1960 No. 1653

The Nigeria (Retirement Benefits) Order in Council, 1960

Made - - - -	*12th September*, 1960
Laid before Parliament	*16th September*, 1960
Coming into Operation	*1st October*, 1960

At the Court at Balmoral, the 12th day of September, 1960

Present,

The Queen's Most Excellent Majesty in Council

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

Citation and commencement

1.—(1) This Order may be cited as the Nigeria (Retirement Benefits) Order in Council, 1960.

(2) This Order shall come into operation on the first day of October, 1960.

Interpretation

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

Application of First, Second, Third and Fourth Schedules

3. The provisions contained in the First, Second, Third and Fourth Schedules to this Order shall have effect in relation to the public services of the Federation of Nigeria, Northern Nigeria, Western Nigeria and Eastern Nigeria respectively.

Revocation

4. The Nigeria (Retirement Benefits) Order in Council, 1958(c), the Nigeria (Retirement Benefits) (Amendment) Order in Council, 1960(d), and the Nigeria (Retirement Benefits) (Modification) Order in Council, 1960(e), are revoked with effect from the first day of October, 1960.

W. G. Agnew.

(a) 53 & 54 Vict. c. 37. (b) 52 & 53 Vict. c. 63.
(c) S.I. 1958/1523 (1958 II, p. 2832). (d) S.I. 1960/439.
(e) S.I. 1960/1055.

FIRST SCHEDULE

Section 3.

RETIREMENT BENEFITS FOR CERTAIN OFFICERS IN THE PUBLIC SERVICE OF THE FEDERATION OF NIGERIA

Interpretation

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

" appropriate law " in relation to an officer in the public service of the Federation of Nigeria (hereinafter called " the Federation ") means the law that governs the grant of pensions, gratuities and other like benefits in respect of the service of that officer in the former public service of Nigeria, the public service of the Federation or the public service of a Region and (to the extent to which they are applicable to that officer) includes the Oversea Superannuation Scheme Regulations;

" entitled officer " means an overseas officer in the public service of the Federation—

(*a*) who was before the thirtieth day of August, 1957, appointed or selected for appointment as the substantive holder of an office in the public service of the Federation or the public service of the Northern Region, being a pensionable office for the purposes of the appropriate law;

(*b*) who has been, since he was appointed as such or since the twenty-ninth day of August, 1957, whichever is the later, the substantive holder of such an office; and

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

and includes any other person who is declared by the Prime Minister to be an entitled officer;

" the former public service of Nigeria " means the public service of Nigeria before the first day of October, 1954;

" new overseas officer " means an overseas officer in the public service of the Federation—

(*a*) who was after the twenty-ninth day of August, 1957, and before the first day of October, 1960, selected for appointment and appointed as the substantive holder of an office in that public service, being a pensionable office for the purposes of the appropriate law; and

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

" operative period " in relation to an entitled officer means the period for which he is permitted to serve in the public service of the Federation with special rights;

" overseas officer " means an officer in the public service of the Federation who is, either individually or as a member of a class, declared by the Governor-General to be an overseas officer;

" 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;

"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) Where a person has been gazetted as the substantive holder of any office with effect from a date earlier than the date of the gazette, he shall for the purposes of this Schedule be deemed to have become the substantive holder of that office on that earlier date.

(3) Where an officer in the public service of the United Kingdom was on any date appointed or selected for appointment as the holder of an office in the public service of the Federation and for any period thereafter was entitled to revert to the public service of the United Kingdom he shall not for the purposes of this Schedule be regarded as having been on that date appointed or, as the case may be, selected for appointment as the substantive holder of an office in the public service of the Federation, but shall for those purposes be regarded as having been so appointed or selected on the date on which he ceases to be entitled so to revert if on that date he was the holder of an office in that public service.

(4) A person who was before the commencement of this Order declared by the Governor-General to be an overseas officer shall for the purposes of this Schedule be deemed to be an overseas officer.

(5) Where under the appropriate law an officer in the public service of the Federation may be granted two or more pensions references in this Schedule to the pension that may under the appropriate law be granted to that officer shall include references to both or all of those pensions.

Permission to serve with special rights

2.—(1) Any entitled officer may apply to the Prime Minister of the Federation for permission to serve with special rights in the public service of the Federation for such period (not exceeding such period as may be prescribed by the Prime Minister) as the officer may desire.

(2) The Prime Minister after consultation with the Public Service Commission of the Federation may grant to any entitled officer who applies for permission to serve with special rights in the public service of the Federation for any period, permission to serve with such rights for that period or, if the officer consents, for a greater or lesser period.

Variation of operative period

3.—(1) Where an entitled officer has been granted permission to serve with special rights in the public service of the Federation for any period the Prime Minister after consultation with the Public Service Commission of the Federation may vary that period.

(2) No variation of the period in respect of which special rights are granted to an entitled officer shall be made without the consent of the officer.

Retirement of entitled officers and new overseas officers

4.—(1) Subject to the provisions of sub-paragraph (4) of this paragraph, an entitled officer may, after giving four months' notice in writing to the Public Service Commission of the Federation or such shorter notice as the Public Service Commission may allow, retire at any time.

(2) Subject to the provisions of sub-paragraph (4) of this paragraph, a new overseas officer may, after giving six months' notice to the Public Service Commission of the Federation or such shorter notice as the Public Service Commission may allow, retire at any time if he has completed ten years' service, being service that may be taken into account in determining whether he is eligible for the grant of a pension or gratuity under the appropriate law, of which the three years immediately before his retirement were served—

(*a*) in the public service of the Federation;

(*b*) in the public service of one or more Regions; or

(*c*) partly in the public service of the Federation and partly in the public service of one or more Regions:

Provided that nothing in this sub-paragraph shall prevent an officer who has not served the three years immediately before his retirement in the manner specified as aforesaid from retiring with pension, gratuity or other benefit if he is entitled to do so under the appropriate law.

(3) An officer who has given notice of his intention to retire under this paragraph on any date may, with the permission of the Public Service Commission of the Federation, withdraw the notice at any time before that date.

(4) No officer in the public service of the Federation shall retire under this paragraph without the permission of the Public Service Commission of the Federation:

Provided that the Public Service Commission shall not withhold their permission unless proceedings for the officer's dismissal are being taken or about to be taken.

(5) An entitled officer who retires with the permission of the Public Service Commission of the Federation by reason of injury or ill-health or who is required to retire under subsection (1) of section 9 of the Pensions Ordinance, 1951, or any corresponding provision shall be deemed to have retired under sub-paragraph (1) of this paragraph.

Pensions, etc., for entitled officers and new overseas officers

5.—(1) If an entitled officer retires under paragraph 4 of this Schedule he may be granted at his option either—

(*a*) such pension as may under the appropriate law be granted to him; or

(*b*) a reduced pension equal to three-quarters of that pension together with a gratuity equal to one quarter of the amount of that pension multiplied by the factor set out in Table I of the Fifth Schedule that is appropriate to the age of the officer on his birthday last preceding the date of his retirement; or

(*c*) a gratuity of one quarter of the aggregate amount of his pensionable emoluments during his service in the former public service of Nigeria, the public service of the Federation and the public service of any Region; or

(*d*) in the case of an officer whose pension under the appropriate law would not exceed two hundred and fifty pounds per annum, a gratuity equal to the whole or any part of the annual amount of the pension multiplied by the factor set out in Table I of the

Fifth Schedule that is appropriate to the age of that officer at the date of his retirement together with a reduced pension equal to the remaining part (if any) of that pension ; or

(*e*) in the case of an officer whose pension under the appropriate law would exceed two hundred and fifty pounds per annum, a gratuity equal to any part of the annual amount of the pension (not being a sum exceeding two hundred and fifty pounds) multiplied by the factor set out in Table I of the Fifth Schedule that is appropriate to the age of that officer at the date of his retirement together with a reduced pension equal to the remaining part of that pension.

(2) If a new overseas officer retires under paragraph 4 of this Schedule he may be granted such pension, gratuity or other benefit as may under the appropriate law be granted to him.

(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) References in this paragraph to the pension that may under the appropriate law be granted to an officer include, in the case of an officer who retires on account of injury or ill-health, references to any additional pension that may be granted under the appropriate law to that officer in respect of retirement on the ground of injury or ill-health.

(5) The foregoing provisions of this paragraph shall, in their application to an officer who may be granted a pension under the Oversea Superannuation Scheme Regulations, have effect as if the references to such pension as may under the appropriate law be granted to him did not include references to any pension that may under those regulations or under any law be granted to him in respect of service that may be taken into account for the purpose of computing his pension under those regulations.

Benefits for entitled officers without special rights

6. If an entitled officer (not being an officer who has been granted permission to serve with special rights) retires under paragraph 4 of this Schedule he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 5 of this Schedule either—

(*a*) additional benefits ; or

(*b*) compensation to be calculated as at the date of his retirement.

Benefits for entitled officers with special rights

7.—(1) If an entitled officer who has been granted permission to serve with special rights—

(*a*) retires under paragraph 4 of this Schedule at the end of the operative period or upon such date before or after the end of that period as the Public Service Commission of the Federation may allow ; or

(*b*) retires under paragraph 4 of this Schedule before the end of the operative period on the ground of injury or ill-health,

he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 5 of this Schedule either—

(i) additional benefits; or

(ii) compensation to be calculated as at the date within the operative period (not being a date later than the date of his retirement) that is most advantageous to him.

(2) If an entitled officer who has been granted permission to serve with special rights retires under paragraph 4 of this Schedule before the end of the operative period otherwise than in the circumstances described in sub-paragraph (1) of this paragraph he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 5 of this Schedule either—

(i) additional benefits; or

(ii) compensation to be calculated as at the date of his retirement.

Benefits payable on death of entitled officer

8.—(1) If an entitled officer dies while he is a member of the public service of the Federation, the Public Service Commission of the Federation may direct that there shall be paid to the personal representatives of that officer or, if they shall think fit, to any member of the family of that officer the greater of the following—

(*a*) a sum equal to the compensation that would have been granted to the officer under paragraph 6 or paragraph 7 of this Schedule had he retired under paragraph 4 of this Schedule on the day of his death (or the balance of that sum if any advance has been made to him in respect of compensation); or

(*b*) a sum equal to the gratuity that would have been payable under the appropriate law:

Provided that the Public Service Commission may direct that such sum shall be divided among any two or more of the members of the family of the officer in such proportions as they may think fit.

(2) Where an entitled officer who has been granted permission to serve with special rights—

(*a*) dies within the operative period; or

(*b*) in the case of an officer who has been granted permission under sub-paragraph (1) of paragraph 7 of this Schedule to retire on a date within six months after the end of the operative period, dies between the end of the operative period and that date,

he shall be deemed for the purposes of this paragraph to have been eligible for compensation to be calculated as at the date within the operative period (not being a date after the date of his death) that is most advantageous.

