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## Designated Expatriate Pensionable Officers (Compensation and Retiring Benefits) Act, 1968

Act 49 of 1968

Legislation as at 1 December 1998

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## Designated Expatriate Pensionable Officers (Compensation and Retiring Benefits) Act, 1968

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## eSwatini

# Designated Expatriate Pensionable Officers (Compensation and Retiring Benefits) Act, 1968

Act 49 of 1968

Commenced on 6 September 1968

*[This is the version of this document at 1 December 1998.]*

**An Act to implement a scheme of retirement benefits for expatriate pensionable officers who are designated officers for the purposes of the Overseas Service Act, [No. 55 of 1964](#), and to provide for incidental and connected matters.**

### 1. Short title

This Act may be cited as the Designated Expatriate Pensionable Officers (Compensation and Retiring Benefits) Act, 1968.

### 2. Interpretation

In this Act, unless the context otherwise requires—

“**general compensation scheme**” means the general scheme set out in the First Schedule of retirement benefits for pensionable officers who are designated officers for the purposes of the Overseas Service (Swaziland) Agreement 1962 scheduled to the Overseas Service Act, [No. 55 of 1964](#).

- (2) The Interpretation Act 1889(b) of the United Kingdom shall apply, with the necessary adaptations, for the purpose of interpreting this Act and otherwise in relation thereto as it applies for the purpose of interpreting, and in relation to, Acts of Parliament of the United Kingdom.

### 3. Application of the Second Schedule

The provisions of the Second Schedule shall apply to the Public Service.

### 4. Transitional provisions

- (1) If any officer or authority has before the commencement of this Act in pursuance of any provision of the general compensation scheme given any permission or consent or prescribed any condition or granted any benefit or made any payment or made any declaration or done any other thing for the purposes of that scheme, that permission, consent, condition, benefit, payment, declaration or other thing shall be deemed to have been given, prescribed, granted, made or done, as the case may be, under the corresponding provision of the Second Schedule, and the provisions of that Schedule shall have effect accordingly.
- (2) Where any officer has before the commencement of this Act in pursuance of any provision in the general compensation scheme given any undertaking or given or received any notice or retired or received any benefit he shall, provided that any conditions prescribed or deemed to have been prescribed by or under the Second Schedule are satisfied, be deemed to have given that undertaking, to have given or received that notice, or to have retired, or to have been granted, or received, that benefit, as the case may be, under the corresponding provision in that Schedule, and the provisions of that Schedule shall have effect accordingly.
- (3) Any officer who has, before the commencement of this Act, been required under the provisions of the general compensation scheme, to retire to facilitate the localisation of the Public Service of

Swaziland shall, for the purposes of the Second Schedule, be deemed to have retired under section 17 of the Swaziland Independence Order 1968(a).

- (4) The notice prescribed by the general compensation scheme to be given by officers who elect to retire from the Public Service shall be deemed to have been prescribed by the appropriate Service Commission under paragraph 4 of the Second Schedule; any declaration made by Her Majesty's Commissioner for Swaziland under the general compensation scheme as to whether an officer has been or is required to retire in the circumstances described in paragraph 5 of that Schedule shall be deemed to have been made by the appropriate Service Commission under that paragraph.
- (5) Any conditions or notices prescribed by the appropriate Service Commission for the purpose of paragraph 4 or paragraph 9(2) of the Second Schedule shall not be less favourable to any officer than any conditions or notices prescribed by or for the purpose of the corresponding provision of the general compensation scheme.

## **5. Modified application**

If the Government of the United Kingdom and the Government of Swaziland agree that, in their application to any officer, the foregoing provisions of this Act and the provisions of the Second Schedule shall have effect subject to such modifications or exceptions as those Governments may agree, then those provisions shall have effect accordingly.

## **First Schedule**

### **General Scheme of retirement benefits for pensionable officers who are designated officers under the Overseas Service (Swaziland) Agreement, 1962**

#### ***Swaziland***

#### **1. Date of introduction of Scheme**

- (i) The Scheme shall come into operation on the date (which shall be the "operative" date of the Scheme) on which the Public Service Commission ceases to be advisory and becomes executive.
- (ii) The details of this Scheme will be embodied in a United Kingdom Order-in-Council.
- (iii) With effect from the operative date, entitled officers, as defined in paragraph 2 below, will be entitled to a lump sum compensation which shall be calculated and paid in accordance with the provisions of this Scheme.

#### **2. Entitlement to compensation**

- (i) Pensionable officers who are designated officers, under the Overseas Service (Swaziland) Agreement 1962, and who were (a) selected for appointment or (b) admitted to the pensionable establishment or (c) transferred to the service of the Swaziland Government from another scheduled service, before the operative date, shall be entitled officers and are referred to hereinafter as "entitled officers" for the purposes of this Scheme.
- (ii) Officers aged fifty-five or over, judges aged 62 or over, officers seconded or temporarily transferred to Swaziland from other public service and officers on leave pending retirement on the operative date (other than those who, before that date have been called upon to retire for constitutional reasons) shall not be entitled officers.
- (iii) Entitled officers who are borne on the establishment of Swaziland who, on the operative date are seconded for service outside Swaziland or to another agency within Swaziland will be treated in the same way as other entitled officers and compensation will be paid to them in accordance with paragraph 5 of this Scheme. Where an entitled officer was serving on an incremental scale at the time of his secondment and is still so serving, compensation will be calculated on the basis of the point on that scale which he would have reached had he not been seconded.

- (iv) An officer who is serving on probation or probationary agreement on the operative date, but who otherwise satisfies the requirements for entitlement set out in sub-paragraph (i) above, shall, subject to the provisions of paragraphs 5(viii) and 12(v) below become entitled to compensation with effect from the date on which he is confirmed in his appointment and his compensation will be calculated with effect from that date. Service on probationary agreement will be “service” for the purpose of this Scheme.
- (v) An entitled officer who has not retired under this Scheme and who applies for and is granted citizenship of Swaziland on or after the operative date shall cease to be an entitled officer and he will be liable to return any instalments of compensation paid to him and it will be for the Government of Swaziland to satisfy itself as to the arrangements made with the officer for this repayment.

### 3. Eligibility for pension

- (i) The effect of the Scheme on pensions (in view of the provisions of the pensions laws in Swaziland and in other territories) is as follows—
- (ii) Any entitled officer who (a) elects to retire from the pensionable service under this Scheme (whether he accepts an offer of a contract appointment or not) or (b) retires from the Service on medical grounds or (c) is required to retire from the service either in accordance with the provisions of paragraphs 11 and 12 below or to facilitate the reorganisation of the Public Service or on the grounds of public interest or because of the abolition of his office or under section 7 of the Pensions Proclamation (Cap. 57) will be eligible to receive such pension from the Government of Swaziland as he has earned by his pensionable service in Swaziland irrespective of whether his length of service in Swaziland is less than ten years and of whether he has attained the minimum retiring age at the date of his retirement;
- (iii) Where an entitled officer has other scheduled service, his eligibility for pension in respect of that other service will depend on the pensions law relating to it. An entitled officer who elects to retire before he has completed ten years’ total pensionable service (including qualifying service which is not in itself reckonable for the computation of pension) will be eligible only for a gratuity in respect of that part of his scheduled pensionable service which was not served in Swaziland; provided that under reciprocal arrangements made by the Botswana, Lesotho and Swaziland Governments an officer who retires under this Scheme with less than ten years’ total pensionable service which includes other scheduled pensionable service in Lesotho and Botswana will receive pension in respect of his pensionable service under those Governments’ Administrations notwithstanding that his length of pensionable service is less than ten years;
- (iv) The pension of any entitled officer who is called upon to retire under this Scheme (either for constitutional reasons or to facilitate the localisation of the Public Service or to facilitate the reorganisation of the Public Service or because of the abolition of his office or under section 7 of the Pensions Proclamation (Cap. 57)) (paragraphs 5, 6, 11 and 12 below refer) will be calculated on the basis of the pensionable emoluments which he is drawing at the date on which his leave prior to retirement expires, and the “averaging” provisions of the Pensions Proclamation (Cap. 57) will not apply to such officers.

### 4. Calculation of compensation

- (i) An entitled officer will be eligible for compensation to be calculated and paid as set out below.
- (ii) Compensation shall be calculated as a lump sum in accordance with the tables (Appendix A Tables I and II) which have been drawn up by the Government Actuary in the United Kingdom. These tables take account of length of pensionable service up to ten years. The maximum amount of compensation payable under this Scheme shall be E24,000.
- (iii) Compensation shall be calculated by multiplying the officer’s annual pensionable emoluments at the date taken for calculation by the factor appropriate to his age and length of service at that date.

- (iv) The dates taken for calculation shall be—
- (a) in the case of the initial instalment, the operative date, or, for an officer serving on probation or probationary agreement, the date of confirmation;
  - (b) in the case of subsequent instalments each anniversary of the operative date, or, for an officer serving on probation or probationary agreement, each anniversary of the date of his confirmation;
  - (c) the date of retirement, when an officer's compensation will be finally fixed;
- provided that at each date taken for calculation after the operative date, the point in time in relation to which the calculation is made shall be the point most favourable to the officer between the operative date and that date.
- (v) Service (whether under the Swaziland Government or under a Scheduled Government) shall count for compensation to the same extent as it counts in the computation of the officer's retirement benefits in respect of service under a "scheduled Government" as defined in the Pensions Proclamation (Cap. 57).
- (vi) The pensionable emoluments to be taken for calculation will be the pensionable emoluments which the officer is drawing on the date taken for calculation.
- (vii) The compensation due to an officer who remains on the pensionable establishment will not decrease below the figure assessed on the operative date. The compensation of such an officer will be recalculated each year to take account of changes in age, salary and length of service or promotion, where this will result in an increased assessment, and the officer's entitlement will not thereafter fall below the increased amount. This process will continue after the sixth instalment has been paid and any further compensation will be paid on each anniversary of the date taken for calculation.
- (viii) The tables shall be interpreted on the basis of completed months of age and service, or on the basis of completed years of service and age at the officer's last birthday before the date for calculation, whichever is more favourable to the officer concerned.
- (ix) Every entitled officer who is offered promotion with effect from a date after the operative date will be required, as a condition of the offer of promotion, to undertake to serve the Government of Swaziland for a period of not less than twenty-four months' resident service beginning from the effective date of promotion. The recalculation, on any date subsequent to the operative date of an officer's entitlement to compensation, will also be made on the basis of the pensionable emoluments which the officer is drawing on such subsequent date, except that if the officer breaks his undertaking by retiring without the agreement of the Government before serving for twenty-four months' resident service, his compensation will be calculated on the basis of the annual pensionable emoluments he was drawing immediately before the date of his promotion, or on the basis of the average of his annual pensionable emoluments during the three years before his retirement, whichever is the greater. An officer who accepts promotion, after giving an undertaking to serve for not less than twenty-four months' resident service, and who might, in order to complete his twenty-four months, have to return to Swaziland for a final tour of less than twelve months, may be required by the Government to serve for a final tour of not more than twelve months.
- (x) Each entitled officer will be given a provisional statement of the amount of compensation to which he is entitled on the occasion of its initial calculation and (in the case of officers who continue to serve on pensionable terms) on the occasion of any subsequent recalculation. Where an officer retires from the pensionable service before the final instalment of compensation has been paid to him, he will be given a final statement of his entitlement as soon as possible after his retirement leave has expired and after all details of his age, salary and length of service at the date of his final retirement have been taken into account.

