STATUTORY INSTRUMENTS

1968 No. 1376

AFRICA

The Swaziland (Compensation and Retiring Benefits) Order 1968

Made - - - -	*26th August* 1968
Laid before Parliament	*30th August* 1968
Coming into Operation	*Immediately before 6th September* 1968

At the Court at Balmoral, the 26th day of August 1968
Present,
The Queen's Most Excellent Majesty in Council

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

Citation and commencement.

1.—(1) This Order may be cited as the Swaziland (Compensation and Retiring Benefits) Order 1968.

(2) This Order shall come into operation immediately before 6th September 1968.

Interpretation.

2.—(1) In this Order "the general compensation scheme" means the general scheme of retirement benefits for pensionable officers who are designated officers for the purposes of the Overseas Service (Swaziland) Agreement 1962 that was published by the Government of Swaziland on 11th March 1968.

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

Application of Schedule.

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

Transitional provisions.

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

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

(2) Where any officer has before the commencement of this Order in pursuance of any provision in the general compensation scheme given any undertaking or given or received any notice or retired or received any benefit he shall, provided that any conditions prescribed or deemed to have been prescribed by or under the Schedule to this Order are satisfied, be deemed to have given that undertaking, to have given or received that notice, or to have retired, or to have been granted or received that benefit, as the case may be, under the corresponding provision in that Schedule, and the provisions of that Schedule shall have effect accordingly.

(3) Any officer who has, before the commencement of this Order, been required under the provisions of the general compensation scheme, to retire to facilitate the localisation of the public service of Swaziland shall, for the purposes of the Schedule to this Order, be deemed to have retired under section 17 of the Swaziland Independence Order 1968(a).

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

(5) Any conditions or notices prescribed by the appropriate Service Commission for the purpose of paragraph 4 or paragraph 9(2) of the Schedule to this Order shall be not less favourable to any officer than any conditions or notices prescribed by or for the purpose of the corresponding provision of the general compensation scheme.

Modified application.

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

N. E. Leigh.

SCHEDULE

COMPENSATION AND RETIREMENT BENEFITS FOR CERTAIN OFFICERS IN THE PUBLIC SERVICE OF SWAZILAND

Interpretation.

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

"appropriate law" in relation to an officer in the public service means the law in force in Swaziland that governs the grant of pensions, gratuities and other like benefits in respect of the service of that officer in the public service;

"appropriate Service Commission"—

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

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

(a) S.I. 1968/1377(1968) II, p. 3838).

" entitled officer " means an officer in the public service who on the operative date has not attained the age of fifty-five years and who—

(*a*) was before the operative date selected for appointment to an office in the public service being a pensionable office for the purposes of the appropriate law ; or

(*b*) was on the operative date the substantive holder of an office that was at that date a pensionable office for the purposes of the appropriate law ; and

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

(*d*) has since the operative date been the substantive holder of an office service in which may during his tenure thereof be taken into account in computing his pension under the appropriate law ; and

(*e*) has been confirmed in his appointment, where his appointment is subject to confirmation,

and includes an officer in the public service on and since the operative date to whom the provisions of the Oversea Superannuation Scheme (Consolidation) Regulations apply ;

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

" Government " means the Government of Swaziland ;

" operative date " means 1st April 1968 ;

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

" pensionable emoluments " means emoluments that may be taken into account in computing the pension of an officer under the appropriate law ;

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

" public service " means the public service of Swaziland ;

" substantive holder " in relation to any office includes a person serving in that office on probation but does not include a person (other than a person serving under a probationary agreement) serving in that office for a specified term under a contract.

(2) For the purposes of this Schedule—

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

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

(a) Chapter 57 of the Revised Laws of Swaziland 1959.

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

(i) under section 17 of the Swaziland Independence Order 1968 ;

(ii) to facilitate the introduction of constitutional changes ;

(iii) in consequence of injury or ill-health ;

(iv) in consequence of the abolition of his office or for the purpose of facilitating improvements in the organisation of that part of the public service to which he belongs by which greater economy or efficiency may be effected ; or

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

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

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

(3) For the purposes of calculating the compensation to which an officer is entitled under this Schedule, where the officer is seconded to the service of another government or authority on the date in relation to which the assessment is made he shall be deemed to have such annual pensionable emoluments on that date as he would have had on that date if he had not been so seconded but had continued until that date to hold the office in the public service that he was holding immediately before his secondment and had been granted all increments and other increases of salary for which he would thus have been eligible.

