STATUTORY INSTRUMENTS

1967 No. 236

ASSOCIATED STATES

The Dominica (Compensation and Retiring Benefits) Order 1967

Made - - - - 22nd February 1967
Coming into Operation 1st March 1967

At the Court at Buckingham Palace, the 22nd day of February 1967

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by section 8 of the West Indies Act 1967(a), 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 Dominica (Compensation and Retiring Benefits) Order 1967.

(2) This Order shall come into operation on 1st March 1967.

Interpretation.

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

Transitional provision.

4.—(1) Any conditions or notice prescribed by the appropriate Service Commission for the purposes of paragraph 3(1)(*a*), paragraph 4(1) or paragraph 13 of the Schedule to this Order shall not be less favourable to any officer than any conditions or notice specified in the corresponding provision of the compensation scheme.

(2) In this section "the appropriate Service Commission" has the meaning attributed to that expression in paragraph 1(1) of the Schedule to this Order and "the compensation scheme" means the general scheme of retiring benefits agreed between the Government of the United Kingdom and the Government of Dominica.

Modified application.

5. If the Government of the United Kingdom and the Government of Dominica agree that, in their application to any officer, the provisions of the Schedule to this Order shall have effect subject to modifications or exceptions, being modifications or exceptions which do not cause those provisions to be less favourable to that officer, then those provisions shall have effect accordingly.

W. G. Agnew.

(a) 1967 c. 4. (b) 1889 c. 63.

SCHEDULE

COMPENSATION AND RETIRING BENEFITS FOR CERTAIN OFFICERS IN THE PUBLIC SERVICE OF DOMINICA

Interpretation and application.

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 Dominica that 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" means—

(*a*) in relation to an officer who can be removed from his office by the Judicial and Legal Services Commission, that Commission;

(*b*) in relation to an officer who can be removed from his office by the Police Service Commission, that Commission; and

(*c*) in any other case, the Public Service Commission;

"entitled officer" means an officer in the public service who, on the operative date, had not attained the age of sixty years (or, in the case of a judge of the Supreme Court, sixty-two years) and—

(*a*) who 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; or

(*b*) who was before the operative date transferred to the public service from the public service of a Government or other authority which was a scheduled Government for the purposes of Part III of the Regulations to the Pensions Ordinance(a); and

(*c*) who 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;

(*d*) who was on the operative date a designated officer for the purposes of the Overseas Service (Dominica) Agreement, 1961; and

(*e*) who has at all times since the operative date been the substantive holder of an office that has during his tenure thereof been a pensionable office for the purposes of the appropriate law;

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

"operative date" means, in relation to an entitled officer, 1st March 1967 or, in relation to an officer permitted to retire under paragraph 6 of this Schedule, the date on which he was given notice permitting him to retire;

"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; and

(a) Laws of Dominica, Rev. 1961, c. 235.

"substantive holder" in relation to any office does not include a person 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;

(*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.

Entitlement to compensation.

2.—(1) Subject to the provisions of this Schedule, every entitled officer and every officer permitted to retire under paragraph 6 of this Schedule shall, on the operative date, 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 by the appropriate factor the amount of his annual pensionable emoluments on the date in relation to which the assessment is made and the resulting amount, or nine thousand and five hundred pounds, whichever is the less, shall be the amount to which he is entitled:

Provided that an officer seconded to the service of another government or authority on the date in relation to which the assessment is made shall, for the purposes of this paragraph, 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 pensionable emoluments for which he would thus have been eligible.

(2) The compensation to which each officer is entitled under this paragraph shall, if it has not already been provisionally assessed, be provisionally assessed as soon as is reasonably practicable after the operative date, and for that purpose the date in relation to which the assessment is to be made shall be that date.

