1961 No. 2321

EAST AFRICA

The East African Common Services Organization (Compensation and Retiring Benefits) Order in Council, 1961

Made - - - -	*6th December*, 1961
Laid before Parliament	*7th December*, 1961
Coming into Operation	*Immediately before the ninth day of December*, 1961

At the Court of Saint James, the 6th day of December, 1961

Present,

Her Majesty Queen Elizabeth The Queen Mother

Her Royal Highness The Princess Margaret, Countess of Snowdon

Lord President	**Lord John Hope**
Earl of Perth	**Mr. Erroll**

Whereas Her Majesty, in pursuance of the Regency Acts, 1937 to 1953, was pleased, by Letters Patent dated the eighth day of November, 1961, to delegate to the following Counsellors of State (subject to the exceptions hereinafter mentioned) or any two or more of them, that is to say, His Royal Highness Prince Philip, Duke of Edinburgh, Her Majesty Queen Elizabeth The Queen Mother, Her Royal Highness The Princess Margaret, Countess of Snowdon, His Royal Highness The Duke of Gloucester, His Royal Highness The Duke of Kent and Her Royal Highness The Princess Alexandra of Kent, full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And whereas Her Majesty was further pleased to except from the number of the said Counsellors of State His Royal Highness Prince Philip, Duke of Edinburgh and Her Royal Highness The Princess Alexandra of Kent while absent from the United Kingdom:

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and Her Royal Highness The Princess Margaret, Countess of Snowdon, being authorized thereto by the said Letters Patent, and in pursuance of the powers vested in Her Majesty by the British Settlements Acts, 1887 and 1945(a), the Foreign Jurisdiction Act, 1890(b), and of all other powers enabling Her Majesty in that behalf do hereby, by and with the advice of Her Majesty's Privy Council, on Her Majesty's behalf order, and it is hereby ordered, as follows:—

Citation and commencement.

1.—(1) This Order may be cited as the East African Common Services Organization (Compensation and Retiring Benefits) Order in Council, 1961.

(a) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7. (b) 53 & 54 Vict. c. 37.

(2) This Order shall come into operation immediately before the ninth day of December, 1961.

Interpretation.

2.—(1) The Interpretation Act, 1889(a), 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.

(2) Until such time as the East African Common Services Organization is established, references in this Order to that Organization, to the East African Common Services Authority and any officer or authority of that Organization shall be construed as references to the East Africa High Commission or the corresponding officer or authority of the High Commission, as the case may be.

Application of Schedule.

3. The provisions contained in the Schedule to this Order shall have effect in relation to the public service of the East African Common Services Organization and to members of the Royal East African Navy; and those provisions, to the extent specified in article 13 of that Schedule, shall also have effect in relation to the President, Vice-President, Justices of Appeal, Registrars, officers and servants of Her Majesty's Court of Appeal for Eastern Africa.

Appeals Tribunal.

4.—(1) An officer to whom this section applies shall be entitled to appeal to an Appeals Tribunal against any decision that he should be dismissed from his office or that would have the effect of withholding, reducing in amount or suspending any benefits to which this section applies and for which the officer is eligible or which have been granted to him.

(2) Any such decision shall not have effect until the expiry of fourteen days from the date on which the decision was notified to the officer, and if application is duly made within that time for the case to be referred to an Appeals Tribunal, the decision shall not have effect until the Tribunal gives its decision and then only to the extent, if any, authorised by such decision:

Provided that nothing in this subsection shall affect the power of any person or authority, pending the time within which an application may be made for the case to be referred to an Appeals Tribunal or pending the decision of the Tribunal, to suspend the payment of any benefit to which this section applies or to suspend an officer from the exercise of the functions of his office.

(3) An application for a case to be referred to an Appeals Tribunal shall be made to the East African Common Services Authority and if such an application is duly made within the time prescribed by subsection (2) of this section, the Authority shall appoint an Appeals Tribunal consisting of—

(*a*) one member selected by the Authority;

(*b*) one member selected by an association representative of public officers or by a professional body, being an association or body nominated by the applicant; and

(*c*) one member selected by the two other members jointly, who shall be chairman of the Tribunal.

(a) 52 & 53 Vict. c. 63.

