

ACC

10000/142/823

ITALIAN CIVIL SERVANTS
APR. 1944 - APR. 1945

FILE CLOSED 1 Apr11 1945

L.L.D. Oct. 19 1944, n. 301

REVISION OF THE CAREER OF CIVILIAN SERVANTS

ART. 1

All law provisions establishing priority for fascist meritis in view to appointments, promotions, advances in the career or to pensions in State administrations or autonomous Agencies or other Enti are abolished.

As regards personnel who on the date of entrance into force of this decree are in active service, the acknowledgements of priority arising from the above provisions are abrogated.

ART. 2

All provisions threatening disciplinary sanctions for behaviour contrary to the political views of the past Regime are abrogated.

ART. 3

All directions providing a shortening of the duration of service foreseen for the promotion of personnel as per art. 1 who are married men or widowers with children are abrogated.

Are abrogated also those directions establishing priority in the careers in favour of married men.

ART. 4

Except for the directions contained in L.L. July 24 1944, n. 159 personnel of the Administrations of the State who have obtained promotions to grade 8° of group A, grade 9° of group B and 11° of group B with a shortened period of service according to the above provisions, will not obtain further promotions until the employees who were previously ahead of them in priority lists have reached the necessary seniority to be promoted to the same grade.

This suspension of the scrutiny is not applied in favour of those who although admitted, have been left out, or having passed the examination, have not been qualified as fit for a promotion or have interrupted service.

ART. 5

Except for cases coming under decree July 27 1944, n. 159, those who in the graduated competitive lists or in the graduated lists of merits as per articles 27 and 30 of R.D. Dec. 30 1923, n. 2960 and

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This suspension of the scrutiny is not applied in favour of those who although admitted, have been left out, or having passed the examination, have not been qualified as fit for a promotion or have ~~not~~ ^{been} promoted service.

ART. 5

Except for cases coming under decree July 27 1944, n. 159, those who in the graduated competitive lists or in the graduated lists of merits as per articles 27 and 30 of R.D. Dec. 30 1923, n. 2960 and subsequent extensions have been classified with a given number of point on the basis of fascist merits and have been promoted accordingly, will be listed in the seniority list with the classification formerly obtained deducting the points for fascist merits.

To civil servants who owing to the above revision of the graduated lists happen to be placed ahead of those formerly promoted for fascist merits, if such preferment has prevented their promotion the directions of para 3° and 4° of art. 6 are applied. The rebuilding of the career must be defined within 6 months from entrance into effect of this decree;

ART. 6

The reassumption of service provided by art. 1 of R.L.D. Jan. 6 1944 n. 3 is foreseen also when retirement or ceasing from service has been caused by political motives, or when such measures have been taken on request of the employee wishing to escape political impositions. The economic effect of such reassumption start from Jan. 1 1944.

Employees resuming service according to art. 1 and to preceding para are reinstated in the grade they held at the moment of their ceasing

from service. The placing in the organization rolls at the moment of the reinstatement is according to seniority of grade. The time elapsed from the date of ceasing from office until reinstatement is considered as effectively service.

Within six months from the reinstatement the competent administration must examine the position of the reinstated employee; taking into account the former service, the professional training of the other employees who at the moment of the dismissal had the same grade and seniority, the administration figures out what promotion the reinstated employee might have obtained if remaining in office and rebuilds his career determining his seniority and his position in the rolls. To this end the reinstated employee, if belonging to the Armed Forces is given the same points for the scrutiny as if he had remained in service.

The promotion as per preceding para, by no means to a grade higher than that of the employees placed before the reinstated one in the rolls, may be conferred even in addition. No promotion in addition is allowed for grades of which an only place is provided in the organization rolls.

As regards officers of the Armed Forces the appraisal as per para 3° of this article must be preceded by trial period at an Enter or Armed Forces Unit of the duration of three months for the first promotion and of twelve months for the subsequent ones.

ART. 7

For the reinstatement provided by ar .1 of R.D.L. Jan. 6 19 4, n. 9 and by para 1 of this art. 6, in the administrations whose regulations establish age limits varying according to grades, the age limit for the reinstatement is considered according to the grade which the employee would have reached if he had not been dismissed.

ART. 8

The rebuilding of the career as per para 3° and 4° of art. 6 must be effected by the administrations even for the promotions of personnel who have remained in service but have had no promotion owing to not being inscribed in the suppressed fascist party.

Such promotions must be conferred within six months from entrance into effect of this decree.

Within such term will also be revealed all disciplinary measures for non fascist behaviour.

para 3° of this article must be preceded by trial period at an office or Armed Forces Unit of the duration of three months for the first promotion and of twelve months for the subsequent ones.

ART.7

For the reinstatement provided by ar .1 of M.D.L. Jan.6 19 4,n.9 and by para 1 of ~~Arts~~ art.6, in the administrations whose regulations establish age limits varying according to grades, the age limit for the reinstatement is considered according to the grade which the employee would have reached if he had not been dismissed.

ART.8

The rebuilding of the career as per para 3° and 4° of art.6 must be effected by the administrations even for the promotions of personnel who have remained in service but have had no promotion owing to not being inscribed in the suppressed fascist party. ⁷³

Such promotions must be conferred within six months from entrance into effect of this decree.

Within such term will ^{also} be repealed all disciplinary measures for non fascist behaviour.

If owing to such disciplinary measures the employee has suffered delays or has been left out of the promotions, his career must be rebuilt in with the procedure established in para 1 and 2.

Para 1 and 2 of this art. apply also to those who had been affected by the directions of Law Sept.25 1940, n.1405 concerning the promotions of bachelors.

