STATUTORY INSTRUMENTS

# 1966 No. 1173

## AFRICA

# The Botswana (Compensation and Retiring Benefits) Order 1966

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| *Made* - - - - | 20*th September* 1966 |
| *Laid before Parliament* | 26*th September* 1966 |
| *Coming into Operation Immediately before* | 30*th September* 1966 |

At the Court at Balmoral, the 20th day of September 1966

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of all the powers in that behalf by the Foreign Jurisdiction Act 1890(a) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement.

**1.**—(1) This Order may be cited as the Botswana (Compensation and Retiring Benefits) Order 1966.

(2) This Order shall come into operation immediately before 30th September 1966.

Interpretation.

**2.**—(1) In this Order—

(*a*) "Botswana" means the territory that immediately before 30th September 1966 is comprised in the Bechuanaland Protectorate and, in relation to any period prior to the commencement of this Order, that Protectorate;

(*b*) "the general compensation scheme" means the Scheme of compensation for pensionable officers who are designated officers for the purpose of the Overseas Service (Bechuanaland) Agreement 1962 that was published by the Government of Bechuanaland on 22nd April 1966.

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

Application of Schedule.

**3.** The provisions contained in the Schedule to this Order shall have effect in relation to the public service of Botswana.

Transitional provisions.

**4.**—(1) Where any officer or authority has before the commencement of this Order in pursuance of any provision of the general compensation scheme given any permission or consent or prescribed any condition or

(a) 1890 c. 37. (b) 1889 c. 63.

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 Schedule to this Order, and the provisions of that Schedule shall have effect accordingly.

(2) Where any officer has before the commencement of this Order 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 Schedule to this Order 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 Order, been required under the provisions of the general compensation scheme, to retire to facilitate the localisation of the public service of Bechuanaland shall, for the purposes of the Schedule to this Order, be deemed to have retired under section 12 of the Botswana Independence Order 1966(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 Schedule to this Order; any declaration made by Her Majesty's Commissioner 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 3(1)(*a*), paragraph 4 or paragraph 9(2) of the Schedule to this Order shall be not 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.

Modified application.

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

*W. G. Agnew.*

## SCHEDULE

### Compensation and Retirement Benefits for Certain Officers in the Public Service of Botswana

Interpretation.

**1.**—(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 Botswana that governs the grant of pensions,

(a) S.I. 1966/1171 (1966 III, p. 2842).

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 appointed or selected for appointment to an office in the public service being a pensionable office for the purposes of the appropriate law;

(*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;

(*c*) is a designated officer for the purposes of the Overseas Service (Bechuanaland) Agreement 1962;

(*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;

" General Orders " means the General Orders of the Government;

" Government " means the Government of Botswana;

" operative date " means 1st May 1966;

" 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;

" public service " means the public service of Botswana;

" 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 expiration of any leave of absence granted to him pending his retirement;

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

(i) under section 12 of the Botswana Independence Order 1966;

(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 organization 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 the provisions of head (*a*) of this sub-paragraph, an officer who satisfies the conditions specified in heads (*a*), (*b*), (*c*) and (*e*) of the definition of " entitled officer " in sub-paragraph (1) of this paragraph, and who has, before the date of the commencement of this Order retired or died, shall be deemed to have become entitled to compensation under paragraph 2 of this Schedule and the provisions of 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) Where 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(a) 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 the holder of an office in the public service.

Entitlement to compensation.

**2.**—(1) Subject to the provisions of this Schedule, every entitled officer shall, at the operative date or, in the case of a person who becomes an entitled officer after that date, at the date on which he becomes an entitled officer, become entitled to compensation which shall be assessed in accordance with the provisions of 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 twelve thousand pounds, whichever is the less, 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

(a) 1892 c. 40.

assessed as soon as is reasonably practicable after the commencement of this Order or, in the case of a person who becomes an entitled officer after the commencement of this Order, 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 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 sub-paragraph 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) When 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 representative) 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 to this Schedule 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.