(4) The Appeals Tribunal shall enquire into the facts of the case and for that purpose shall hear the applicant if he so requests in writing, and shall hear any other person who, in the opinion of the Tribunal, is able to give the Tribunal information on the case, and the Tribunal shall have access to, and shall consider, all documents that were available to the person or authority whose decision is the subject of the reference and shall also consider any further document relating to the case that may be produced by or on behalf of the applicant or that person or authority.

(5) After the Appeals Tribunal has completed its consideration of the case, the Tribunal shall advise that person or authority whether the decision of that person or authority that is the subject of the reference to the Tribunal should be confirmed, reversed or modified and that person or authority shall act in accordance with such advice.

(6) This section applies to—

(*a*) any officer to whom any of the provisions of the Schedule to this Order apply;

(*b*) to any benefits payable under the Schedule to this Order or any other law of the East African Common Services Organization providing for the grant of any pensions, gratuities, compensation or other like allowances to persons to whom that Schedule applies in respect of their public service:

Provided that this section shall not apply in relation to any recommendation or decision to remove from office the President, Vice-President or a Justice of Appeal of Her Majesty's Court of Appeal for Eastern Africa.

W. G. Agnew.

Section 3.

THE SCHEDULE

COMPENSATION AND RETIREMENT BENEFITS FOR CERTAIN OFFICERS IN THE PUBLIC SERVICE OF THE EAST AFRICAN COMMON SERVICES ORGANIZATION AND FOR CERTAIN OTHER OFFICERS.

Interpretation.

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

"appropriate authority" means, in relation to an officer, the service commission or other authority having the power to remove that officer from his office;

"appropriate law" in relation to an officer in the public service of the High Commission or the Common Services Organization means any law of the High Commission or the Common Services Organization that governs the grant of pensions, gratuities and other like benefits in respect of the service of that officer in the public service of the High Commission or the Common Services Organization;

"Common Services Organization" means the East African Common Services Organization;

"entitled officer" means an overseas officer in the public service of the High Commission at the commencement of this Order—

(*a*) who is the substantive holder of an office that is a pensionable office for the purposes of the appropriate law, having been at and since the commencement of this Order the substantive holder of an office that during his tenure thereof since such commencement has been such a pensionable office;

(*b*) who is a member of Her Majesty's Overseas Civil Service or a designated officer for the purposes of the Overseas Service (East Africa High Commission) Agreement, 1961; and

(*c*) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in that appointment;

and includes—

(i) an overseas officer in the public service of the High Commission at and since the commencement of this Order to whom the provisions of the Oversea Superannuation Scheme Regulations apply; and

(ii) any person who is at the commencement of this Order a member of the Royal East African Navy (not serving as such for a specified term under a contract) and is entitled to elect not to be paid a gratuity under Regulation 86 of the Royal East African Navy Regulations, 1956, and elects (or, if he had completed the prescribed period of service would be entitled to elect) that the aggregate of the gratuities due to him under that regulation shall be commuted to an annual allowance under Regulation 87 of those Regulations;

"the High Commission" means the East Africa High Commission;

"operative date" means the ninth day of December, 1961;

"overseas officer" means an officer whose terms of service at the commencement of this Order include an entitlement to free passages from Tanganyika, Kenya, Uganda or Zanzibar to a territory other than one of those territories for the purpose of leave of absence upon completion of a tour of duty;

"Oversea Superannuation Scheme Regulations" means any Regulations so entitled made by a Secretary of State;

"pensionable emoluments" means emoluments that may be taken into account in computing the pension of an officer under the appropriate law or the Oversea Superannuation Scheme Regulations, as the case may be;

"pensionable service" means the aggregate amount of service that may be taken into account for the purpose of computing the pension of an officer under the appropriate law or the Oversea Superannuation Scheme Regulations, as the case may be, and in the case of an officer to whom the Oversea Superannuation Scheme Regulations apply, includes service that could be taken into account for the purpose of computing pensions under the Pensions Act of the High Commission;

"pound" means twenty East African shillings;

"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 or as being in the public service at the commencement of this Order 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 pending his retirement.

(3) Where an officer was on any date appointed or selected for appointment to an office in the public service of the High Commission 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

(a) 55 & 56 Vict. c. 40.

appointment as the substantive holder of an office in the public service of the High Commission 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 that public service.

