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Public Officers (Swaziland) Agreement Act Act 54 of 1968

Legislation as at 1 December 1998

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Public Officers (Swaziland) Agreement Act
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Public Officers (Swaziland) Agreement Act Act 54 of 1968

Commenced on 8 September 1968

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

Public Officers Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Swaziland.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Swaziland have agreed as follows:

Article 1 – Interpretation

- (1) In this Agreement—
- (a) “**the appointed day**” means the 6th September, 1968;
 - (b) “**conditions of service**” means the laws, rules, regulations, orders and other instruments that regulate the terms of service of an expatriate officer relating to his tenure of office, disciplinary control, salary (including salary scales), pensionable allowances and passages;
 - (c) “**expatriate officer**” means a person who was at any time before the appointed day the substantive holder of a pensionable office in the Public Service of Swaziland being a person—
 - (i) who was selected for or offered appointment to the Public Service of Swaziland by a Secretary of State; or
 - (ii) whose appointment to the Public Service of Swaziland was approved by a Secretary of State; or
 - (iii) who had entered into an agreement with the Crown Agents for Overseas Governments and Administrations to serve in the Public Service of Swaziland; or
 - (iv) who (although not a person falling within heads (i), (ii), or (iii) of this sub-paragraph) is or has been a member of Her Majesty’s Overseas Civil Service or Her Majesty’s Overseas Judiciary, or has been a member of a former Colonial Unified Service, or is or was a designated officer for the purposes of the Overseas Service (Swaziland) Agreement, 1962; and
 - (v) who is not and does not become a citizen of Swaziland by his own act;
 - (d) “**non-designated officer**” means a person who was at any time before the appointed day the substantive holder of a pensionable office in the Public Service of Swaziland being a person who is not an expatriate officer and is not on the appointed day a citizen of Swaziland and does not thereafter become a citizen of Swaziland:

Provided that a person who is a citizen of Swaziland by operation of law on the appointed day and has the right to renounce such citizenship shall be a non-designated officer but if he does not renounce such citizenship within a period of two years from the appointed day, he shall cease to be a non-designated officer on the expiration of that period;
 - (e) “**officer**” means an expatriate officer or non-designated officer;
 - (f) “**pension**” means any pension, gratuity, compensation and interest thereon, retiring allowance or other like benefit payable by the Government of Swaziland to or in respect of any officer or to the widow or child of any officer or their legal personal representative, including any increase of

pension, and any contribution repayable and interest payable to any officer under any law providing for payment of pensions to widows and children of officers;

- (g) “**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 the office for a specified term under a contract.
- (2) Reference in this Agreement to the widow or children of an officer shall be deemed to include a reference to the widow or child of any person in the Public Service of Swaziland not being a citizen of Swaziland or a person who has at any time acquired citizenship of Swaziland save by operation of law on the appointed day.

Article 2 – Conditions of service

The conditions of service applicable to an expatriate officer who continues to be the substantive holder of a pensionable office in the Public Service of Swaziland on or after the appointed day shall not be less favourable than those which were applicable to him immediately before the appointed day.

Article 3 – Retirement and pensions

The entitlement to retire and the eligibility to receive a pension of any officer who continues to be the substantive holder of a pensionable office in the Service of Swaziland on or after the appointed day or of his widow, children, dependants or personal representatives shall be as provided for in the laws, regulations and administrative directions in force immediately before the appointed day or in such other laws, regulations and administrative directions made thereafter as are not less favourable; and pensions shall be granted and paid to such officers, and other persons accordingly.

Article 4 – Preservation of pensions

The pension of any officer who has ceased to be the substantive holder of a pensionable office in the Public Service of Swaziland before the appointed day, or of the widow, children, dependants or personal representatives of any such officer shall be granted and paid, or if granted before that date shall continue to be paid, in accordance with the laws, regulations and administrative directions governing those pensions immediately before the appointed day or in accordance with such other laws, regulations and administrative directions made thereafter that are not less favourable.

Article 5 – Payment of pensions

- (1) A pension shall, at the option of the person to whom it is payable, be paid 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 representative 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 country as the officer or his personal representatives or dependants may, with the concurrence of the Government of Swaziland, select, in the currency of the country in which payment is made.
- (2) An option exercised under paragraph (1) of this Article –
- (a) may be revoked at any time and a fresh option be exercised;

- (b) shall be exercised or revoked by notice in writing;
 - (c) shall take effect on the first day of the next succeeding month, or at the person's election on the first day of any subsequent month after the date on which the notice is received by the Financial Secretary to the Swaziland Ministry of Finance.
- (3) Pensions payable outside Swaziland after the appointed day shall be paid in the currency of the country in which payment is to be made, and 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 pension calculated as at the official rate of exchange prevailing on the appointed day:

Provided that if there is a general revision of salaries consequent upon the revaluation of the currency in use in Swaziland as a result of which the pensionable emoluments of an officer may be increased the Government of Swaziland may require that officer to agree that any pension that may be granted to him shall be calculated at the rate of exchange prevailing at the date of the revision of salaries before granting him the benefit of the increase of pensionable emoluments.

- (4) Where the person to whom a pension is payable is a minor, his or her lawful guardian may exercise the option conferred by this paragraph.

Article 6 – Increase of pensions

The Government of Swaziland undertakes that in any future schemes to increase pensions payable to any class or description of pensioner, there shall be no discrimination against any officer or the widow or children of any officer.

Article 7 – Options

For the purpose of this Agreement, in so far as the law, regulations or administrative directions applicable to the grant of a pension or to other conditions of service depends on the option of the person to or in respect of whom the pension is granted or is to be granted, or of the officer to whom the conditions of service apply, the law, regulations or administrative directions for which such person or officer opts shall be taken to be more favourable to him than any other law, regulation or administrative direction for which he might have opted.

Article 8 – Officers in H.M.O.C.S. and H.M.O.J

- (1) Expatriate officers who are members of Her Majesty's Overseas Civil Service or Her Majesty's Overseas Judiciary shall continue to be eligible for consideration by Her Majesty's Government in the United Kingdom for transfer or promotion to employment in the Public Service of some other territory.
- (2) The Government of Swaziland shall comply with any reasonable request that may at any time be made by Her Majesty's Government in the United Kingdom for the release of an expatriate officer for transfer or promotion in pursuance of paragraph (1) of this Article and shall take any action that may be necessary to preserve his pension rights when he is so transferred or promoted.
- (3) Before he is released an expatriate officer shall be required to make arrangements satisfactory to the Government of Swaziland for the repayment to that Government of any compensation or instalments of compensation he may be required to make under the Swaziland (Compensation and Retiring Benefits) Order-in-Council 1968 but not of any interest paid on outstanding instalments.

Article 9 – Appeals Board

Section 18 of the Swaziland Independence Order 1968 relating to benefits to which sections 123 and 124 of the Constitution of Swaziland apply that may be granted or that may have been granted to or in respect of any officer, shall not be revoked or amended to the prejudice of the interests of any officer.

Article 10 – Citation and commencement

This Agreement may be cited as the Public Officers (Swaziland) Agreement and shall come into operation on the date of signature.

In witness whereof the undersigned, being duly authorised thereto by their respective governments, have signed the present agreement.

Done at Mbanane on the eighth day of September, 1968.

For the Government of the United Kingdom of Great Britain and Northern Ireland:	For the Government of the Kingdom of Swaziland:
George Thomson	M. J. Dlamini