STATUTORY INSTRUMENTS

1965 No. 136

AFRICA

The Gambia (Compensation and Retiring Benefits) Order 1965

Made - - - -	*29th January* 1965
Laid before Parliament	*4th February* 1965
Coming into Operation	*Immediately before 18th February* 1965

At the Court at Buckingham Palace, the 29th day of January 1965

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by the British Settlements Acts 1887(**a**) and 1945(**b**) and by the Foreign Jurisdiction Act 1890(**c**) and of all other powers enabling Her in that behalf, 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 Gambia (Compensation and Retiring Benefits) Order 1965.

(2) This Order shall come into operation immediately before 18th February 1965.

Interpretation.

2. The Interpretation Act 1889(**d**) 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 The Gambia.

Transitional provisions.

4.—(1) Where any officer or authority has before the commencement of this Order in pursuance of any provision of the compensation scheme given any permission or consent or prescribed any condition or made any declaration or done any other thing for the purposes of that scheme, that permission, consent, condition, declaration, or other thing shall be deemed to have been given, prescribed, made or done, as the case may be, under the corresponding provision of the Schedule to this Order, and the provisions of that Schedule shall have effect accordingly.

(2) Where any officer has before the commencement of this Order in pursuance of any provision in the compensation scheme given any undertaking or given or received any notice or retired he shall, provided that any conditions prescribed or deemed to have been

(a) 50 & 51 Vict. c. 54.
(b) 9 & 10 Geo. 6. c. 7.
(c) 53 & 54 Vict. c. 37.
(d) 52 & 53 Vict. c. 63.

prescribed by or under the Schedule to this Order are satisfied, be deemed to have given that undertaking, to have given or received that notice, or to have retired, as the case may be, under the corresponding provision in that Schedule, and the provisions of that Schedule shall have effect accordingly.

(3) Any officer who has, before the commencement of this Order, been required under the provisions of the compensation scheme to retire to facilitate the localisation of the public service shall, for the purposes of the Schedule to this Order, be deemed to have been required to retire under section 10 of the Gambia Independence Order 1965(a).

(4) The notice prescribed by the compensation scheme to be given by officers who elect to retire from the public service shall be deemed to have been prescribed by the appropriate Service Commission under paragraph 4 of the Schedule to this Order, and any declaration made by the Governor under the compensation scheme as to whether an officer has been or is required to retire in the circumstances described in paragraph 5 of that Schedule shall be deemed to have been made by the appropriate Service Commission under that paragraph.

(5) Any conditions or notice prescribed by the appropriate Service Commission for the purposes of paragraph 3(1)(*a*), paragraph 4(1) or paragraph 11 of the Schedule to this Order shall be not less favourable to any officer than any conditions or notice prescribed by or for the purposes of the corresponding provision of the compensation scheme.

(6) 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 scheme for compensation, retiring benefits and related matters entitled "Gambia Compensation Scheme" that was published by the Government of The Gambia on 19th November 1963.

Modified application.

5. If the Government of the United Kingdom and the Government of The Gambia agree that, in their application to any officer, the foregoing provisions of this Order and the provisions of the Schedule thereto shall have effect subject to 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.

SCHEDULE

Compensation and Retiring Benefits for Certain Officers in the Public Service of The Gambia

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 The Gambia that governs the grant of pensions, gratuities, and other like benefits in respect of the service of that officer in the public service;

(a) S.I. 1965/135 (1965 I, p. 330).

" appropriate Service Commission " means—

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

(*b*) 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 fifty-five years (or, in the case of a judge of the Supreme Court, sixty-two years) and—

(*a*) who was before 1st September 1963 appointed or selected for appointment to an office in the public service, being a pensionable office for the purposes of the appropriate law ;

(*b*) 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 ;

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

(*d*) 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 ; and

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

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

" operative date " means 1st December 1963 ;

" 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

" 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 the definition of " entitled officer " in subparagraph (1) of this paragraph, a person who was before 1st September 1963 selected for appointment to an office in the public service that was a pensionable office for the purposes of the appropriate law but who was appointed to that office on transfer or probation after 1st September 1963 shall be deemed, in the case of an appointment on transfer, to have been the substantive holder of that office and, in the case of appointment on probation, to have been serving in the office on probation, on the operative date and until the date of his appointment.