(4) In the application of the provisions of this Schedule to an entitled officer who is a member of the Royal East African Navy—

(*a*) such officer shall be deemed to be in the public service of the High Commission or the Common Services Organization, as the case may require; and

(*b*) references to the appropriate law shall include references to the Royal East African Navy Regulations, 1956, and references to a pension shall include references to an annual allowance under those Regulations.

Compensation for entitled officers.

2—(1) Subject to the provisions of this Schedule, every entitled officer shall, on the operative date or, in the case of a person who becomes an entitled officer after that date, 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 taken for calculation 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:

Provided that an officer seconded to the service of another government or authority on the date taken for calculation 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 of the High Commission or the Common Services Organization, as the case may be, 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.

(2) The compensation of each entitled officer under this paragraph shall be provisionally assessed as soon as is reasonably practicable after the operative date or, in the case of a person who becomes an entitled officer after that date, as soon as is reasonably practicable after that person becomes an entitled officer and for that purpose the date to be taken for calculation 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 reassessed upon each anniversary of the date in relation to which his compensation was assessed under sub-paragraph (2) of this paragraph 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 to be taken for calculation shall be such date (not being earlier than the date in relation to which his compensation was assessed under sub-paragraph (2) of this paragraph, or later than the date upon which his compensation is provisionally reassessed or finally assessed, as the case may be) as is most advantageous in relation to the officer.

(4) 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, Table IV of that Annex, in the case of an officer whose terms of service provide that he shall not be required to retire on the grounds of age before attaining the age of sixty-five years) 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 to entitled officers.

3.—(1) When the compensation of an entitled officer has been provisionally assessed under sub-paragraph (2) of paragraph 2 of this Schedule, a payment shall be made to that officer, which—

(*a*) in the case of an entitled officer who has undertaken to serve as such upon such conditions as may be prescribed by the appropriate authority for any period (not being less than two years beginning on the operative date or, if he was not an entitled officer on the operative date, on the date on which he became an entitled officer exclusive of any period in which he is on leave of absence) 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.

(2) Subject to the provisions of sub-paragraph (3) 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 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 head (*a*) of sub-paragraph (1) 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 head (*a*) of sub-paragraph (1) 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 (whether he is still serving as an entitled officer or has already retired) attains the age of fifty-five years (or in the case of a person to whom Table IV of the Annex to this Schedule applies, sixty-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 that paragraph retires in the circumstances described in head (*a*) or head (*c*) of sub-paragraph (4) of paragraph 4 of this Schedule or under sub-paragraph 5 of that paragraph before he has attained that age; 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,

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

Provided that in the latter case the Secretary-General of the Common Services Organization may direct that instead of being paid to the personal representatives it shall 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 Secretary-General may think fit.

(4) Whenever any payment of compensation is made under sub-paragraph (1) or sub-paragraph (2) of this paragraph, interest at the rate of five per cent. per annum shall accrue from day to day during the period beginning at the date by reference to which that compensation was calculated and ending at the date of the next following assessment of compensation under any of the provisions of this Schedule upon any part of that compensation that did not become payable under this paragraph when the earlier assessment was made and that interest shall become payable at the end of that period.

(5) 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 authority, 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 authority, withdraw the notice at any time before that date.

(3) No entitled officer shall retire under this paragraph without the permission of the appropriate authority:

Provided that the appropriate authority 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; or

(*d*) in the case of a woman officer, who is required to retire upon her marriage,

shall be deemed to have retired under sub-paragraph (1) of this paragraph.