## 5. Method of payment

- (i) Subject to the provisions of sub-paragraph (v) to (viii) below and to the provisions of paragraphs 11 and 12 of this Scheme, the lump sum compensation calculated in accordance with paragraph 4 above shall be payable over a period of five years from the operative date in six instalments, of which the first shall be paid as soon as possible after the operative date, and in any case not later than three months after that date. Subsequent instalments shall be paid at intervals of one year from the operative date.
- (ii) These instalments shall be paid to all entitled officers whether they elect to retire from the Public Service or to remain on the pensionable establishment or to retire from the pensionable service and accept an offer to remain in the Public Service on contract terms (see paragraph 8 below).
- (iii) Subject to the provisions of paragraph 6 below, the initial instalment of compensation shall be 2,000 emalangeni or one-sixth of the total compensation payable, whichever is the greater, except that where the total compensation is 2,000 emalangeni or less it shall be paid in full at once. Subject to the provisions of sub-paragraph (iv) below, one-fifth of the balance of compensation due will be paid as a second instalment, one-fourth as a third instalment and so on.
- (iv) If on any anniversary of the operative date, the instalment due does not exceed 800 emalangeni then, if the total amount of the balance of compensation payable is more than 800 emalangeni, an instalment of 800 emalangeni shall be paid; if the balance of compensation payable is less than 800 emalangeni then the balance shall be paid at once. If when any instalment is paid, the balance of compensation after payment of the instalment would be less than 200 emalangeni, it will be paid in full forthwith.
- (v) An entitled officer who attains the age of fifty-five (or, in the case of a judge, the age of 62) shall be paid forthwith the balance of compensation due to him.
- (vi) An entitled officer who is required to retire at any time on medical grounds or in the public interest or under section 7 of the Pensions Proclamation (Cap. 57) shall be paid forthwith the balance of compensation due to him.
- (vii) An entitled officer who is required to retire at any time either to facilitate the reorganisation of the Public Service or because his office is abolished in accordance with the provisions of the Pensions Proclamation (Cap. 57) shall be paid forthwith the balance of compensation due to him and shall also be given the additional benefits set out in paragraph 12(iii) or (iv) as may be appropriate.
- (viii) If an officer serving on probation or probationary agreement (who is otherwise an entitled officer within the meaning of paragraph 2(i) above) is required to retire either to facilitate the reorganisation of the Public Service or because his office is abolished or on medical grounds in accordance with the provisions of the Pensions Proclamation (Cap. 57) he shall be deemed to have been confirmed in his appointment and the provisions of sub-paragraphs (vi) or (vii) as appropriate of this paragraph shall then apply to him.

## 6. Officers who undertake to continue to serve on pensionable terms for a minimum further period of twenty-four months of resident service

- (i) An entitled officer who gives a written undertaking to continue to serve on pensionable terms for a further minimum period of twenty-four months of resident service shall receive an initial compensation payment of 4,000 emalangeni if the compensation due to him exceeds 4,000 emalangeni or the total due to him if his entitlement is less than 4,000 emalangeni. In subsequent years, payments will be one-fifth, one-quarter, etc. of the re-assessed balance of compensation, subject to the provisions of paragraph 5(iv).
- (ii) An entitled officer who enters into this arrangement and who might, in order to complete his twenty-four months of resident service, only have to return to Swaziland for a final tour of less than twelve months, may be required by the Government to serve for a final tour of not more than twelve months.

- (iii) An entitled officer, who, having received an initial payment of 4,000 emalangeni, breaks his undertaking to serve on pensionable terms for a further minimum period of twenty-four months of resident service by retiring without the agreement of the Government shall be liable to lose one-half per cent of the total compensation due to him (as recalculated, if appropriate, in accordance with the provisions of paragraph 4(vii) above) in respect of each month or part of a month by which he has failed to serve, or 400 emalangeni, whichever is the lesser.
- (iv) An entitled officer who enters into this arrangement may proceed in one of the following ways—
  - (a) If the undertaking is given not later than three months after the operative date, any period of service in Swaziland between the operative date and three months thereafter will count towards his twenty-four months' resident service; and he will be entitled to an initial payment of 4,000 emalangeni. If before the undertaking is given the officer has already received an initial instalment calculated in accordance with paragraph 5(iii) above the additional sum required to bring his first instalment up to the appropriate figure calculated in accordance with sub-paragraph (i) of this paragraph will be paid to him as soon as possible after he has given the undertaking, and in any case not later than three months thereafter; or
  - (b) If the undertaking is given after the expiration of three months from the operative date but before the expiration of twelve months from the operative date, the period of twenty-four months of further resident service, which he undertakes to serve, will start from the day on which the undertaking is given. He will already have received an initial payment of compensation, as though he had given no undertaking (see paragraph 5), but as soon as possible or in any case not later than three months after he has given the undertaking, a further payment will be made to him to bring his initial payment up to the enhanced level set out in sub-paragraph (i) of this paragraph.

#### 7. Payment of interest

- (i) Interest of 5 per cent per annum, based on the previously assessed balance of compensation due, will be paid at the time of the payment of the next instalment. Where a recalculation of the entitlement to compensation is made on an anniversary of the operative date interest will become payable on the re-assessed balance from the date when the recalculation is made.
- (ii) Where a recalculation (as defined in paragraph 4(iv)) is made on the occasion of an officer's retirement interest will be paid, at the time the next instalment of compensation is due, calculated as follows—

5 per cent per annum on the balance of compensation due at the previous anniversary of the operative date for the period between the anniversary of the operative date and the date of retirement, plus 5 per cent per annum on the balance of compensation due on recalculation on the date of retirement from the date of retirement to the next anniversary of the operative date.
- (iii) For the purpose of calculating interest the first instalment of compensation will be deemed to have been paid on the operative date.

#### 8. Contract appointments

- (i) An entitled officer who retires under this Scheme, may, with the approval of the appropriate Service Commission, be re-engaged on contract terms.
- (ii) The contract will commence with effect from the first day of the month following the officer's acceptance of the offer of contract employment. The day immediately preceding the effective date for the commencement of the contract will be regarded as the last day of the officer's pensionable service for the purpose of computation of his pension and of final calculation of his compensation entitlement. The compensation entitlement will not be affected by subsequent service on contract.
- (iii) Any leave due to the officer on the day on which his contract service starts will not be regarded as pensionable service. It will be carried forward to the end of his contract and will form part of that contract.



- (iv) During the period of the contract, the officer will draw, in addition to his salary (without abatement), the pension which he has earned in respect of his pensionable service up to the date of his retirement, and will receive the instalments of compensation to which he is entitled.
9. **The giving of notice by entitled officers who elect to retire from the Service**

### **Giving of notice while in Swaziland**

- (i) An entitled officer may, at any time after the date on which this Scheme is announced, give notice of his intention to retire from the Public Service. An officer will normally be required to give six months' resident service notice of retirement, provided that—
  - (a) no period of notice can start before the operative date;
  - (b) a shorter period of notice than six months may be accepted by mutual agreement between the officer and the Government; and if the date of full independence is less than six months after the operative date, notice given within one month of the operative date will, at the officer's request, be accepted by the Government as expiring on the day before independence;
  - (c) the Government will not insist on the full period of six months' notice, if this would entail the officer's serving a tour of more than thirty-six months or if approval has already been given for the officer to proceed on leave within six months of the date on which he gives notice of his intention to retire;
  - (d) if the officer gives notice of his intention to retire within three months of the commencement of his current tour, his period of notice will start on the day following the completion of the first three months of his tour.
- (ii) An entitled officer who gives notice of his intention to retire under this Scheme and who proceeds on leave prior to retirement before the expiration of a tour of twenty-four months will be entitled to the full retirement passage and baggage concessions, prescribed by General Orders, which he would have been entitled to if he had completed a tour of twenty-four months.

### **Giving of notice while on vacation leave**

- (iii) An entitled officer who is absent from Swaziland on vacation leave may (at any time after the announcement of this Scheme) give notice of his intention to retire from the Service, provided that no period of notice can start before the operative date.
- (iv) The Government may require the officer concerned to return to Swaziland after the expiration of the leave granted to him for a period of six months' resident service to work out his notice; in which event the Government will pay the full cost of passages for the officer and his family to and from Swaziland and will give the officer full retirement passage and baggage concession on his final journey from Swaziland as if he was returning for and completing a full normal tour of service. The Government will only avail itself of its right to require an officer to return to Swaziland in these circumstances if this is essential in the public interest.
- (v) If it is agreed that the officer need not return to Swaziland to work out a period of notice, he will forthwith be granted any balance of leave (including any deferred leave) earned up to the date on which he proceeded on leave; he will be allowed the retirement baggage concessions prescribed in General Orders, to enable him to transport his effects from Swaziland and his service will be deemed to finish on the expiration of the leave due to him.
- (vi) If the officer himself expresses a wish to return to Swaziland to settle up his affairs, he will be permitted to do so, but the cost of his and his family's passage and baggage allowance will

only be paid by the Government if he completes on his return a final tour of not less than twelve months.

### **Giving of notice by officers on secondment to other Administrations outside Swaziland or to other agencies within Swaziland**

- (vii) Where an entitled officer, who is on secondment to some other Administration or agency, gives notice of his intention to retire from the Public Service, it will be for the Government of Swaziland, in consultation with the other agency concerned, to decide—
  - (a) whether the receiving agency is prepared to release him and, if so, after what period of notice; or
  - (b) whether he will be required to complete his period of secondment; or
  - (c) whether he will be required to return to Government service in Swaziland to work out a period of notice after the termination of his secondment.
- (viii)
  - (a) No officer will be required to continue to serve (either on secondment or on return to Government service to work out a period of notice or both) for a period of more than twelve months from the date on which he gives notice.
  - (b) The Government of Swaziland will not require an officer to return to Government service in Swaziland as indicated in sub-paragraph (vii)(c) unless this is considered to be essential in the public interest.
- (ix)
  - (a) An officer whose final retirement takes place from the Administration to which he is seconded outside Swaziland will receive full retirement passage and baggage allowance from the territory of that Administration.
  - (b) An officer whose final retirement takes place from Swaziland will receive full retirement passage and baggage allowance from Swaziland.

### **Withdrawal of notice**

- (x) An entitled officer may request permission to withdraw his notice of retirement, it will be for the Government to decide whether or not he should be permitted to do so.

#### **10. Arrangements on transfer**

- (i) If an entitled officer is offered, after the operative date, a transfer to pensionable public service scheduled under the Pensions Proclamation (Cap. 57) without a break in his service and if he accepts such a transfer or is transferred to pensionable service under the United Kingdom Governors' Pensions Acts, he will be liable to return any instalments of compensation paid to him; and it will be for the Government of Swaziland to satisfy itself as to the arrangements made with the officer for this repayment. The amount of the refund will be shared equally between the Swaziland Government and the United Kingdom Government.
- (ii) If an entitled officer accepts a transfer (as defined in sub-paragraph (i) above) to a post carrying lower pensionable emoluments, than his post in Swaziland, he will be granted compensation either —
  - (a) calculated by multiplying the amount by which his annual pensionable emoluments immediately prior to transfer exceed the initial annual pensionable emoluments of his new post by the factor appropriate to his age as set out in the table prepared by the Government Actuary, at Appendix A Table III, or

- (b) equal to the compensation which would have been payable to him if he had retired at the date of his transfer;

whichever is the lesser, and the compensation shall be paid as set out in paragraph 5 above.