(3) For the purposes of this paragraph "member of the family" in relation to an entitled officer means wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, adopted son, adopted daughter, brother, sister, half-brother or half-sister.

Additional benefits

9. Where an entitled officer is granted additional benefits under paragraph 6 or paragraph 7 of this Schedule he shall receive at his option either—

(*a*) an additional allowance which shall be calculated at the annual rate of one one hundred and eightieth part of the officer's pensionable emoluments at the date of his retirement for each complete period of one year of pensionable service :

Provided that the allowance shall not exceed such annual sum as would, if it were added to such pension as could be granted to him under head (*a*) of sub-paragraph (1) of paragraph 5 of this Schedule, make an annual sum equal to the pension for which he would have been eligible under that head if he had continued to hold the office held by him on the date of his retirement until he had attained the age of fifty-five years (or, in the case of a judge of the Federal Supreme Court, sixty-five years, and in the case of a judge of the High Court of Lagos, sixty-two years) and had then retired having been granted all increments of salary for which he would have been eligible by that date ; or

(*b*) a reduced additional allowance, which shall be calculated at the annual rate of three quarters of that additional allowance together with a gratuity equal to one quarter of the annual amount of that additional allowance multiplied by the factor set out in Table I of the Fifth Schedule that is appropriate to the age of that officer at the date of his retirement ; or

(*c*) an additional gratuity equal to one sixteenth part of the aggregate amount of his pensionable emoluments during the whole of his pensionable service :

Provided that the additional gratuity shall be subject to a reduction proportionate to the reduction to which, if the officer had received an additional allowance, his additional allowance would have been subject by virtue of the proviso to sub-paragraph (*a*) of this paragraph ; or

(*d*) in the case of an entitled officer whose pension under the appropriate law would not exceed two hundred and fifty pounds per annum, an additional gratuity equal to the whole or any part of the annual amount of the additional allowance that could be granted to him under sub-paragraph (*a*) of this paragraph (not being a sum which, if it were added to that pension, would make an annual sum exceeding two hundred and fifty pounds) multiplied by the factor set out in Table I of the Fifth Schedule that is appropriate to the age of that officer at the date of his retirement together with a reduced additional allowance equal to the remaining part (if any) of that additional allowance.

Calculation of compensation

10.—(1) Where an entitled officer is granted compensation to be calculated at any date under paragraph 6 or paragraph 7 of this Schedule the amount of that compensation shall be calculated by multiplying the amount of the officer's annual emoluments by the factor relevant to that officer and the resulting amount, or nine thousand pounds, whichever is the less, shall be the amount to which he is entitled.

(2) The factor relevant to an entitled officer shall be the factor in the appropriate table opposite to the age of the officer at the date to be taken for calculation set out in the column that relates to the years of pensionable service completed by the officer on that date :

Provided that, in determining the pensionable service of an entitled

officer for the purposes of this paragraph, a period of service only a part of which may be taken into account for the purpose of computing the pension of that officer under the appropriate law shall be disregarded.

(3) (*a*) The appropriate table for entitled officers other than judges of the Federal Supreme Court and the High Court of Lagos shall be Table II of the Fifth Schedule.

(*b*) The appropriate table for entitled officers who are judges shall, if they are judges of the Federal Supreme Court be Table V or, if they are judges of the High Court of Lagos be Table IV, of the Fifth Schedule.

(4) For the purposes of this paragraph "annual emoluments" means in relation to an entitled officer the annual pensionable emoluments payable to that officer at the date to be taken for calculation :

Provided that in relation to an entitled officer who was transferred after the thirtieth day of September, 1960, to an office in the public service of the Federation in which there were payable to him immediately after his transfer pensionable emoluments higher than those payable to him immediately before his transfer "annual emoluments" means the greatest of the following—

(*a*) one-third of the aggregate amount of his pensionable emoluments in respect of the period of three years ending on the date to be taken for calculation ; or

(*b*) the annual pensionable emoluments payable to him immediately before his transfer ; or

(*c*) the annual pensionable emoluments that he would have been entitled to receive at the date to be taken for calculation if he had continued to hold the office that he was holding on the thirtieth day of September, 1960, having been granted all increments of salary for which he would have been eligible by that date.

(5) In determining the emoluments of an officer for the purposes of this paragraph, no account shall be taken of any revision of salaries taking effect after the thirty-first day of August, 1959, and accordingly, notwithstanding any such revision, those emoluments shall be calculated by reference to the rates and scales of salary in force on that date.

Special benefits for transferred officers

11.—(1) An entitled officer who is transferred from an office in the public service of the Federation to an office in a service outside Nigeria that is other public service for the purposes of the appropriate law in which there are payable to him immediately after his transfer annual pensionable emoluments that are less than the annual pensionable emoluments payable to him immediately before his transfer may be granted the lesser of the following—

(*a*) a sum equal to five times the difference between the annual pensionable emoluments payable to him immediately before his transfer and those payable to him immediately after his transfer ; or

(*b*) a sum equal to the compensation to which he would have been entitled had he retired under paragraph 4 of this Schedule at that date.

(2) The grant of benefits under this paragraph shall be without prejudice to the grant of a pension, gratuity or other like benefit under the appropriate law.

Abolition of office, etc.

12.—(1) This paragraph applies to any officer in the public service of the Federation—

(*a*) who 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 ; and

(*b*) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in his appointment.

(2) An officer to whom this paragraph applies who is eligible for the grant of a pension under the appropriate law may be granted at his option and in addition to that pension or any other benefit for which he may be eligible under that law in lieu of that pension either—

(*a*) such additional benefits as may be granted to him under the appropriate law ; or

(*b*) an additional pension at the annual rate of one sixtieth of his pensionable emoluments for each completed period of three years' pensionable service:

Provided that an additional pension granted under this paragraph—

(i) shall not exceed ten sixtieths ; and

(ii) shall not exceed such annual sum as is equal to the difference between such pension as could be granted to him under the appropriate law and the pension for which he would have been eligible if he had continued to hold the office held by him at the date of his retirement until he had attained the age of fifty-five years (or, in the case of a judge of the Federal Supreme Court, sixty-five years, and in the case of a judge of the High Court of Lagos, sixty-two years) and had then retired, having been granted all increments of salary for which he would have been eligible by that date ; or

(*c*) a reduced additional pension equal to three quarters of that additional pension together with a gratuity equal to one quarter of that additional pension multiplied by twelve and one half.

(3) An officer to whom this paragraph applies who at the date of his retirement was the holder of a pensionable office for the purposes of the appropriate law but who had not completed at that date the period of qualifying service required by the appropriate law to render him eligible for the grant of a pension may be granted at his option either—

(*a*) such benefits as may be granted to him under the appropriate law ; or

(*b*) a gratuity at the rate of one month's pensionable emoluments for each completed six months of pensionable service ; or

(*c*) a pension equal to the pension that could have been granted to him under the appropriate law if that law had not required him

to have been in qualifying service for any period to render him eligible for the grant of a pension ; or

(*d*) a reduced pension equal to three quarters of that pension together with a gratuity equal to one quarter of that pension multiplied by twelve and one half.

(4) If an officer to whom this paragraph applies who was at the date of his retirement an entitled officer gives notice in writing that he so desires to the Public Service Commission of the Federation within six months of the date of his retirement or within such longer period after that date as the Public Service Commission may allow, he shall be deemed to have retired under paragraph 4 of this Schedule and the provisions of this Schedule shall apply accordingly :

Provided that an officer who is deemed to have retired under that paragraph shall not be granted any benefits under the foregoing provisions of this paragraph.

Exercise of options

13. Any option exercisable by an officer in the public service of the Federation for the purposes of this Schedule—

(*a*) shall be exercisable on or before the date of the officer's retirement:

Provided that the Public Service Commission of the Federation may, if they think fit, and subject or not to conditions, extend the period for the exercise of the option and may permit an officer to exercise a fresh option or options if for any reason an option previously exercised by him has been rejected ;

(*b*) shall be irrevocable after the end of the period within which it must be exercised ;

(*c*) shall be exercised by notice in writing to the Public Service Commission ; and

(*d*) shall be deemed to have been exercised on the date on which the notice is received.

Application of appropriate law

14. Where any officer in the public service of the Federation retires under paragraph 4 of this Schedule the provisions of the appropriate law—

(*a*) 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 ; and

(*b*) shall, subject as aforesaid, apply in relation to the grant of any additional allowance under this Schedule to any additional allowance granted thereunder as they apply in relation to the grant of a pension, and to any pension granted, under the appropriate law.

Exemption from tax

15. Any sum granted by way of compensation under paragraph 6 or paragraph 7 of this Schedule, any sum paid under paragraph 8 of this Schedule, any gratuity granted under paragraph 5, paragraph 9 or paragraph 12 of this Schedule and any sum granted upon the transfer of an officer under paragraph 11 of this Schedule, shall be exempt from

tax under any law in force in Nigeria relating to the taxation of incomes or imposing any other form of taxation.

Application of Schedule to officers who are not overseas officers

16.—(1) This paragraph applies to an officer in the public service of the Federation—

(*a*) who was on or before the thirty-first day of August, 1957, appointed or selected for appointment as the substantive holder of an office in the former public service of Nigeria or the public service of the Federation or the public service of a Region, being a pensionable office for the purposes of the appropriate law;

(*b*) who is not an overseas officer; and

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

and to any other officer in that public service, not being an overseas officer, to whom this paragraph is declared by the Public Service Commission or the Judicial Service Commission of the Federation, as may be appropriate, with the concurrence of the Prime Minister, to be applicable.

(2) If an officer to whom this paragraph applies can show to the satisfaction of the Public Service Commission or the Judicial Service Commission of the Federation, as the case may be, that his career in the public service has been prejudiced by the provisions of the Nigeria (Constitution) Order in Council, 1954, as amended, or of the Nigeria (Constitution) Order in Council, 1960, or that, because of those provisions, he has reasonable grounds for anxiety about his career in the public service, the provisions of this Schedule that otherwise would apply only in relation to overseas officers shall apply in relation to him as if he were an overseas officer.