(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 operative date 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 operative date 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 an officer is provisionally assessed or is provisionally 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 to this Schedule (or, in the case of a judge of the Supreme Court, Table II of that Annex) that is appropriate to the age and pensionable service

of that officer on the date taken for calculation reckoned 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) Subject to the provisions of this Schedule, when the compensation of an officer has been provisionally assessed under paragraph 2(2) of this Schedule, a payment shall be made as soon as is practicable after, and in any case not later than three months after, the operative date to that officer, which—

(*a*) in the case of an entitled officer who has undertaken, 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 assessed under paragraph 2(2) of this Schedule, he shall be paid as soon as is reasonably practicable after the date on which he gave that undertaking (and in any event not later than three months thereafter) 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 this paragraph, 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; and

(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) 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 sixty years or, in the case of a person who is or was when he retired a judge of the Supreme Court, sixty-two 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 of this Schedule 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 date in relation to which his compensation was assessed,

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

(4) 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 in the circumstances described in paragraph 5 of this Schedule, the balance then outstanding of the compensation to which he is entitled under paragraph 2 shall be paid to him as soon as is reasonably practicable after the date upon which notice requiring him to retire is given to him.

(5) The Financial Secretary 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.

(6) 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 be made; and

(*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 purposes 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, on the operative date or, in the case of a person permitted to retire under paragraph 6 of this Schedule, on the date on which his leave of absence pending retirement expires.

(7) When the compensation to which an officer is entitled under this Schedule is finally assessed on his retirement and the balance thereof paid to him, in addition to the interest payable under sub-paragraph (6) of this paragraph, the 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.

(8) In this paragraph "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 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; or

(*e*) who is required to retire in the circumstances described in paragraph 5 of this Schedule;

shall be deemed to have retired under this paragraph.

(5) An entitled officer who retires under sub-paragraph (1) of this paragraph and who, when he gives the notice therein mentioned, is on leave of absence after completing a tour of residential service shall—

(*a*) if he returns to Dominica for further duty at the requirement of the Government of Dominica, 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 Dominica for a tour of duty and when retiring from the public service having attained the age of sixty years and having completed a final tour of residential service;

(*b*) if he returns to Dominica to settle his affairs and on his return completes a tour of residential service of not less than twelve months, be paid the cost of the passages for himself and his family and of transporting his baggage to Dominica (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 Dominica for a tour of duty) and 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 retiring from the public service having attained the age of sixty years and having completed a final tour of residential service; and

(*c*) if he does not return to Dominica, 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 sixty years and having completed a final tour of residential service.

(6) An entitled officer who retires under sub-paragraph (1) of this paragraph but who, when he gives the notice therein mentioned, is not on leave of absence after completing a tour of residential service 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 sixty years and having completed a final tour of residential service.

(7) An entitled officer who is required to retire in the circumstances described in sub-paragraph (4)(*c*) of this paragraph and who, when he is given notice requiring him to retire, is on leave of absence after completing a tour of residential service shall—

(*a*) 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;

(*b*) if he returns to Dominica, also be provided with a passage to Dominica for his own use as if he were returning to Dominica for a further tour of residential service and paid a subsistence allowance, at the rate prescribed by General Orders, for a period not exceeding twenty-one days; and

(*c*) if he has returned to Dominica, be provided with such passage 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 sixty years and having completed a final tour of residential service.

(8) An entitled officer who is required to retire in the circumstances specified in sub-paragraph (7) of this paragraph but who, when he is given notice requiring him to retire, is not on leave of absence after completing a tour of residential service shall—

(*a*) not be required to depart from Dominica 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;

(*b*) 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 sixty years and having completed a final tour of residential service; and

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

Retirement to facilitate constitutional changes.

5.—(1) An entitled officer required to relinquish the duties of his office and thereafter to retire or to retire in consequence of the abolition of his office, in order to facilitate the introduction of constitutional changes—

(*a*) shall be paid, either before his departure on leave pending retirement or as soon as is reasonably practicable thereafter, a disturbance grant equal to one-quarter of his annual pensionable emoluments at the date of his retirement;

(*b*) shall, if the period of leave on full pensionable emoluments for which he is eligible on the date of his departure on leave pending retirement 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

(*c*) 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 sixty years and having completed a final tour of residential service.

(2) Any dispute as to whether this paragraph applies to an entitled officer shall be decided by the appropriate Service Commission.

Retirement on ground that career is prejudiced.