**11. Officers who are required to retire to facilitate the introduction of constitutional changes**

- (i) An entitled officer who (while in Swaziland) is required to retire in the circumstances described above will be entitled to the following benefits—
  - (a) the compensation due to him will be paid in one lump sum as soon as possible after he has been given notice of his retirement;
  - (b) he will receive (before or as soon as possible after his departure on leave prior to retirement) a disturbance grant equal to one-quarter of his annual pensionable emoluments and this grant will not be liable to income tax either in the United Kingdom or in Swaziland;
  - (c) if he has less than six months' earned leave (including any deferred leave) standing to his credit when he leaves Swaziland he will be granted additional leave to bring his period of leave up to a total of six months;
  - (d) he will receive full retirement passages and baggage concessions as if he had completed a normal tour;
  - (e) his pension will be calculated on the basis of the pensionable emoluments which he is drawing at the date of his retirement; and the "averaging" provisions of the Pensions Proclamation (Cap. 57) shall not apply to him.
- (ii) An entitled officer who is required to retire in the circumstances described above while on vacation leave at the end of a tour of duty, will be entitled to the following benefits—
  - (a) the compensation due to him will be paid in one lump sum as soon as possible after he has been given notice of retirement;
  - (b) he will receive as soon as possible a disturbance grant equal to one-quarter of his annual pensionable emoluments and this grant will not be liable to income tax either in the United Kingdom or in Swaziland;
  - (c) if he has less than six months' earned leave (including deferred leave) outstanding at the date on which he is given notice of retirement, he will be granted additional leave to bring the period of leave due to him on that date up to the total of six months;
  - (d) passages at Government expense to and from Swaziland for himself (but not for his family) to enable him to settle up his affairs and subsistence allowance at the rates then current during his stay in Swaziland for a period up to twenty-one days;
  - (e) full baggage facilities to which he would have been entitled had he retired in normal circumstances to enable him to transport his effects from Swaziland;
  - (f) his pension will be calculated on the basis of the pensionable emoluments which he is drawing at the date of his retirement; and the "averaging" provisions of the Pensions Proclamation (Cap. 57) shall not apply to him.
- (iii) The decision as to whether or not a particular retirement falls within the terms of this paragraph will rest with Her Majesty's Commissioner, acting in his discretion (with the appropriate Service Commission after Independence).

**12. Officers who are required to retire to facilitate the localisation of the Public Service**

- (i) The Government may inform the Service Commissions that, as a general policy, expatriate officers should be required to retire in sufficient numbers whenever suitably qualified local candidates are available for appointment or promotion and sufficient vacancies are not available to accommodate them; or, alternatively, it may inform the Service Commissions of the application of this policy to

particular cadres from time to time. It will be for the Service Commission concerned to determine whether suitably qualified local candidates are available who cannot be accommodated in existing vacancies and, if so, to select the individual expatriate officers who should be required to retire.

- (ii) It will be for the appropriate Service Commission to determine, in the light of the public interest, what period of notice should be given to an entitled officer who is required to retire in these circumstances, provided—
  - (a) that, unless the officer is on vacation leave, the period of notice shall not be less than six months' resident service, or such shorter period as may be mutually agreed between the officer and the Service Commission;
  - (b) that, if an entitled officer is required to retire while absent from Swaziland on vacation leave, the special provisions set out in sub-paragraph (iv) of this paragraph will apply.
- (iii) Every entitled officer who (while in Swaziland) is required to retire in these circumstances shall be entitled to the following benefits—
  - (a) the balance of any compensation due to him (re-assessed as provided in paragraph 4(vii)) will be paid to him in one lump sum not more than one month before his expected date of departure from Swaziland;
  - (b) if he has less than six months' earned leave (including any deferred leave) standing to his credit when he leaves Swaziland he will be granted additional leave to bring his period of leave up to a total of six months;
  - (c) his pension will be calculated on the basis of the pensionable emoluments which he is drawing at the date of his retirement and the "averaging" provisions of the Pensions Proclamation (Cap. 57) will not apply to him;
  - (d) he will be given full retirement passage and baggage facilities as if he had completed a normal tour.
- (iv) If an entitled officer is given notice to retire in these circumstances while on vacation leave, at the end of a tour of duty, he shall be granted the following benefits—
  - (a) the balance of any compensation due to him (re-assessed as provided in paragraph 4(vii) above) will be paid to him in one lump sum forthwith;
  - (b) if he has less than six months' leave (including deferred leave) outstanding at the date on which notice is given, additional leave to bring the period of leave due to him on that date up to a total of six months;
  - (c) his pension will be calculated on the basis of the pensionable emoluments which he is drawing at the date of his retirement, and the "averaging" provisions of the Pensions Proclamation (Cap. 57) will not apply to him;
  - (d) passages at Government expense to and from Swaziland for himself (but not for his family) to enable him to settle up his affairs and subsistence allowance at the rates then current during his stay in Swaziland, for a period up to twenty-one days;
  - (e) full baggage facilities to which he would have been entitled had he retired in normal circumstances to enable him to transport his effects from Swaziland
- (v) If an officer serving on probation or probationary agreement who is otherwise an entitled officer within the meaning of paragraph 2(i) above is required to retire in these circumstances, he shall be confirmed in his appointment forthwith and shall then be entitled to compensation and other appropriate benefits set out in this paragraph.

### 13. Death of an entitled officer

- (i) The dependants or the legal personal representatives of an entitled officer who after the operative date dies while still serving or while on leave prior to retirement and before all payments of

compensation due to him have been made, shall receive the outstanding balance of compensation due under this Scheme and the death gratuity for which provision is made in the Pensions Proclamation (Cap. 57) provided that the death gratuity shall, where applicable, be calculated by reference to the special table of factors provided for in paragraph 14(i) below and to the additional commutation of pension provided for under paragraph 14(ii) below.

- (ii) Where an entitled officer dies after he has retired, his dependants or legal personal representatives shall receive the outstanding balance of any compensation and any other benefits due to them under the Pensions Proclamation (Cap. 57).
- (iii) Where an entitled officer to whom the Oversea Superannuation Scheme (Consolidation) Regulations 1963 apply dies and a gratuity is payable to his personal representatives under those Regulations, the Swaziland Government will grant to the personal representatives a gratuity equal to the difference between that gratuity and the amount of the maximum gratuity which would have been granted to the officer under paragraph 14 as if that paragraph and the Pensions Proclamation (Cap. 57) had applied to him and he had retired under this Scheme at the date of his death.

#### 14. Commutation of pensions

- (i) Entitled officers retiring under this Scheme shall be entitled to commute up to one-quarter of their earned Swaziland pensions in accordance with the special table of Commutation Factors which is set out in Appendix A Table IV. In addition, where entitled officers are also entitled to elect to commute part of their pensions earned by service under another Government or Administration which schedules Swaziland in its pension law, the Swaziland Government will pay an amount equal to the difference, if any between the gratuities which would have been payable if the Commutation Factors in Appendix A Table IV had applied and the gratuities actually payable by reference to the commutation factor provided for in the pensions law of the other Government or Administration.
- (ii) An entitled officer who remains in the Service on pensionable terms after the operative date shall be entitled, on retirement, to commute a further one-sixteenth of his pension earned in respect of his service in Swaziland for each completed year of service after the operative date, in accordance with the special table of Commutation Factors set out in Appendix A Table IV, provided that deferred leave (i.e. leave granted in respect of service prior to the operative date the enjoyment of which had on the operative date been deferred) shall not count as service in respect of which the officer may commute an extra one-sixteenth of his pension.
- (iii) Officers who are pensionable under the Oversea Superannuation Scheme are not entitled under the Regulations of that Scheme to commute any part of their pensions but may instead receive a smaller pension and a lump sum which is equivalent to up to one-quarter of a normal pension multiplied by a factor of 10. The Swaziland Government will add to this lump sum to bring it up to the amount which would have been payable if the officer had not been eligible for a pension and a lump sum but had been eligible for a pension calculated on a pension constant of one six-hundredth for each month of service and had been able to commute up to one-quarter of that pension in accordance with the table referred to in sub-paragraph (i) above. In order to bring them within the scope of sub-paragraph (ii) above, arrangements will also be made to enable such officers to assign to the Swaziland Government one-twelfth of their O.S.S. pension for each completed year of service after the operative date in return for the payment by the Swaziland Government of the appropriate lump sum.

#### 15. Incidence of Income Tax

- (i) Compensation payments (whether paid in a lump sum or by instalments), disturbance grants and capital sums paid in respect of commutation of pensions, whether paid to the officer or (in the event of his death) to his dependants or his legal personal representatives, are not liable to income tax either in the United Kingdom or in Swaziland.
- (ii) Interest paid on the balance of compensation due to an entitled officer (after the initial payment has been made) may be liable to income tax either in the officer's country of residence or in Swaziland or in both, according to the circumstances of the officer and subject to the provisions of any Double Taxation Agreement where applicable.

**16. Proceedings which may affect the pension or compensation of an entitled officer serving after the operative date**

- (i) If any decision of a Service Commission has the effect of with-holding, suspending, reducing or otherwise altering to his detriment any pension, compensation or other retiring benefit due to or in respect of an entitled officer, he or his legal personal representative as the case may be shall have the right to appeal against the decision to an Appeals Board whose decision shall be final. The Appeals Board will be composed of one member selected by the Prime Minister, one member selected by an Association representing public officers or a professional body nominated by the entitled officer concerned, and one selected by the two other members jointly to be Chairman of the Board, or, in the event of their disagreement, by the Chief Justice.
- (ii) If an entitled officer, who has retired from the pensionable service with compensation and has been engaged on contract terms, terminates his contract or has his contract terminated for any reason, this will not affect the payment of his pension or the payment of any balance of compensation due to him.

**17. Arrangements regarding the refund of compensation on established appointment to the United Kingdom Civil Service (including the Diplomatic Service)**

- (i) An entitled officer who enters the pensionable establishment of the United Kingdom Civil Service through a competition conducted by the Civil Service Commissioners will not be required to refund his compensation if there is a break between the last day of his pensionable service under the Swaziland Government and the first day of his established service in the United Kingdom Civil Service. An officer who takes up an established appointment in the United Kingdom Civil Service without a break in service may be regarded for the purpose of the Swaziland Pensions Proclamation (Cap. 57) as having been transferred to the United Kingdom Civil Service. Subject to the provisions of paragraph 10 above, he will be required to refund any instalment of compensation he has received and will not be eligible to receive a pension from the Swaziland Government (or any other scheduled Government which he has served) until his final retirement from public service.
- (ii) An entitled officer who, having been formerly a pensionable member of the United Kingdom Civil Service, returns to a pensionable appointment in that Service, otherwise than as the result of a competition conducted by the Civil Service Commissioners, within twelve months of the expiration of his retirement leave from Swaziland, shall receive either compensation calculated in accordance with paragraph 10 above, or half the compensation to which he is entitled, whichever is the lesser, and will be required to refund any instalments of compensation in excess of this amount which he may already have received. The amount of the refund will be shared equally between the Swaziland Government and the United Kingdom. The compensation shall be paid as set out in paragraph 5 above.