Section 3 SECOND SCHEDULE

RETIREMENT BENEFITS FOR CERTAIN OFFICERS IN THE PUBLIC SERVICE OF NORTHERN NIGERIA

Interpretation

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

"appropriate law" in relation to an officer in the public service of Northern Nigeria (hereinafter called "the Region") means the law that governs the grant of pensions, gratuities and other like benefits in respect of the service of that officer in the former public service of Nigeria, the public service of the Federation or the public service of a Region and (to the extent to which they are applicable to that officer) includes the Oversea Superannuation Scheme Regulations;

"entitled officer" means an overseas officer in the public service of the Region—

(*a*) who was before the first day of September, 1957, appointed or selected for appointment as the substantive holder of an office in the public service of the Federation or the public service of the Region, being a pensionable office for the purposes of the appropriate law;

(*b*) who has been, since he was appointed as such or since the thirty-first day of August, 1957, whichever is the later, the substantive holder of such an office;

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

and includes any other person who is declared by the Governor to be an entitled officer;

"the former public service of Nigeria" means the public service of Nigeria before the first day of October, 1954;

"future overseas officer" means an overseas officer in the public service of the Region—

(*a*) who was after the thirty-first day of August, 1957, selected for appointment and appointed as the substantive holder of an office in that public service, being a pensionable office for the purposes of the appropriate law; and

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

"operative period" in relation to an entitled officer means the period for which he is permitted to serve in the public service of the Region with special rights;

"overseas officer" means an officer in the public service of the Region who is, either individually or as a member of a class, declared by the Governor to be an overseas officer;

"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;

"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) Where a person has been gazetted as the substantive holder of any office with effect from a date earlier than the date of the gazette, he shall for the purposes of this Schedule be deemed to have become the substantive holder of that office on that earlier date.

(3) A person who was before the commencement of this Order declared by the Governor-General to be an overseas officer shall for the purposes of this Schedule be deemed to be an overseas officer.

(4) Where under the appropriate law an officer in the public service of the Region may be granted two or more pensions references in this Schedule to the pension that may under the appropriate law be granted to that officer shall include references to both or all of those pensions.

Permission to serve with special rights

2.—(1) Any entitled officer may apply to the Public Service Commission of the Region for permission to serve with special rights in the public service of the Region for such period as the officer may desire.

(2) The Public Service Commission of the Region may grant to any entitled officer who applies for permission to serve with special rights in the public service of the Region for any period, permission to serve with such rights for that period or, if the officer consents, for a lesser period.

Variation of operative period

3.—(1) Where an entitled officer has been granted permission to serve with special rights in the public service of the Region for any period the Public Service Commission of the Region may vary that period.

(2) No variation of the period in respect of which special rights are granted to an entitled officer shall be made without the consent of the officer.

Retirement of entitled officers and future overseas officers

4.—(1) Subject to the provisions of sub-paragraph (4) of this paragraph, an entitled officer may, after giving four months' notice in writing to the Governor or such shorter notice as the Governor may allow, retire at any time.

(2) Subject to the provisions of sub-paragraph (4) of this paragraph, a future overseas officer may, after giving six months' notice to the Governor or such shorter notice as the Governor may allow, retire at any time if he has completed ten years' service, being service that may be taken into account in determining whether he is eligible for the grant of a pension or gratuity under the appropriate law, of which the three years immediately before his retirement were served—

(*a*) in the public service of the Federation ;

(*b*) in the public service of one or more Regions ; or

(*c*) partly in the public service of the Federation and partly in the public service of one or more Regions:

Provided that nothing in this sub-paragraph shall prevent an officer who has not served the three years immediately before his retirement in the manner specified as aforesaid from retiring with pension, gratuity or other benefit if he is entitled to do so under the appropriate law.

(3) An officer who has given notice of his intention to retire under this paragraph on any date may, with the permission of the Public Service Commission of the Region, withdraw the notice at any time before that date.

(4) No officer in the public service of the Region shall retire under this paragraph without the permission of the Governor:

Provided that the Governor shall not withhold his permission unless proceedings for the officer's dismissal are being taken or about to be taken.

(5) An entitled officer who retires with the permission of the Governor by reason of injury or ill-health or who is required to retire under subsection (1) of section 9 of the Pensions Ordinance, 1951, or any corresponding provision shall be deemed to have retired under sub-paragraph (1) of this paragraph.

Pensions, etc. for entitled officers and future overseas officers

5.—(1) If an entitled officer retires under paragraph 4 of this Schedule he may be granted at his option either—

(*a*) such pension as may under the appropriate law be granted to him ; or

(*b*) a reduced pension equal to three-quarters of that pension together with a gratuity equal to one quarter of the amount of that pension multiplied by the factor set out in Table I of the Fifth Schedule that is appropriate to the age of the officer on his birthday last preceding the date of his retirement ; or

(*c*) a gratuity of one quarter of the aggregate amount of his pensionable emoluments during his service in the former public service of Nigeria, the public service of the Federation and the public service of any Region ; or

(*d*) in the case of an officer whose pension under the appropriate law would not exceed two hundred and fifty pounds per annum, a gratuity equal to the whole or any part of the annual amount of the pension multiplied by the factor set out in Table I of the Fifth Schedule that is appropriate to the age of that officer at the date of his retirement together with a reduced pension equal to the remaining part (if any) of that pension ; or

(*e*) in the case of an officer whose pension under the appropriate law would exceed two hundred and fifty pounds per annum, a gratuity equal to any part of the annual amount of the pension (not being a sum exceeding two hundred and fifty pounds) multiplied by the factor set out in Table I of the Fifth Schedule that is appropriate to the age of that officer at the date of his retirement together with a reduced pension equal to the remaining part of that pension.

(2) If a future overseas officer retires under paragraph 4 of this Schedule he may be granted such pension, gratuity or other benefit as may under the appropriate law be granted to him.

(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) References in this paragraph to the pension that may under the appropriate law be granted to an officer include, in the case of an officer who retires on account of injury or ill-health, references to any additional pension that may be granted under the appropriate law to that officer in respect of retirement on the ground of injury or ill-health.

(5) The foregoing provisions of this paragraph shall, in their application to an officer who may be granted a pension under the Oversea Superannuation Scheme Regulations, have effect as if the references to such pension as may under the appropriate law be granted to him did not include references to any pension that may under those regulations or under any law be granted to him in respect of service that may be taken into account for the purpose of computing his pension under those regulations.

Benefits for entitled officers without special rights

6. If an entitled officer (not being an officer who has been granted permission to serve with special rights) retires under paragraph 4 of this Schedule he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 5 of this Schedule either—

(*a*) additional benefits ; or

(*b*) compensation to be calculated as at the date of his retirement.

Benefits for entitled officers with special rights

7.—(1) If an entitled officer who has been granted permission to serve with special rights—

(*a*) retires under paragraph 4 of this Schedule at the end of the operative period or upon such date within six months before or after the end of that period as the Public Service Commission of the Region may allow ; or

(*b*) retires under paragraph 4 of this Schedule before the end of the operative period on the ground of injury or ill-health, or on such other grounds as the Public Service Commission of the Region, may approve ; or

(*c*) being an officer who has been granted permission to serve with special rights for more than three years, retires under paragraph 4 of this Schedule before the end of the operative period but after the expiration of a period of three years from the beginning of the operative period,

he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 5 of this Schedule either—

(i) additional benefits ; or

(ii) compensation to be calculated as at the date within the operative period (not being a date later than the date of his retirement) that is most advantageous to him.

(2) if an entitled officer who has been granted permission to serve with special rights retires under paragraph 4 of this Schedule before the end of the operative period otherwise than in the circumstances described in sub-paragraph (1) of this paragraph he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 5 of this Schedule either—

(i) additional benefits ; or

(ii) compensation to be calculated as at the date of his retirement.

Benefits payable on death of entitled officer

8.—(1) If an entitled officer dies while he is a member of the public service of the Region, the Governor may direct that there shall be paid to the personal representatives of that officer or, if he shall think fit, to any member of the family of that officer—

(*a*) a sum equal to the compensation which would have been granted to the officer under paragraph 6 or paragraph 7 of this Schedule had he retired under paragraph 4 of this Schedule on the day of his death ; and

(*b*) a sum equal to the gratuity that would have been payable under the appropriate law:

Provided that the Governor may direct that such sum shall be

divided among any two or more of the members of the family of the officer in such proportions as he may think fit.

(2) Where an entitled officer who has been granted permission to serve with special rights—

(*a*) dies within the operative period; or

(*b*) in the case of an officer who has been granted permission under sub-paragraph (1) of paragraph 7 of this Schedule to retire on a date within six months after the end of the operative period, dies between the end of the operative period and that date,

he shall be deemed for the purposes of this paragraph to have been eligible for compensation to be calculated as at the date within the operative period (not being a date after the date of his death) that is most advantageous.

(3) For the purposes of this paragraph "member of the family" in relation to an entitled officer means wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, grand-daughter, stepson, stepdaughter, adopted son, adopted daughter, brother, sister, half-brother or half-sister.

Additional benefits

9. Where an entitled officer is granted additional benefits under paragraph 6 or paragraph 7 of this Schedule he shall receive at his option either—

(*a*) an additional allowance which shall be calculated at the annual rate of one one hundred and eightieth part of the officer's pensionable emoluments at the date of his retirement for each complete period of one year of pensionable service:

Provided that the allowance shall not exceed such annual sum as would, if it were added to such pension as could be granted to him under head (*a*) of sub-paragraph (1) of paragraph 5 of this Schedule, make an annual sum equal to the pension for which he would have been eligible under that head if he had continued to hold the office held by him on the date of his retirement until he had attained the age of fifty-five years (or, in the case of a judge of the High Court of the Region, sixty-two years) and had then retired having been granted all increments of salary for which he would have been eligible by that date; or

(*b*) a reduced additional allowance, which shall be calculated at the annual rate of three quarters of that additional allowance together with a gratuity equal to one quarter of the annual amount of that additional allowance multiplied by the factor set out in Table I of the Fifth Schedule that is appropriate to the age of that officer at the date of his retirement; or

(*c*) an additional gratuity equal to one sixteenth part of the aggregate amount of his pensionable emoluments during the whole of his pensionable service:

Provided that the additional gratuity shall be subject to a reduction proportionate to the reduction to which, if the officer had received an additional allowance, his additional allowance would have been subject by virtue of the proviso to sub-paragraph (*a*) of this paragraph; or

(*d*) in the case of an officer whose pension under the appropriate law would not exceed two hundred and fifty pounds per annum,

an additional gratuity equal to the whole or any part of the annual amount of the additional allowance that could be granted to him under sub-paragraph (*a*) of this paragraph (not being a sum which, if it were added to that pension, would make an annual sum exceeding two hundred and fifty pounds) multiplied by the factor set out in Table I of the Fifth Schedule that is appropriate to the age of that officer at the date of his retirement together with a reduced additional allowance equal to the remaining part (if any) of that additional allowance.

Calculation of compensation

10.—(1) Where an entitled officer is granted compensation to be calculated at any date under paragraph 6 or paragraph 7 of this Schedule the amount of that compensation shall be calculated by multiplying the amount of the officer's annual emoluments by the factor relevant to that officer and the resulting amount, or nine thousand pounds, whichever is the less, shall be the amount to which he is entitled.