Payment of compensation.

3.—(1) When 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 such period as may be prescribed by the appropriate Service Commission, shall be an amount equal to the amount of the compensation or two thousand pounds, whichever is the less;

(*b*) in any other case, shall be an amount equal to the amount of the compensation as so assessed or, if that amount exceeds one thousand pounds, then one-sixth of the amount of compensation or one thousand pounds, whichever is the greater:

Provided that if an entitled officer gives such an 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 the provisions of paragraph 12 of this Schedule, a further payment shall be made to every person who has become entitled to compensation under paragraph 2 of this Schedule 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 sub-paragraph (2) of that paragraph, 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 five hundred pounds and, in the case of an officer to whom sub-paragraph (1)(*a*) of this paragraph applies, where that balance, if added to the amount of compensation already paid under this paragraph, would exceed two thousand pounds, an amount equal to the appropriate fraction of that balance or four hundred pounds, whichever is the greater, shall be paid;

(ii) where the balance so outstanding is less than five hundred pounds, or, in the case of an officer to whom sub-paragraph (1)(*a*) of this paragraph applies, where that balance exceeds five hundred pounds but would not, if added to the amount of compensation already paid under this paragraph, exceed two thousand pounds, 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.

Retirement.

**4.**—(1) Subject to the provisions of 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 his attainment of 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 organization 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 12 of the Botswana Independence Order 1966; 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) In the case of an entitled officer who retires under sub-paragraph (1) of this paragraph and—

(*a*) who is on leave of absence after completing a tour of residential service—

(i) if he returns to Botswana for further duty at the requirement of the Government he shall be provided with such passages for himself and his family and such baggage facilities as an officer of similar status is entitled to under General Orders when returning to Botswana for a tour of duty, and when retiring from the public service having attained the age of fifty-five years and having completed a final tour of residential service;

(ii) if he returns to Botswana to settle his affairs and on his return completes a tour of residential service of not less than twelve months, he will be paid the cost of the passages for himself and his family and of transporting his baggage to Botswana (but not exceeding the cost of such passages and baggage facilities as an officer of similar status is entitled to under General Orders when returning to Botswana for a tour of duty) and provided with such passages for himself and his family and such baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of residential service;

(iii) if he does not return to Botswana, he shall be provided with such baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of residential service;

(*b*) who retires in any other circumstances, he shall be provided with such passages and baggage facilities for himself and his family as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of residential service.

(6) In the case of the retirement of an entitled officer who is required to retire in the circumstances described in sub-paragraph (4)(*c*) or (*e*) of this paragraph (except in the case of an officer to whom paragraph 15 of this Schedule applies) and—

(*a*) who is on leave of absence after completing a tour of residential service—

(i) he shall, if the period of leave on full pensionable emoluments for which he is eligible on the date upon which he is given notice under that section 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; and

(ii) he shall (if he returns to Botswana to settle his affairs) be provided with a passage to Botswana for his own use as if he were returning to Botswana for a further tour of residential service and such passage and such baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of residential service;

(iii) in the case of the retirement of an entitled officer in the circumstances described in sub-paragraph (4)(*e*) of this paragraph and who returns to Botswana to settle his affairs, he shall be paid a subsistence allowance at the rate prescribed by General Orders for the period (but not exceeding twenty-one days) of his stay in Botswana.

(*b*) who retires in any other circumstances—

(i) he shall not be required to depart from Botswana on leave of absence pending his retirement until the expiration of a period of six months from the date upon which he was given notice requiring him to retire;

(ii) he shall be provided with such passages and baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of residential service;

(iii) he 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.

Retirement on constitutional grounds.

5.—(1) This paragraph shall apply to any entitled officer who has been declared by the appropriate Service Commission to be an officer required to retire to facilitate the introduction of constitutional changes.

(2) An entitled officer to whom this paragraph applies 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.