**18. Abolition of office**

- (i) An entitled officer shall not be eligible to receive any addition to earned pension or gratuity provided for in the Pensions Proclamation (Cap. 57) in respect of abolition of office if he received compensation for loss of career.
- (ii) An entitled officer who before he has received his first instalment of compensation gives notice of retirement or is required to retire under this Scheme may at his option on his retirement receive the abolition addition to pension provided for in the pensions law instead of the compensation provided for under this Scheme.

**19. Employment during retirement leave**

- (i) An entitled officer who wishes to take up any paid employment while on leave pending retirement may accept such employment without obtaining the prior sanction of the Swaziland Government or the Secretary of State with the exception that the prior approval of the Government must be obtained if the employment is in Swaziland or is as a director of any company the principal part of whose business is in any way directly concerned with Swaziland.

- (ii) An entitled officer who takes up employment in “other public service” (not being pensionable public service “scheduled” under the Pensions Proclamation (Cap. 57) either during his retirement leave or without a break in service will not be treated as transferring to that service but will be permitted to retire as he had originally intended. Attention is, however, drawn to the provisions of section 8 of the Pensions Proclamation (Cap. 57) which limit the amount of pension which an officer may draw at any time to an amount which when added to the amount of any pension drawn in respect of other public service, is equal to two-thirds of the highest pensionable emoluments enjoyed during the public service.

## 20. General

Any compensation, gratuity or interest payable under this Scheme to an officer or to his legal personal representatives or dependants, shall be paid when due, in accordance with any request made from time to time by such officer, his personal representatives or his dependants, as the case may be, in any of the following countries—

- (a) in the United Kingdom;
- (b) in Swaziland;
- (c) in the country from which the officer was recruited or where he intends to reside;
- (d) in the case of payment to the legal personal representatives of an officer or his dependants, in the country in which the legal personal representatives or the dependants, as the case may be, reside; or
- (e) in such other countries as the officer or his legal personal representatives or dependants may, with the concurrence of the Swaziland Government, select. Payment shall be made in the currency of the country in which payment is to be made; and where payment is to be made in a country other than Swaziland, the amount of the payment shall be such as would produce, at the official rate of exchange prevailing at the date of payment, the amount in sterling of the compensation, gratuity or interest as calculated at the official rate of exchange prevailing on the operative date of the Scheme.

Total compensation shall be calculated to the nearest ten cents and all payments shall be made to the nearest ten cents.

## Appendix A

### Table I (Paragraph 4)



**Compensation factors (Officers)**

	Factor when length of service is								
Age of officer	2 years	3 years	4 years	5 years	6 years	7 years	8 years	9 years	10 years
21	.11	.16							
2	.12	.19	.25						
3	.14	.21	.28	.36					
4	.16	.24	.32	.40	.49				
25	.18	.27	.36	.46	.55	.64			
6	.20	.31	.41	.51	.61	.71	.82		
7	.23	.34	.45	.56	.68	.79	.90	1.02	
8	.25	.38	.50	.63	.76	.88	1.01	1.13	1.26
9	.28	.42	.56	.70	.85	.99	1.13	1.27	1.41
30	.32	.48	.64	.80	.97	1.13	1.29	1.45	1.61
1	.37	.56	.74	.93	1.12	1.30	1.49	1.67	1.86
2	.43	.65	.87	1.08	1.30	1.52	1.74	1.95	2.17
3	.50	.76	1.01	1.26	1.51	1.76	2.02	2.27	2.52
4	.58	.87	1.16	1.45	1.74	2.03	2.32	2.61	2.90
35	.65	.98	1.31	1.64	1.96	2.29	2.62	2.94	3.27
6	.72	1.08	1.44	1.80	2.16	2.52	2.88	3.24	3.60
7	.77	1.16	1.55	1.94	2.32	2.71	3.10	3.48	3.87



8	.82	1.22	1.63	2.04	2.45	2.86	3.26	3.67	4.08
9	.84	1.27	1.69	2.11	2.53	2.95	3.38	3.80	4.22
40	.86	1.29	1.72	2.14	2.57	3.00	3.43	3.86	4.29
1	.86	1.29	1.72	2.15	2.58	3.01	3.44	3.87	4.30
2	.85	1.28	1.70	2.12	2.55	2.98	3.40	3.82	4.25
3	.83	1.24	1.65	2.06	2.48	2.89	3.30	3.72	4.13
4	.79	1.18	1.57	1.96	2.36	2.75	3.14	3.54	3.93
45	.73	1.10	1.46	1.83	2.20	2.56	2.93	3.29	3.66
6	.67	1.01	1.34	1.68	2.02	2.35	2.69	3.02	3.36
7	.61	.92	1.22	1.53	1.84	2.14	2.45	2.75	3.06
8	.55	.83	1.10	1.38	1.66	1.93	2.21	2.48	2.76
9	.49	.74	.98	1.23	1.48	1.72	1.97	2.21	2.46
50	.43	.64	.86	1.08	1.29	1.50	1.72	1.94	2.15
1	.36	.54	.72	.90	1.09	1.27	1.45	1.63	1.81
2	.29	.43	.57	.72	.86	1.00	1.14	1.29	1.43
3	.20	.30	.40	.50	.60	.70	.80	.90	1.00
4	.10	.15	.20	.25	.30	.35	.40	.45	.50
55 or more	nil	nil	nil	nil	nil	nil	nil	nil	nil

Instructions for obtaining the appropriate factor from Table I (Officers)

I Read off from the table the factors for the officer's age at his last birthday and his—

- (a) completed years of service,
- (b) completed years of service plus one year.

- II Subtract I(a) from I(b), divide the difference by twelve and multiply the result by the number of completed months of service, if any, in excess of the completed years of service.
- III Add I(a) and II.
- IV Repeat steps to III for the officer's age at his next birthday.
- V Divide the difference between III and IV by twelve and multiply by the number of completed months of age, if any, since the officer's last birthday.
- VI If IV is greater than III, add V to III.  
If IV is less than III subtract V from III.  
VI is the factor required.

**Table II (Paragraph 4)**  
**Factors for judges — Normal retirement age 62**

Age of judge	Factor
55	2.50
56	2.27
57	2.04
58	1.76
59	1.42
60	1.00
61	.50
62 and over	nil

These factors apply to judges with at least ten years' service.

The factor corresponding to the judge's age in years and completed months should be obtained by interpolation.

**Table III (Paragraphs 10 and 17)**  
**Compensation for transferred officers**

Factor to be applied to reduction in salary sustained on transfer

Age	Factor	Age	Factor
30 and below	5.00	40	8.92
31	5.08	41	9.00
32	5.21	42	8.92
33	5.47	43	8.77
34	5.90	44	8.40
35	6.56	45	7.61
36	7.44	46	6.39
37	8.10	47	5.60
38	8.53	48	5.23
39	8.79	49	5.08
		50 and above	5.00

**Table IV (Paragraph 14)**

### Commutation of pension under compensation arrangements

Table showing the lump sum to be paid for the commutation of each E1 p.a. of pension.

Age of Officer	Factor	Age of Officer	Factor
25	17.08	40	15.07
26	16.97	41	14.90
27	16.86	42	14.73
28	16.74	43	14.55
29	16.62	44	14.36
30	16.50	45	14.17
31	16.38	46	13.97
32	16.25	47	13.76
33	16.12	48	13.54
34	15.98	49	13.32
35	15.84	50	13.08
36	15.70	51	12.84
37	15.55	52	12.59
38	15.40	53 and above	12.50
39	15.24		

Instructions for obtaining the appropriate factor from Table II (Judges), III (Transfer) or IV (Commutation).

- I Read off from the table the factors for the officer's age—
  - (a) at his last birthday;
  - (b) at his next birthday.
- II Divide the difference between I(a) and I(b) by twelve and multiply by the number of completed months of age since the last birthday.

III If I(b) is greater than I(a), add II to I(a)

If I(b) is less than I(a), subtract II from I(a).

III is the factor required.

In calculating factors by interpolation in respect of tables I to III the calculation should be rounded off to two decimal points and where this results in a difference of point nought one in either direction such difference should be ignored.

Form SD Comp. 7

## Appendix B

### Retirement notification

*To be submitted in triplicate by the officer — Delete as applicable.*

Scheme of Compensation for Pensionable Officers who are Designated under the Overseas Service (Swaziland) Agreement, 1962

To Permanent Secretary

through the Director of

Sir,

I have the honour to give notification of retirement in terms of the Scheme of Compensation for pensionable officers designated under the Overseas Service (Swaziland) Agreement, 1962.

2. My present tour commenced on \_\_\_\_\_
3. I hereby give \_\_\_\_\_ months' notice to take effect from \_\_\_\_\_ (*if less than six months' notice given, state reason*).
4. (a) I have booked-passages and will leave Swaziland on (date) \_\_\_\_\_  
(b) I have not yet booked passages.
5. I intend, in respect of
  - (i) contributions to the Swaziland Widows' and Orphans' Pensions [Law No. 35 of 1966](#)—
    - (a) to continue to contribute at the rate at which I am contributing at the date of my retirement; or
    - (b) to notify the Crown Agents for Overseas Governments and Administrations, 4, Millbank, London, S.W.1 (copy to Accountant-General) to elect to continue to contribute but at the rate applicable to the pension awarded to me; or
    - (c) to notify the Crown Agents for Overseas Governments and Administrations, 4, Millbank, London, S.W.1 (copy to Accountant-General) to elect to cease to contribute.
  - (ii) contributions to the \_\_\_\_\_ Fund/Scheme
    - (a) to continue to contribute at the rate at which I am contributing at the date of my retirement; or
    - (b) to notify the Crown Agents for Overseas Governments and Administrations, 4, Millbank, London, S.W.1 (copy to Accountant-General) to elect to contribute but at the rate applicable to the pension awarded to me; or
    - (c) to notify the Crown Agents for Overseas Governments and Administrations, 4, Millbank, London, S.W.1 (copy to Accountant-General) to elect to cease to contribute.

6. (a) I wish to commute \_\_\_\_\_ of my total pension earned (the maximum amount which can be commuted under this sub-paragraph is one quarter of pension);
- (b) I wish to commute a further one-sixteenth of pension earned for each completed year of service after the Operative Date;
- (c) I do not wish to commute any portion of my pension (these options may be changed up to and including the day prior to retirement).

7. I have/have not made application to be re-engaged on contract terms.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Full Name (block letters) \_\_\_\_\_

Post held \_\_\_\_\_

Form SD Comp. 8

## Appendix C

*This form to be submitted in triplicate — Delete as applicable*

To the Chief Establishment Officer,

Box 170,

Mbabane.

From

## Retirement notification

Scheme of Compensation for Pensionable Officers who are Designated under the Overseas Service (Swaziland) Agreement, 1962.