(2) The factor relevant to an entitled officer shall be the factor in the appropriate table opposite to the age of the officer at the date to be taken for calculation set out in the column that relates to the years of pensionable service completed by the officer on that date.

(3) (*a*) The appropriate table for entitled officers other than judges of the High Court of the Region shall be Table II of the Fifth Schedule.

(*b*) The appropriate table for entitled officers who are judges of the High Court of the Region shall be Table IV of the Fifth Schedule.

(4) For the purposes of this paragraph "annual emoluments" means in relation to an entitled officer the annual pensionable emoluments payable to that officer at the date to be taken for calculation:

Provided that in relation to an entitled officer who was transferred after the fourteenth day of March, 1959, to an office in the public service of the Region in which there were payable to him immediately after his transfer pensionable emoluments higher than those payable to him immediately before his transfer "annual emoluments" means the greatest of the following—

(*a*) one-third of the aggregate amount of his pensionable emoluments in respect of the period of three years ending on the date to be taken for calculation; or

(*b*) the annual pensionable emoluments payable to him immediately before his transfer; or

(*c*) the annual pensionable emoluments that he would have been entitled to receive at the date to be taken for calculation if he had continued to hold the office that he was holding on the fourteenth day of March, 1959, having been granted all increments of salary for which he would have been eligible by that date.

(5) In determining the emoluments of an officer for the purposes of this paragraph, no account shall be taken of any revision of salaries taking effect after the thirty-first day of August, 1959, and accordingly, notwithstanding any such revision, those emoluments shall be calculated by reference to the rates and scales of salary in force on that date.

Special benefits for transferred officers

11.—(1) An entitled officer who is transferred from an office in the public service of the Region to an office in a service outside Nigeria that is other public service for the purposes of the appropriate law in which there are payable to him immediately after his transfer annual pensionable emoluments that are less than the annual pensionable emoluments payable to him immediately before his transfer may be granted the lesser of the following—

(*a*) a sum equal to five times the difference between the annual pensionable emoluments payable to him immediately before his transfer and those payable to him immediately after his transfer; or

(*b*) a sum equal to the compensation to which he would have been entitled had he retired under paragraph 4 of this Schedule at that date.

(2) The grant of benefits under this paragraph shall be without prejudice to the grant of a pension, gratuity or other like benefit under the appropriate law.

Abolition of office, etc.

12.—(1) This paragraph applies to any officer in the public service of the Region—

(*a*) who 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; and

(*b*) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in his appointment.

(2) An officer to whom this paragraph applies who is eligible for the grant of a pension under the appropriate law may be granted at his option and in addition to that pension or any other benefit for which he may be eligible under that law in lieu of that pension either—

(*a*) such additional benefits as may be granted to him under the appropriate law; or

(*b*) an additional pension at the annual rate of one sixtieth of his pensionable emoluments for each completed period of three years' pensionable service:

Provided that an additional pension granted under this paragraph—

(i) shall not exceed ten sixtieths; and

(ii) shall not exceed such annual sum as is equal to the difference between such pension as could be granted to him under the appropriate law and the pension for which he would have been eligible if he had continued to hold the office held by him at the date of his retirement until he had attained the age of fifty-five years (or, in the case of a judge of the High Court of the Region, sixty-two years) and had then retired, having been granted all increments of salary for which he would have been eligible by that date; or

(*c*) a reduced additional pension equal to three quarters of that additional pension together with a gratuity equal to one quarter of that additional pension multiplied by twelve and one half.

(3) An officer to whom this paragraph applies who at the date of his retirement was the holder of a pensionable office for the purposes of the appropriate law but who had not completed at that date the period of qualifying service required by the appropriate law to render him eligible for the grant of a pension may be granted at his option either—

(*a*) such benefits as may be granted to him under the appropriate law; or

(*b*) a gratuity at the rate of one month's pensionable emoluments for each completed six months of pensionable service; or

(*c*) a pension equal to the pension that could have been granted to him under the appropriate law if that law had not required him to have been in qualifying service for any period to render him eligible for the grant of a pension; or

(*d*) a reduced pension equal to three quarters of that pension together with a gratuity equal to one quarter of that pension multiplied by twelve and one half.

(4) If an officer to whom this paragraph applies who was at the date of his retirement an entitled officer gives notice in writing that he so desires to the Governor within six months of the date of his retirement or within such longer period after that date as the Governor may allow, he shall be deemed to have retired under paragraph 4 of this Schedule and the provisions of this Schedule shall apply accordingly:

Provided that an officer who is deemed to have retired under that paragraph shall not be granted any benefits under the foregoing provisions of this paragraph.

Exercise of options

13. Any option exercisable by an officer in the public service of the Region for the purposes of this Schedule—

(*a*) shall be exercisable on or before the date of the officer's retirement:

Provided that the Governor may, if he thinks fit, and subject or not to conditions, extend the period for the exercise of the option;

(*b*) shall be irrevocable after the end of the period within which it must be exercised;

(*c*) shall be exercised by notice in writing to the Governor; and

(*d*) shall be deemed to have been exercised on the date on which the notice is received.

Application of appropriate law

14. Where any officer in the public service of the Region retires under paragraph 4 of this Schedule, the provisions of the appropriate law—

(*a*) 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; and

(*b*) shall, subject as aforesaid, apply in relation to the grant of any additional allowance under this Schedule and to any additional

allowance granted thereunder as they apply in relation to the grant of a pension, and to any pension granted, under the appropriate law.

Exemption from tax

15. Any sum granted by way of compensation under paragraph 6 or paragraph 7 of this Schedule, any sum paid under paragraph 8 of this Schedule, any gratuity granted under paragraph 5, paragraph 9 or paragraph 12 of this Schedule and any sum granted upon the transfer of an officer under paragraph 11 of this Schedule shall be exempt from tax under any law in force in Nigeria relating to the taxation of incomes or imposing any other form of taxation.

Application of Schedule to officers who are not overseas officers

16.—(1) This paragraph applies to an officer in the public service of the Region—

(*a*) who was on or before the thirty-first day of August, 1957, appointed or selected for appointment as the substantive holder of an office in the former public service of Nigeria or the public service of the Federation or the public service of a Region, being a pensionable office for the purposes of the appropriate law;

(*b*) who is not an overseas officer; and

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

and to any other officer in that public service, not being an overseas officer, to whom this paragraph is declared by the Public Service Commission or the Judicial Service Commission of the Region, as may be appropriate, with the concurrence of the Governor, to be applicable.

(2) If an officer to whom this paragraph applies can show to the satisfaction of the Public Service Commission or the Judicial Service Commission of the Region, as the case may be, that his career in the public service has been prejudiced by the provisions of the Nigeria (Constitution) Order in Council, 1954, as amended, or of the Nigeria (Constitution) Order in Council, 1960, or that because of those provisions, he has reasonable grounds for anxiety about his career in the public service, the provisions of this Schedule that otherwise would apply only in relation to overseas officers shall apply in relation to him as if he were an overseas officer.

Section 3 THIRD SCHEDULE

RETIREMENT BENEFITS FOR CERTAIN OFFICERS IN THE PUBLIC SERVICE OF WESTERN NIGERIA

Interpretation

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

"appropriate law" in relation to an officer in the public service of Western Nigeria (hereinafter called "the Region") means the law that governs the grant of pensions, gratuities and other like benefits in respect of the service of that officer in the former public service of Nigeria, the public service of the Federation or the public service of a Region and (to the extent to which they are applicable to that officer) includes the Oversea Superannuation Scheme Regulations;

"entitled officer" means an existing overseas officer in the public service of the Region—

(*a*) who was before the first day of October, 1956, appointed or selected for appointment as the substantive holder of an office in that public service, being a pensionable office for the purposes of the appropriate law; and

(*b*) who has been, since he was appointed as such or since the thirtieth day of September, 1956, whichever is the later, the substantive holder of an office in that public service,

and includes any other person who is declared by the Governor to be an entitled officer or who was an entitled officer for the purposes of the interim compensation scheme published by the Government of the Region on the sixth day of August, 1957;

"existing overseas officer" means an overseas officer in the public service of the Region—

(*a*) who was on or before the first day of October, 1954, appointed or selected for appointment as the substantive holder of an office in the former public service of Nigeria, the public service of the Federation or the public service of a Region, being a pensionable office for the purposes of the appropriate law;

(*b*) who has been, since he was appointed as such or since the first day of October, 1954, whichever is the later, the substantive holder of an office in the public service of the Federation or the public service of a Region; and

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

and includes any other person who is declared by the Governor to be an existing overseas officer;

"the former public service of Nigeria" means the public service of Nigeria before the first day of October, 1954;

"future overseas officer" means an overseas officer in the public service of the Region—

(*a*) who was after the first day of October, 1954, selected for appointment and appointed as the substantive holder of an office in that public service, being a pensionable office for the purposes of the appropriate law; and

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

"operative period" in relation to an entitled officer means the period for which he is permitted to serve in the public service of the Region with special rights;

"overseas officer" means an officer in the public service of the Region who is, either individually or as a member of a class, declared by the Governor to be an overseas officer;

"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;

"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) Where a person has been gazetted as the substantive holder of any office with effect from a date earlier than the date of the gazette, he shall for the purposes of this Schedule be deemed to have become the substantive holder of that office on that earlier date.

(3) Where an officer in the public service of the United Kingdom was on any date appointed or selected for appointment as the holder of an office in the public service of the Region and for any period thereafter was entitled to revert to the public service of the United Kingdom he shall not for the purposes of this Schedule be regarded as having been on that date appointed or, as the case may be, selected for appointment as the substantive holder of an office in the public service of the Region, but shall for those purposes be regarded as having been so appointed or selected on the date on which he ceased to be entitled so to revert if on that date he was the holder of an office in that public service.

(4) A person who was before the commencement of this Order declared by the Governor-General to be an overseas officer shall for the purposes of this Schedule be deemed to be an overseas officer.

(5) Where under the appropriate law an officer in the public service of the Region may be granted two or more pensions references in this Schedule to the pension that may under the appropriate law be granted to that officer shall include references to both or all of those pensions.

Permission to serve with special rights

2.—(1) Any entitled officer may apply to the Public Service Commission of the Region for permission to serve with special rights in the public service of the Region for such period as the officer may desire.

(2) The Public Service Commission of the Region may grant to any entitled officer who applies for permission to serve with special rights in the public service of the Region for any period, permission to serve with such rights for that period or, if the officer consents, for a lesser period.

Variation of operative period

3.—(1) Where an entitled officer has been granted permission to serve with special rights in the public service of the Region for any period the Public Service Commission of the Region may vary that period.

(2) No variation of the period in respect of which special rights are granted to an entitled officer shall be made without the consent of the officer.