(3) An entitled officer to whom this paragraph applies shall—

(*a*) as soon as reasonably practicable be paid a disturbance grant equal to one quarter of his annual pensionable emoluments at his retirement; and

(*b*) be provided with such passages and baggage facilities as an officer of similar status is entitled to under General Orders when retiring

from the public service having attained an age of 55 years and having completed a final tour of residential service.

(*c*) 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 leave of absence pending his retirement up to six months.

Special gratuity on the death of certain officers.

**6.**—(1) Where 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 the provisions of paragraph 10 of this Schedule if he had retired under this Schedule at the date of his death, whichever is the greater:

Provided that, in the case of an officer to whom Part III of the Second Schedule to the Pensions (Consolidation) Law, 1965 of Botswana applied, in respect of that proportion of the pension for which he would have been eligible, if he had retired under this Schedule at the date of his death and which is attributable to his pensionable service otherwise than in the public service the provisions of paragraph 10(1)(*c*) of this Schedule shall not apply and the permitted fraction referred to in that paragraph shall not be less than three-quarters.

(2) For the purposes of the proviso to sub-paragraph (1) of this paragraph the proportion of a pension which is attributable to the pensionable service of an officer otherwise than in Botswana shall be that proportion of the pension for which the officer would have been eligible if his pensionable service had been wholly in Botswana as the aggregate amount of his pensionable emoluments during his pensionable service otherwise than in Botswana bears to the aggregate amount of his pensionable emoluments throughout his pensionable service.

(3) The Financial Secretary to the Government, 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 Financial Secretary may think fit.

Officers reappointed to U.K. service.

**7.**—(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 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 of this Schedule, 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 of this Schedule; or

(*b*) the amount he would receive if he were entitled to compensation under paragraph 8 of this Schedule, 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 less.

(3) If the provisions of this paragraph become 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 of this Schedule for the payment of compensation assessed under paragraph 2 of this Schedule; 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.

Transfer to other public service.

**8.**—(1) This paragraph applies to an entitled officet who is transferred from the public service—

(*a*) to the service of a government or authority that is a Scheduled Government for the purposes of Part III of the Second Schedule to the Botswana Pensions (Consolidation) Laws, 1965 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(a):

Provided that—

(*a*) it does not apply to an officer to whom paragraph 7 of this Schedule applies;

(*b*) it applies to any officer—

(i) who but for the provisions of paragraph 1(4) of this Schedule, 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.

(2) An officer to whom this paragraph applies shall cease to be entitled to compensation under paragraph 2 of this Schedule, but if the amount of his annual pensionable emoluments immediately before his transfer

(a) 1957 c. 62.

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 of this Schedule, having retired on the date of his transfer,

whichever is the less.

(3) If the provisions of this paragraph become 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 that paragraph before the re-assessment, in the manner prescribed by paragraph 3 of this Schedule for the payment of compensation assessed under paragraph 2 of this Schedule; 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 II of the Annex to this Schedule that is appropriate to the age of the officer at the date of his transfer reckoned in completed years and completed months.

Penalties for breach of undertakings.

9.—(1) If an entitled officer who has given an undertaking for the purposes of paragraph 3(1)(*a*) of this Schedule 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 of this Schedule, then the amount of compensation to which he would otherwise be entitled under paragraph 2 of this Schedule 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 two hundred pounds, whichever is the less.

(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 any period 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 of this Schedule 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 used in accordance with Regulation 18 of the Second Schedule to the Pensions (Consolidation) Law, 1965 for the purpose of pension as 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 of this Schedule 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.

Grant of pensions and gratuities.

**10.**—(1) Subject to the provisions of paragraphs 15 and 16 of this Schedule, an entitled officer, on his retirement under this Schedule, may be granted at his option (such option to be exercised in accordance with the provisions of Regulation 24 of the Second Schedule to the Pensions (Consolidation) Law, 1965) 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) Where 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 the provisions of 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) Where 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, the provisions of 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 of this Schedule 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) of this paragraph 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 III of the Annex to this Schedule 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 Second Schedule to the Pensions (Consolidation) Law, 1965, 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.