Name of Officer

Ministry/Department

1. The officer whose notification is attached (on Form SD. 7)—

- (a) has given six months' residential service notice of retirement and last returned from vacation leave more than three months ago. His notification is submitted for your action; or
- (b) has given less than six months' residential service notice of retirement.

I recommend the application for the following reasons—

- (i) the officer will have completed a tour of thirty-six months by the date of departure; or
- (ii) vacation leave had already been approved within six months of the date on which he gives notice of intention to retire; or
- (iii) (State fully any other reason).

I do not recommend the application for the following reasons—

\_\_\_\_\_  
\_\_\_\_\_

2. The officer is at present on vacation leave.

(a) I do not regard it as essential that he be required to return to Swaziland, and I recommend that his service should be deemed to finish on expiration of all leave due to him (including deferred leave); or

(b) I recommend that he should be required to return to Swaziland after the expiration of the leave granted to him in order to serve six months' residential service for the following reasons—

\_\_\_\_\_  
\_\_\_\_\_

3. He will not have broken any undertaking to serve for a further period of twenty-four months' residential service.

4. For the purposes of commutation of additional sixteenths of pension, deferred leave of \_\_\_\_\_ days should be excluded. A copy of leave record is attached.

5. I have submitted my recommendation to the Public Service Commission regarding a replacement. The reference of my Savingram to the Public Service Commission is \_\_\_\_\_ of (date)

Date \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

This form must be signed personally by a Permanent Secretary or Head of Department and forwarded to the Chief Establishment Officer, P.O. Box 170, Mbabane.

To

(1) the Accountant-General (duplicate copy)

(2) Permanent Secretary, Ministry of \_\_\_\_\_ (triplicate copy)

The recommendation set out above has been accepted and is submitted for your action.

Date \_\_\_\_\_

Signed \_\_\_\_\_

for Chief Establishment Officer.

Form SD Comp. 1

## Appendix D

### Application for payment of initial instalment of compensation

To the Accountant-General,

(Compensation and Pensions Section),

Box 38,

Mbabane.

I wish the initial instalment of compensation due to me under the terms of the General Compensation Scheme to be paid to the following address or account—

\_\_\_\_\_  
\_\_\_\_\_

Signature \_\_\_\_\_

Full Name (block letters) \_\_\_\_\_

Appointment \_\_\_\_\_

Ministry/Department \_\_\_\_\_

Date \_\_\_\_\_

*[Note: Unless otherwise advised payment of subsequent instalments will be made in the same manner.]*

Retiring officers who wish to change the method of payment of any subsequent instalments should inform the Accountant-General (Compensation and Pensions Section) and the Crown Agents who will normally be responsible for payments of compensation after retirement to officers residing outside Southern Africa.

Form SD Comp. 3

## Appendix E

### Swaziland Government Compensation Scheme

Supplementary Application by an officer who has been paid an initial instalment (or become eligible after \_\_\_\_\_)

To the Accountant-General,

(Compensation and Pensions Section),

P.O. Box 38,

Mbabane.

1. My next instalment should not be paid as previously but in the following manner—

\_\_\_\_\_  
\_\_\_\_\_

2. I apply for a revision of my first instalment as particulars shown on the first payment form (SD Comp. 2) require amendment as follows—

\_\_\_\_\_  
\_\_\_\_\_

3. I apply for an increased instalment as my undertaking to serve on pensionable terms for a further 24 months has been accepted.

4. Re-assessment for my next instalment should have reference to emoluments increased since the due date of my last instalment as follows (*state each change*)—

From (date)	Pensionable salary changed to	Reason (e.g. "Increment")

5. I have not hitherto been eligible for compensation but now apply following my confirmation as a pensionable officer.



Signed \_\_\_\_\_ Date \_\_\_\_\_

Name (Block letters) \_\_\_\_\_

Ministry/Department and Address \_\_\_\_\_

*Delete inapplicable paragraphs.*

Certificate (required except for paragraph (1) only, signed by an appropriate Responsible Officer.

The details shown above have been verified by me.

Signature \_\_\_\_\_

Designation \_\_\_\_\_

Date \_\_\_\_\_ Ministry/Dept \_\_\_\_\_

*Note: To be submitted not later than two months before the due date of each subsequent instalment or as necessary. Unless otherwise advised payment of instalments will be made in the same manner as the preceding instalment. No application is required for payment of compensation, or any residue, in a lump sum following abnormal or compulsory retirement or on reaching the age of 55. Such payment will be made “automatically” by the Accountant-General. Officers on retirement leave extending over a date on which an instalment is due, should also submit this form, if necessary, direct to the Accountant-General. Retired officers who wish to change the method of payment of any subsequent instalments should inform the Accountant-General and also the Crown Agents who will normally be responsible for payments of compensation after retirement.*

## Second Schedule

### Compensation and retirement benefits for certain officers in the public service of Swaziland

#### 1. Interpretation

(1) In this Schedule, unless the context otherwise requires—

“**appropriate law**” in relation to an officer in the Public Service means the law in force in Swaziland which governs the grant of pensions, gratuities and other like benefits in respect of the service of that officer in the Public Service;

“**appropriate Service Commission**”—

- (a) in relation to an officer who can be removed from his office by the Judicial Service Commission, means that Commission; and
- (b) in any other case, means the Public Service Commission;

“**entitled officer**” means an officer in the Public Service who on the operative date has not attained the age of fifty-five years and who—

- (a) was before the operative date selected for appointment to an office in the Public Service being a pensionable office for the purposes of the appropriate law; or
- (b) was on the operative date the substantive holder of an office that was at that date a pensionable office for the purposes of the appropriate law; and
- (c) is a designated officer for the purposes of the First Schedule; and
- (d) has since the operative date been the substantive holder of an office service in which may during his tenure thereof be taken into account in computing his pension under the appropriate law; and

(e) has been confirmed in his appointment, where his appointment is subject to confirmation; and includes an officer in the Public Service on and since the operative date to whom the Oversea Superannuation Scheme (Consolidation) Regulations apply;

“**General Orders**” means the General Orders of the Government;

“**operative date**” means 1st April 1968;

“**Oversea Superannuation Scheme (Consolidation) Regulations**” means any regulations so entitled made by a Secretary of State;

“**pensionable emoluments**” means emoluments that may be taken into account in computing the pension of an officer under the appropriate law;

“**pensionable service**” means the aggregate amount of service that may be taken into account for the purpose of computing the pension of an officer under the appropriate law or the Oversea Superannuation Scheme (Consolidation) Regulations, as the case may be, and in the case of an officer to whom the Oversea Superannuation Scheme (Consolidation) Regulations apply includes service that could be taken into account for the purpose of computing pensions under the Pensions Act, [No. 3 of 1968](#);

“**Public Service**” means the Public Service of Swaziland;

“**Secretary of State**” has the same meaning as in the Pensions Act, [No. 3 of 1968](#);

“**substantive holder**” in relation to any office includes a person serving in that office on probation but does not include a person (other than a person serving under a probationary agreement) serving in that office for a specified term under a contract.

(2) For the purposes of this Schedule—

(a) a person shall not be regarded as holding any office on the operative date if on that date he was on leave of absence pending his retirement otherwise than under this Schedule;

(b) a person whose office has been abolished and who retires in consequence of the abolition of his office shall be deemed to be the substantive holder of that office during the period between the date on which the office was abolished and the date of expiry of any leave of absence granted to him pending his retirement;

(c) if an officer on probation is required to retire—

(i) under section 17 of the Swaziland Independence Order 1968;

(ii) to facilitate the introduction of constitutional changes;

(iii) in consequence of injury or ill-health;

(iv) in consequence of the abolition of his office or for the purpose of facilitating improvements in the organisation of that part of the Public Service to which he belongs by which greater economy or efficiency may be effected; or

(v) on the grounds of age in accordance with the provisions of the appropriate law;

he shall be deemed to have been confirmed in his appointment immediately before the day upon which he was given notice requiring him to retire;

(d) subject to head (a) of this sub-paragraph, an officer who satisfies the conditions specified in heads (a) or (b) and (c) and (e) of the definition of “**entitled officer**” in sub-paragraph (1) and who has, before the date of the commencement of this Act retired or died, shall be deemed to have become entitled to compensation under paragraph 2 and this Schedule shall have effect in relation to such officer as if he were an entitled officer immediately before such retirement or death.

- (3) For the purposes of calculating the compensation to which an officer is entitled under this Schedule, where the officer is seconded to the service of another government or authority on the date in relation to which the assessment is made he shall be deemed to have such annual pensionable emoluments on that date as he would have had on that date if he had not been so seconded but had continued until that date to hold the office in the Public Service that he was holding immediately before his secondment and had been granted all increments and other increases of salary for which he would thus have been eligible.
- (4) If an officer was on any date appointed or selected for appointment to an office in the Public Service upon transfer from pensionable employment under the Government of the United Kingdom in a public office as defined by the Superannuation Act 1892 of the British Kingdom and for any period thereafter was entitled to return to such pensionable employment he shall not for the purposes of this Schedule be regarded as having been on that date appointed or, as the case may be, selected for appointment as the substantive holder of an office in the Public Service but shall for those purposes be regarded as having been so appointed or selected on the date on which he ceases to be entitled to return to such pensionable employment if on that date he was holder of an office in the Public Service.
- (5) An entitled officer who is required to retire and who, immediately before being so required, acted for a period of six months to the satisfaction of the appropriate Service Commission in a pensionable office, the pensionable emoluments of which were higher than those of the office of which he was the substantive holder, shall be deemed to be confirmed in the pensionable office in which he was acting:
- (6) This Schedule shall, in relation to an entitled officer who is a judge of the High Court of Swaziland, have effect as if—
  - (a) references to the age of fifty-five years were references to the age of sixty-two years;
  - (b) references to Table I of the Annex to this Schedule were references to Table II of that Annex.

## 2. Entitlement to compensation

- (1) Subject to this Schedule, every entitled officer shall, on the operative date or, in the case of a person who becomes an entitled officer after that date, on the date on which he becomes an entitled officer, become entitled to compensation which shall be assessed in accordance with this paragraph and at each assessment shall be calculated by multiplying the amount of his annual pensionable emoluments on the date in relation to which the assessment is made by the appropriate factor and the resulting amount, or twenty-four thousand emalangeni, whichever is the lesser, shall be the amount to which he is entitled.
- (2) The compensation of each entitled officer under this paragraph shall, if it has not already been provisionally assessed, be provisionally assessed as soon as is reasonably practicable after the commencement of this Act or, in the case of a person who becomes an entitled officer after the commencement of this Act, as soon as is reasonably practicable after that person becomes an entitled officer, and for that purpose the date in relation to which the assessment is to be made shall, subject to paragraph 5(2), be the operative date or, in the case of a person who becomes an entitled officer after the operative date, the date on which that person became an entitled officer.
- (3) The compensation under this paragraph of each person who is serving as an entitled officer shall be provisionally re-assessed upon each anniversary of the date in relation to which his compensation was provisionally assessed and shall be finally assessed upon his retirement or death while still serving as an entitled officer, and for the purposes of this subparagraph the date in relation to which the assessment is to be made shall be such date (not being earlier than the date in relation to which his compensation was provisionally assessed or later than the date upon which his compensation is provisionally re-assessed or finally assessed, as the case may be) as is most advantageous in relation to the officer.
- (4) If the compensation of any entitled officer is provisionally assessed or re-assessed or is finally assessed, he (or, in the case of an officer who has died, his personal representatives) shall thereupon

be given a statement showing the amount of the compensation to which, in accordance with that provisional assessment or re-assessment or final assessment, he is entitled.