ART.9

Promotions conferred according to art.6 and 8 of this decree have juridical effect from the date resulting from the rebuilding of the career.

Salaries relative to grades conferred on the base of the rebuilding of the career are computed as if they had been effectively received to the effect of figuring the average for the liquidation of the pension.

ART.10

The period of time from dismissal to reinstatement is computed

to the effect of pensions.

For the above period no deduction must be made for pensions on the salaries due after reinstatement.

ART.11

For those who had been pensioned or dismissed for political or racial grounds and cannot be reinstated either owing to old age or to inability to work a new liquidation of the pension must be effected previous rebuilding of the career according to art.6 para 3 taking into account the time elapsed from date of retirement or dismissal until date of reaching of age limit or date of inability on the basis of salaries they would have received if remaining in service.

In case of death of the pensioner, a new liquidation of the reversible pension must be effected.

The pension granted according to preceding para is effective from entrance into effect of this decree.

If it does not result from the decree of dismissal or of retirement that the cause was political, the ascertainment of such condition is committed to the competent Committee for the reinstatement of personnel dismissed on political or racial grounds.

ART.12

To the judges of the Consiglio di Stato or of the Corte dei Conti or to personnel on rolls of Avvocatura di Stato decree Aug.24 1944 n.183 is applied.

ART.13

Professors on roll of the Universities will according to art.1 of R.L.D. Jan.6 1944 n.9 be reinstated in the assignment they were holding at the same University where they were lecturing at the moment of their dismissal on political or racial grounds. The titular professor now in charge will be transferred to another similar professorship or to another University.

For other personnel the reinstatement is effected to assignment in the residence where they were at the moment of their dismissal, or in case this is not possible, in the next residence of equal importance available.

ART.14

When such reinstatement concerns an assignment which is the only

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or in case this is not possible, in the next residence of equal
importance available.

ART.14

When such reinstatement concerns an assignment which is the only
one in the organization rolls/ plans, the person actually in charge
will at his choice either be put on a waiting list or kept in service
with an inferior grade than which he had with enjoyment of the higher
treatment.

ART.15

In case the post held at the moment of the dismissal has been
abolished, the reinstatement is provided to another post for correspond-
ing or similar service, according to the judgment of the head of
the administration, even if the post is of an inferior grade.

Anyhow the employee is entitled to the economic treatment provided
for the grade formerly held.

ART.16

Personnel not di ruolo of the administrations of the State who
were not put on the rolls ~~before~~ ^{after} Jan. 6 1944 n.9 from fascist
can on their request to be ~~placed~~ ^{reinstated}

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into force of this decree be appointed to the initial grade of the career if they are in possession of the other qualification required and have not lost them, excepting the qualification of permanence in service.

The appraisal of such conditions is committed to the competent committee for the reinstatement of personnel dismissed on political or racial grounds. The committee will also give its view concerning their replacement into the rolls, taking into account the service effected by the employee.

The appointment may be made also in addition, subject to reincorporation at the next vacancy.

ART. 17

Are abrogated art. 9 of R.D. Jan. 6 1942 concerning the number of points to be conferred for the promotions to be effected according to art. 9 of the above decree.

Similarly all directions or regulations which are inconsistent with this decree are abrogated.

ART. 18

On proposal of the President of the Council of Ministers in agreement with the competent ministers directions will be issued unifying ~~the~~ to the present decree the rules governing the career of State Administrations with special organizations or the other public Enti.

ART. 19

This decree enters into force the day after publication in the Gazzetta Uff. del Regno.

WE ORDER...

Rome Oct. 19 1944

1189
D.L.L. 8 S. 1944 n. 234 (Gazz. U.I. 10 Nov. 1944, n. 65)

Regularizing the "assegno temporaneo di guerra" granted with RDL 8 July 1943, n. 610, and unduly paid in some provinces of the Kingdom.

Art. 1

Payments unduly made not fulfilling art. 4 of RDL 8 July 1943, n. 610 regulations, should be recollectied with a 1-20 monthly installment, to be deduced from the future increases of retributions which might be liquidated owing to any reason to debtors or from pensions in the cases when such debtors are placed on the retirement list.

Art. 2

The present decree is valid from the day following the date of publication on the Gazz. Uff.

We order to.....

4133

THE ALLIED COMMISSION

ALCO 394

Office of the Executive Commissioner

Ref 9/20/30

April 1945

SUBJECT: Italian State Employees in All Territory

TO: All Provincial Commissioners and SCACs

1 From time to time, questions arise as to the correct status and rights of individual members of the Italian civil service at present employed in Military Government Territory, e.g. questions as to an individual official's correct rank or grade or correct rates of pay or allowances. At present, such questions involve of necessity to be referred to the appropriate Italian Ministry for advice, as the Ministry is the only body in possession of the knowledge requisite for a decision. It has been decided that in future all such questions may be dealt with by direct correspondence between the appropriate Ministry and the dependent Provincial State Office.

2 This decision is subject to the following limitations:-

- a) it is limited to matters having application to an individual only: it does not authorize direct correspondence with the appropriate Ministry upon questions having a general application to a class or group of officials; it is limited to the ascertainment of the true facts and of the Italian administrative law and practice applicable thereto in an individual case: it does not authorize Italian Ministers in any way to alter the existing situation of the individual (e.g. to promote, demote or transfer him) without the consent of AC.

3 All such communications from the Prefect to the Ministry must, however, be sent through AC channels. The necessity for strictly observing these channels must be firmly impressed on the Prefect and measures taken to see that he adheres to them.