Special gratuity for certain officers.

**11.**—(1) Subject to the provisions of paragraphs 15 and 16 of this Schedule, where any entitled officer to whom Part III of the Second Schedule to the Pensions (Consolidation) Laws, 1965 of Botswana applies retires under this Schedule and is granted by any government or other authority that is a Scheduled Government 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 this Schedule) 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 Government from the annual amount of the pension that would have been granted to him by that Government had he not elected to receive the gratuity granted to him by the Scheduled Government; and

(ii) multiplying the resulting amount by the appropriate factor,

exceeds the amount of the gratuity granted to him by the Scheduled Government.

(2) In this paragraph " the appropriate factor " has the same meaning as in paragraph 10 of this Schedule:

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.

Special provisions as to payment of compensation.

**12.**—(1) Whenever—

(*a*) a person who has become entitled to compensation under paragraph 2 of this Schedule 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)(*a*), (*c*) or (*d*) of this Schedule before he has attained that age or is required to retire in the circumstances described in paragraph 4(4)(*b*) of this Schedule; or

(*c*) an entitled officer who has not already received the whole of the compensation to which he is entitled under paragraph 2 of this Schedule 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) Whenever an entitled officer, who has not already received the whole of the compensation to which he is entitled under paragraph 2 of this Schedule, is required to retire under section 12 of the Botswana Independence Order 1966 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 Botswana; 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) Whenever an officer, who has not already received the whole of the compensation to which he is entitled under paragraph 2 of this Schedule, is required to retire in the circumstances described in paragraph 5 of this Schedule, 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 Financial Secretary to the Government 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 to two or more of those dependants in such proportions as the Financial Secretary may think fit.

(5) Whenever 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 made:

(*b*) in cases where the compensation has been finally assessed, during the period between the date on which that 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 that 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 an 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) of this Schedule upon his retirement, in addition to the interest payable under sub-paragraph (5) of this paragraph that officer shall be paid a sum equal to the interest that 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 that balance, have accrued upon that balance during the period between the date of his retirement and the next anniversary of the operative date.

Disciplinary proceedings and dismissal.

**13.**—(1) When 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) Where any person who is serving as an entitled officer is dismissed, any compensation that he has not already received may, with the approval of the appropriate Service Commission, be withheld.

Place of payment and rate of exchange.

**14.** 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 Botswana;

(*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 the 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 Financial Secretary to the Government, 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 Botswana, 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.

Right to opt for abolition terms.

**15.**—(1) An entitled officer who, before he receives his initial payment of compensation, gives notice of retirement under paragraph 4 of this Schedule, or is required to retire in any of the circumstances described in paragraph 4(4) or paragraph 5 of this Schedule may at his option (such option to 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 16 of this Schedule 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.

Application of appropriate law.

**16.** The provisions of the appropriate law shall, subject to the provisions of this Schedule, apply in relation to the grant of any pension or gratuity under this Schedule and to any pension or gratuity granted thereunder as they apply in relation to the grant of a pension or gratuity, and to any pension or gratuity granted, under the appropriate law:

Provided that section 11 of the Botswana Pensions (Consolidation) Laws, 1965 or any law amending or replacing that section shall not apply in relation to any pension granted under the provisions of this Schedule.

Exemption from tax.

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

Exercise of options.

**18.** Any option exercisable by any person for the purposes of this Schedule—

(*a*) shall be irrevocable after the end of the period within which it is to be exercised;

(*b*) shall be exercised by notice in writing to the appropriate Service Commission;

(*c*) shall be 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 V from III.

VI is the factor required.

### INSTRUCTIONS FOR OBTAINING THE APPROPRIATE FACTOR FROM TABLE II OR III

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 calculations 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

*Compensation Factors*

| 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, PARAGRAPH 8

| AGE | FACTOR |
|---|---|
| 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 III

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 | | |

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order makes provision for compensation and retiring benefits for certain officers in the public service of Botswana.