- (5) In this paragraph “the appropriate factor” in relation to an officer means the factor obtained from Table I of the Annex that is appropriate to the age and pensionable service of that officer on the date in relation to which the assessment is to be made in completed years and months or, if it is more favourable to the officer, reckoned in completed years without regard to parts of a year.

### 3. Payment of compensation

- (1) If the compensation of an entitled officer has been provisionally assessed, a payment shall be made to that officer, which—
- (a) in the case of an entitled officer who has undertaken after the operative date, otherwise than in relation to his promotion in the Public Service, to serve as such upon such conditions and for a period of not less than twenty-four months, shall be an amount equal to the amount of the compensation or four thousand emalangeni, whichever is the lesser;
  - (b) in any other case, shall be an amount equal to the amount of the compensation as so assessed or, if that amount exceeds two thousand emalangeni, then one-sixth of the amount of compensation or two thousand emalangeni, whichever is the greater:

Provided that if an entitled officer gives such undertaking after a payment has been made to him under this sub-paragraph, but not later than twelve months after the date in relation to which his compensation was provisionally assessed, he shall be paid as soon as is reasonably practicable after the date on which he gave that undertaking and in any case within three months of that date, an amount which when added to the amount already paid to him equals the amount he would have been paid under this sub-paragraph if he had given that undertaking before any payment had been made to him under this sub-paragraph.

- (2) Subject to paragraph 12, a further payment shall be made to every person who has become entitled to compensation under paragraph 2 and who has not already received the whole of that compensation (whether that person is serving as an entitled officer or has retired) upon each anniversary of the date in relation to which his compensation was assessed under paragraph 12(2), which—
- (a) in the case of a payment made upon the first, second, third or fourth anniversary, shall be an amount equal to the appropriate fraction of the balance of compensation then outstanding; and
  - (b) in the case of a payment made upon the fifth or any later anniversary, shall be an amount equal to the balance of compensation then outstanding;

Provided that—

- (i) where the balance of compensation outstanding upon the first, second, third or fourth anniversary exceeds one thousand emalangeni and, in the case of an officer to whom paragraph (1)(a) applies, where that balance, if added to the amount of compensation already paid under this paragraph, would exceed four thousand emalangeni, an amount equal to the appropriate fraction of that balance or eight hundred emalangeni, whichever is the greater, shall be paid;
  - (ii) where the balance so outstanding is less than one thousand emalangeni, or, in the case of an officer to whom paragraph (1)(a) applies, where that balance exceeds one thousand emalangeni but would not, if added to the amount of compensation already paid under this paragraph, exceed four thousand emalangeni, an amount equal to that balance shall be paid.
- (3) In this section “the appropriate fraction”—
- (a) in relation to an assessment made upon the first anniversary, means one-fifth;
  - (b) in relation to an assessment made upon the second anniversary, means one-quarter;

- (c) in relation to an assessment made upon the third anniversary, means one-third; and
- (d) in relation to an assessment made upon the fourth anniversary, means one-half.

#### 4. Retirement

- (1) Subject to this paragraph, an entitled officer may, after giving such notice as may be prescribed by the appropriate Service Commission, retire at any time.
- (2) An entitled officer who has given notice of his intention to retire under this paragraph on any date may, with the consent of the appropriate Service Commission, withdraw the notice at any time before that date.
- (3) No entitled officer shall retire under this paragraph without the permission of the appropriate Service Commission:

Provided that the Commission shall not withhold permission unless disciplinary proceedings are being taken, or are about to be taken against the officer and those proceedings might lead to his dismissal.

- (4) An entitled officer—
  - (a) who is permitted to retire by reason of injury or ill health;
  - (b) who is required to retire on or after he attains any age prescribed by law;
  - (c) who is required to retire in consequence of the abolition of his office or for the purpose of facilitating improvements in the organisation of the part of the Public Service to which he belongs by which greater economy or efficiency may be effected;
  - (d) who is required to retire in the public interest;
  - (e) who is required to retire under section 17 of the Swaziland Independence Order 1968; or
  - (f) in the case of a woman officer, who is required to retire upon her marriage;shall be deemed to have retired under this paragraph.

#### 5. Retirement on constitutional grounds

- (1) This paragraph shall apply to any entitled officer who is declared by the appropriate Service Commission to be an officer required to retire in order to facilitate the introduction of constitutional changes; and every such officer who so retires shall be deemed to have retired under this Schedule.
- (2) The date in relation to which the compensation of an officer to whom this paragraph applies is to be assessed under paragraph 2(2) shall be such date in the period beginning on the date on which he was given notice requiring him to retire or the operative date, whichever is the earlier, and ending on the date of his retirement, as is most advantageous in relation to the officer.
- (3) An officer to whom this paragraph applies shall as soon as reasonably practicable be paid a disturbance grant equal to one quarter of his annual pensionable emoluments at his retirement.

#### 6. Special gratuity on the death of certain officers

- (1) If an entitled officer dies and it is lawful under the provisions of the appropriate law for a gratuity to be granted to his personal representatives there shall be granted to his personal representatives either that gratuity or a gratuity equal to the maximum gratuity that could have been granted to that officer under paragraph 10 if he had retired under this Schedule at the date of his death, whichever is the greater.
- (2) If an entitled officer to whom the Oversea Superannuation Scheme (Consolidation) Regulations apply dies and a gratuity is payable to his personal representatives under those regulations, there shall be granted to his personal representatives a gratuity equal to the amount produced by

subtracting the amount of the maximum gratuity which could have been granted to that officer under paragraph 10 if that paragraph and the Pensions Act, [No. 3 of 1968](#), had applied to him and he had retired under this Schedule at the date of his death.

- (3) The Permanent Secretary, Ministry of Finance, may direct that instead of being paid to the personal representatives, any gratuity payable under this paragraph shall be paid to one of the dependants of the deceased or to two or more of those dependants in such proportions as the Permanent Secretary may think fit.

#### 7. **Officers reappointed to U.K. service**

- (1) This paragraph applies to an entitled officer who has retired under this Schedule and —
- (a) who was transferred to the Public Service from pensionable employment under the Government of the United Kingdom either in a public office as defined by the Superannuation Act 1892 of the United Kingdom or in employment pensionable under the Federated Superannuation System for Universities; and
  - (b) who not later than twelve months after he retired has (other than as the result of a competition conducted by the Civil Service Commissioners of the United Kingdom) returned to such pensionable employment.
- (2) A person to whom this paragraph applies shall cease to be entitled to compensation under paragraph 2, but shall be entitled to compensation of an amount equal to —
- (a) one-half of the amount he would receive if he were entitled to compensation under paragraph 2; or
  - (b) the amount he would receive if he were entitled to compensation under paragraph 8, having been transferred to the pensionable employment referred to in sub-paragraph (1)(b) of this paragraph on the date on which he retired;
- whichever is the lesser.
- (3) If this paragraph becomes applicable to any person, his compensation shall forthwith be re-assessed, and—
- (a) if the amount of compensation as so re-assessed exceeds the amount he has already received under this Schedule, the balance of compensation then outstanding shall be paid, together with any unpaid interest that has accrued under this Schedule before the re-assessment, in the manner prescribed by paragraph 3 for the payment of compensation assessed under paragraph 2; or
  - (b) if the amount of compensation he has already received under this Schedule exceeds the amount of compensation to which he is entitled under this paragraph, the excess shall forthwith become repayable, but in any such case any interest received on account of such excess shall not be repayable.

#### 8. **Transfer to other public service**

- (1) This paragraph applies to an entitled officer who is transferred from the Public Service—
- (a) to the service of a government or authority that is a scheduled Administration for the purposes of Part III of the Pensions Regulations in circumstances in which he remains eligible for the grant of a pension under the appropriate law upon his eventual retirement;
  - (b) to service in the office of Governor in such circumstances that he is or may become eligible for a pension under the Governors' Pensions Act 1957 of the United Kingdom:
- Provided that—
- (a) it does not apply to an officer to whom paragraph 7 applies;

(b) it applies to any officer—

- (i) who, but for the provisions of paragraph 1(4), would be an entitled officer; and
- (ii) who, in the opinion of the appropriate Service Commission, would have had a reasonable prospect of becoming an entitled officer if no constitutional changes had been introduced; and
- (iii) who, unless prevented by circumstances beyond his control, serves for a period of not less than two years' residential service beginning on the operative date; and
- (iv) who returns to pensionable employment under the Government of the United Kingdom in a public office as defined in the Superannuation Act 1892 of the United Kingdom;

as if he were an entitled officer.

(2) An officer to whom this paragraph applies shall cease to be entitled to compensation under paragraph 2, but if the amount of his annual pensionable emoluments immediately before his transfer exceeds the amount of the annual emoluments payable to him immediately after his transfer (being emoluments that may be taken into account for the purposes of his pension under the law or regulations relating to his service in that other public service) he shall be entitled to compensation equal to—

- (a) the amount of the excess multiplied by the appropriate factor; or
- (b) the amount he would receive if he were entitled to compensation under paragraph 2, having retired on the date of his transfer;

whichever is the lesser.

(3) If this paragraph becomes applicable to any person, his compensation shall forthwith be re-assessed, and—

- (a) if the amount of compensation as so re-assessed exceeds the amount he has already received under this Schedule, the balance of compensation then outstanding shall be paid, together with any unpaid interest that has accrued under this Schedule before the re-assessment, in the manner prescribed by paragraph 3 for the payment of compensation assessed under paragraph 2; or
- (b) if the amount of compensation which has already been received under that paragraph exceeds the amount of compensation to which he is entitled under this paragraph, the excess shall forthwith become repayable, but in any such case any interest received on account of such excess shall not be repayable.

(4) In this paragraph “the appropriate factor” in relation to an officer means the factor obtained from Table III of the Annex that is appropriate to the age of the officer at the date of his transfer reckoned in completed years and completed months.

## 9. Penalties for breach of undertakings

(1) If an entitled officer who has given an undertaking for the purposes of paragraph 3(1)(a) ceases to serve in accordance with the terms of that undertaking at any time before the end of the period to which the undertaking relates otherwise than with the consent of the Government or by reason of his death, his retirement in circumstances beyond his control or his transfer to other public service in the circumstances described in paragraph 8, then the amount of compensation to which he would otherwise be entitled under paragraph 2 shall be reduced by an amount equal to one-half *per centum* for each month or part of a month during that period in which he has not served in accordance with the undertaking, or four hundred emalangen, whichever is the lesser.