4 ICs/SCACs and PCs will place on all such communications a stamp or other indication containing the words "forwarded" or "seen" to indicate that the proper channels have been observed. ICs/SCACs and PCs are not required to examine in detail the Ministry's proposals or to express any opinion on them, unless they have some special reason for doing so.

5 Having therefore no instructions or directions of general application affecting any section or category of officials may be issued without prior consent of the Allied Commission. Hence the grant of any general increase in pay or allowances, or of any bonus or indemnity to a group or section of employees must be approved by the HQ Allied Commission.

6 Where salary, wage or pension changes of general application have been authorized in Italian Government territory, other than by decree, and it is considered desirable that like treatment shall be applied to All territory, the proper Italian Ministry will furnish copies of the relative circular or instruction to All territory is approved the circular.

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- 3) decisions having a general application to a class or group of officials; it is limited to the ascertainment of the true facts and of the Italian administrative law and practice applicable thereto in an individual case; it does not authorize Italian Ministers in any way to alter the existing situation of the individual (e.g. to promote, demote or transfer him) without the consent of AG.
- 4) All such communications from the Prefect to the Ministry must, however, be sent through AG channels. The necessity for strictly observing these channels must be firmly impressed on the Prefect and measures taken to see that he adheres to them.
- 5) AGs/SCAGs and ECs will place on all such communications a stamp or other indication containing the words "prevision" or "seen" to indicate that the proper channels have been observed. AGs/SCAGs and ECs are not required to examine in detail the Prefect's proposals or to express any opinion on them, unless they have some special reason for doing so.
- 6) AGs/SCAGs and ECs have no instructions or directions of general application affecting any action or category of officials may be issued without prior consent of the Allied Commission. Hence the grant of any general increase in pay or allowances, or of any bonus or indemnity to a group or section of employees must be approved by the AG Allied Commission.
- 7) Where salary, wage or pension changes of general application have been authorized in Italian Government territory, other than by decree, and it is considered desirable that like treatment shall be applied to AG territory, the proper Italian Ministry will furnish copies of the relative circular or instruction to the Allied Commission. If attention to AG territory is approved the circular instructions will be sent through AG channels to Regional Commissioners and SCAGs for delivery to the respective provincial State offices. If this arrangement finance officers will know that the salary or pension changes are authorized in AG territory, and the instructions will be delivered without postal delays.
- 8) Where arrangements do not confer on the Italian Government any authority to finance provincial State offices or to issue credit or direct payment orders in AG territory; except as already provided for expenditures chargeable to the budgets of the Ministries of War, Marine and Air, the State Railways, the State monopoly and to capitolo 202 in the budget of the Ministry of the Treasury.
- 9) Nothing in this letter shall compel a Regional Commissioner or SCAG to permit direct correspondences between a Ministry and Provincial State Office in AG territory should he not desire it.

→ OCTAG CONTINUED ON REVERSE OF THIS LETTER

Chief Counsel

CJO

Copy to: ~~Executive~~ (10), AG Sec (10) / 1 dependent S/CS.

Italian

→ CL RKS

16 APR 1947

NORMAN F. FISKE, Col
Acting Executive Commissioner

4423/

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

AO/4/30/LG.

1st April, 1945.

SUBJECT: Supply of Italian Prefectural Officials.

TO : All ROs and SCAGs.

1. This directive is intended to deal only with prefectural appointments below those of Prefect and Vice Prefect. It does not in any way affect the present practice with regard to the appointment of Prefects and Vice Prefects which will be dealt with in accordance with existing directives.

2. Owing to the shortage of Italian trained personnel, only key positions of a Prefecture can in future be supplied by officials sent from ROME. Such key positions are:

Councillors ("Consiglieri")
Chief Accountants ("Ragionieri Cap")

For the same reason, the normal complement of Councillors at a Prefecture will be limited to two, save in a few of the most important provinces.

3. For other administrative positions, the Prefect must use every endeavour to recruit temporary employees ("avventizi") in the locality. The rules governing the engagement and conditions of service of such temporary employees are well known to career Prefects and Vice-Prefects. Only if it is impossible to recruit a temporary employee should application be made for an official to be sent from ROME.

4. The remainder of this circular deals with the procedure to be adopted in future when it is desired to have an administrative official below the rank of Prefect and Vice Prefect sent from ROME to fill a vacancy at the Prefecture.

5. The Prefect will in future report direct to the Minister of the Interior, giving particulars of the officials already in service and stating his requirements.

6. All such communications from the Prefect to the Ministry must, however, be sent through AO channels. The necessity for strictly observing these channels must be firmly impressed on the Prefect and measures taken to see that he adheres to them.

7. ROs/SCAGs and FUs will place on all such communications a stamp or other indication containing the words "Approved" or "Not Approved" in accordance with the

For the same reason, the normal complement of Councilors of Prefecture will be limited to two, save in a few of the most important provinces.

3. For other administrative positions, the Prefect must use every endeavour to recruit temporary employees ("avventizi") in the locality. The rules governing the engagement and conditions of service of such temporary employees are well known to career Prefects and Vice-Prefects. Only if it is impossible to recruit a temporary employee should application be made for an official to be sent from Rome.

4. The reminder of this circular deals with the procedure to be adopted in future when it is desired to have an administrative official below the rank of Prefect and Vice Prefect sent from Rome to fill a vacancy at the Prefecture.

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6. All such communications from the Prefect to the Ministry must, however, be sent through AO channels. The necessity for strictly observing these channels must be firmly impressed on the Prefect and measures taken to see that he adheres to them.