6.—(1) This paragraph shall apply to an officer who would have been an entitled officer if he had been designated for the purposes of the Overseas Service (Dominica) Agreement 1961 and who was before the operative date—

(*a*) a member of Her Majesty's Overseas Civil Service or Her Majesty's Overseas Judiciary; or

(*b*) selected for appointment, or whose appointment was approved, by a Secretary of State.

(2) If, on the application of an officer to whom this paragraph applies made before he attains the age of sixty years (or in the case of a Judge of the Supreme Court, sixty-two years), the appropriate Service Commission is satisfied that, as a consequence of constitutional changes, the public service career of the officer has been adversely affected or there are reasonable grounds for believing that his public service career will be adversely affected, the appropriate Service Commission may permit the officer to retire forthwith

or on such date as may be specified by the appropriate Service Commission and the officer shall be entitled to retire accordingly.

(3) An officer may, upon his retirement under this paragraph, be granted a pension or a pension and gratuity under the appropriate law and for the purposes of that law the provisions of paragraph 8(2) of this Schedule shall apply in relation to that officer.

Offer of alternative appointment.

7.—(1) Paragraph 2 of this Schedule shall not apply to an officer to whom paragraph 6 of this Schedule applies whose office is abolished, if that officer is offered, before the expiration of his leave pending retirement, an alternative appointment on transfer to other public service which the appropriate Service Commission declares to be either a comparable or a reasonable alternative appointment.

(2) An alternative appointment the remuneration of which is less than that the officer was receiving immediately before the abolition of his office shall not be considered to be a comparable or a reasonable alternative appointment.

(3) If an officer to whom this paragraph relates declines an offer of a comparable or a reasonable alternative appointment, he may, in lieu of any additional pension which might be granted to him under the appropriate law on the abolition of his office, be granted at his option (such option to be exercised before the expiration of his leave pending retirement) either—

(*a*) an additional pension calculated at the rate of one hundred and eightieth part of the officer's annual pensionable emoluments for each completed period of one year of pensionable service ; or

(*b*) a reduced additional pension equal to three-fourths or any greater fraction of that additional pension together with a gratuity equal to the amount by which that additional pension is reduced multiplied by the factor set out in Table III of the Annex to this Schedule appropriate to the officer's age at the date immediately prior to his retirement reckoned in completed years and completed months:

Provided that—

(i) the additional pension shall not exceed thirty one hundred and eightieth parts of his annual pensionable emoluments ; and

(ii) the additional pension together with the remainder of the officer's pension shall not exceed the pension for which he would have been eligible if he had continued to hold the office held by him on the operative date and retired on reaching the age of sixty years (or in the case of a judge of the Supreme Court sixty-two years) and had been granted all increments and other increases of pensionable emoluments for which he would thus have been eligible.

Grant of pensions and gratuities to entitled officers.

8.—(1) Subject to the provisions of paragraphs 16 and 17 of this Schedule, an entitled officer, on his retirement under this Schedule, may be granted at his option (such option to be exercised before the date of retirement or, in the case of an officer retiring in any of the circumstances described in paragraph 4(4) of this Schedule, within one month after that date) 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 entitled officer retires by reason of 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 entitled officer retires by reason of injury or 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 that an entitled officer who is required to retire in the circumstances described in paragraph 4(4)(*c*) or paragraph 5 of this Schedule 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 entitled 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 at 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 less than one year after the operative date, means three-quarters; and

(*b*) in relation to an officer who retires one year or more after 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.

9.—(1) Subject to the provisions of paragraphs 16 and 17 of this Schedule, where any entitled officer to whom Part III of the Regulations to the Pensions Ordinance (as in force on the operative date) 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 8 of this Schedule) a gratuity equal to the amount (if any) by which the amount produced by—

(*a*) 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 that Government; and

(*b*) by multiplying the resulting amount by the appropriate factor,

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

(2) In this paragraph "the appropriate factor" has the same meaning as in paragraph 8 of this Schedule.

Special gratuity on the death of certain officers.

