviewed as a part of this package since conditions for discharge and resettlement remained unchanged by the move of the home base to the UK.

#### INDIAN ARMY REGULATIONS

7. The pay, allowances and pensions of Indian Government employees, including members of the Armed Forces, are reviewed every 10 years by the Indian Government. The last review was the 1996 5<sup>th</sup> Indian Government Pay Commission (SIPC) which, after assessment by the MOD, resulted in the award of increases of up to 50 % to all 26,000 British Gurkha pensioners implemented for British Gurkhas in 1998 backdated to 1996.

8. The arrangements for, and the success of, the regular and timely passage of information between the Governments of India and the UK on pay and pension issues has varied over the years. It is hoped, however, that the UK/India staff talks held on 16 September 1999 have established a basis for a regular flow of information from the Indian Government which will result in the MOD receiving up to date information when the regulations are revised.

9. The staff talks provided information of a further revision of pension rates bringing the existing four groups of pensioners for Queens Gurkha Officers and Gurkha other ranks into a single category and Honorary Gurkha Commissioned Officers from three groups into a single category, using January 96 rates. As a result the older pensioners benefit, removing the considerable inequality between the older and more recent pensioners. This revision also allows the MOD to revise its employment grading, bringing all pensioners up to the 'X' grade of employment in accordance with the higher standard of training and skills obtained within the British Army. These adjustments will take effect from 1 April 00 and will result in increases for all pensioners at a total cost of £2.5M a year.

#### BRITISH ARMY PENSIONS

10. The Armed Forces Pensions Scheme (AFPS) is a salary related, contracted out, occupational pension scheme open to most members of the British Army. The scheme is non-contributory and the MOD bears the full cost, although military salaries are adjusted downward to take account of the additional benefits the scheme provides in comparison to civilian schemes. The AFPS provides immediate pension benefits to some personnel (less than 15%) but the majority are awarded preserved pensions, payable at age 60 years. Full pension is earned at age 55 and invalid and death benefits are payable for both attributable and non-attributable causes. Annual pension increases are awarded to protect against inflation but not applied until age 55 for immediate pensions and age 60 for preserved pensions. The annual pension increase is based on the Retail Price Index RPI, which is measured against a basket of goods by the Department of Trade and Industry and is the basis for all state pensions.

11. Gurkhas are eligible for the same contributory schemes as their British counterparts; i.e. the Army Department Assurance Trust (ADAT) and the Army Dependants Trust, with 100% take up.

## COSTS

12. The current annual cost to the UK Government for Gurkha pensions is £10.2M (1999/2000) (not including the further regrouping costs £2.5M see Para 9 above). The rates are reviewed each year to allow for an increase in the cost of living in Nepal. Pensions are based upon the Indian Army pay and pension regulations. They are calculated in Indian Currency Rupees and then converted into Nepalese Currency Rupees. These two currencies are pegged to offset any exchange rate variation between them.

13. The annual cost of living percentage applied to Gurkha pensions is based on the annual cost of living increase for Nepal that is assessed by HQ LAND Command for their Locally Employed Civilian (LEC) staff. HQ LAND's review is carried out for the purposes of locally employed civilians working mainly in Kathmandu with some in Pokhara – the majority being domestic and clerical workers. In the margins of the review the Working Group considered whether this was the most satisfactory method of assessing the cost of living. The decision was, that in the time available, it represented the most realistic comparison, but in view of the delays in receiving the information there would be merit in exploring other options. In doing so care would have to be taken to ensure that the comparison remained with the Nepalese cost of living and was not judged against outside agencies using a variety of imported goods. Further work is needed to establish the most appropriate index for the purposes of Gurkha pensions.

## CONSULTATION WITH THE NEPALESE AND INDIAN GOVERNMENTS

14. The examination took account of representations from the Nepalese Prime Minister and Foreign Minister during their visits last Autumn to the UK as well as comments by the Indian Ministry of Defence during the UK/India staff talks in September 99. Submissions made through HMA Kathmandu and Regimental Associations in Nepal were also taken into account.

## EX-SERVICEMEN'S ASSOCIATIONS

15. Ex-Servicemen's associations feature very strongly in Nepal. The most prominent of these are the Nepalese Ex - Servicemen's Association NESA and the Gurkha Army Ex-servicemen's Association GAESO. GAESO are the more militant of the two organisations and are closely linked to the Marxist-Leninist party in Nepal. They regard the existing pension and disablement scheme for Gurkhas as discriminatory when compared to their British Army counterparts. In the course of this examination HMA Kathmandu has consulted widely with all regimental associations as well as with NESAs and GAESOs. All have been grateful for the opportunity to air their views formally to the UK Government for the first time and to provide a contribution to the background to the Ministerial examination.

## EXAMINATION - STAGE 1

### DEATH IN SERVICE GRATUITIES

16. The first stage of the examination concentrated on resolving the disparity in death in service gratuities; given the continued deployment of Gurkhas in the Balkans and East Timor, and the possibility of a further casualty. For many years the death in service gratuities for British Gurkhas, based on Indian Army rates, have amounted to lump sum payments of around

£1,000 for all deaths attributable to service. As a result of the recent conflict in Kargil the Indian government have revised the payments made for death in action and introduced new rates, which took effect from the beginning of the Kargil operations (26 May 1999). The new Indian government gratuities comprise a number of parts; an ex-gratia payment of £14,000 to all ranks, the existing death gratuity of £1,000 and a variable Indian state government payment depending upon the state in which the soldier lived.

17. It was decided to realign the gratuities paid to British Gurkhas for death in service to take account of the new Indian rates but to substitute the variable Indian state Government grant with a UK element which would reflect the UK basing of British Gurkhas. This UK element brings payments for all deaths in service up to British Army rates. Although the Indian Army has restricted their payments to those killed in action, the Working Group decided to extend this to all deaths, whether in action or attributable to service, in order to remain in line with the British Army. The TPA allows for this kind of flexibility and it is understood by the Indian government.