(4) Where an officer was on any date appointed or selected for appointment to an office in the public service upon transfer from pensionable employment under the Government of the United Kingdom in a public office as defined by the Superannuation Act 1892(a) and for any period thereafter was entitled to return to such pensionable employment he shall not for the purposes of this Schedule be regarded as having been on that date appointed or, as the case may be, selected for appointment as the substantive holder of an office in the public service but shall for those purposes be regarded as having been so appointed or selected on the date on which he ceases to be entitled to return to such pensionable employment if on that date he was holder of an office in the public service.

(5) An entitled officer who is required to retire and who, immediately before being so required, acted for a period of six months to the satisfaction of the appropriate Service Commission in a pensionable office, the pensionable emoluments of which were higher than those of the office of which he was the substantive holder, shall be deemed to be confirmed in the pensionable office in which he was acting.

(a) 1892 c. 40.

(6) The provisions of this Schedule shall, in relation to an entitled officer who is a judge of the High Court of Swaziland, have effect as if—

(*a*) references to the age of fifty-five years were references to the age of sixty-two years;

(*b*) references to Table I of the Annex to this Schedule were references to Table II of that Annex.

Entitlement to compensation.

2.—(1) Subject to the provisions of this Schedule, every entitled officer shall, on the operative date or, in the case of a person who becomes an entitled officer after that date, on the date on which he becomes an entitled officer, become entitled to compensation which shall be assessed in accordance with the provisions of this paragraph and at each assessment shall be calculated by multiplying the amount of his annual pensionable emoluments on the date in relation to which the assessment is made by the appropriate factor and the resulting amount, or twenty-four thousand rands, whichever is the less, shall be the amount to which he is entitled.

(2) The compensation of each entitled officer under this paragraph shall, if it has not already been provisionally assessed, be provisionally assessed as soon as is reasonably practicable after the commencement of this Order or, in the case of a person who becomes an entitled officer after the commencement of this Order, as soon as is reasonably practicable after that person becomes an entitled officer, and for that purpose the date in relation to which the assessment is to be made shall, subject to the provisions of paragraph 5(2) of this Schedule, be the operative date or, in the case of a person who becomes an entitled officer after the operative date, the date on which that person became an entitled officer.

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

(4) When the compensation of any entitled officer is provisionally assessed or re-assessed or is finally assessed, he (or, in the case of an officer who has died, his personal representatives) shall thereupon be given a statement showing the amount of the compensation to which, in accordance with that provisional assessment or re-assessment or final assessment, he is entitled.

(5) In this paragraph "the appropriate factor" in relation to an officer means the factor obtained from Table I of the Annex to this Schedule that is appropriate to the age and pensionable service of that officer on the date in relation to which the assessment is to be made in completed years and months or, if it is more favourable to the officer, reckoned in completed years without regard to parts of a year.

Payment of compensation.

3.—(1) When the compensation of an entitled officer has been provisionally assessed, a payment shall be made to that officer, which—

(*a*) in the case of an entitled officer who has undertaken after the operative date, otherwise than in relation to his promotion in the public service, to serve as such upon such conditions and for a period of not less than twenty-four months, shall be an amount equal to the amount of the compensation or four thousand rands, whichever is the less;

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

Provided that if an entitled officer gives such an undertaking after a payment has been made to him under this sub-paragraph, but not later than twelve months after the date in relation to which his compensation was provisionally assessed, he shall be paid as soon as is reasonably practicable after the date on which he gave that undertaking and in any case within three months of that date, an amount which when added to the amount already paid to him equals the amount he would have been paid under this sub-paragraph if he had given that undertaking before any payment had been made to him under this sub-paragraph.