7. ROs/SGAOs and P's will place on all such communications a stamp or other indication containing the words "forwarded" or "Seen" to indicate that the proper channels have been observed. ROs/SGAOs and P's are not required to examine in detail the Prefect's proposals or to express any opinion on them, unless they have some special reason for doing so.

8. An official designated by the Ministry of the Interior for service at a Prefecture will report to Local Government Sub-Commission for travel orders. The Sub-Commission will dispatch him to Regional/Army HQ, as at present. Every such official will bring with him a letter of introduction in the form given in the Appendix, a copy of which will also be sent by post.

9. Facilities no longer exist for screening every such official before dispatch, as in the past. Instead, use will be made of the operation procedure for which the Italian Government is responsible (see the statement as to operation in para. 3 of the Form in the Appendix). No official will be sent for duty in Military Government Territory without either this operation certificate or having been screened.

10. If a reasonably adequate staff is not obtainable by these methods or if there is unreasonable delay in obtaining it, the IG should report specifically

- 2 -

on the facts, and this HQ will take the matter up with the Italian Government. For a variety of reasons, however, considerable delay is to be expected. Correspondence between AG officers in the field and this HQ as to officials below the grade of Vice-Protect Inspector should be kept to the minimum.

1113
G. R. UPJOHN, Brig.
VF CA SECTION.

Appendix attached.

Distribution:-

RC Toscana Region	(10)	(For POs)
RC Umbria-Marche Region	(10)	"
SCAO AMG 5 Army	(10)	"
SCAO AMG 8 Army	(10)	
C-5. 15 Army Group	(2)	
HQ 4 Corps	(2)	
Office of Ev. Comm.	(2)	
Economic Section	(6)	
Civil Affairs Section	(2)	
Public Safety S/C	(1)	
Public Health S/C	(1)	
Legal S/C	(1)	
Patriots Branch	(1)	
Dispers S/C	(1)	
Education S/C	(1)	
MEA & A S/C	(1)	
RC EMILIA REGION	(10)	
RC LIGURIA REGION	(10)	
RC PIEMONTE REGION	(10)	
RC LOMBARDIA REGION	(15)	
RC VENEZIA REGION	(20)	



APPENDIX

MINISTRY OF THE INTERIOR
Direction General of General
Affairs and Personnel

Rome 1945

Section Division

File No. Enclosures

To the
ALLIED COMMISSION
Local Government Sub Commission

SUBJECT: Official for the Prefecture of

1. The bearer of this letter is:

<u>Surname</u>	<u>Title and rank</u>	<u>Grade</u>
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2. After correspondence between this Ministry and the Prefect through the medium of the Allied Commission, it is considered necessary to send this official to the said Prefecture to undertake the functions of

3. This official has been submitted to censure and adjudged
(no case for sanctions) + The time limit for appeals has expired.
(censure .)

OR

3. This official is not liable to censure as he does not come within any of the conditions envisaged by the law as to sanctions against Fascism.

4. May arrangements please be made for him to travel to the said Prefecture.

FOR THE MINISTER

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NOTE: (1) Delete at + the words inapplicable
(2) For Italian translation, see back.

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3. This official has been submitted to censure and adjudged (no case for sanctions) + The time limit for appeals has expired.
(censure)

OR

3. This official is not liable to censure as he does not come within any of the conditions envisaged by the law as to sanctions against Fascism.
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FOR THE MINISTER

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NOTE: (1) Delete at + the words inapplicable
(2) For Italian translation, see back.

1st Indorsement

Ref

TO RC/SCAO

Date 1945

1. Arrangements have been made for the above-mentioned official to travel to your HQ by on

2. This... } copy is sent with the official concerned as an introduction.
Another }
This... }
Another } copy is being sent to you by post.

Director
Local Government Sub Commission

MINISTERO DELL'INTERNO
Direzione Generale degli Affari
Generali e del Personale.

Roma 1945

Sezione Divisione

Prot. No.

ALLA: COMMISSIONE ALLENITA
Sottocommissione Governo Locale

OGGETTO: Funzionario per la Prefettura di

1. Il latore di questa lettera e' :

Cognome

Titolo e Nome

Grado

2. In seguito a corrispondenza intercorsa tra questo Ministero ed il Prefetto per il tramite della Commissione Allentata, si considera necessario inviare questo funzionario alla predetta Prefettura per assumere le funzioni di

3. Il funzionario e' stato sottoposto a giudizio di epurazione e giudicato con : (non luogo a sanzioni) + I termini utili per i ricorsi sono scaduti. (censura.)

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+3. Il funzionario non risulta suscettibile di giudizio di epurazione in quanto non rientra in alcuno delle ipotesi previste dalla legge per le sanzioni contro il fascismo.

4. Si prega di provvedere al trasporto del funzionario alla sopradetta Prefettura.

PEL MINISTRO

inviare questo funzionario alla predetta Prefettura per assumere le

funzioni di

3. Il funzionario e' stato sottoposto a giudizio di epurazione e giudicato con : (non luogo a sanzioni.) + I termini utili per i ricorsi sono scaduti. (censura.)

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4. Si prega di provvedere al trasporto del funzionario alla sopradetta Prefettura.

PEL MINISTRO

+NOTA: (1) Cancellare ove non necessario
(2) Per trasmissione **Inglese** v. lista a. targo.

HEADQUARTERS ALLIED COMMISSION
APC 394
FINANCE SUB-COMMISSION
TEL: 417/553

13006/P

25 March 1945

SUBJECT : Italian State Employees in
AMG Territory.