18. This stage of the review was agreed by Minister (AF) and approved by HM Treasury. The Prime Minister announced the proposed revision to death in service gratuities on 27 October 1999. Official report Col 1012.

## EXAMINATION - STAGE 2

### PENSION INCREASES

19. The second stage of the examination related to pensions. The solution had to be found within the TPA, it had to be affordable, defensible and acceptable to Nepal, India and the UK, all of which had different audiences to satisfy. Instead of considering Indian Government cash payments in isolation, as in the past, the examination took a more strategic approach by reviewing the entire superannuation package agreed by the Indian Government for Indian Army ex-servicemen. In considering a superannuation package, considerable research was carried out into areas where, because of the proximity to Nepal, the Indians were able to provide benefits in kind. The Indian Army were not prepared to extend these facilities to British Gurkhas and replicating the provision of such facilities on a scale to meet the needs of British Gurkhas was considered but the costs proved prohibitive. The estimated cost of replicating these facilities identified an initial capital expenditure of around £22 million with annual running costs of £11 – 12 million per annum.

20. The Working Group felt that it would be wrong to attempt to put a cash value on each element of the Indian Army package of benefits in kind. Such a monetary figure would smack of false precision, not least because the take-up of the various facilities by individuals would probably vary considerably. The Group felt therefore that it could not attach a precise financial figure to the package as a whole. It did believe, on the basis of an assessment of the impact of the facilities on the quality of life of ex-Indian Army Gurkhas, that the effect of their availability was approximately to double the standard of living that the Indian pension would otherwise have delivered. On this basis the Working Group decided that a 'welfare related' cash uplift of around 100% of the existing basic pension would meet the various requirements of TPA, affordability and differing political sensitivities. The cost of doubling the service pensions for Gurkhas was estimated at £12.5 million a year and assessed as comparable to the running costs of MOD providing welfare facilities but without the capital expenditure. The



TPA allows for such flexibility as the principle is based upon equitable arrangements for Indian and British Gurkhas.

21. Approval from HM Treasury was given on 23 December 99 and an announcement was made the same day to double Gurkha pensions. It was welcomed by the Nepalese Government and accepted by the Indian Government.

#### PAYMENT IN STERLING

22. An additional point raised by the Ex-Servicemen's Associations and by the Nepalese Prime Minister and Foreign Minister when they visited the UK in October 99 was that pensions should be paid in sterling. This request arose from the perception that because of continuous fluctuations in the exchange rate between ICR's and Sterling the UK has over the past 10 years at least made money at the expense of the pensioners.

23. All Gurkha pensions are based on Indian Army rates and their value is based on the Indian economy. They are calculated at Indian currency rates of exchange and converted to Nepalese currency rupees; this ensures stable monthly payments. A translation to Sterling would move away from this basic principle and could cause fluctuations both up and down. The Sterling equivalent has no bearing on these payments and a relationship, which did take account of varying fluctuations, would have no logical basis.

24. The working Group consulted MOD Senior Finance Staff and found no reason to change the method of payment and decided to stand firm in not agreeing to any allowance for exchange rate fluctuations. The FCO supported the decision that was accepted by the Nepalese Government.

#### IMPLEMENTATION

25. The sensitive nature of this subject means it is important to be able to deliver the package of measures in a reasonable timeframe particularly in view of the complications involved in implementing the 5<sup>th</sup> Indian Government Pay Commission recommendations. The new Nepal Pension Payment System (NPPS), an IT system designed specifically for Gurkha pensions, is however, now operating satisfactorily after trials in the UK and Nepal and should be a sound foundation for the new increases.

26. The Working Group, including those members responsible for the implementation of the increases, agreed that the proposed pension increase could be accurately implemented with effect from 1 Apr 2000. The implementation process will be monitored to ensure accurate delivery.

#### CONCLUSIONS

27. This examination has remained within the provisions of the TPA and produced an equitable solution. In doing so, alignment with British pensions has been excluded.

28. The review has demonstrated that British Gurkhas are disadvantaged upon their retirement when compared to the Indian Army because of the benefits in kind provided to Indian Army ex-servicemen. This is contradictory to the spirit of the TPA.

29. Payments for all deaths attributable to service are brought into line with the British Army and at the same time reflect recent changes implemented by the Indian Army for deaths in action, so meeting the conditions of the TPA.
30. The close proximity of India with Nepal provides an environment that allows for a greater duty of care to be extended to servicemen. The need to compensate British Gurkhas for the lack of benefits in kind provided by India has been acknowledged and the introduction of a welfare related cash uplift to compensate for this disparity was agreed as the most appropriate means by which the British Government could redress this imbalance. A 100% increase to existing pensions was the agreed cash uplift.
31. There is no logical basis for pensions to be paid in Sterling to allow for exchange rate fluctuations and there is no devaluation of Gurkha pensions as a result of such fluctuations.
32. The annual LEC pay review carried out by HQ Land Command and used to apply to Gurkha pensions cost of living increases may not be the most appropriate index
33. This examination is intended as a final solution to the politically driven issue of Gurkha pensions.

### **RECOMMENDATIONS**

- Align death in service gratuities with British Army rates for all deaths attributable to service since 26 May 99.
- Include a welfare related cash uplift of 100% to basic Gurkha pensions to compensate for Indian Government benefits in kind with effect from 1 April 00.
- Further work should be undertaken to examine the calculation of the annual cost of living increase as applied to Gurkha pensioners.
- This examination will not be subject to further negotiation although Gurkha pensions will continue to be reviewed in the normal way and will benefit from annual cost of living increases