(2) Subject to the provisions of paragraph 12 of this Schedule, a further payment shall be made to every person who has become entitled to compensation under paragraph 2 of this Schedule and who has not already received the whole of that compensation (whether that person is serving as an entitled officer or has retired) upon each anniversary of the date in relation to which his compensation was assessed under sub-paragraph (2) of that paragraph, which—

(*a*) in the case of a payment made upon the first, second, third or fourth anniversary, shall be an amount equal to the appropriate fraction of the balance of compensation then outstanding; and

(*b*) in the case of a payment made upon the fifth or any later anniversary, shall be an amount equal to the balance of compensation then outstanding:

Provided that—

(i) where the balance of compensation outstanding upon the first, second, third or fourth anniversary exceeds one thousand rands and, in the case of an officer to whom sub-paragraph (1)(*a*) of this paragraph applies, where that balance, if added to the amount of compensation already paid under this paragraph, would exceed four thousand rands, an amount equal to the appropriate fraction of that balance or eight hundred rands, whichever is the greater, shall be paid;

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

(3) In this section "the appropriate fraction"—

(*a*) in relation to an assessment made upon the first anniversary, means one-fifth;

(*b*) in relation to an assessment made upon the second anniversary, means one-quarter;

(*c*) in relation to an assessment made upon the third anniversary, means one-third; and

(*d*) in relation to an assessment made upon the fourth anniversary, means one-half.

Retirement.

4.—(1) Subject to the provisions of this paragraph, an entitled officer may, after giving such notice as may be prescribed by the appropriate Service Commission, retire at any time.

(2) An entitled officer who has given notice of his intention to retire under this paragraph on any date may, with the consent of the appropriate Service Commission, withdraw the notice at any time before that date.

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

Provided that the Commission shall not withhold permission unless disciplinary proceedings are being taken, or are about to be taken, against the officer and those proceedings might lead to his dismissal.

(4) An entitled officer—

(*a*) who is permitted to retire by reason of injury or ill health;

(*b*) who is required to retire on or after his attainment of any age prescribed by law;

(*c*) who is required to retire in consequence of the abolition of his office or for the purpose of facilitating improvements in the organisation of the part of the public service to which he belongs by which greater economy or efficiency may be effected;

(*d*) who is required to retire in the public interest;

(*e*) who is required to retire under section 17 of the Swaziland Independence Order 1968; or

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

shall be deemed to have retired under this paragraph.

Retirement on constitutional grounds.

5.—(1) This paragraph shall apply to any entitled officer who is declared by the appropriate Service Commission to be an officer required to retire in order to facilitate the introduction of constitutional changes; and every such officer who so retires shall be deemed to have retired under this Schedule.

(2) The date in relation to which the compensation of an officer to whom this paragraph applies is to be assessed under paragraph 2(2) of this Schedule shall be such date in the period beginning on the date on which he was given notice requiring him to retire or the operative date, whichever is the earlier, and ending on the date of his retirement, as is most advantageous in relation to the officer.

(3) An officer to whom this paragraph applies shall as soon as reasonably practicable be paid a disturbance grant equal to one quarter of his annual pensionable emoluments at his retirement.

Special gratuity on the death of certain officers.

6.—(1) Where an entitled officer dies and it is lawful under the provisions of the appropriate law for a gratuity to be granted to his personal representatives there shall be granted to his personal representatives either that gratuity or a gratuity equal to the maximum gratuity that could have been granted to that officer under the provisions of paragraph 10 to this Schedule if he had retired under this Schedule at the date of his death, whichever is the greater.

(2) Where an entitled officer to whom the Oversea Superannuation Scheme (Consolidation) Regulations apply dies and a gratuity is payable to his personal representatives under those Regulations, there shall be granted to his personal representatives a gratuity equal to the amount produced by subtracting the amount of the gratuity payable under those Regulations from the amount of the maximum gratuity which could have been granted to that officer under paragraph 10 of this Schedule if that paragraph and the Pensions Proclamation had applied to him and he had retired under this Schedule at the date of his death.

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

Officers reappointed to U.K. service.

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

(*a*) who was transferred to the public service from pensionable employment under the Government of the United Kingdom either in a public office as defined by the Superannuation Act 1892 or in employment pensionable under the Federated Superannuation System for Universities ; and

(*b*) who not later than twelve months after he retired has (other than as the result of a competition conducted by the Civil Service Commissioners of the United Kingdom) returned to such pensionable employment.