(5) If the East African Common Services Authority so requests, the authorities having power to make appointments in any branch of the public service shall consider whether there are more local candidates suitably qualified for appointment to, or promotion in, that branch than there are vacancies in that branch that could appropriately be filled by such local candidates; and those authorities, if satisfied that such is the case, shall, if so requested by the East African Common Services Authority, select entitled officers in that branch whose retirement would in the opinion of

those authorities cause vacancies that could appropriately be filled by such suitably qualified local candidates as are available and fit for appointment and inform the East African Common Services Authority of the number of officers so selected; and if the East African Common Services Authority specifies a number of officers to be called upon to retire (not exceeding the number of officers so selected) those authorities shall nominate that number of officers from among the officers so selected and by notice in writing require them to retire from the public service under this Schedule; and any officer who is so required to retire shall retire accordingly:

Provided that—

(*a*) Every officer who is required to retire under this sub-paragraph 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;

(*b*) no officer shall be required to retire within less than twelve months of the date on which he is given notice under this sub-paragraph;

(*c*) notice under this sub-paragraph may not be given to an officer engaged upon a tour of duty, if the balance he has yet to serve of a minimum tour of duty and the leave for which he is eligible (other than additional leave under this paragraph) amount to less than one year;

(*d*) an officer who is engaged upon a tour of duty when he is given notice under this sub-paragraph shall not be required to retire before completing a minimum tour of duty and any leave of absence for which he is eligible thereafter by virtue of this paragraph or otherwise; and

(*e*) an officer who is on leave of absence after completing a tour of duty when he is given notice under this sub-paragraph may, at his option (such option to be exercised within one month of the date of his receipt of the notice), either—

(i) retire at the expiration of any leave of absence for which he may be eligible at the date of the notice by virtue of this sub-paragraph or otherwise;

(ii) continue in the service of the Common Services Organization for a further period of twelve months, and retire at the expiration of any leave of absence for which he may be eligible thereafter by virtue of this sub-paragraph or otherwise; or

(iii) serve for a further minimum tour of duty and retire at the expiration of any leave of absence for which he may be eligible thereafter by virtue of this sub-paragraph or otherwise.

(7) In this paragraph "minimum tour of duty" in relation to an officer means a period of twenty-one months' residential service.

Grant of pensions and gratuities to entitled officers.

5.—(1) This paragraph applies to entitled officers who are the substantive holders of offices, being pensionable offices for the purposes of the appropriate law.

(2) Subject to the provisions of paragraphs 11 and 16 of this Schedule, an officer to whom this paragraph applies, 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 to whom sub-paragraph (4) of paragraph 4 of this Schedule applies, 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;

(*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; or

(*d*) in the case of an officer who is a member of the Royal East African Navy, the gratuity that may be granted under the Royal East African Navy Regulations, 1956.

(3) 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.

(4) Where an officer to whom this paragraph applies 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.

(5) 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 organization 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.

(6) For the purposes of this paragraph the amount of the pension that an officer who retires under sub-paragraph (5) of paragraph 4 of this Schedule may be granted under the appropriate law shall be calculated as if his annual pensionable emoluments on the date by reference to which his compensation is finally assessed under paragraph 2 of this Schedule were the emoluments to be taken for computing his pension under the appropriate law.

(7) If an officer has not exercised the option conferred upon him by sub-paragraph (2) 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.

(8) 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 that officer at 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; and

(*b*) in relation to an officer who retires within not less than one year 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 for a period exceeding six months the period by which such leave of absence exceeds six months shall not be taken into account.

Special gratuity for certain officers.

6.—(1) Subject to the provisions of paragraphs 11 and 16 of this Schedule, where any entitled officer to whom Part III of the First Schedule to the Pensions Act of the High Commission or Part III of the East African Railways and Harbours Pensions Regulations 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 5 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 the Scheduled Government; and

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

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

(2) Subject to the provisions of paragraphs 11 and 16 of this Schedule where an entitled officer to whom the provisions of the Oversea Superannuation Scheme Regulations apply retires under this Schedule and is granted under those Regulations a pension and a lump sum—

(*a*) he may be granted a gratuity equal to the amount produced by subtracting that lump sum from the sum arrived at by multiplying by the appropriate factor one quarter of the annual amount of the pension he would have received if his pension had been calculated under the Pensions Act of the High Commission; and

(*b*) he may be granted (in addition to any gratuity that may be granted to him under head (*a*) of this sub-paragraph) at his option—

(i) on assigning to the Common Services Organization a part of the annual amount of the pension granted to him under these Regulations (not being in the case of an officer who retires within twelve years of the operative date, more than the permitted fraction); or

(ii) in the case of an officer who retires not less than twelve years after the operative date, on assigning the whole of the annual amount of such pension,

a gratuity equal to the amount of his pension so assigned multiplied by the appropriate factor; such option to be exercised before the date of retirement or in the case of an officer to whom sub-paragraph (4) of paragraph 4 of the Schedule applies, within one month after that date.