Public Service Commission to consult

4. The Public Service Commission of the Region shall—

(*a*) consult from time to time with the Director of Recruitment of the Region as to the classes of officers in the public service of the Region to whom permission to serve with special rights in that public service should be granted; and

(*b*) consult with him before recommending any variation of an operative period in accordance with paragraph 3 of this Schedule.

Retirement of existing and future overseas officers

5.—(1) Subject to the provisions of sub-paragraph (4) of this paragraph, an existing overseas officer may, after giving four months' notice in writing to the Governor or such shorter notice as the Governor may allow, retire at any time.

(2) Subject to the provisions of sub-paragraph (4) of this paragraph, a future overseas officer may, after giving six months' notice to the Governor or such shorter notice as the Governor may allow, retire at any time if he has completed ten years' service, being service that may be taken into account in determining whether he is eligible for the grant of a pension or gratuity under the appropriate law, of which the three years immediately before his retirement were served—

(*a*) in the public service of the Federation ;

(*b*) in the public service of one or more Regions ; or

(*c*) partly in the public service of the Federation and partly in the public service of one or more Regions :

Provided that nothing in this sub-paragraph shall prevent an officer who has not served the three years immediately before his retirement in the manner specified as aforesaid from retiring with pension, gratuity or other benefit if he is entitled to do so under the appropriate law.

(3) An officer who has given notice of his intention to retire under this paragraph on any date may, with the permission of the Public Service Commission of the Region, withdraw the notice at any time before that date.

(4) No officer in the public service of the Region shall retire under this paragraph without the permission of the Governor :

Provided that the Governor shall not withhold his permission unless proceedings for the officer's dismissal are being taken or about to be taken.

(5) An existing overseas officer who retires with the permission of the Governor by reason of injury or ill-health or who is required to retire under subsection (1) of section 9 of the Pensions Ordinance, 1951, or any corresponding provision shall be deemed to have retired under sub-paragraph (1) of this paragraph.

Pensions, etc. for existing and future overseas officers

6.—(1) If an existing overseas officer retires under paragraph 5 of this Schedule he may be granted at his option either—

(*a*) such pension as may under the appropriate law be granted to him ; or

(*b*) a reduced pension equal to three-quarters of that pension together with a gratuity equal to one quarter of the amount of that pension multiplied—

(i) in the case of an entitled officer, by the factor set out in Table I of the Fifth Schedule that is appropriate to the age of the officer on his birthday last preceding the date of his retirement ; and

(ii) in any other case, by twelve and one half ; or

(*c*) a gratuity of one quarter of the aggregate amount of his

pensionable emoluments during his service in the former public service of Nigeria, the public service of the Federation and the public service of any Region; or

(*d*) in the case of an entitled officer whose pension under the appropriate law would not exceed two hundred and fifty pounds per annum, a gratuity equal to the annual amount of the pension multiplied by the factor set out in Table I of the Fifth Schedule that is appropriate to the age of that officer at the date of his retirement; or

(*e*) in the case of an entitled officer whose pension under the appropriate law would exceed two hundred and fifty pounds per annum, a gratuity equal to the sum of two hundred and fifty pounds multiplied by the factor set out in Table I of the Fifth Schedule that is appropriate to the age of that officer at the date of his retirement.

(2) If a future overseas officer retires under paragraph 5 of this Schedule he may be granted such pension, gratuity or other benefit as may under the appropriate law be granted to him.

(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) References in this paragraph to the pension that may under the appropriate law be granted to an officer include, in the case of an officer who retires on account of injury or ill-health, references to any additional pension that may be granted under the appropriate law to that officer in respect of retirement on the ground of injury or ill-health.

(5) The foregoing provisions of this paragraph shall, in their application to an officer who may be granted a pension under the Oversea Superannuation Scheme Regulations, have effect as if the references to such pension as may under the appropriate law be granted to him did not include references to any pension that may under those regulations or under any law be granted to him in respect of service that may be taken into account for the purpose of computing his pension under those regulations.

Benefits for existing overseas officers other than entitled officers

7. If an existing overseas officer who has been transferred to the public service of the Region under section 185 of the Nigeria (Constitution) Order in Council, 1954(**a**), and who is not an entitled officer retires under paragraph 5 of this Schedule he may be granted additional benefits in addition to the benefits that may be granted under paragraph 6 of this Schedule.

Benefits for entitled officers without special rights

8. If an entitled officer (not being an officer who has been granted permission to serve with special rights) retires under paragraph 5 of this Schedule he may be granted at his option and in addition to the

(**a**) S.I. 1954/1146 (1954 II, p. 2829).

benefits that may be granted to him under paragraph 6 of this Schedule either—

(*a*) additional benefits ; or

(*b*) compensation to be calculated as at the date of his retirement.

Benefits for entitled officers with special rights

9.—(1) If an entitled officer who has been granted permission to serve with special rights—

(*a*) retires under paragraph 5 of this Schedule at the end of the operative period or upon such date within six months before or after the end of that period as the Public Service Commission of the Region may allow ; or

(*b*) retires under paragraph 5 of this Schedule before the end of the operative period on the ground of injury or ill-health,

he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 6 of this Schedule either—

(i) additional benefits ; or

(ii) compensation to be calculated as at the date within the operative period (not being a date later than the date of his retirement) that is most advantageous to him.

(2) If an entitled officer who has been granted permission to serve with special rights retires under paragraph 5 of this Schedule before the end of the operative period otherwise than in the circumstances described in sub-paragraph (1) of this paragraph he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 6 of this Schedule either—

(i) additional benefits ; or

(ii) compensation to be calculated as at the date of his retirement.

Benefits payable on death of entitled officer

10.—(1) If an entitled officer dies while he is a member of the public service of the Region, the Governor may direct that there shall be paid to the personal representatives of that officer or, if he shall think fit, to any member of the family of that officer the greater of the following—

(*a*) a sum equal to the compensation which would have been granted to the officer under paragraph 8 or paragraph 9 of this Schedule had he retired under paragraph 5 of this Schedule on the day of his death ; or

(*b*) a sum equal to the gratuity that would have been payable under the appropriate law :

Provided that the Governor may direct that such sum shall be divided among any two or more of the members of the family of the officer in such proportions as he may think fit.

(2) where an entitled officer who has been granted permission to serve with special rights—

(*a*) dies within the operative period ; or

(*b*) in the case of an officer who has been granted permission under sub-paragraph (1) of paragraph 9 of this Schedule to retire on a date within six months after the end of the operative period, dies between the end of the operative period and that date,

he shall be deemed for the purposes of this paragraph to have been eligible for compensation to be calculated as at the date within the operative period (not being a date after the date of his death) that is most advantageous.

(3) For the purposes of this paragraph " member of the family " in relation to an entitled officer means wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, grand-daughter, stepson, stepdaughter, adopted son, adopted daughter, brother, sister, half-brother or half-sister.

Additional benefits

11. Where an officer is granted additional benefits under paragraph 7, paragraph 8 or paragraph 9 of this Schedule he shall receive at his option either—

(*a*) an additional allowance which shall be calculated at the annual rate of one one hundred and eightieth part of the officer's pensionable emoluments at the date of his retirement for each complete period of one year of pensionable service:

Provided that the allowance shall not exceed such annual sum as would, if it were added to such pension as could be granted to him under head (*a*) of sub-paragraph (1) of paragraph 6 of this Schedule, make an annual sum equal to the pension for which he would have been eligible under that head if he had continued to hold the office held by him on the date of his retirement until he had attained the age of fifty-five years (or, in the case of a judge of the High Court of the Region, sixty-two years) and had then retired having been granted all increments of salary for which he would have been eligible by that date; or

(*b*) a reduced additional allowance, which shall be calculated at the annual rate of three quarters of that additional allowance together with a gratuity equal to one quarter of the annual amount of that additional allowance multiplied—

(i) in the case of an entitled officer, by the factor set out in Table I of the Fifth Schedule that is appropriate to the age of that officer at the date of his retirement; and

(ii) in any other case, by twelve and one half; or

(*c*) an additional gratuity equal to one sixteenth part of the aggregate amount of his pensionable emoluments during the whole of his pensionable service:

Provided that the additional gratuity shall be subject to a reduction proportionate to the reduction to which, if the officer had received an additional allowance, his additional allowance would have been subject by virtue of the proviso to sub-paragraph (*a*) of this paragraph.

Calculation of compensation

12.—(1) Where an entitled officer is granted compensation to be calculated at any date under paragraph 8 or paragraph 9 of this Schedule the amount of that compensation shall be calculated by multiplying the amount of the officer's annual emoluments by the factor relevant to that officer and the resulting amount, or nine thousand pounds, whichever is the less, shall be the amount to which he is entitled.

(2) The factor relevant to an entitled officer shall be the factor in the appropriate table opposite to the age of the officer at the date to be taken for calculation set out in the column that relates to the years of pensionable service completed by the officer on that date:

Provided that, in determining the pensionable service of an entitled officer for the purposes of this paragraph, a period of service only a part of which may be taken into account for the purpose of computing the pension of that officer under the appropriate law shall be disregarded.

(3) (*a*) The appropriate table for entitled officers other than judges of the High Court of the Region shall be Table III of the Fifth Schedule.

(*b*) The appropriate table for entitled officers who are judges of the High Court of the Region shall be Table IV of the Fifth Schedule.

(4) For the purposes of this paragraph "annual emoluments" means in relation to an entitled officer the annual pensionable emoluments payable to that officer at the date to be taken for calculation:

Provided that in relation to an entitled officer who was transferred after the seventh day of August, 1957, to an office in the public service of the Region in which there were payable to him immediately after his transfer pensionable emoluments higher than those payable to him immediately before his transfer "annual emoluments" means the greatest of the following—

(*a*) one-third of the aggregate amount of his pensionable emoluments in respect of the period of three years ending on the date to be taken for calculation; or

(*b*) the annual pensionable emoluments payable to him immediately before his transfer; or

(*c*) the annual pensionable emoluments that he would have been entitled to receive at the date to be taken for calculation if he had continued to hold the office that he was holding on the seventh day of August, 1957, having been granted all increments of salary for which he would have been eligible by that date.

(5) In determining the emoluments of an officer for the purposes of this paragraph, no account shall be taken of any revision of salaries taking effect after the thirty-first day of March, 1959, and accordingly, notwithstanding any such revision, those emoluments shall be calculated by reference to the rates and scales of salary in force on that date.

Special benefits for transferred officers

13.—(1) An entitled officer who is transferred from an office in the public service of the Region to an office in a service outside Nigeria that is other public service for the purposes of the appropriate law in which there are payable to him immediately after his transfer annual pensionable emoluments that are less than the annual pensionable emoluments payable to him immediately before his transfer may be granted the lesser of the following—

(*a*) a sum equal to five times the difference between the annual pensionable emoluments payable to him immediately before his transfer and those payable to him immediately after his transfer; or

(*b*) a sum equal to the compensation to which he would have been entitled had he retired under paragraph 5 of this Schedule at that date.