(2) A person to whom this paragraph applies shall cease to be entitled to compensation under paragraph 2 of this Schedule, but shall be entitled to compensation of an amount equal to—

(*a*) one-half of the amount he would receive if he were entitled to compensation under paragraph 2 of this Schedule ; or

(*b*) the amount he would receive if he were entitled to compensation under paragraph 8 of this Schedule, having been transferred to the pensionable employment referred to in sub-paragraph (1)(*b*) of this paragraph on the date on which he retired,

whichever is the less.

(3) If the provisions of this paragraph become applicable to any person, his compensation shall forthwith be re-assessed, and—

(*a*) if the amount of compensation as so re-assessed exceeds the amount he has already received under this Schedule, the balance of compensation then outstanding shall be paid, together with

any unpaid interest that has accrued under this Schedule before the re-assessment, in the manner prescribed by paragraph 3 of this Schedule for the payment of compensation assessed under paragraph 2 of this Schedule; or

(*b*) if the amount of compensation he has already received under this Schedule exceeds the amount of compensation to which he is entitled under this paragraph, the excess shall forthwith become repayable, but in any such case any interest received on account of such excess shall not be repayable.

Transfer to other public service.

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

(*a*) to the service of a government or authority that is a Scheduled Government for the purposes of Part III of the Swaziland Pensions Regulations in circumstances in which he remains eligible for the grant of a pension under the appropriate law upon his eventual retirement;

(*b*) to service in the office of Governor in such circumstances that he is or may become eligible for a pension under the Governors' Pensions Act 1957(a):

Provided that—

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

(*b*) it applies to any officer—

(i) who, but for the provisions of paragraph 1(4) of this Schedule, would be an entitled officer; and

(ii) who, in the opinion of the appropriate Service Commission, would have had a reasonable prospect of becoming an entitled officer if no constitutional changes had been introduced; and

(iii) who, unless prevented by circumstances beyond his control, serves for a period of not less than two years residential service beginning on the operative date; and

(iv) who returns to pensionable employment under the Government of the United Kingdom in a public office as defined in the Superannuation Act 1892,

as if he were an entitled officer.

(2) An officer to whom this paragraph applies shall cease to be entitled to compensation under paragraph 2 of this Schedule, but if the amount of his annual pensionable emoluments immediately before his transfer exceeds the amount of the annual emoluments payable to him immediately after his transfer (being emoluments that may be taken into account for the purposes of his pension under the law or regulations relating to his service in that other public service) he shall be entitled to compensation equal to—

(*a*) the amount of the excess multiplied by the appropriate factor; or

(*b*) the amount he would receive if he were entitled to compensation under paragraph 2 of this Schedule, having retired on the date of his transfer,

whichever is the less.

(a) 1957 c. 62.

(3) If the provisions of this paragraph become applicable to any person, his compensation shall forthwith be re-assessed, and—

(*a*) if the amount of compensation as so re-assessed exceeds the amount he has already received under this Schedule, the balance of compensation then outstanding shall be paid, together with any unpaid interest that has accrued under this Schedule before the re-assessment, in the manner prescribed by paragraph 3 of this Schedule for the payment of compensation assessed under paragraph 2 of this Schedule ; or

(*b*) if the amount of compensation which has already been received under that paragraph exceeds the amount of compensation to which he is entitled under this paragraph, the excess shall forthwith become repayable, but in any such case any interest received on account of such excess shall not be repayable.

(4) In this paragraph "the appropriate factor" in relation to an officer means the factor obtained from Table III of the Annex to this Schedule that is appropriate to the age of the officer at the date of his transfer reckoned in completed years and completed months.

Penalties for breach of undertakings.

9.—(1) If an entitled officer who has given an undertaking for the purposes of paragraph 3(1)(*a*) of this Schedule ceases to serve in accordance with the terms of that undertaking at any time before the end of the period to which the undertaking relates otherwise than with the consent of the Government or by reason of his death, his retirement in circumstances beyond his control or his transfer to other public service in the circumstances described in paragraph 8 of this Schedule, then the amount of compensation to which he would otherwise be entitled under paragraph 2 of this Schedule shall be reduced by an amount equal to one-half per centum for each month or part of a month during that period in which he has not served in accordance with the undertaking, or four hundred rands, whichever is the less.