(3) In this paragraph—

"the appropriate factor" has the same meaning as in paragraph 5 of this Schedule;

"the permitted fraction"—

(*a*) in relation to an officer who retires within not less than one year but within two years of the operative date, means one twelfth;

(*b*) in relation to an officer who retires within not less than two years of the operative date, means the fraction obtained by adding one twelfth for each completed year of his pensionable Service after the operative date to one twelfth.

Provided that in reckoning for the purposes of this sub-paragraph the years of pensionable service of an officer who is granted leave of absence pending his retirement for a period exceeding six months the period by which such leave of absence exceeds six months shall not be taken into account.

Special gratuity on death of certain officers.

7.—(1) Where an entitled officer dies before he has received the outstanding balance of compensation due to him 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 5 of this Schedule, if he had retired under this Schedule at the date of his death, whichever is the greater.

(2) Where an entitled officer to whom the Oversea Superannuation Scheme Regulations apply dies and a gratuity is payable to his personal representatives under those Regulations, there shall be granted to his personal representatives a gratuity equal to the amount produced by subtracting the amount of the gratuity payable under those Regulations from the amount of the maximum gratuity which could have been granted to that officer under paragraph 5 of this Schedule, if that paragraph and the Pensions Act of the High Commission had applied to him and he had retired under this Schedule at the date of his death.

(3) The Secretary-General of the Common Services Organization may direct that instead of being paid to the personal representative, any gratuity payable under sub-paragraph (1) or sub-paragraph (2) of this paragraph shall 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 Secretary-General may think fit.

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

8.—(1) This paragraph applies to an entitled officer who has retired under this Schedule and—

(*a*) who was transferred to the public service of the High Commission from pensionable employment under the Government of the United Kingdom in a public office as defined by the Superannuation Act, 1892; 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 9 of this Schedule having been transferred to the pensionable employment referred to in head (*b*) of sub-paragraph (1) of this paragraph on the date on which he retired,

whichever is the greater.

(3) If the provisions of this paragraph become applicable to any officer his compensation shall forthwith be reassessed, and—

(*a*) if the amount of compensation as so reassessed exceeds the amount he has already received under paragraph 3 of this Schedule, the balance of compensation then outstanding shall be paid, together with any unpaid interest that has accrued under that paragraph before the reassessment; 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.

Transfer of entitled officer to other public service.

9.—(1) This paragraph applies to an entitled officer who is transferred from the public service of the Common Services Organization to the service of a government or authority that is a Scheduled Government for the purposes of Part III of the First Schedule to the Pensions Act of the High Commission or Part III of the East African Railways and Harbours Pensions Regulations in circumstances in which he remains eligible for the grant of a pension under the appropriate law or the Oversea Superannuation Scheme Regulations, as the case may be, upon his eventual retirement:

Provided that—

(*a*) it does not apply to an officer to whom paragraph 8 of this Schedule applies;

(*b*) it applies to any officer who, having served after the operative date for a tour or tours of duty amounting in the aggregate to not less than two years' residential service (or less than two years, in the case of an officer returning to pensionable employment under the Government of the United Kingdom in consequence of the termination of his service with the Common Services Organization otherwise than on disciplinary grounds) would but for the provisions of sub-paragraph (3) of paragraph 1 of this Schedule be an entitled officer and who, in the opinion of the appropriate authority, would have had a reasonable expectation of becoming an entitled officer if no constitutional changes had been introduced, as if he were an entitled officer.

(2) An officer to whom this paragraph applies shall cease to be entitled to compensation under paragraph 2 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 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 officer, his compensation shall forthwith be reassessed, and—

(*a*) if the amount of compensation as so reassessed exceeds the amount he has already received under paragraph 3 of this Schedule, the balance of compensation then outstanding shall be paid, together with any unpaid interest that has accrued under that paragraph before the reassessment; 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 III 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.

10.—(1) If an entitled officer who has given an undertaking for the purposes of head (*a*) of sub-paragraph (1) of paragraph 3 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, then the amount of compensation to which he would otherwise be entitled under paragraph 2 of this Schedule shall be reduced by one half per cent. for each month or part of a month during that period in which he has not served in accordance with the undertaking.