(3) For the purposes of this Schedule—

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

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

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

(i) under section 10 of the Gambia Independence Order 1965 ;

(ii) to facilitate the introduction of constitutional changes ;

(iii) because of the abolition of his office ; or

(iv) on the grounds of age in accordance with the provisions of the appropriate law,

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

(*d*) subject to the provisions of head (*a*) of this sub-paragraph, an officer who satisfies the conditions specified in heads (*a*), (*b*), (*c*) and (*e*) of the definition of " entitled officer " in sub-paragraph (1) of this paragraph, and who has, before the date of the commencement of this Order, retired or died, shall be deemed to have become entitled to compensation under paragraph 2 or paragraph 5, as the case may be, of this Schedule and the provisions of this Schedule shall have effect in relation to such officer as if he were an entitled officer immediately before such retirement or death.

Entitlement to compensation.

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, on 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 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 eleven 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 of each entitled officer under this paragraph shall, if it has not already been provisionally assessed, be provisionally assessed as soon as is reasonably practicable after the commencement of this Order or, in the case of a person who becomes an entitled officer after the commencement of this Order, as soon as is reasonably practicable after that person becomes an entitled officer, and for that purpose the date in relation to which the assessment is to be made shall be the operative date or, in the case of a person who becomes an entitled officer after the operative date, the date on which that person becomes an entitled officer.

(3) The compensation under this paragraph of each person who is serving as an entitled officer shall be provisionally re-assessed upon each anniversary of the date in relation to which his compensation was 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 in relation to which the assessment is to be made shall be such date (not being earlier than the date in relation to which his compensation was assessed under sub-paragraph (2) of this paragraph or later than the date upon which his compensation is provisionally re-assessed or finally assessed, as the case may be) as is most advantageous in relation to the officer.

(4) When the compensation of any entitled officer is provisionally assessed or 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) When the compensation of an entitled officer has been provisionally assessed under paragraph 2(2) of this Schedule, a paymen shall be made 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 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 than 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 fifty-five 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 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 under section 10 of the Gambia Independence Order 1965, the balance then outstanding of the compensation to which he is entitled under that paragraph shall be paid to him—

(*a*) if notice requiring him to retire is given to him while he is engaged upon a tour of residential service, before his departure from The Gambia; or

(*b*) if such notice is given to him while on leave of absence after completing a tour of residential service, on the date upon which such notice is given to him.

(5) 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 within two months of the date upon which notice requiring him to retire is given to him.

(6) The permanent secretary to the Ministry for the time being responsible for finance may direct that instead of any payment being made to the personal representatives of a deceased person payment shall be made to one of the dependants of the deceased or to two or more of those dependants in such proportions as the permanent secretary to the Ministry for the time being responsible for finance may think fit.

(7) 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.

(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;

(*e*) who is required to retire under section 10 of the Gambia Independence Order 1965; or

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

shall be deemed to have retired under this paragraph.

(5) 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 The Gambia for further duty at the requirement of the Government of The Gambia, 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 The Gambia for a tour of duty and when retiring from the public service having attained the age of fifty-five years and having completed a final tour of residential service;

(*b*) if he returns to The Gambia 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 The Gambia (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 The Gambia 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 fifty-five years and having completed a final tour of residential service; and

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

(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 fifty-five 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*) or (*e*) of this paragraph or on the grounds of age before attaining the age of fifty-five years (or, in the case of a judge of the Supreme Court, sixty-two years) and who, when he is given notice requiring him to retire, is on leave of absence after completing a tour of residential service shall, 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 and, if he returns to The Gambia, he shall also be provided with a passage to The Gambia for his own use as if he were returning to The Gambia for a further tour of residential service and 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 fifty-five 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 The Gambia 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 fifty-five 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. The provisions of this Schedule shall apply to an entitled officer who has been declared by the appropriate Service Commission to be an officer required to relinquish the duties of his office and thereafter to retire in order to facilitate the introduction of constitutional changes as if he were retiring under this Schedule:

Provided that—

(*a*) he shall be paid, either before his departure on leave pending retirement or as soon as is reasonably practicable thereafter (and in any event not later than two months thereafter), a disturbance grant equal to one-quarter of his annual pensionable emoluments at the date of his retirement;

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

Grant of pensions and gratuities to entitled officers.