(2) If an entitled officer has been granted promotion in the public service after the operative date upon his giving an undertaking to serve upon such conditions as may be prescribed by the appropriate Service Commission for a period of not less than twenty-four months ceases to serve in accordance with the terms of that undertaking at any time before the end of the period to which the undertaking relates otherwise than with the consent of the Government or by reason of his death or his retirement in circumstances beyond his control, then the amount of compensation to which he is entitled under paragraph 2 of this Schedule shall be re-assessed and the amount of his compensation shall be determined as if his annual pensionable emoluments in relation to the date of his promotion or any subsequent date were the amount of the pensionable emoluments which would have been taken in accordance with Regulation 18 of the Swaziland Pensions Regulations for the purpose of computing his pension if he had retired on that date.

(3) If any of the provisions of this paragraph become applicable to any entitled officer, his compensation shall be re-assessed accordingly and paid in accordance with paragraph 3 of this Schedule and if the amount of compensation he has already received under that paragraph exceeds the amount of compensation to which he is entitled under the re-assessment the excess shall forthwith become repayable.

Grant of pensions and gratuities.

10.—(1) Subject to the provisions of paragraphs 17 and 19 of this Schedule, an entitled officer, on his retirement under this Schedule, may be granted at his option (such option to be exercised in accordance with the provisions of Regulation 24 of the Swaziland Pensions Regulations) either—

(*a*) a pension of such amount as may be granted under the appropriate law;

(*b*) a reduced pension equal to such fraction as he may desire of the pension that may be granted under the appropriate law (not being, in the case of an officer who retires within twelve years of the operative date, less than the permitted fraction) together with a gratuity equal to the annual amount of the remaining fraction of that pension multiplied by the appropriate factor; or

(*c*) in the case of an officer who retires not less than twelve years after the operative date, a gratuity equal to the annual amount of the pension that may be granted under the appropriate law multiplied by the appropriate factor.

(2) For the purposes of this paragraph an officer shall be deemed to be eligible for the grant of a pension under the appropriate law—

(*a*) notwithstanding that he may have retired before attaining the age specified in the appropriate law as qualifying him for the grant of a pension; and

(*b*) notwithstanding that he may not have completed at the date of his retirement the period of qualifying service required by the appropriate law to render him eligible for the grant of a pension.

(3) Where an officer retires by reason of injury or ill health in circumstances in which he could under the appropriate law be granted an additional pension the provisions of this paragraph shall have effect in relation to that officer as if references to the pension that may be granted under the appropriate law included references to that additional pension.

(4) Where an officer to whom this paragraph applies retires in consequence of the abolition of his office or for the purpose of facilitating improvements in the organisation of the part of the public service to which he belongs by which greater economy or efficiency may be effected in circumstances in which he could under the appropriate law be granted an additional pension, the provisions of this paragraph shall have effect in relation to that officer as if references to the pension that may be granted under the appropriate law did not include references to that additional pension.

(5) For the purposes of this paragraph the amount of the pension or gratuity that an officer who is required to retire in the circumstances described in paragaph 4(4)(*c*) or (*e*) or paragraph 5(1) of this Schedule or on the grounds of age before attaining the age of fifty-five years may be granted under the appropriate law shall be calculated by reference to the full annual pensionable emoluments enjoyed by him on the date immediately prior to his retirement.

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

(7) In this paragraph—

"the appropriate factor" in relation to an officer means the factor obtained from Table IV of the Annex to this Schedule that is appropriate to the age of that officer on the date immediately prior to his retirement reckoned in completed years and completed months;

"the permitted fraction"—

(*a*) in relation to an officer who retires within one year of the operative date, means three-quarters;

(*b*) in relation to an additional pension granted on account of injury under Regulation 23(1) of the Swaziland Pensions Regulations, means three-quarters; and

(*c*) subject to head (*b*) of this definition, in relation to an officer who retires within not less than one and not more than twelve years of the operative date, means such fraction as is obtained by subtracting one-sixteenth for each complete year of his pensionable service after the operative date from three-quarters:

Provided that in reckoning for the purposes of this sub-paragraph the years of pensionable service of an officer who is granted leave of absence pending his retirement, leave of absence granted in respect of service prior to the operative date the enjoyment of which had on the operative date been deferred shall not be taken into account.