(2) If an entitled officer has been granted promotion in the public service of the High Commission or the Common Services Organization (whether before or after the operative date) upon his giving an undertaking to serve upon such conditions as may be prescribed by the appropriate authority 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 then the amount of compensation to which he is entitled under paragraph 2 of this Schedule shall be calculated as if his annual pensionable emoluments on the date taken for calculation were equal to his annual pensionable emoluments immediately before his promotion or were equal to the average of his annual pensionable emoluments during the three years immediately preceding his so ceasing to serve, whichever are the greater; and in determining the average of such pensionable emoluments, the provisions of the appropriate law relating to the determination of the average of annual pensionable emoluments for the purposes of pension shall be applied; and, in the case of officers to whom the Oversea Superannuation Scheme Regulations apply, in determining the average of such pensionable emoluments, the provisions of the Pensions Act of the High Commission relating to the determination of the average of annual pensionable emoluments for the purposes of pension shall be applied.

(3) If any of the provisions of this paragraph becomes applicable to any entitled officer, his compensation shall be reassessed 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 reassessment the excess shall forthwith become repayable, but in any such case any interest received on account of the excess shall not be repayable.

Right of entitled officer to opt for abolition terms.

11.—(1) An entitled officer may at his option (such option to be exercised within three months of the operative date 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 which this paragraph applies.

(2) An officer to whom this paragraph applies shall not be entitled to compensation under paragraph 2 of this Schedule or be granted a pension or gratuity under paragraph 5 or 6 of 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.

Special provision for certain entitled officers.

12.—(1) This paragraph applies—

(*a*) to the entitled officer who holds the office of the Administrator of the High Commission at the commencement of this Order; and

(*b*) to any entitled officer who has been declared by the appropriate authority to be an officer who was required, before or after the operative date, to relinquish the duties of his office and thereafter to retire or whose office was abolished in order to facilitate the introduction of constitutional changes.

(2) Subject to the provisions of this paragraph an officer to whom this paragraph applies shall retire at the expiration of the period of leave of absence for which he is eligible:

Provided that if the period of leave of absence on full pensionable emoluments for which he is eligible is less than six months he shall (except in the case of an officer to whom paragraph 11 of this Schedule applies) be granted such additional leave on full pensionable emoluments as will bring the aggregate period of such leave of absence up to six months and shall retire at the expiration of that additional leave of absence.

(3) The entitled officer referred to in head (*a*) of paragraph (1) of this paragraph shall not be required to retire until the expiration of any

period during which he performs the functions of Secretary-General of the Common Services Organization or any period of leave of absence for which he is eligible in respect of that period; and during any such period shall be deemed to be holding a pensionable office for the purposes of the Pensions Act of the High Commission.

(4) An officer to whom this paragraph applies shall not be entitled to compensation under paragraph 2 of this Schedule but shall (except in the case of an officer to whom paragraph 11 of this Schedule applies) be entitled to, and shall forthwith be paid, compensation equal to the amount he would be entitled to upon his retirement if he were entitled to compensation under that paragraph and a disturbance grant equal to one quarter of his annual pensionable emoluments at his retirement.

(5) For the purposes of paragraph 5 of this Schedule an officer who retires under this paragraph, not being an officer to whom paragraph 11 of this schedule applies, shall be deemed to have retired under sub-paragraph (5) of paragraph 4 of this Schedule.

Staff of the Court of Appeal for Eastern Africa.

13.—(1) For the purposes of this paragraph the operative date shall be such date as a Secretary of State shall declare to be the operative date; and in the application of the other provisions of this Schedule to the officers referred to in sub-paragraph (2) of this paragraph, that date shall, in relation to those officers, be the operative date.