10.—(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 which could have been granted to that officer under the provisions of paragraph 8 of this Schedule if he had retired under this Schedule at the date of his death, whichever is the greater:

Provided that, where the officer was an officer to whom Part III of the Regulations to the Pensions Ordinance (as in force on the operative date) applied, then, in respect of such part of the pension for which he would have been eligible if he had retired under this Schedule at the date of his death as is attributable to his pensionable service otherwise than in the public service of Dominica—

(*a*) the provisions of paragraph 8(1)(*c*) of this Schedule shall not apply; and

(*b*) the permitted fraction referred to in paragraph 8 shall be not less than three-quarters.

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

(3) The Financial Secretary may direct that any gratuity payable under sub-paragraph (1) of this paragraph shall, instead of being paid to the personal representatives, be paid to one of the dependants of the deceased or be divided among any two or more of those dependants in such proportions as the Financial Secretary may think fit.

Entitled officer re-appointed to U.K. service.

11.—(1) This paragraph applies to an entitled officer who—

(*a*) has retired under this Schedule ;

(*b*) 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(**a**) or in employment pensionable under the Federated Superannuation System for Universities ; and

(*c*) 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 12 of this Schedule having been transferred to the pensionable employment referred to in sub-paragraph (1)(*c*) 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 officer 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 paragraph 3 of this Schedule, the balance of compensation then outstanding together with any unpaid interest that has accrued under that paragraph before the re-assessment shall be paid in the manner prescribed by paragraph 3(2) 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 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.

(**a**) 1892 c. 40.

Transfer of entitled officer to other public service.

12.—(1) This paragraph applies to an entitled officer (other than an officer to whom paragraph 11 of this Schedule applies) 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 Regulations to the Pensions Ordinance (or any law for the time being in force amending or replacing that Part of those Regulations) in circumstances in which he remains eligible for the grant of a pension under the appropriate law upon his eventual retirement; or

(*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).

(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 exceeds the amount of the annual emoluments payable to him immediately after his transfer (being emoluments that may be taken into account for the purpose of his pension under the law or regulations relating to his service in such other public service as is specified in sub-paragraph (1)(*a*) or (*b*) of this paragraph) 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 officer, 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 paragraph 3 of this Schedule, the balance of compensation then outstanding together with any unpaid interest that has accrued under that paragraph before the re-assessment shall be paid in the manner prescribed by paragraph 3(2) 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 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 the excess shall not be repayable.

(4) In this paragraph "the appropriate factor" in relation to an officer means the factor obtained from Table IV 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.

13.—(1) If an entitled officer who has given such an undertaking as is referred to in 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 by reason of his death or his retirement in circumstances beyond his control, the amount of compensation to which he would otherwise be

(a) 1957 c. 62.

entitled under paragraph 2 of this Schedule shall be reduced by 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 who 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 by reason of his death or his retirement in circumstances beyond his control, 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 Regulations to the Pensions Ordinance (as in force on the operative date) for the purposes of pension if he had retired on the date of his promotion or that subsequent date, as the case may be.

(3) If any of the provisions of this paragraph becomes 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, but in any such case any interest received on account of the excess shall not be repayable.

Disciplinary proceedings and dismissal.

14.—(1) When disciplinary proceedings are taken, or 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 these 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 concurrence of the appropriate Service Commission, be withheld.

Place of payment and rate of exchange.

15. 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 Dominica ;

(*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 country as the officer or his personal representatives or dependants may, with the concurrence of the Financial Secretary 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 Dominica, 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.

16.—(1) An entitled officer who, before he receives his initial payment of compensation, gives notice of retirement under paragraph 4(1) 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) 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 17 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.

17. 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.

Exemption from tax.

18. 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 Dominica relating to the taxation of income.

Exercise of option.

19. 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 authority;

(*c*) shall be deemed to have been exercised on the date on which 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 TABLES 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 IV 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 Paragraph 2

COMPENSATION FACTORS

OFFICERS WHOSE RETIREMENT AGE IS 60

Age of officer	Factor where length of service is:							
	3 years	4 years	5 years	6 years	7 years	8 years	9 years	10 years
21	·17							
22	·19	·25						
23	·21	·28	·35					
24	·24	·32	·40	·47				
25	·27	·36	·45	·54	·63			
26	·31	·41	·51	·61	·71	·82		
27	·34	·46	·58	·69	·80	·92	1·04	
28	·39	·52	·65	·78	·91	1·04	1·17	1·30
29	·44	·59	·74	·89	1·04	1·18	1·33	1·48
30	·51	·68	·86	1·03	1·20	1·37	1·54	1·71
31	·60	·80	1·00	1·20	1·40	1·60	1·80	2·00
32	·70	·93	1·16	1·40	1·63	1·86	2·10	2·33