Special gratuity for certain officers.

11.—(1) Subject to the provisions of paragraphs 17 and 19 of this Schedule, where any entitled officer to whom Part III of the Swaziland Pensions Regulations applies retires under this Schedule and is granted by any government or other authority that is a Scheduled Government for the purposes of that Part both a pension and a gratuity, having elected to receive that pension and that gratuity in lieu of a pension of greater amount, he may be granted (in addition to any gratuity that may be granted to him under paragraph 10 of this Schedule) a gratuity equal to the amount (if any) by which the amount produced by—

(i) subtracting the annual amount of the pension granted to him by the Scheduled Government from the annual amount of the pension that would have been granted to him by that Goverment had he not elected to receive the gratuity granted to him by the Scheduled Government; and

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

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

(2) Subject to the provisions of paragraphs17 and 19 of this Schedule, where an entitled officer to whom the provisions of the Oversea Superannuation Scheme (Consolidation) Regulations apply retires under this Schedule and is granted under those Regulations a pension and a lump sum—

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

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

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

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

a gratuity equal to the amount of his pension so assigned multiplied by the appropriate factor; such option to be exercised in accordance with the provisions of Regulation 24 of the Swaziland Pensions Regulations.

(3) In this paragraph—

"the appropriate factor" has the same meaning as in paragraph 10 of this Schedule;

"the permitted fraction"—

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

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

Provided that in reckoning for the purposes of this sub-paragraph the years of pensionable service of an officer who is granted leave of absence pending his retirement leave of absence granted in respect of service prior to the operative date enjoyment of which had on the operative date been deferred shall not be taken into account.

Special provisions as to payment of compensation.

12.—(1) Whenever—

(*a*) a person who has become entitled to compensation under paragraph 2 of this Schedule but who has not already received the whole of that compensation (and in the case of an entitled officer whether he is still serving as such or has already retired) attains the age of fifty-five years, or dies before attaining that age;

(*b*) an entitled officer who has not already received the whole of the compensation to which he is entitled under paragraph 2 retires in the circumstances described in paragraph 4(4)(*a*), (*c*) or (*d*) of this Schedule before he has attained that age or is required to retire in the circumstances described in paragraph 4(4)(*b*) of this Schedule: or

(*c*) an entitled officer who has not already received the whole of the compensation to which he is entitled under paragraph 2 of this Schedule retires in any other circumstances before he has attained that age but on or after the fifth anniversary of the operative date or, in the case of a person who became an entitled officer after that date, of the date on which he became an entitled officer,

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

(2) Whenever an entitled officer, who has not already received the whole of the compensation to which he is entitled under paragraph 2 of this Schedule, is required to retire under section 17 of the Swaziland Independence Order 1968 before attaining the age of fifty-five years, the balance then outstanding of the compensation to which he is entitled under that paragraph shall be paid to him—

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

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

(3) Whenever an officer, who has not already received the whole of the compensation to which he is entitled under paragraph 2 of this Schedule, is required to retire in the circumstances described in paragraph 5(1) of this Schedule, the balance then outstanding of the compensation to which he is entitled under that paragraph shall be paid to him as soon as practicable after the date of the notice requiring him to retire.

(4) The Permanent Secretary, Ministry of Finance, may direct that instead of any payment being made to the personal representatives of a deceased person payment shall be made to one of the dependants of the deceased or two or more of those dependants in such proportions as the Permanent Secretary may think fit.

(5) Whenever any payment of compensation becomes due under this Schedule interest at the rate of five per centum per annum shall accrue from day to day—

(*a*) in cases where the compensation has not been finally assessed, during the period between the date on which the amount of the compensation was last due to be assessed and the date on which the next following assessment is to be made ;

(*b*) in cases where the compensation has been finally assessed, during the period between the date on which that payment of compensation became due and the date on which the next following payment of compensation will become due,

upon any part of the compensation that did not then become payable and that interest shall become payable at the end of the period during which it accrued:

Provided that, for the purpose of calculating interest under this sub-paragraph the compensation to which the officer is entitled shall be deemed to have been provisionally assessed, and the first instalment thereof paid to the officer, on the operative date.