- (2) If an entitled officer has been granted promotion in the Public Service after the operative date upon his giving an undertaking to serve upon such conditions as may be prescribed by the appropriate Service Commission for a period of not less than twenty-four months ceases to serve in accordance with the terms of that undertaking at any time before the end of the period to which the undertaking relates otherwise than with the consent of the Government or by reason of his death or his retirement in circumstances beyond his control, then the amount of compensation to which he is entitled under paragraph 2 shall be re-assessed and the amount of his compensation shall be determined as if his annual pensionable emoluments in relation to the date of his promotion or any subsequent date were the amount of the pensionable emoluments which would have been taken in accordance with regulation 18 of the Pensions Regulations for the purpose of computing his pension if he had retired on that date.
- (3) If any of the provisions of this paragraph become applicable to any entitled officer, his compensation shall be re-assessed accordingly and paid in accordance with paragraph 3 and if the amount of compensation he has already received under that paragraph exceeds the amount of compensation to which he is entitled under the re-assessment the excess shall forthwith become repayable.

#### 10. **Grant of pensions and gratuities**

- (1) Subject to paragraphs 17 and 19, an entitled officer, on his retirement under this Schedule, may be granted at his option (such option to be exercised in accordance with regulation 24 of the Pensions Regulations) either—
  - (a) a pension of such amount as may be granted under the appropriate law;
  - (b) a reduced pension equal to such fraction as he may desire of the pension that may be granted under the appropriate law (not being, in the case of an officer who retires within twelve years of the operative date, less than the permitted fraction) together with a gratuity equal to the annual amount of the remaining fraction of that pension multiplied by the appropriate factor; or
  - (c) in the case of an officer who retires not less than twelve years after the operative date, a gratuity equal to the annual amount of the pension that may be granted under the appropriate law multiplied by the appropriate factor.
- (2) For the purposes of this paragraph an officer shall be deemed to be eligible for the grant of a pension under the appropriate law—
  - (a) notwithstanding that he may have retired before attaining the age specified in the appropriate law as qualifying him for the grant of a pension; and
  - (b) notwithstanding that he may not have completed at the date of his retirement the period of qualifying service required by the appropriate law to render him eligible for the grant of a pension.
- (3) If an officer retires by reason of injury or ill health in circumstances in which he could under the appropriate law be granted an additional pension this paragraph shall have effect in relation to that officer as if references to the pension that may be granted under the appropriate law included references to that additional pension.
- (4) If an officer to whom this paragraph applies retires in consequence of the abolition of his office or for the purpose of facilitating improvements in the organisation of the part of the Public Service to which he belongs by which greater economy or efficiency may be effected in circumstances in which he could under the appropriate law be granted an additional pension, this paragraph shall have effect in relation to that officer as if references to the pension that may be granted under the appropriate law did not include references to that additional pension.
- (5) For the purposes of this paragraph the amount of the pension or gratuity that an officer who is required to retire in the circumstances described in paragraph 4(4)(c) or (e) or paragraph 5(1) or on the grounds of age before attaining the age of fifty-five years may be granted under the appropriate



law shall be calculated by reference to the full annual pensionable emoluments enjoyed by him on the date immediately prior to his retirement.

- (6) If an officer has not exercised the option conferred upon him by sub-paragraph (1) within the period in which it is required to be exercised he shall be deemed to have opted for the grant of a pension of such amount as may be granted under the appropriate law.

- (7) In this paragraph—

“the appropriate factor” in relation to an officer means the factor obtained from Table IV of the Annex that is appropriate to the age of that officer on the date immediately prior to his retirement reckoned in completed years and completed months;

“the permitted fraction”—

- (a) in relation to an officer who retires within one year of the operative date, means three-quarters;
- (b) in relation to an additional pension granted on account of injury under regulation 23(1) of the Pensions Regulations, means three-quarters; and
- (c) subject to head (b) of this definition, in relation to an officer who retires within not less than one and not more than twelve years of the operative date, means such fraction as is obtained by subtracting one-sixteenth for each complete year of his pensionable service after the operative date from three-quarters:

Provided that in reckoning for the purposes of this sub-paragraph the years of pensionable service of an officer who is granted leave of absence pending his retirement, leave of absence granted in respect of service prior to the operative date the enjoyment of which had on the operative date been deferred shall not be taken into account.

#### 11. Special gratuity for certain officers

- (1) Subject to paragraphs 17 and 19, where any entitled officer to whom Part III of the Pensions Regulations applies retires under this Schedule and is granted by any government or other authority that is a scheduled Administration for the purposes of that Part both a pension and a gratuity, having elected to receive that pension and that gratuity in lieu of a pension of greater amount, he may be granted in addition to any gratuity that may be granted to him under paragraph 10 of a gratuity equal to the amount (if any) by which the amount produced by—
- (i) subtracting the annual amount of the pension granted to him by the scheduled Administration from the annual amount of the pension that would have been granted to him by that Administration had he not elected to receive the gratuity granted to him by the scheduled Administration; and
  - (ii) multiplying the resulting amount by the appropriate factor;
- exceeds the amount of the gratuity granted to him by the scheduled Administration.
- (2) Subject to paragraphs 17 and 19, where an entitled officer to whom the provisions of the Oversea Superannuation Scheme (Consolidation) Regulations apply retires under this Schedule and is granted under those regulations a pension and a lump sum—
- (a) he may be granted a gratuity equal to the amount produced by subtracting that lump sum from the sum arrived at by multiplying by the appropriate factor one-quarter of the annual amount of the pension he would have received if his pension had been calculated under the Pensions Act; and

- (b) he may be granted (in addition to any gratuity that may be granted to him under head (a) of this sub-paragraph) at his option—
  - (i) on assigning to the Government a part of the annual amount of the pension granted to him under those regulations (not being in the case of an officer who retires within twelve years of the operative date, more than the permitted fraction); or
  - (ii) in the case of an officer who retires not less than twelve years after the operative date, on assigning the whole of the annual amount of such pension;
 a gratuity equal to the amount of his pension so assigned multiplied by the appropriate factor; such option to be exercised in accordance with the provisions of regulation 24 of the Pensions Regulations.

(3) In this paragraph—

“the appropriate factor” has the same meaning as in paragraph 10;

“the permitted fraction—

- (a) in relation to an officer who retires within not less than one year but within two years of the operative date, means one-twelfth;
- (b) in relation to an officer who retires within not less than two years of the operative date, means the fraction obtained by adding one-twelfth for each completed year of his pensionable service after the operative date to one-twelfth:

Provided that in reckoning for the purposes of this sub-paragraph the years of pensionable service of an officer who is granted leave of absence pending his retirement leave of absence granted in respect of service prior to the operative date enjoyment of which had on the operative date been deferred shall not be taken into account.

## 12. Special provisions as to payment of compensation

(1) If—

- (a) a person who has become entitled to compensation under paragraph 2 but who has not already received the whole of that compensation (and in the case of an entitled officer whether he is still serving as such or has already retired) attains the age of fifty-five years, or dies before attaining that age;
- (b) an entitled officer who has not already received the whole of the compensation to which he is entitled under paragraph 2 retires in the circumstances described in paragraph 4(4)(b); or
- (c) an entitled officer who has not already received the whole of the compensation to which he is entitled under paragraph 2 retires in any other circumstances before he has attained that age but on or after the fifth anniversary of the operative date or, in the case of a person who became an entitled officer after that date, of the date on which he became an entitled officer;

the balance then outstanding of the compensation to which he is entitled shall be paid to that person or, if that person is dead, to his personal representatives.

- (2) If an entitled officer, who has not already received the whole of the compensation to which he is entitled under paragraph 2, is required to retire under section 17 of the Swaziland Independence Order 1968 before attaining the age of fifty-five years, the balance then outstanding of the compensation to which he is entitled under that paragraph shall be paid to him—
  - (a) if notice requiring him to retire is given to him while he is engaged upon a tour of residential service, before his departure from Swaziland; or
  - (b) if such notice is given to him while on leave of absence after completing a tour of residential service, as soon as reasonably practicable after the date upon which such notice is given to him.

- (3) If an officer, who has not already received the whole of the compensation to which he is entitled under paragraph 2, is required to retire in the circumstances described in paragraph 5(1), the balance then outstanding of the compensation to which he is entitled under that paragraph shall be paid to him as soon as practicable after the date of the notice requiring him to retire.
- (4) The Permanent Secretary, Ministry of Finance, may direct that instead of any payment being made to the personal representatives of a deceased person payment shall be made to one of the dependants of the deceased or two or more of those dependants in such proportions as the Permanent Secretary may think fit.
- (5) If any payment of compensation becomes due under this Schedule interest at the rate of five *per centum* per annum shall accrue from day to day—
  - (a) in cases where the compensation has not been finally assessed, during the period between the date on which the amount of the compensation was last due to be assessed and the date on which the next following assessment is to be made;
  - (b) in cases where the compensation has been finally assessed, during the period between the date on which such payment of compensation became due and the date on which the next following payment of compensation will become due;

upon any part of the compensation that did not then become payable and such interest shall become payable at the end of the period during which it accrued:

Provided that, for the purpose of calculating interest under this sub-paragraph the compensation to which the officer is entitled shall be deemed to have been provisionally assessed, and the first instalment thereof paid to the officer, on the operative date.

- (6) When the compensation of an entitled officer is finally assessed under paragraph 2(3) upon his retirement, in addition to the interest payable under sub-paragraph (5) such officer shall be paid a sum equal to the interest which would, if the balance of compensation due to him on the date of his retirement had not been paid and provision had been made for interest at the rate of five *per centum* per annum to accrue from day to day on such balance, have accrued upon that balance during the period between the date of his retirement and the next anniversary of the operative date.

### 13. Leave and subsistence allowance

- (1) This paragraph shall apply to an entitled officer (not being an officer to whom paragraph 17 applies) who is required to retire under section 17 of the Swaziland Independence Order 1968 or paragraph 5:

Provided that sub-paragraph (3)(a) shall also apply to an entitled officer who is required to retire in the circumstances described in paragraph 4(4)(c).
- (2) An officer to whom this paragraph applies who is on leave of absence after completing a tour of residential service when he is required to retire shall—
  - (i) if the period of leave on full pensionable emoluments for which he is eligible on the date upon which he is given notice requiring him to retire is less than six months, be granted such additional leave on full pensionable emoluments as will bring the aggregate period of such leave of absence from that date up to six months;
  - (ii) if he returns to Swaziland to settle his affairs, he shall be paid a subsistence allowance at the rate prescribed by General Orders for the period of his stay in Swaziland or twenty-one days, whichever is the lesser.
- (3) An officer to whom this paragraph applies who is not on leave of absence after completing a tour of residential service when he is required to retire—
  - (a) shall not be required to depart from Swaziland on leave of absence pending his retirement until the expiry of six months from the date upon which he was given notice requiring him to retire;

- (b) shall, if the period of leave on full pensionable emoluments for which he is eligible is less than six months, be granted such additional leave on full pensionable emoluments as will bring the aggregate period of such leave of absence pending his retirement up to six months.

#### 14. Passages and baggage facilities

- (1) If an entitled officer who is on leave of absence after completing a tour of residential service gives notice of his intention to retire under paragraph 4, then—
  - (a) if he returns to Swaziland at the requirement of the Government and is willing to undertake a further tour of residential service of not less than six months; or
  - (b) if he returns to Swaziland to settle his affairs and is willing to undertake a further tour of residential service of not less than twelve months;

he shall be provided with appropriate passages and appropriate baggage facilities for himself and his family in respect of his and their return journey to Swaziland and in respect of his and their journey from Swaziland consequential upon his retirement; and in any other case (whether or not he returns to Swaziland) he shall be provided with appropriate baggage facilities for himself and his family for the purpose of removing his and their effects from Swaziland.