TO : Vice-President, Civil Affairs Section (8)
(for Sub-Commissions)
Vice-President, Economic Section (8)
(for Sub-Commissions)
Director, Public Relations Branch
Director, WED & IPW Sub-Commission
Director, Communications Sub-Commission.

1. The attached copy of a finance circular which has been issued to all Finance Officers of Allied Military Government is transmitted for your information.

2. Complementary instructions have been issued to the Ragioniere Generale dello Stato, Ministry of the Treasury, who has been requested to notify all Italian State ministries accordingly.

Signed: B. E. L. SIMMONS
1945/3/25

Joint Director,
Finance Sub-Commission

HLB/msg

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25 MARCH 1945

HEADQUARTERS ALLIED COMMISSION
APO 394
FINANCE SUB-COMMISSION

13006/F

21 March 1945.

SUBJECT: Italian State Employees in AMG Territory

TO : All Regional Finance Officers and
Senior Finance Officers.

1. It has been decided that all establishment questions affecting individual members of the Italian civil service at present employed in AMG territory shall in future be dealt with by direct correspondence between the parent ministry and the dependent provincial State office. This arrangement is limited to matters having individual application only, for example, seniority in grade, promotion, increments of salary, rates of travelling and subsistence allowances, retirement and pension, marriage and birth premiums, etc.
2. In AMG territory no instructions or directions of general application affecting a section or category of officials may be issued without prior consent of the Allied Commission. Hence the grant of any general increase in pay or allowances, or of any bonus or indemnity to a group or section of employees must be approved by the Allied Commission.
3. Where salary, wage or pension changes of general application have been authorised in Italian Government territory, other than by decree, and it is considered desirable that like treatment shall be applied in AMG territory, the proper Italian ministry will furnish copies of the relative circular or instruction to the Finance Sub-Commission. If extension to AMG territory is approved the circular instructions will be sent through Allied official channels to Regional Finance Officers for delivery to the respective provincial State offices. By this arrangement Finance Officers will know that the salary or pension changes are authorised in AMG territory, and the instructions will be delivered without postal delays.
4. These arrangements do not confer on the Italian Government any authority to finance provincial State offices or to issue credit or direct payment orders in AMG territory; except as already provided for expenditures chargeable to the budgets of the ministries of War, Marine and Air, the State Railways, the State Monopoly and to capitolo 202 in the budget of the Ministry of the Treasury.

By Command of Rear Admiral STONE.

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for - B E K J. [Signature]
Joint Director,
Finance Sub-Commission

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HEADQUARTERS ALLIED COMMISSION
AFO 394

23 February 1945

Executive Memorandum
No. 30

Amendment No. 1

APPOINTMENT OF PREFECTS IN NORTHERN ITALY

1. Under the provisions of Executive Memorandum No. 30, para 1(d) PREFECTS of Provinces in Military Government Territory are appointed or removed by order of RC, but only with prior approval of HQ AC.
2. Prior consent of AC is not required for VICE PREFECTS and officials of junior rank in Prefectures. These are appointed by the Prefect with the approval of the RC, who places his "visto" on the Prefect's order of appointment.
3. Para 1(b) of Executive Memorandum No. 30 is hereby amended to authorize RC's EMILIA, LIGURIA, LOMBARDIA, PIEMONTE and VENETIA Regions to appoint and remove Prefects Regent without first obtaining the approval of HQ AC.
4. Any such appointment or removal is, however, to be reported as soon as possible to HQ AC with full particulars of the person appointed or the reasons for the removal.


 Brigadier
 Executive Commissioner

Distribution "A"

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Filed in file of 24 Feb 45

HEADQUARTERS,
ALLIED CONTROL COMMISSION,
APO 394

Regional Control and Military Government Section.

Ref: 350/47/CM.

18th July 1944.

EXECUTIVE MEMORANDUM

NUMBER

70

APPOINTMENTS TO THE OFFICE OF PREFECT
IN MILITARY GOVERNMENT TERRITORY

1. This Memorandum is supplementary to Executive Memorandum No. 12 dated 12th June 1944.
2. Since that date and consequent upon the Fall of Rome, a number of fully qualified Prefects have become available for forward provinces. The Italian Government now represents that these officials should retain the title of their rank and not be appointed as Reggenti.
3. Paragraph 3 of Executive Memorandum No. 12 is cancelled and the following substituted:-
 - "3. In future Allied Military Government appointments the title "Prefetto" will only be used if the appointee is already of the rank of Prefect. If the candidate selected is of junior rank or is not a career official, the title "Prefetto Reggente" will be used. The Italian Government lay great stress on the use of the word "Reggente" in such cases.
 - "3a. When a candidate is sent forward from the rear, Interior Sub-Commission will, when moving up the candidate, advise the Regional Commissioner or Senior Civil Affairs Officer as to the proper title. When it is proposed to appoint a local man, the Regional Commissioner or Senior Civil Affairs Officer will first inform the Sub-Commission, by telegram if necessary, and give all requisite particulars, so that the Sub-Commission can advise in such cases also. Care will be taken "not to give a candidate who may only be qualified to be appointed "Reggente" the impression that he is going to receive the substantive rank of "Prefetto".
 - "3B. When the appointment is that "Prefetto Reggente" that title will invariably be used in formal document and official communications, both by the Reggente and by officers of Allied Military Government.

rank and not be appointed as Reggenti.

3. Paragraph 3 of Executive Memorandum No. 12 is cancelled and the following substituted:-

"3. In future Allied Military Government appointments the title "Prefetto" will only be used if the appointee is already of the rank of Prefect. If the candidate selected is of junior rank or is not a career official, the title "Prefetto Reggente" will be used. The Italian Government lay great stress on the use of the word "Reggente" in such cases.