(2) Subject to the provisions of this paragraph, the provisions of this Schedule shall, with effect from the operative date, apply to any person who, at that date, is a judge of Her Majesty's Court of Appeal for Eastern Africa, or a Registrar, officer or servant of that Court and who is an overseas officer—

(*a*) being the substantive holder of an office that is a pensionable office for the purposes of the appropriate law and having been on and since the operative date the substantive holder of an office that during his tenure thereof since that date has been such a pensionable office;

(*b*) being a member of Her Majesty's Overseas Civil Service or Her Majesty's Overseas Judiciary or a designated officer for the purposes of the Overseas Service (East Africa High Commission) Agreement, 1961; and

(*c*) in the case of an officer whose appointment is subject to confirmation, having been confirmed in that appointment,

as if the judge, Registrar, officer or servant of the Court were an entitled officer in the public service of the Common Services Organization.

(3) In the application of the provisions of this Schedule to a Judge of Her Majesty's Court of Appeal for Eastern Africa—

(*a*) the appropriate authority shall mean the public service commission of the Common Services Organization; and

(*b*) sub-paragraph (5) of paragraph 4 of this Schedule shall not apply.

(4) In this paragraph "judge of Her Majesty's Court of Appeal for Eastern Africa" means the President, Vice-President or a Justice of Appeal of Her Majesty's Court of Appeal for Eastern Africa.

Place of payment and rate of exchange.

14. Any compensation or gratuity 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 Tanganyika, Kenya, Uganda or Zanzibar;

(*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 Common Services Organization, 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 Tanganyika, Kenya, Uganda or Zanzibar, 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 or gratuity as calculated at the official rate of exchange prevailing on the operative date.

Disciplinary proceedings and dismissal.

15.—(1) Where 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 authority, be withheld.

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 10 of the Pensions Act of the High Commission or regulation 9 of the East African Railways and Harbours Pensions Regulations or any law amending or replacing those provisions 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 exempted from tax under any law in force in Tanganyika, Kenya, Uganda or Zanzibar relating to the taxation of incomes or imposing any other form of taxation.

Exercise of options.

18. Any option exercisable by an entitled officer 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 the notice is received:

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

Compensation, etc., to be paid out of Common Services Organization Funds.

19.—(1) All sums of money as may from time to time be granted by way of compensation, gratuity, pension or disturbance grant under this Schedule shall—

(*a*) in the case of an officer in the service of a self-contained service, be charged upon and paid out of the separate fund maintained for that self-contained service; and

(*b*) in the case of any other officer, be charged upon and paid out of the General Fund of the Common Services Organization.

(2) In this paragraph "self-contained service" means a service maintained by the Common Services Organization that operates revenue-earning services and which maintains its own capital account.

Modified application of Schedule.

20. If the Government of the United Kingdom and the East African Common Services Authority agree—

(*a*) that, in their application to any entitled officer, the foregoing provisions of this Schedule shall have effect subject to such modifications or exceptions as that Government and that Authority may agree; or

(*b*) that some or all of the foregoing provisions of this Schedule shall apply in relation to any other officer, being an overseas officer in the public service of the High Commission at the commencement of this Order, with such modifications or exceptions, if any, as that Government and that Authority may agree,

then the provisions of this Schedule shall have effect accordingly.

ANNEX

Instructions for obtaining the appropriate factor from Table I

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

(*a*) completed years of service,

(*b*) completed years of service plus one year.

II. Subtract I (*a*) from I (*b*), divide the difference by twelve and multiply the result by the number of completed months of service, if any, in excess of the completed years of service.

Note. In the case of a member of the Royal East African Navy, any period of service in respect of which the member has been paid a gratuity shall not be taken into account in calculating the number of completed years of service.

III. Add I (*a*) and II.

IV. Repeat steps I 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, 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 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.