(2) The grant of benefits under this paragraph shall be without prejudice to the grant of a pension, gratuity or other like benefit under the appropriate law.

Abolition of office, etc.

14.—(1) This paragraph applies to any officer in the public service of the Region—

(*a*) who 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 ; and

(*b*) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in his appointment.

(2) An officer to whom this paragraph applies who is eligible for the grant of a pension under the appropriate law may be granted at his option and in addition to that pension or any other benefit for which he may be eligible under that law in lieu of that pension either—

(*a*) such additional benefits as may be granted to him under the appropriate law ; or

(*b*) an additional pension at the annual rate of one sixtieth of his pensionable emoluments for each completed period of three years' pensionable service:

Provided that an additional pension granted under this paragraph—

(i) shall not exceed ten sixtieths ; and

(ii) shall not exceed such annual sum as is equal to the difference between such pension as could be granted to him under the appropriate law and the pension for which he would have been eligible if he had continued to hold the office held by him at the date of his retirement until he had attained the age of fifty-five years (or, in the case of a judge of the High Court of the Region, sixty-two years) and had then retired, having been granted all increments of salary for which he would have been eligible by that date ; or

(*c*) a reduced additional pension equal to three quarters of that additional pension together with a gratuity equal to one quarter of that additional pension multiplied by twelve and one half.

(3) An officer to whom this paragraph applies who at the date of his retirement was the holder of a pensionable office for the purposes of the appropriate law but who had not completed at that date the period of qualifying service required by the appropriate law to render him eligible for the grant of a pension may be granted at his option either—

(*a*) such benefits as may be granted to him under the appropriate law ; or

(*b*) a gratuity at the rate of one month's pensionable emoluments for each completed six months of pensionable service ; or

(*c*) a pension equal to the pension that could have been granted to him under the appropriate law if that law had not required

him to have been in qualifying service for any period to render him eligible for the grant of a pension ; or

(*d*) a reduced pension equal to three quarters of that pension together with a gratuity equal to one quarter of that pension multiplied by twelve and one half.

(4) If an officer to whom this paragraph applies who was at the date of his retirement an existing overseas officer gives notice in writing that he so desires to the Governor within six months of the date of his retirement or within such longer period after that date as the Governor may allow, he shall be deemed to have retired under paragraph 5 of this Schedule and the provisions of this Schedule shall apply accordingly:

Provided that an officer who is deemed to have retired under that paragraph shall not be granted any benefits under the foregoing provisions of this paragraph.

Exercise of options

15. Any option exercisable by an officer in the public service of the Region for the purposes of this Schedule—

(*a*) shall be exercisable on or before the date of the officer's retirement:

Provided that the Governor may, if he thinks fit, and subject or not to conditions, extend the period for the exercise of the option ;

(*b*) shall be irrevocable after the end of the period within which it must be exercised ;

(*c*) shall be exercised by notice in writing to the Governor ; and

(*d*) shall be deemed to have been exercised on the date on which the notice is received.

Application of appropriate law

16. Where any officer in the public service of the Region retires under paragraph 5 of this Schedule, the provisions of the appropriate law—

(*a*) 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 ; and

(*b*) shall, subject as aforesaid, apply in relation to the grant of any additional allowance under this Schedule and to any additional allowance granted thereunder as they apply in relation to the grant of a pension, and to any pension granted, under the appropriate law.

Exemption from tax

17. Any sum granted by way of compensation under paragraph 8 or paragraph 9 of this Schedule, any sum paid under paragraph 10 of this Schedule, any gratuity granted under paragraph 6, paragraph 11 or paragraph 14 of this Schedule and any sum granted upon the transfer of an officer under paragraph 13 of this Schedule shall be exempt from tax under any law in force in Nigeria relating to the taxation of incomes or imposing any other form of taxation.

Application of Schedule to officers who are not overseas officers

18.—(1) This paragraph applies to an officer in the public service of the Region—

(*a*) who was on or before the first day of October, 1954, appointed or selected for appointment as the substantive holder of an office in the former public service of Nigeria or the public service of the Federation or the public service of a Region, being a pensionable office for the purposes of the appropriate law;

(*b*) who is not an overseas officer; and

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

and to any other officer in that public service, not being an overseas officer, to whom this paragraph is declared by the Public Service Commission or the Judicial Service Commission of the Region, as may be appropriate, with the concurrence of the Governor, to be applicable.

(2) If an officer to whom this paragraph applies can show to the satisfaction of the Public Service Commission or the Judicial Service Commission of the Region, as the case may be, that his career in the public service has been prejudiced by the provisions of the Nigeria (Constitution) Order in Council, 1954, as amended, or of the Nigeria (Constitution) Order in Council, 1960(a), or that, because of those provisions, he has reasonable grounds for anxiety about his career in the public service, the provisions of this Schedule that otherwise would apply only in relation to overseas officers shall apply in relation to him as if he were an overseas officer.

Section 3 FOURTH SCHEDULE

RETIREMENT BENEFITS FOR CERTAIN OFFICERS IN THE PUBLIC SERVICE OF EASTERN NIGERIA

Interpretation

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

"appropriate law" in relation to an officer in the public service of Eastern Nigeria (hereinafter called "the Region") means the law that governs the grant of pensions, gratuities and other like benefits in respect of the service of that officer in the former public service of Nigeria, the public service of the Federation or the public service of a Region and (to the extent to which they are applicable to that officer) includes the Oversea Superannuation Scheme Regulations;

"entitled officer" means an existing overseas officer in the public service of the Region—

(*a*) who was before the first day of October, 1956, appointed or selected for appointment as the substantive holder of an office in that public service, being a pensionable office for the purposes of the appropriate law; and

(*b*) who has been, since he was appointed as such or since the thirtieth day of September, 1956, whichever is the later, the substantive holder of an office in that public service,

(a) S.I. 1960/1652 (Pt. II, p. 2381, of this vol.).

and includes any other person who is declared by the Governor to be an entitled officer or who was an entitled officer for the purposes of the interim compensation scheme published by the Government of the Region on the nineteenth day of August, 1957;

" existing overseas officer " means an overseas officer in the public service of the Region—

(*a*) who was on or before the first day of October, 1954, appointed or selected for appointment as the substantive holder of an office in the former public service of Nigeria, the public service of the Federation or the public service of a Region, being a pensionable office for the purposes of the appropriate law;

(*b*) who has been, since he was appointed as such or since the first day of October, 1954, whichever is the later, the substantive holder of an office in the public service of the Federation or the public service of a Region; and

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

and includes any other person who is declared by the Governor to be an existing overseas officer;

" the former public service of Nigeria " means the public service of Nigeria before the first day of October, 1954;

" future overseas officer " means an overseas officer in the public service of the Region—

(*a*) who was after the first day of October, 1954, selected for appointment and appointed as the substantive holder of an office in that public service, being a pensionable office for the purposes of the appropriate law; and

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

" operative period " in relation to an entitled officer means the period for which he is permitted to serve in the public service of the Region with special rights;

" overseas officer " means an officer in the public service of the Region who is, either individually or as a member of a class, declared by the Governor to be an overseas officer;

" 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;

" 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) Where a person has been gazetted as the substantive holder of any office with effect from a date earlier than the date of the gazette, he shall for the purposes of this Schedule be deemed to have become the substantive holder of that office on that earlier date.

(3) Where an officer in the public service of the United Kingdom was on any date appointed or selected for appointment as the holder

of an office in the public service of the Region and for any period thereafter was entitled to revert to the public service of the United Kingdom he shall not for the purposes of this Schedule be regarded as having been on that date appointed or, as the case may be, selected for appointment as the substantive holder of an office in the public service of the Region, but shall for those purposes be regarded as having been so appointed or selected on the date on which he ceased to be entitled so to revert if on that date he was the holder of an office in that public service.

(4) A person who was before the commencement of this Order declared by the Governor-General to be an overseas officer shall for the purposes of this Schedule be deemed to be an overseas officer.

(5) Where under the appropriate law an officer in the public service of the Region may be granted two or more pensions references in this Schedule to the pension that may under the appropriate law be granted to that officer shall include references to both or all of those pensions.

Permission to serve with special rights

2.—(1) Any entitled officer may apply to the Public Service Commission of the Region for permission to serve with special rights in the public service of the Region for such period as the officer may desire.

(2) The Public Service Commission of the Region may grant to any entitled officer who applies for permission to serve with special rights in the public service of the Region for any period, permission to serve with such rights for that period or, if the officer consents, for a lesser period.

Variation of operative period

3.—(1) Where an entitled officer has been granted permission to serve with special rights in the public service of the Region for any period the Public Service Commission of the Region may vary that period.

(2) No variation of the period in respect of which special rights are granted to an entitled officer shall be made without the consent of the officer.

Public Service Commission to consult

4.—(1) The Public Service Commission of the Region shall—

(*a*) consult from time to time with the appropriate authority as to the classes of officers in the public service of the Region to whom permission to serve with special rights in that public service should be granted ; and

(*b*) consult with the appropriate authority before recommending any variation of an operative period in accordance with paragraph 3 of this Schedule.

(2) For the purposes of this paragraph the appropriate authority shall be the Nigerianization Committee established by the Government of the Region or such other officer or authority of the Region as the Governor may designate.

Retirement of existing and future overseas officers

5.—(1) Subject to the provisions of sub-paragraph (4) of this paragraph, an existing overseas officer may, after giving four months'

notice in writing to the Governor or such shorter notice as the Governor may allow, retire at any time.

(2) Subject to the provisions of sub-paragraph (4) of this paragraph, a future overseas officer may, after giving six months' notice to the Governor or such shorter notice as the Governor may allow, retire at any time if he has completed ten years' service, being service that may be taken into account in determining whether he is eligible for the grant of a pension or gratuity under the appropriate law, of which the three years immediately before his retirement were served—

(*a*) in the public service of the Federation ;

(*b*) in the public service of one or more Regions ; or

(*c*) partly in the public service of the Federation and partly in the public service of one or more Regions :

Provided that nothing in this sub-paragraph shall prevent an officer who has not served the three years immediately before his retirement in the manner specified as aforesaid from retiring with pension, gratuity or other benefit if he is entitled to do so under the appropriate law.

(3) An officer who has given notice of his intention to retire under this paragraph on any date may, with the permission of the Public Service Commission of the Region, withdraw the notice at any time before that date.

(4) No officer in the public service of the Region shall retire under this paragraph without the permission of the Governor :

Provided that the Governor shall not withhold his permission unless proceedings for the officer's dismissal are being taken or about to be taken.

(5) An existing overseas officer who retires with the permission of the Governor by reason of injury or ill-health or who is required to retire under subsection (1) of section 9 of the Pensions Ordinance, 1951, or any corresponding provision by reason of injury or ill-health shall be deemed to have retired under sub-paragraph (1) of this paragraph.