6.—(1) 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 officer who is required to retire in the circumstances described in paragraph 4(4)(*c*) or (*e*) or paragraph 5 of this Schedule or in consequence of the abolition of his office or on the grounds of age before attaining the age of fifty-five years (or, in the case of a judge of the Supreme Court, sixty-two years) may be granted under the appropriate

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

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

(7) In this paragraph—

" the appropriate factor " in relation to an officer means the factor obtained from Table III of the Annex to this Schedule that is appropriate to the age of that officer 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 enjoyment of which had on the operative date been deferred shall not be taken into account.

Special gratuity for certain officers.

7.—(1) Where any entitled officer to whom Part III of the Rules to the Pensions Ordinance 1950(a) (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 6 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 6 of this Schedule.

Special gratuity on the death of certain officers.

8.—(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

(a) Laws of The Gambia, 1955 Revised Edition, Cap. 63.

either that gratuity or a gratuity equal to the maximum gratuity which could have been granted to that officer under the provisions of paragraph 6 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 Rules to the Pensions Ordinance 1950 (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 The Gambia—

(*a*) the provisions of paragraph 6(1)(*c*) of this Schedule shall not apply; and

(*b*) the permitted fraction referred to in paragraph 6 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 The Gambia 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 The Gambia as the aggregate amount of his pensionable emoluments during his pensionable service otherwise than in the public service of The Gambia bears to the aggregate amount of his pensionable emoluments throughout his pensionable service.

(3) The permanent secretary to the Ministry for the time being responsible for finance 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 permanent secretary to the Ministry for the time being responsible for finance may think fit.

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

9.—(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 10 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.

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

(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.

Transfer of entitled officer to other public service.

10.—(1) This paragraph applies to an entitled officer (other than an officer to whom paragraph 9 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 Rules to the Pensions Ordinance 1950 (or any law for the time being in force amending or replacing that Part of those Rules) 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

(a) 5 & 6 Eliz. 2. c. 62.

(*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.

11.—(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 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.

(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—

(*a*) 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 Rule 17 of the Rules to the Pensions Ordinance 1950 (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); and

(*b*) in the case of a judge of the Supreme Court promoted to that office after the commencement of this Order, on the basis that the appropriate factor is that obtained from Table I of the Annex to this Schedule.

(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.

12.—(1) When disciplinary proceedings are taken, or are about to be taken, against any person who is serving as an entitled officer and

those proceedings might lead to his dismissal, the payment of compensation under this Schedule and interest thereon shall be withheld pending the determination of 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 Public Service Commission, be withheld.

Place of payment and rate of exchange.

13. 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 The Gambia ;

(*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 permanent secretary to the Ministry for the time being responsible for finance, select,

in the currency of the country in which payment is to be made ; and, where payment is to be made in a country other than The Gambia, 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.

Application of appropriate law.

14. 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.

15. 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 The Gambia relating to the taxation of income.

Exercise of option.

16. 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 the officer's age at his last birthday and his completed years of service.

II. Read off from the table the factor for ten years service and the officer's age in years and completed months by interpolation arithmetically.

III. Divide II by 120 and multiply the result by the number of completed months of service, not exceeding 120.

IV. The greater of I and III, adjusted to the nearest second decimal place (when the third decimal place is 5 exactly take the next highest second place), is the factor required.

Instructions for Obtaining the Appropriate Factor from Table II

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

II. Read off from the table the factor for the officer's age in years and completed months by interpolation arithmetically.

III. The greater of I and II, adjusted to the nearest second decimal place (when the third decimal place is 5 exactly take highest second place), is the factor required.

Instructions for Obtaining the Appropriate Factor from Tables III and IV

I. The factor required is obtained by reading off from the table the factor for the officer's age in years and completed months by interpolation arithmetically, and adjusting to the nearest second decimal place (when the third decimal place is 5 exactly take the next highest second place).