The Schedule, paragraph 2 TABLE I

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							
22 ...	·12	·19	·25						
23 ...	·14	·21	·28	·36					
24 ...	·16	·24	·32	·40	·49				
25 ...	·18	·27	·36	·46	·55	·64			
26 ...	·20	·31	·41	·51	·61	·71	·82		
27 ...	·22	·34	·45	·56	·68	·79	·90	1·02	
28 ...	·25	·38	·50	·62	·75	·88	1·00	1·12	1·25
29 ...	·28	·42	·56	·70	·84	·98	1·12	1·26	1·40
30 ...	·32	·48	·64	·80	·96	1·12	1·28	1·44	1·60
31 ...	·37	·56	·74	·92	1·11	1·30	1·48	1·66	1·85
32 ...	·43	·64	·86	1·07	1·28	1·50	1·71	1·93	2·14
33 ...	·49	·74	·98	1·23	1·48	1·72	1·97	2·21	2·46
34 ...	·56	·84	1·12	1·40	1·68	1·96	2·24	2·52	2·80
35 ...	·63	·94	1·25	1·56	1·88	2·19	2·50	2·82	3·13
36 ...	·69	1·03	1·37	1·72	2·06	2·40	2·74	3·09	3·43
37 ...	·74	1·11	1·48	1·85	2·22	2·59	2·96	3·33	3·70
38 ...	·78	1·18	1·57	1·96	2·35	2·74	3·14	3·53	3·92
39 ...	·82	1·23	1·64	2·04	2·45	2·86	3·27	3·68	4·09
40 ...	·84	1·26	1·68	2·10	2·52	2·94	3·36	3·78	4·20
41 ...	·85	1·27	1·70	2·12	2·54	2·97	3·39	3·82	4·24
42 ...	·84	1·26	1·68	2·10	2·52	2·94	3·36	3·78	4·20
43 ...	·81	1·22	1·63	2·04	2·44	2·85	3·26	3·66	4·07
44 ...	·77	1·16	1·54	1·93	2·32	2·70	3·09	3·47	3·86
45 ...	·72	1·08	1·44	1·80	2·16	2·52	2·88	3·24	3·60
46 ...	·66	1·00	1·33	1·66	1·99	2·32	2·66	2·99	3·32
47 ...	·60	·91	1·21	1·52	1·82	2·12	2·42	2·73	3·03
48 ...	·54	·82	1·10	1·37	1·64	1·92	2·19	2·47	2·74
49 ...	·48	·73	·98	1·22	1·46	1·71	1·95	2·20	2·44
50 ...	·42	·64	·85	1·06	1·28	1·49	1·70	1·92	2·13
51 ...	·36	·54	·72	·90	1·08	1·26	1·44	1·62	1·80
52 ...	·28	·43	·57	·72	·86	1·00	1·14	1·29	1·43
53 ...	·20	·30	·40	·50	·60	·70	·80	·90	1·00
54 ...	·10	·15	·20	·25	·30	·35	·40	·45	·50
55 and over	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil

TABLE II

The Schedule, paragraphs 5, 6

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		
39	15·24	53 and over	12·50

TABLE III

The Schedule, paragraph 9

Age of Officer	*Factor*	*Age of Officer*	*Factor*
30 and below	5·00	41	9·00
31	5·08	42	8·92
32	5·21	43	8·77
33	5·47	44	8·40
34	5·90	45	7·61
35	6·56	46	6·39
36	7·44	47	5·60
37	8·10	48	5·23
38	8·53	49	5·08
39	8·79		
40	8·92	50 and over	5·00

TABLE IV

The Schedule, paragraph 2, 13

Age of Officer	Factor when length of service is				
	5 years	6 years	7 years	8 years	9 years
45	2·10	2·52	2·94	3·36	3·78
46	2·08	2·49	2·90	3·32	3·74
47	2·03	2·44	2·84	3·25	3·65
48	1·97	2·36	2·76	3·15	3·55
49	1·90	2·28	2·66	3·04	3·42
50	1·82	2·19	2·56	2·92	3·28
51	1·74	2·09	2·44	2·78	3·13
52	1·66	1·99	2·32	2·65	2·98
53	1·57	1·88	2·20	2·51	2·83
54	1·48	1·78	2·07	2·37	2·66
55	1·39	1·67	1·95	2·22	2·50
56	1·30	1·55	1·81	2·07	2·33
57	1·20	1·44	1·68	1·92	2·16
58	1·10	1·32	1·54	1·76	1·98
59	1·00	1·20	1·40	1·60	1·80
60	·89	1·07	1·25	1·42	1·60
61	·76	·92	1·07	1·22	1·38
62	·62	·74	·87	·99	1·12
63	·44	·53	·62	·71	·80
64	·24	·28	·33	·38	·42
65	—	—	—	—	—

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order makes provision for compensation and retiring benefits for certain officers who are being transferred from the public service of the East Africa High Commission to that of the East African Common Services Organization, and for the Judges and certain members of the staff of the Court of Appeal for Eastern Africa.