"3A. When a candidate is sent forward from the rear, Interior Sub-Commission will, when moving up the candidate, advise the Regional Commissioner or Senior Civil Affairs Officer as to the proper title. When it is proposed to appoint a local man, the Regional Commissioner or Senior Civil Affairs Officer will first inform the Sub-Commission, by telegram if necessary, and give all requisite particulars, so that the Sub-Commission can advise in such cases also. Care will be taken not to give a candidate who may only be qualified to be appointed "Reggente" the impression that he is going to receive the substantive rank of "Prefetto".

13

"3B. When the appointment is that "Prefetto Reggente" that title will invariably be used in formal document and official communications, both by the Reggente and by officers of Allied Military Government; but there is no objection to the Reggente being addressed or referred to in ordinary conversation as the Prefect."

4. When the appointment is that of "Prefetto", the words "Regent" and "Reggente" in the form shown at Appendix "A" to Executive Memorandum No. 12 will be deleted.

LEGAL SUB-COMMISSION	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	
CL	RKS
DISTRIBUTION:	
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Brigadier,
Executive Commissioner.

HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.G. SECTION
APO 394

Ref/348/25/CA

16 June 1944

EXECUTIVE MEMORANDUM)

NUMBER : 62)

FILLING OF VACANCIES IN ITALIAN CIVIL SERVICE POSITIONS

1. The Italian Government has called attention of the Allied Control Commission to the fact that in Military Government Territory, A.C.C. officers not only have filled vacancies in the Italian civil service structure but also have attempted to change the civil service grade of the person installed in office by promoting him from one grade to another.

2. Cases have also arisen where A.C.C. officers have extended the appointment of an official for a fixed term of years.

3. As a matter of military necessity an occupying power may dismiss any civil servant from office and may fill any vacancy by temporary appointment for the duration of the occupation. Furthermore the temporary appointee as long as he continues in such office may be paid the salary commensurate with the office he so fills. However, an occupying power may not change the civil service grade of such temporary appointee nor appoint him for a fixed term of years. No reason of military necessity requires it and consequently that is beyond the power of an occupant.

4. Any such purported change in grade or extended appointment for a fixed term of years whether made on the verbal or written order of an A.C.C. office not only is not binding on the Italian Government but is also the source of later embarrassment to the appointee when he learns that such purported promotion in grade or appointment is not later binding on the Italian Government.

5. Where any such promotions in grade or extension of appointment for a fixed term of years have been made, the orders purporting to do so must be so amended as to ensure that their temporary nature is understood by all concerned.

6. In making temporary appointments it must be clear that the appointments are temporary only. This is particularly necessary where an official is being appointed to an office of higher grade than that which he is currently occupying.

2A 6 Not
LEGAL ✓

appointment of an official for a fixed term of years.

3. As a matter of military necessity an occupying power may dismiss any civil servant from office and may fill any vacancy by temporary appointment for the duration of the occupation. Furthermore the temporary appointee as long as he continues in such office may be paid the salary commensurate with the office he so fills. However, an occupying power may not change the civil service grade of such temporary appointee nor appoint him for a fixed term of years. No reason of military necessity requires it and consequently that is beyond the power of an occupant.

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5. Where any such promotions in grade or extension of appointment for a fixed term of years have been made, the orders purporting to do so must be so amended as to ensure that their temporary nature is understood by all concerned.

6. In making temporary appointments it must be clear that the appointments are temporary only. This is particularly necessary where an official is being appointed to an office of higher grade than that which he presently holds.

7. Unless the filling of a vacancy requires an immediate temporary appointment, it is likely that through inquiry of the Italian Government it will be found that there is available for immediate placement a civil servant of appropriate grade and qualification. Any requests for suitable substitutes should be made to the appropriate sub-commission.

LEGAL SUB-COMMISSION

CLO

DCLO

Chief Counsel

CJO

DISTRIBUTION:

R.C.'s Regions III, IV, V, VI, VII and Rome.
S.C.A.O.'s 5 & 8
Admin. Section (6)
Economic Section (6)

Executive Commissioner

M.S. LUSH
Brigadier

MSL/JR

1-207

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HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.G. Section
APO 394

7A

1045

Ref/348/22/CA.

14 June 1944.

SUBJECT : Promotions of Italians in M.G. Territory.

TO : R.C. Region III.

1. The Italian Government has reported that :

- (a) certain Italians have been appointed to governmental positions,
- (b) promotions of Italian governmental officers have been made in grade,

and that these appointments and promotions have been ratified by Regional Orders.

2. Legal Sub-Commission advise that officers of Allied Military Government, whilst empowered to remove Italian officials and appoint temporary substitutes, do not have power to make permanent appointments and promotions in grade that will be binding on the Italian Government.

3. Legal Sub-Commission further point out that a person acting as substitute gets the salary called for by the position he is filling even though he is doing so temporarily.

4. Obviously such appointments and promotions embarrass the Italian Government. The officials concerned are also embarrassed when they learn that promotions ordered by A.M.G. are illegal.

5. Will you therefore ensure, in the light of the foregoing, that the temporary nature of the appointments and promotions made by Regional and Provincial Orders is fully understood by the Italian Government servants concerned.

6. An Executive Memorandum on this subject is in course of preparation. Your action should anticipate the publication of the memorandum.

Copy to: Legal Sub-Comm.
Communication Sub-Comm.

M.S. LUSH,
Brigadier,
Executive Commissioner.

WDW/RAC.

AMC

NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

12 June, 1944.

REFERENCE : ACC/4133/L.