Table I

The Schedule, Paragraph 2

Age last Birthday	Factor Where Length of Service is							
	3 years	4 years	5 years	6 years	7 years	8 years	9 years	10 years
25	·24	·32						
26	·26	·35	·44					
27	·29	·39	·49	·59				
28	·34	·45	·56	·68	·79			
29	·40	·53	·66	·80	·93	1·06		
30	·47	·62	·78	·94	1·09	1·25	1·40	
31	·55	·73	·92	1·10	1·28	1·46	1·65	1·83
32	·64	·86	1·07	1·28	1·50	1·71	1·93	2·14
33	·75	1·00	1·24	1·49	1·74	1·99	2·24	2·49
34	·86	1·15	1·44	1·73	2·02	2·30	2·59	2·88
35	·98	1·31	1·64	1·96	2·29	2·62	2·94	3·27
36	1·08	1·44	1·80	2·17	2·53	2·89	3·25	3·61
37	1·16	1·54	1·93	2·32	2·70	3·09	3·47	3·86
38	1·20	1·60	2·00	2·40	2·80	3·20	3·60	4·00
39	1·22	1·62	2·03	2·44	2·84	3·25	3·65	4·06

TABLE I (*cont.*)

THE SCHEDULE, PARAGRAPH 2 (*cont.*)

Age last Birthday	FACTOR WHERE LENGTH OF SERVICE IS							
	3 years	4 years	5 years	6 years	7 years	8 years	9 years	10 years
40	1·22	1·63	2·04	2·44	2·85	3·26	3·66	4·07
41	1·20	1·60	2·00	2·41	2·81	3·21	3·61	4·01
42	1·16	1·54	1·93	2·32	2·70	3·09	3·47	3·86
43	1·10	1·46	1·82	2·19	2·56	2·92	3·28	3·65
44	1·03	1·37	1·71	2·05	2·39	2·74	3·08	3·42
45	·96	1·28	1·60	1·91	2·23	2·55	2·87	3·19
46	·88	1·18	1·48	1·77	2·06	2·36	2·66	2·95
47	·81	1·08	1·36	1·63	1·90	2·17	2·44	2·71
48	·74	·98	1·23	1·48	1·72	1·97	2·21	2·46
49	·66	·88	1·10	1·31	1·53	1·75	1·97	2·19
50	·57	·76	·94	1·13	1·32	1·51	1·70	1·89
51	·47	·63	·78	·94	1·10	1·26	1·41	1·57
52	·36	·48	·60	·73	·84	·97	1·09	1·21
53	·22	·30	·38	·45	·52	·60	·68	·75
54	·08	·10	·12	·15	·18	·20	·22	·25
55 and above	NIL	NIL	NIL	NIL	NIL	NIL	NIL	NIL

TABLE II

THE SCHEDULE, PARAGRAPH 2

AGE OF JUDGE LAST BIRTHDAY	FACTOR	AGE OF JUDGE LAST BIRTHDAY	FACTOR
37	2·84	50	3·25
38	3·22	51	3·08
39	3·54	52	2·90
		53	2·71
40	3·79	54	2·51
41	3·96		
42	4·05	55	2·31
43	4·07	56	2·11
44	4·02	57	1·87
		58	1·58
45	3·92	59	1·24
46	3·80		
47	3·68	60	·75
48	3·55	61	·25
49	3·41	62 and above	NIL

NOTE.—These factors apply only to judges with ten or more years' service.

TABLE III

THE SCHEDULE, PARAGRAPHS 6 AND 7

AGE LAST BIRTHDAY	FACTOR	AGE LAST BIRTHDAY	FACTOR
29 and under	16·50	45	14·07
30	16·44	46	13·86
31	16·31	47	13·65
32	16·18	48	13·43
33	16·05	49	13·20
34	15·91		
35	15·77	50	12·96
36	15·62	51	12·72
37	15·47	52 and above	12·50
38	15·32		
39	15·16		
40	14·99		
41	14·82		
42	14·64		
43	14·46		
44	14·26		

TABLE IV

THE SCHEDULE, PARAGRAPH 10

AGE LAST BIRTHDAY	FACTOR
30 and under	5·00
31	5·08
32	5·22
33	5·51
34	6·08
35	7·00
36	7·92
37	8·49
38	8·78
39	8·92
40	9·00
41	8·92
42	8·78
43	8·49
44	7·92
45	7·00
46	6·08
47	5·51
48	5·22
49	5·08
50 and above	5·00

EXPLANATORY NOTE

(This Notice 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 in the public service of The Gambia.