Pensions etc. for existing and future overseas officers

6.—(1) If an existing overseas officer in the public service of the Region retires under paragraph 5 of this Schedule he may be granted at his option either—

(*a*) such pension as may under the appropriate law be granted to him ; or

(*b*) a reduced pension equal to three-quarters of that pension together with a gratuity equal to one quarter of the amount of that pension multiplied—

(i) in the case of an entitled officer, by the factor set out in Table I of the Fifth Schedule that is appropriate to the age of the officer on his birthday last preceding the date of his retirement ; and

(ii) in any other case, by twelve and one half ; or

(*c*) a gratuity of one quarter of the aggregate amount of his pensionable emoluments during his service in the former public service of Nigeria, the public service of the Federation and the public service of any Region ; or

(*d*) in the case of an entitled officer whose pension under the appropriate law would not exceed two hundred and fifty pounds per annum, a gratuity equal to the annual amount of the pension multiplied by the factor set out in Table I of the Fifth Schedule that is appropriate to the age of that officer at the date of his retirement; or

(*e*) in the case of an entitled officer whose pension under the appropriate law would exceed two hundred and fifty pounds per annum, a gratuity equal to the sum of two hundred and fifty pounds multiplied by the factor set out in Table I of the Fifth Schedule that is appropriate to the age of that officer at the date of his retirement.

(2) If a future overseas officer retires under paragraph 5 of this Schedule he may be granted such pension, gratuity or other benefit as may under the appropriate law be granted to him.

(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) References in this paragraph to the pension that may under the appropriate law be granted to an officer include, in the case of an officer who retires on account of injury or ill-health, references to any additional pension that may be granted under the appropriate law to that officer in respect of retirement on the ground of injury or ill-health.

(5) The foregoing provisions of this paragraph shall, in their application to an officer who may be granted a pension under the Oversea Superannuation Scheme Regulations, have effect as if the references to such pension as may under the appropriate law be granted to him did not include references to any pension that may under those regulations or under any law be granted to him in respect of service that may be taken into account for the purpose of computing his pension under those regulations.

Benefits for existing overseas officers other than entitled officers

7. If an existing overseas officer who has been transferred to the public service of the Region under section 185 of the Nigeria (Constitution) Order in Council, 1954, and who is not an entitled officer retires under paragraph 5 of this Schedule he may be granted additional benefits in addition to the benefits that may be granted under paragraph 6 of this Schedule.

Benefits for entitled officers without special rights

8. If an entitled officer (not being an officer who has been granted permission to serve with special rights) retires under paragraph 5 of this Schedule he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 6 of this Schedule either—

(*a*) additional benefits; or

(*b*) compensation to be calculated as at the date of his retirement.

Benefits for entitled officers with special rights

9.—(1) If an entitled officer who has been granted permission to serve with special rights—

(*a*) retires under paragraph 5 of this Schedule at the end of the operative period or upon such date within six months before or after the end of that period as the Public Service Commission of the Region may allow ; or

(*b*) retires under paragraph 5 of this Schedule before the end of the operative period on the ground of injury or ill-health,

he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 6 of this Schedule either—

(i) additional benefits ; or

(ii) compensation to be calculated as at the date within the operative period (not being a date later than the date of his retirement) that is most advantageous to him.

(2) If an entitled officer who has been granted permission to serve with special rights retires under paragraph 5 of this Schedule before the end of the operative period otherwise than in the circumstances described in sub-paragraph (1) of this paragraph he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 6 of this Schedule either—

(i) additional benefits ; or

(ii) compensation to be calculated as at the date of his retirement.

Benefits payable on death of entitled officer

10.—(1) If an entitled officer dies while he is a member of the public service of the Region, the Governor may direct that there shall be paid to the personal representatives of that officer or, if he shall think fit, to any member of the family of that officer the greater of the following—

(*a*) a sum equal to the compensation which would have been granted to the officer under paragraph 8 or paragraph 9 of this Schedule had he retired under paragraph 5 of this Schedule on the day of his death ; or

(*b*) a sum equal to the gratuity that would have been payable under the appropriate law :

Provided that the Governor may direct that such sum shall be divided among any two or more of the members of the family of the officer in such proportions as he may think fit.

(2) Where an entitled officer who has been granted permission to serve with special rights—

(*a*) dies within the operative period ; or

(*b*) in the case of an officer who has been granted permission under sub-paragraph (1) of paragraph 9 of this Schedule to retire on a date within six months after the end of the operative period, dies between the end of the operative period and that date,

he shall be deemed for the purposes of this paragraph to have been eligible for compensation to be calculated as at the date within the operative period (not being a date after the date of his death) that is most advantageous

(3) For the purposes of this paragraph " member of the family " in

relation to an entitled officer means wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, grand-daughter, stepson, stepdaughter, adopted son, adopted daughter, brother, sister, half-brother or half-sister.

Additional benefits

11. Where an officer is granted additional benefits under paragraph 7, paragraph 8 or paragraph 9 of this Schedule he shall receive at his option either—

(*a*) an additional allowance which shall be calculated at the annual rate of one one hundred and eightieth part of the officer's pensionable emoluments at the date of his retirement for each complete period of one year of pensionable service:

Provided that the allowance shall not exceed such annual sum as would, if it were added to such pension as could be granted to him under head (*a*) of sub-paragraph (1) of paragraph 6 of this Schedule, make an annual sum equal to the pension for which he would have been eligible under that head if he had continued to hold the office held by him on the date of his retirement until he had attained the age of fifty-five years (or, in the case of a judge of the High Court of the Region, sixty-two years) and had then retired having been granted all increments of salary for which he would have been eligible by that date; or

(*b*) a reduced additional allowance, which shall be calculated at the annual rate of three quarters of that additional allowance together with a gratuity equal to one quarter of the annual amount of that additional allowance multiplied—

(i) in the case of an entitled officer, by the factor set out in Table I of the Fifth Schedule that is appropriate to the age of that officer at the date of his retirement; and

(ii) in any other case, by twelve and one half; or

(*c*) an additional gratuity equal to one sixteenth part of the aggregate amount of his pensionable emoluments during the whole of his pensionable service:

Provided that the additional gratuity shall be subject to a reduction proportionate to the reduction to which, if the officer had received an additional allowance, his additional allowance would have been subject by virtue of the proviso to sub-paragraph (*a*) of this paragraph.

Calculation of compensation

12.—(1) Where an entitled officer is granted compensation to be calculated at any date under paragraph 8 or paragraph 9 of this Schedule the amount of that compensation shall be calculated by multiplying the amount of the officer's annual emoluments by the factor relevant to that officer and the resulting amount, or nine thousand pounds, whichever is the less, shall be the amount to which he is entitled.

(2) The factor relevant to an entitled officer shall be the factor in the appropriate table opposite to the age of the officer at the date to be taken for calculation set out in the column that relates to the years of pensionable service completed by the officer on that date:

Provided that, in determining the pensionable service of an entitled officer for the purposes of this paragraph, a period of service only

a part of which may be taken into account for the purpose of computing the pension of that officer under the appropriate law shall be disregarded.

(3) (*a*) The appropriate table for entitled officers other than judges of the High Court of the Region shall be Table III of the Fifth Schedule.

(*b*) The appropriate table for entitled officers who are judges of the High Court of the Region shall be Table IV of the Fifth Schedule.

(4) For the purposes of this paragraph "annual emoluments" means in relation to an entitled officer the annual pensionable emoluments payable to that officer at the date to be taken for calculation:

Provided that in relation to an entitled officer who was transferred after the seventh day of August, 1957, to an office in the public service of the Region in which there were payable to him immediately after his transfer pensionable emoluments higher than those payable to him immediately before his transfer "annual emoluments" means the greatest of the following—

(*a*) one-third of the aggregate amount of his pensionable emoluments in respect of the period of three years ending on the date to be taken for calculation; or

(*b*) the annual pensionable emoluments payable to him immediately before his transfer; or

(*c*) the annual pensionable emoluments that he would have been entitled to receive at the date to be taken for calculation if he had continued to hold the office that he was holding on the seventh day of August, 1957, having been granted all increments of salary for which he would have been eligible by that date.

(5) In determining the emoluments of an officer for the purposes of this paragraph, no account shall be taken of any revision of salaries taking effect after the thirty-first day of August, 1959, and accordingly, notwithstanding any such revision, those emoluments shall be calculated by reference to the rates and scales of salary in force on that date.

Special benefits for transferred officers

13.—(1) An entitled officer who is transferred from an office in the public service of the Region to an office in a service outside Nigeria that is other public service for the purposes of the appropriate law in which there are payable to him immediately after his transfer annual pensionable emoluments that are less than the annual pensionable emoluments payable to him immediately before his transfer may be granted the lesser of the following—

(*a*) a sum equal to five times the difference between the annual pensionable emoluments payable to him immediately before his transfer and those payable to him immediately after his transfer; or

(*b*) a sum equal to the compensation to which he would have been entitled had he retired under paragraph 5 of this Schedule at that date.

(2) The grant of benefits under this paragraph shall be without prejudice to the grant of a pension, gratuity or other like benefit under the appropriate law.

Abolition of office, etc.

14.—(1) This paragraph applies to any officer in the public service of the Region—

(*a*) who 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; and

(*b*) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in his appointment.

(2) An officer to whom this paragraph applies who is eligible for the grant of a pension under the appropriate law may be granted at his option and in addition to that pension or any other benefit for which he may be eligible under that law in lieu of that pension either—

(*a*) such additional benefits as may be granted to him under the appropriate law; or

(*b*) an additional pension at the annual rate of one sixtieth of his pensionable emoluments for each completed period of three years' pensionable service:

Provided that an additional pension granted under this paragraph—

(i) shall not exceed ten sixtieths; and

(ii) shall not exceed such annual sum as is equal to the difference between such pension as could be granted to him under the appropriate law and the pension for which he would have been eligible if he had continued to hold the office held by him at the date of his retirement until he had attained the age of fifty-five years (or, in the case of a judge of the High Court of the Region, sixty-two years) and had then retired, having been granted all increments of salary for which he would have been eligible by that date; or

(*c*) a reduced additional pension equal to three quarters of that additional pension together with a gratuity equal to one quarter of that additional pension multiplied by twelve and one half.

(3) An officer to whom this paragraph applies who at the date of his retirement was the holder of a pensionable office for the purposes of the appropriate law but who had not completed at that date the period of qualifying service required by the appropriate law to render him eligible for the grant of a pension may be granted at his option either—

(*a*) such benefits as may be granted to him under the appropriate law; or

(*b*) a gratuity at the rate of one month's pensionable emoluments for each completed six months of pensionable service; or

(*c*) a pension equal to the pension that could have been granted to him under the appropriate law if that law had not required him to have been in qualifying service for any period to render him eligible for the grant of a pension; or

(*d*) a reduced pension equal to three quarters of that pension together with a gratuity equal to one quarter of that pension multiplied by twelve and one half.