- (2) If an entitled officer who is on leave of absence after completing a tour of residential service is required to retire under section 17 of the Swaziland Independence Order 1968 or under paragraph 5 he shall, if he returns to Swaziland to settle his affairs, be provided with appropriate passages in respect of his return journey to Swaziland and his subsequent journey from Swaziland; and in any case (whether or not he returns to Swaziland) he shall be provided with appropriate baggage facilities for himself and his family for the purpose of removing his and their effects from Swaziland.
- (3) If an entitled officer who is not on leave of absence after completing a tour of residential service gives notice of his intention to retire under paragraph 4 or is required to retire under section 17 of the Swaziland Independence Order 1968 or under paragraph 5, he shall be provided with appropriate passages for himself and his family in respect of his and their journey from Swaziland (if any) consequential upon his retirement; and in any case (whether or not such passages are provided) he shall be provided with appropriate baggage facilities for himself and his family for the purpose of removing his and their effects from Swaziland.
- (4) If an entitled officer who has given the undertaking referred to in paragraph 3(1)(a) or 9(2) returns to Swaziland at the requirement of the Government to undertake a further tour of residential service of not more than twelve months in order to fulfil such undertaking and is willing to undertake such a tour, he shall be provided with appropriate passages and appropriate baggage facilities for himself and his family in respect of his and their return journey to Swaziland and in respect of his and their journey from Swaziland.
- (5) In this paragraph “appropriate passages” and “appropriate baggage facilities”, in relation to an entitled officer or, as the case may be, to the family of an entitled officer, mean respectively such passages and such baggage facilities as an officer of his status is entitled to under General Orders for the purpose of travelling to Swaziland in order to begin a tour of residential service or, as the case may be, for the purpose of travelling from Swaziland when retiring from the Public Service, having attained the age of fifty-five years and having completed such tour.

#### 15. Disciplinary proceedings and dismissal

- (1) If disciplinary proceedings are taken, or are about to be taken, against any person who is serving as an entitled officer and those proceedings might lead to his dismissal, the payment of compensation under this Schedule and interest thereon shall be withheld pending the determination of those proceedings.
- (2) If any person who is serving as an entitled officer is dismissed, any compensation which he has not already received may, with the approval of the appropriate Service Commission, be withheld.

**16. Place of payment and rate of exchange**

Any compensation, gratuity, disturbance grant or interest payable under this Schedule to an officer or to his personal representatives or dependants shall be paid, in accordance with any request made from time to time by such officer, his personal representatives or his dependants, as the case may be, in any of the following countries—

- (a) in the United Kingdom;
- (b) in Swaziland;
- (c) in the country from which the officer was recruited or where he intends to reside;
- (d) in the case of payment to the personal representatives of an officer or his dependants, in the country in which such personal representatives or dependants, as the case may be, reside; or
- (e) in such other country as the officer or his personal representatives or dependants may, with the concurrence of the Permanent Secretary, Ministry of Finance, select;

in the currency of the country in which payment is to be made; and, where payment is to be made in a country other than Swaziland, the amount of the payment shall be such as would produce, at the official rate of exchange prevailing at the date of the payment, the amount in sterling of the compensation, gratuity, disturbance grant or interest as calculated at the official rate of exchange prevailing on the operative date.

**17. Right to opt for abolition terms**

- (1) An entitled officer who, before he receives his initial payment of compensation, gives notice of retirement under paragraph 4, or is required to retire in any of the circumstances described in paragraph 4(4) or 5(1) may at his option (which option shall be exercised within three months of the commencement of this Order or, in the case of an officer who was not an entitled officer on the operative date, within three months of the date on which he became an entitled officer) become an officer to whom this paragraph applies.
- (2) An officer to whom this paragraph applies shall not be entitled to compensation under this Schedule or be granted a pension, gratuity or disturbance grant under this Schedule but, subject to the provisions of paragraph 19 may, on his retirement under this Schedule, be granted such benefits as may be granted under the appropriate law to an officer whose office has been abolished.
- (3) An officer to whom this paragraph applies shall repay the amount of any compensation that may have been paid to him.

**18. Acquisition of citizenship by entitled officer**

- (1) If an entitled officer becomes at any time after the commencement of this Order a citizen of Swaziland by virtue of his own act he shall thereupon cease to be an entitled officer.
- (2) If any person ceases to be an entitled officer by virtue of this paragraph, the amount of compensation (if any) he has received under this Schedule shall forthwith become repayable, but in any such case any interest received shall not be repayable.

**19. Application of appropriate law**

The appropriate law shall, subject to this Schedule, apply in relation to the grant of any pension or gratuity under this Schedule and to any pension or gratuity under this Schedule and to any pension or gratuity granted thereunder as it applies in relation to the grant of a pension or gratuity, and to any pension or gratuity granted, under the appropriate law:

Provided that section 10 of the Pensions Act, [No. 3 of 1968](#) shall not apply in relation to any pension granted under this Schedule.

**20. Exemption from tax**

Any compensation, gratuity or disturbance grant payable under this Schedule shall be exempt from tax under any law in force in Swaziland relating to the taxation of incomes or imposing any other form of taxation.

**21. Exercise of options**

Any option exercisable by any person for the purposes of this Schedule shall be—

- (a) irrevocable after the end of the period within which it is to be exercised;
- (b) exercised by notice in writing to the appropriate Service Commission;
- (c) deemed to have been exercised on the date on which the notice is received:

Provided that the appropriate Service Commission may, if it thinks fit, generally or in respect of a particular person and subject or not to conditions, extend the period for the exercise of an option.

## **Annex**

### **Instructions for obtaining the appropriate factor from Table I**

- I. Read off from the Table the factors for officer's age at his last birthday and his—
  - (a) completed years of service,
  - (b) completed years of service plus one year.
- II. Subtract I(a) from I(b), divide the difference by twelve and multiply the result by the number of completed months of service, if any, in excess of the completed years of service.
- III. Add I(a) and II.
- IV. Repeat steps to III for the officer's age at his next birthday.
- V. Divide the difference between III and IV by twelve and multiply by the number of completed months of age, if any, since the officer's last birthday.
- VI. If IV is greater than III, add V to III.  
If IV is less than III subtract from III.  
VI is the factor required.

### **Instructions for obtaining the appropriate factor from**

#### **Table II, III OR IV**

- I. Read off from the Table the factors for the officer's age—
  - (a) at his last birthday;
  - (b) at his next birthday.
- II. Divide the difference between I(a) and I(b) by twelve and multiply by the number of completed months of age since the last birthday.
- III. If I(b) is greater than I(a), add II to I(a).

If I(b) is less than I(a), subtract II from I(a).

III is the factor required.

In calculating factors by interpolation in respect of Tables I to III the calculation should be rounded off to two decimal points and where this results in a difference of point nought one in either direction such difference should be ignored.

**Table I – The Schedule (Paragraph 2)**

Age of officer	Factor when length of service is								
	2 years	3 years	4 years	5 years	6 years	7 years	8 years	9 years	10 years or more
21	.11	.16							
2	.12	.19	.25						
3	.14	.21	.28	.36					
4	.16	.24	.32	.40	.49				
25	.18	.27	.36	.46	.55	.64			
6	.20	.31	.41	.51	.61	.71	.82		
7	.23	.34	.45	.56	.68	.79	.90	1.02	
8	.25	.38	.50	.63	.76	.88	1.01	1.13	1.26
9	.28	.42	.56	.70	.85	.99	1.13	1.27	1.41
30	.32	.48	.64	.80	.97	1.13	1.29	1.45	1.61
1	.37	.56	.74	.93	1.12	1.30	1.49	1.67	1.86
2	.43	.65	.87	1.08	1.30	1.52	1.74	1.95	2.17
3	.50	.76	1.01	1.26	1.51	1.76	2.02	2.27	2.52
4	.58	.87	1.16	1.45	1.74	2.03	2.32	2.61	2.90
35	.65	.98	1.31	1.64	1.96	2.29	2.62	2.94	3.27
6	.72	1.08	1.44	1.80	2.16	2.52	2.88	3.24	3.60



7	.77	1.16	1.55	1.94	2.32	2.71	3.10	3.48	3.87
8	.82	1.22	1.63	2.04	2.45	2.86	3.26	3.67	4.08
9	.84	1.27	1.69	2.11	2.53	2.95	3.38	3.80	4.22
40	.86	1.29	1.72	2.14	2.57	3.00	3.43	3.86	4.29
1	.86	1.29	1.72	2.15	2.58	3.01	3.44	3.87	4.30
2	.85	1.28	1.70	2.12	2.55	2.98	3.40	3.82	4.25
3	.83	1.24	1.65	2.06	2.48	2.89	3.30	3.72	4.13
4	.79	1.18	1.57	1.96	2.36	2.75	3.14	3.54	3.93
45	.73	1.10	1.46	1.83	2.20	2.56	2.93	3.29	3.66
6	.67	1.01	1.34	1.68	2.02	2.35	2.69	3.02	3.36
7	.61	.92	1.22	1.53	1.84	2.14	2.45	2.75	3.06
8	.55	.83	1.10	1.38	1.66	1.93	2.21	2.48	2.76
9	.49	.74	.98	1.23	1.48	1.72	1.97	2.21	2.46
50	.43	.64	.86	1.08	1.29	1.50	1.72	1.94	2.15
1	.36	.54	.72	.90	1.09	1.27	1.45	1.63	1.81
2	.29	.43	.57	.72	.86	1.00	1.14	1.29	1.43
3	.20	.30	.40	.50	.60	.70	.80	.90	1.00
4	.10	.15	.20	.25	.30	.35	.40	.45	.50
55 and above	nil	nil	nil	nil	nil	nil	nil	nil	nil

**Table II – The Schedule (Paragraphs 1(6) and 2)**

<b>Age of officer</b>	<b>Factor</b>
55	2.50
56	2.27
57	2.04
58	1.76
59	1.42
60	1.00
61	.50
62 and over	nil

Note:

- (a) These factors apply where the judge has at least ten years' service.
- (b) The factor corresponding to the judge's age in years and completed months should be obtained by interpolation.

**Table III – The Schedule (Paragraph 8)**

<b>Age</b>	<b>Factor</b>
30 and under	5.00
31	5.08
32	5.21
33	5.47
34	5.90
35	6.56
36	7.44
37	8.10
38	8.53
39	8.79
40	8.92
41	9.00
42	8.92
43	8.77
44	8.40
45	7.61
46	6.39
47	5.60

48	5.23
49	5.08
50 and above	5.00

**Table IV – The Schedule (Paragraphs 10 and 11)**

Age of officer	Factor	Age of officer	Factor
25 and under	17.08	40	15.07
26	16.97	41	14.90
27	16.86	42	14.73
28	16.74	43	14.55
29	16.62	44	14.36
30	16.50	45	14.17
31	16.38	46	13.97
32	16.25	47	13.76
33	16.12	48	13.54
34	15.98	49	13.32
35	15.84	50	13.08
36	15.70	51	12.84
37	15.55	52	12.59
38	15.40	53 and above	12.50
39	15.24		