SUBJECT : Promotions to Italians in Military Government Territory.

TO : Executive Commissioner, ACC.

... With further reference to our letter ACC/4133/L dated 10 June 1944
and in response to telephone call in that regard from R.C. & M.G. Section,
enclosed is a suggested form of Executive Memorandum.

RICHARD H. WILMER.
Colonel, C. A. G.
Deputy Chief Legal Officer.

RHW/ew.

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394

(63)

EXECUTIVE MEMORANDUM)

NUMBER)

June 1944.

FILLING OF VACANCIES IN ITALIAN CIVIL SERVICE POSITIONS

1. The Italian Government has called attention of the Allied Control Commission to the fact that in Military Government Territory, A.C.C. officers not only have filled vacancies in the Italian civil service structure but also have attempted to change the civil service grade of the person installed in office by promoting him from one grade to another.
2. Cases have also arisen where A.C.C. officers have extended the appointment of an official for a fixed term of years.
3. As a matter of military necessity an occupying power may dismiss any civil servant from office and may fill any vacancy by temporary appointment for the duration of the occupation. Furthermore the temporary appointee as long as he continues in such office may be paid the salary commensurate with the office he so fills. However, an occupying power may not change the civil service grade of such temporary appointee nor appoint him for a fixed term of years. No reason of military necessity requires it and consequently that is beyond the power of an occupant.
4. Any such purported change in grade or extended appointment for a fixed term of years whether made on the verbal or written order of an A.C.C. office not only is not binding on the Italian Government but is also the source of later embarrassment to the appointee when he learns that such purported promotion in grade or appointment is not later binding on the Italian Government.
5. Where any such promotions in grade or extension of appointment for a fixed term of years have been made, the orders purporting to do so must be rescinded forthwith.
6. In making temporary appointments it must be made clear that the appointments are temporary only. This is particularly necessary where an official is being appointed to an office of higher grade than that which he presently holds.
7. Unless the filling of a vacancy requires an immediate temporary appointment, it is likely that through inquiry of the Italian Government it will be found that there is available for immediate placement a civil servant of appropriate grade and qualification. Any requests for suitable substitutes should be made to the appropriate sub-commission.

By Command of Lieut. General MACFARLANE.

M.S. LUSH,
Brigadier,
Executive Commissioner.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

RHM/gmf

ACC/4133/L

10 June 1944

SUBJECT: Promotions of Italians in Military Government Territory.

TO : Executive Commissioner, ACC.

1. The Director, Communications Subcommittee has asked our advice on the power of AMG to appoint an Italian to a civil service position and to change on a permanent basis his civil service grade so that it will be binding on the Italian Government hereafter. We have advised the Director that, while in the exigencies of Military Government Italian officials may be removed from office and others substituted, officers of AMG do not have the power to make a promotion in grade which will be binding on the Italian Government. A person acting as a substitute gets the salary called for by the position he is filling even though he is doing so temporarily.
2. The above question was prompted by the fact that the RC Region 3 is reported by the Italian Government to have not only appointed certain Italians to governmental positions in Region 3 but also by order to have promoted them from one grade to a higher grade.
3. Obviously such promotion in grade is beyond the power of the occupant of occupied territory. It embarrasses the Italian government and it will also embarrass the official himself when he learns that the promotion in grade is illegal. Furthermore it will not serve to enhance the prestige of AMG.
4. The Italian Government in a long letter to the Director, Communications Subcommittee cites many specific instances of this purported promotion in grade.
5. For the reasons above expressed, I feel that the R.C. Region 3 should be advised of the error in this connection and be directed that so much of each order which purports to promote in grade, whether made on a regional or provincial basis, be rescinded.
6. To avoid the same error being repeated in other parts of Military Government Territory I think it not out of place to suggest that a general directive be issued on this subject. If you desire, I will be glad to prepare a draft of such directive for you.

Richard H. Wilson
for Col Carr
G. R. UPJOHN, Colonel
Chief Legal Officer.

Copy to Director, Communications Sube.

6th June 1944

SUBJECT: Rights of occupying Powers over State employees.

TO : Deputy Chief Legal Officer.

1. The rights of an occupying power over employees of the State whose territory is occupied are limited by the principle that the sovereignty of the Government of the occupied State is only temporarily latent and does not pass to the occupant. The occupant's rights do not extend beyond measures for the purposes of the war, the maintenance of order and safety, and the proper administration of the country. (IHL para 354).

2. For the above purposes the occupant is entitled to suspend officials or alternatively to permit them to continue their functions, though he cannot compel them to continue. (IHL para 359).

3. The occupant is not in any permanent sense the legal successor of the Government of the occupied State. He does not succeed to the rights or obligations of any contract of service affecting the State employees; nor, as already mentioned, does he succeed to any authority which that government had over its employees. Any authority which he has over them is derived from an independent source; it is based on the fact of occupation.

4. Applying the above principles to the question as to how far the occupant can alter the grades, ranks or authority of state employees, the answer is in my opinion as follows:

(a) For the purpose of the measures mentioned in paragraph 1, the occupant has an unrestricted right to entrust any functions to any state employee who is willing to assume them, to whatever extent those functions may differ from those which the employee was exercising under his own government. Within these limits the occupying power can confer on state employees temporary authority on any plane he may decide. He may create his own grades and designate them by his own title.

(b) No act done by the occupant under subpara (a) above is of any continuing validity beyond the term of his occupation. No appointment made by him is in any way binding on the government of the occupied state, nor can it confer on any state employee any right against that government. Any purported interference with the Italian grades of state employees is of no legal validity.