(4) If an officer to whom this paragraph applies who was at the date of his retirement—

(*a*) an existing overseas officer; or

(*b*) a future overseas officer who was appointed or selected for

appointment as the substantive holder of an office in the public service of the Region, being a pensionable office for the purposes of the appropriate law, before the eighth day of August, 1957,

gives notice in writing that he so desires to the Governor within six months of the date of his retirement or within such longer period after that date as the Governor may allow, he shall be deemed to have retired under paragraph 5 of this Schedule and the provisions of this Schedule shall apply accordingly, and an officer who is not an entitled officer shall for that purpose be deemed to be an entitled officer:

Provided that an officer who is deemed to have retired under that paragraph shall not be granted any benefits under the foregoing provisions of this paragraph.

Exercise of options

15. Any option exercisable by an officer in the public service of the Region for the purposes of this Schedule—

(*a*) shall be exercisable on or before the date of the officer's retirement:

Provided that the Governor may, if he thinks fit, and subject or not to conditions, extend the period for the exercise of the option;

(*b*) shall be irrevocable after the end of the period within which it must be exercised;

(*c*) shall be exercised by notice in writing to the Governor; and

(*d*) shall be deemed to have been exercised on the date on which the notice is received.

Application of appropriate law

16. Where any officer in the public service of the Region retires under paragraph 5 of this Schedule, the provisions of the appropriate law—

(*a*) 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; and

(*b*) shall, subject as aforesaid, apply in relation to the grant of any additional allowance under this Schedule and to any additional allowance granted thereunder as they apply in relation to the grant of a pension, and to any pension granted, under the appropriate law.

Exemption from tax

17. Any sum granted by way of compensation under paragraph 8 or paragraph 9 of this Schedule, any sum paid under paragraph 10 of this Schedule, any gratuity granted under paragraph 6, paragraph 11 or paragraph 14 of this Schedule and any sum granted upon the transfer of an officer under paragraph 13 of this Schedule shall be exempt from tax under any law in force in Nigeria relating to the taxation of incomes or imposing any other form of taxation.

Application of Schedule to officers who are not overseas officers

18.—(1) This paragraph applies to an officer in the public service of the Region—

(*a*) who was on or before the first day of October, 1954, appointed

or selected for appointment as the substantive holder of an office in the former public service of Nigeria or the public service of the Federation or the public service of a Region, being a pensionable office for the purposes of the appropriate law;

(*b*) who is not an overseas officer; and

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

and to any other officer in that public service, not being an overseas officer, to whom this paragraph is declared by the Public Service Commission or the Judicial Service Commission of the Region, as may be appropriate, with the concurrence of the Governor, to be applicable.

(2) If an officer to whom this paragraph applies can show to the satisfaction of the Public Service Commission or the Judicial Service Commission of the Region, as the case may be, that his career in the public service has been prejudiced by the provisions of the Nigeria (Constitution) Order in Council, 1954, as amended, or of the Nigeria (Constitution) Order in Council, 1960, or that, because of those provisions, he has reasonable grounds for anxiety about his career in the public service, the provisions of this Schedule that otherwise would apply only in relation to overseas officers shall apply in relation to him as if he were an overseas officer.

FIFTH SCHEDULE

TABLE I First Schedule, paragraphs 6 and 10
Second Schedule, paragraphs 5 and 9
Third Schedule, paragraphs 6 and 11
Fourth Schedule, paragraphs 6 and 11

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

TABLE II — First Schedule, paragraph 11; Second Schedule, paragraph 10

Age of officer	Factor where length of service is							
	3 years	4 years	5 years	6 years	7 years	8 years	9 years	10 years or more
21 ...	·20							
22 ...	·21	·28						
23 ...	·23	·30	·38					
24 ...	·24	·32	·40	·48				
25 ...	·26	·34	·43	·51	·60			
26 ...	·27	·35	·45	·54	·63	·72		
27 ...	·30	·40	·50	·60	·70	·80	·90	
28 ...	·34	·46	·58	·69	·81	·92	1·04	1·15
29 ...	·40	·54	·68	·81	·94	1·08	1·22	1·35
30 ...	·47	·62	·78	·94	1·09	1·25	1·40	1·56
31 ...	·54	·72	·90	1·08	1·26	1·44	1·62	1·80
32 ...	·63	·84	1·05	1·26	1·47	1·68	1·89	2·10
33 ...	·74	·98	1·22	1·47	1·72	1·96	2·20	2·45
34 ...	·85	1·14	1·42	1·70	1·99	2·27	2·56	2·84
35 ...	·97	1·29	1·61	1·93	2·25	2·58	2·90	3·22
36 ...	1·07	1·42	1·78	2·14	2·49	2·85	3·20	3·56
37 ...	1·16	1·54	1·93	2·32	2·70	3·09	3·47	3·86
38 ...	1·21	1·61	2·02	2·42	2·82	3·22	3·63	4·03
39 ...	1·23	1·64	2·06	2·47	2·88	3·29	3·70	4·11
40 ...	1·24	1·65	2·06	2·48	2·89	3·30	3·72	4·13
41 ...	1·22	1·62	2·02	2·43	2·84	3·24	3·64	4·05
42 ...	1·17	1·56	1·95	2·34	2·73	3·12	3·51	3·90
43 ...	1·11	1·48	1·85	2·22	2·59	2·96	3·33	3·70
44 ...	1·05	1·40	1·74	2·09	2·44	2·79	3·14	3·49
45 ...	·98	1·30	1·62	1·95	2·28	2·60	2·92	3·25
46 ...	·90	1·20	1·50	1·81	2·11	2·41	2·71	3·01
47 ...	·83	1·11	1·38	1·66	1·94	2·22	2·49	2·77
48 ...	·75	1·00	1·25	1·50	1·75	2·00	2·25	2·50
49 ...	·66	·88	1·10	1·33	1·55	1·77	1·99	2·21
50 ...	·57	·76	·95	1·14	1·33	1·52	1·71	1·90
51 ...	·47	·63	·79	·95	1·11	1·26	1·42	1·58
52 ...	·38	·50	·62	·75	·88	1·00	1·12	1·25
53 ...	·22	·30	·38	·45	·52	·60	·68	·75
54 ...	·08	·10	·12	·15	·18	·20	·22	·25
55 and over	nil	nil	nil	nil	nil	nil	nil	nil

TABLE III Third Schedule, paragraph 12
Fourth Schedule, paragraph 12

Age of officer	Factor where length of service is							
	3 years	4 years	5 years	6 years	7 years	8 years	9 years	10 years or more
25 ...	·26							
26 ...	·27	·35						
27 ...	·30	·40	·50					
28 ...	·34	·46	·58	·69				
29 ...	·40	·54	·68	·81	·94			
30 ...	·47	·62	·78	·94	1·09	1·25		
31 ...	·54	·72	·90	1·08	1·26	1·44	1·62	
32 ...	·63	·84	1·05	1·26	1·47	1·68	1·89	2·10
33 ...	·74	·98	1·22	1·47	1·72	1·96	2·20	2·45
34 ...	·85	1·14	1·42	1·70	1·99	2·27	2·56	2·84
35 ...	·97	1·29	1·61	1·93	2·25	2·58	2·90	3·22
36 ...	1·07	1·42	1·78	2·14	2·49	2·85	3·20	3·56
37 ...	1·16	1·54	1·93	2·32	2·70	3·09	3·47	3·86
38 ...	1·21	1·61	2·02	2·42	2·82	3·22	3·63	4·03
39 ...	1·23	1·64	2·06	2·47	2·88	3·29	3·70	4·11
40 ...	1·24	1·65	2·06	2·48	2·89	3·30	3·72	4·13
41 ...	1·22	1·62	2·02	2·43	2·84	3·24	3·64	4·05
42 ...	1·17	1·56	1·95	2·34	2·73	3·12	3·51	3·90
43 ...	1·11	1·48	1·85	2·22	2·59	2·96	3·33	3·70
44 ...	1·05	1·40	1·74	2·09	2·44	2·79	3·14	3·49
45 ...	·98	1·30	1·62	1·95	2·28	2·60	2·92	3·25
46 ...	·90	1·20	1·50	1·81	2·11	2·41	2·71	3·01
47 ...	·83	1·11	1·38	1·66	1·94	2·22	2·49	2·77
48 ...	·75	1·00	1·25	1·50	1·75	2·00	2·25	2·50
49 ...	·66	·88	1·10	1·33	1·55	1·77	1·99	2·21
50 ...	·57	·76	·95	1·14	1·33	1·52	1·71	1·90
51 ...	·47	·63	·79	·95	1·11	1·26	1·42	1·58
52 ...	·38	·50	·62	·75	·88	1·00	1·12	1·25
53 ...	·22	·30	·38	·45	·52	·60	·68	·75
54 ...	·08	·10	·12	·15	·18	·20	·22	·25
55 and over	nil	nil	nil	nil	nil	nil	nil	nil

TABLE IV

First Schedule, paragraph 11
Second Schedule, paragraph 10
Third Schedule, paragraph 12
Fourth Schedule, paragraph 12

Age of judge	*Factor where length of service is 10 years or more*	*Age of judge*	*Factor where length of service is 10 years or more*
37	2·82	50	3·31
38	3·22	51	3·11
39	3·56	52	2·91
		53	2·71
40	3·83	54	2·51
41	4·01		
42	4·10	55	2·31
43	4·12	56	2·11
44	4·07	57	1·88
		58	1·58
45	3·97	59	1·25
46	3·85		
47	3·73	60	0·75
48	3·61	61	0·25
49	3·47	62 and over ...	nil

TABLE V

First Schedule, paragraph 11

Age of judge	*Factor where length of service is 10 years or more*	*Age of judge*	*Factor where length of service is 10 years or more*
37	2·82	52	3·06
38	3·22	53	2·89
39	3·56	54	2·73
40	3·83	55	2·57
41	4·01	56	2·41
42	4·10	57	2·25
43	4·12	58	2·08
44	4·12	59	1·91
45	4·03	60	1·74
46	3·91	61	1·53
47	3·79	62	1·25
48	3·67	63	·75
49	3·53	64	·25
50	3·38	65 and over ...	nil
51	3·22		

EXPLANATORY NOTE

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

This Order makes provision for special retirement benefits for officers in the public services of the Federation of Nigeria, Northern Nigeria, Western Nigeria and Eastern Nigeria. It replaces, and revokes, the Nigeria (Retirement Benefits) Order in Council, 1958, and the Nigeria (Retirement Benefits) (Amendment) Order in Council, 1960.