TABLE I Paragraph 2 (*cont.*)

Age of officer	Factor where length of service is:							
	3 years	4 years	5 years	6 years	7 years	8 years	9 years	10 years
33	·80	1·07	1·34	1·61	1·88	2·14	2·41	2·68
34	·91	1·21	1·52	1·82	2·12	2·42	2·73	3·03
35	1·01	1·35	1·68	2·02	2·36	2·70	3·03	3·37
36	1·11	1·48	1·84	2·21	2·58	2·95	3·32	3·69
37	1·19	1·58	1·98	2·38	2·77	3·17	3·56	3·96
38	1·25	1·66	2·08	2·50	2·91	3·33	3·74	4·16
39	1·29	1·72	2·15	2·58	3·01	3·44	3·87	4·30
40	1·31	1·75	2·19	2·63	3·07	3·50	3·94	4·38
41	1·32	1·76	2·20	2·64	3·08	3·52	3·96	4·40
42	1·30	1·74	2·18	2·61	3·04	3·48	3·92	4·35
43	1·27	1·70	2·12	2·54	2·97	3·39	3·82	4·24
44	1·22	1·63	2·04	2·44	2·85	3·26	3·66	4·07
45	1·16	1·54	1·93	2·32	2·70	3·09	3·47	3·86
46	1·09	1·45	1·82	2·17	2·53	2·90	3·26	3·62
47	1·00	1·34	1·68	2·01	2·34	2·68	3·02	3·35
48	·92	1·22	1·53	1·84	2·14	2·45	2·75	3·06
49	·83	1·10	1·38	1·66	1·93	2·21	2·48	2·76
50	·74	·98	1·23	1·48	1·72	1·97	2·21	2·46
51	·65	·87	1·09	1·31	1·53	1·74	1·96	2·18
52	·58	·77	·96	1·15	1·34	1·54	1·73	1·92
53	·50	·67	·84	1·01	1·18	1·34	1·51	1·68
54	·44	·58	·72	·87	1·02	1·16	1·30	1·45
55	·37	·49	·62	·74	·86	·98	1·11	1·23
56	·31	·41	·51	·61	·71	·82	·92	1·02
57	·24	·32	·40	·49	·57	·65	·73	·81
58	·18	·24	·30	·36	·42	·48	·54	·60
59	·12	·16	·20	·24	·28	·32	·36	·40
60 and above	nil	nil	nil	nil	nil	nil	nil	nil

NOTE: The factor corresponding to the officer's age and service in years and completed months should be obtained by interpolation.

Paragraph 2

TABLE II

COMPENSATION FACTORS FOR JUDGES—RETIREMENT AGE 62

Age	*Factor*	*Age*	*Factor*
40	4·35	50	2·87
41	4·39	51	2·61
42	4·40	52	2·36
43	4·34	53	2·12
44	4·21	54	1·89
45	4·04	55	1·67
46	3·85	56	1·45
47	3·64	57	1·23
48	3·40	58	1·02
49	3·14	59	·81
		60	·60
		61	·40
		62 and above	nil

These factors apply where a judge has 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 7, 8 and 9

COMMUTATION OF PENSION UNDER COMPENSATION ARRANGEMENTS

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	12·50
39	15·24	54 and above	12·50

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

TABLE IV Paragraph 12

COMPENSATION FOR TRANSFERRED OFFICERS

FACTOR TO BE APPLIED TO REDUCTION OF SALARY ON TRANSFER

Age	*Factor*	*Age*	*Factor*
30 and below	5·00	40	9·00
31	5·08	41	8·92
32	5·22	42	8·78
33	5·51	43	8·49
34	6·08	44	7·92
35	7·00	45	7·00
36	7·92	46	6·08
37	8·49	47	5·51
38	8·78	48	5·22
39	8·92	49	5·08
		50 and above	5·00

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

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 Dominica.