Captain

4133 ✓

Admin. Section

HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.G. SECTION
APO 394

18 MAY 1944

Ref/272/31/CA

SUBJECT: Italian Civil Servants.

TO : R.C.'s Regions III, and V.
S.C.A.O.'s 5th and 8th Armies.

1. The demand for Italian civil servants increases as the area under Italian Administration grows and the organs of government are normalized.

2. With the object of filling the existing gaps in the ranks of Italian officials and of constituting a pool of civil servants available for future demands a Decree-Law was promulgated in unoccupied territory on 3 January 1944-no. 3.

3. This law provides that "functionaries and civilian employees of the State and State Administrations with autonomous set-up, residing or living in the liberated territories, who have been unable to reach their offices for causes due to State of War, must report without delay, and in any case not later than 15 days from date of publication of the Decree, to the nearest Prefecture in order to be sent to their seats, if possible, or eventually to be sent to or employed in other offices". Provisions are also made for adjusting salaries and allowances, regulating official status and imposing penalties for non-compliance.

4. It is considered desirable that the provisions of this Decree -Law be implemented in territory under Allied administration so that the recuperation of personnel may attain its maximum and be progressively applied to further territories as they come first under AMG and eventually under Italian Administration.

5. Accordingly steps are being taken to effect such implementation by the insertion of a special endorsement in the Italian "Official Gazzette".

6. In the event of any of the functionaries referred to in para 3 above being proposed for appointment by the Italian Government or by prefects locally, the power to accept or reject will remain with Regional or Provincial Commissioners as the case may be.

LEGAL SUBCOMMISSION	
CLO	✓
CH	
CJ	
Italo	
CL RKS	

Copy to:

R.C. Region I
R.C. Region II
R.C. Region VI
R.C. Region VII
Admin. Section (3)

M.S. LUSH
Brigadier
Executive Commissioner

Major Thacker (info)
noted and
19/5/44.

18 May 1944
republished in G.U.
no 25- not yet
affiliated

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

ART/ap

3A

ACC/4133/L

28 April 1944

SUBJECT : Position of Civil Servants (Italian Govt.).

TO : V. F. Administrative Section.

1. In accordance with the letter from the Deputy Executive Commissioner Ref. 272/5/CA dated 23 April 1944 on file returned herewith, it being considered desirable to apply the RDL in question to occupied territory, as requested a draft is annexed of an explanatory instruction to RCS, *to be signed by the Executive Commissioner.*

2. Steps have been taken to implement the decree No. 3 in the "Gazzetta Ufficiale" at an early date.

*Interim Sub G
File No 4/5/int*

G. R. UPJOHN,
Colonel,
Chief Legal Officer.

(3B)

D R A F T

ART/ap

ACC/4133/L

28 April 1944

SUBJECT : Italian Civil Servants.

TO : RCs Regions 1, 2, 3 & 7.

1. The demand for Italian civil servants increases as the area under Italian administration grows and the organs of government are normalized.

2. With the object of filling the existing gaps in the ranks of Italian officials and of constituting a pool of civil servants available for future demands a Decree-Law was promulgated in unoccupied territory on 3 January 1944- no. 3.

3. This law provides that "functionaries and civilian employees of the State and of State Administrations with autonomous set-up, residing or living in the liberated territories, who have been unable to reach their offices for causes due to State of War, must report without delay, and in any case not later than 15 days from date of publication of the Decree, to the nearest Prefecture in order to be sent to their seats, if possible, or eventually to be sent to or employed in other offices". Provisions are also made for adjusting salaries and allowances, regulating official status and imposing penalties for non-compliance.

4. It is considered desirable that the provisions of this Decree-Law be implemented in territory under Allied administration so that the recuperation of personnel may attain its maximum and be progressively applied to further territories as they come first under AMG and eventually under Italian Administration.

- 2 -

15. Accordingly steps are being taken to effect such implementation by the insertion of a special endorsement in the Italian "Official Gazette" in conformity with the procedure exemplified in the annexed copy of the circular letter addressed to Provincial Commissioners by the Legal Sub-Commission.

Enclos :

Copy of explanatory
circular.

Brigadier
Executive Commissioner.

4133

HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.G. SECTION
APO 394

(2A)
Legal
These are for your file 4133

Ref/272/5/CA

23 April 1944

SUBJECT: Position of Civil Servants (Italian Government).

TO : Admin. Section.
for Att: Interior and Legal Sub-Commissions.

1. The attached papers are forward to you for an opinion as to whether the decree-law No. 3 of January 3, 1944 (Italian Government) is applicable in occupied territory.
2. If in your opinion it is so applicable would you please draft
 - a) a cover therefor
 - b) an explanatory instruction to R.O's which will cover the whole subject.
3. Copy of interim reply to Marshal Badoglio is attached.

for
NORMAN E. FISKE
Colonel
Deputy Executive
Commissioner

Incls:

Royal Law Decree of Jan. 3, 1944 No. 3 (Italian-English)
List of Personnel of the Ministry of the Interior (Italian)
Copy of translation of letter from Marshal Badoglio to
Lieut-General MacFarlane.

4133
HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.G. SECTION
APO 394

(A)

Ref/272/6/CA

23 April 1944

SUBJECT: Position of Civil Servants.

TO : H.E. Marshal Badoglio
Il Capo del Governo
Salerno.

Sir,

I am desired by the Chief Commissioner to acknowledge receipt of your letter of 14 April 1944 on the above subject and to say that inquiries are being made and action will follow in due course.

M.S. LUSH
Brigadier
Executive Commissioner
For Chief Commissioner

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