(6) When the compensation of an entitled officer is finally assessed under paragraph 2(3) of this Schedule upon his retirement, in addition to the interest payable under sub-paragraph (5) of this paragraph that officer shall be paid a sum equal to the interest that would, if the balance of compensation due to him on the date of his retirement had not been paid and provision had been made for interest at the rate of five per centum per annum to accrue from day to day on that balance, have accrued upon that balance during the period between the date of his retirement and the next anniversary of the operative date.

Leave and subsistence allowance.

13.—(1) This paragraph shall apply to an entitled officer (not being an officer to whom paragraph 17 of this Schedule applies) who is required to retire under section 17 of the Swaziland Independence Order 1968 or paragraph 5 of this Schedule:

Provided that sub-paragraph (3)(*a*) of this paragraph shall also apply to an entitled officer who is required to retire in the circumstances described in paragraph 4(4)(*c*) of this Schedule.

(2) An officer to whom this paragraph applies who is on leave of absence after completing a tour of residential service when he is required to retire shall—

(i) if the period of leave on full pensionable emoluments for which he is eligible on the date upon which he is given notice requiring him to retire is less than six months, be granted such additional leave on full pensionable emoluments as will bring the aggregate period of such leave of absence from that date up to six months;

(ii) if he returns to Swaziland to settle his affairs, he shall be paid a subsistence allowance at the rate prescribed by General Orders for the period of his stay in Swaziland or twenty-one days, whichever is the less.

(3) An officer to whom this paragraph applies who is not on leave of absence after completing a tour of residential service when he is required to retire—

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

(*b*) shall, if the period of leave on full pensionable emoluments for which he is eligible is less than six months, be granted such additional leave on full pensionable emoluments as will bring the aggregate period of such leave of absence pending his retirement up to six months.

Passages and baggage facilities.

14.—(1) Where an entitled officer who is on leave of absence after completing a tour of residential service gives notice of his intention to retire under paragraph 4 of this Schedule, then—

(*a*) if he returns to Swaziland at the requirement of the Government and is willing to undertake a further tour of residential service of not less than six months; or

(*b*) if he returns to Swaziland to settle his affairs and is willing to undertake a further tour of residential service of not less than twelve months,

he shall be provided with appropriate passages and appropriate baggage facilities for himself and his family in respect of his and their return journey to Swaziland and in respect of his and their journey from Swaziland consequential upon his retirement; and in any other case (whether or not he returns to Swaziland) he shall be provided with appropriate baggage facilities for himself and his family for the purpose of removing his and their effects from Swaziland.

(2) Where an entitled officer who is on leave of absence after completing a tour of residential service is required to retire under section 17

of the Swaziland Independence Order 1968 or under paragraph 5 of this Schedule he shall, if he returns to Swaziland to settle his affairs, be provided with appropriate passages in respect of his return journey to Swaziland and his subsequent journey from Swaziland; and in any case (whether or not he returns to Swaziland) he shall be provided with appropriate baggage facilities for himself and his family for the purpose of removing his and their effects from Swaziland.

(3) Where an entitled officer who is not on leave of absence after completing a tour of residential service gives notice of his intention to retire under paragraph 4 of this Schedule or is required to retire under section 17 of the Swaziland Independence Order 1968 or under paragraph 5 of this Schedule, he shall be provided with appropriate passages for himself and his family in respect of his and their journey from Swaziland (if any) consequential upon his retirement; and in any case (whether or not such passages are provided) he shall be provided with appropriate baggage facilities for himself and his family for the purpose of removing his and their effects from Swaziland.

(4) Where an entitled officer who has given the undertaking referred to in paragraph 3(1)(*a*) or in paragraph 9(2) of this Schedule returns to Swaziland at the requirement of the Government to undertake a further tour of residential service of not more than twelve months in order to fulfil such undertaking and is willing to undertake such a tour, he shall be provided with appropriate passages and appropriate baggage facilities for himself and his family in respect of his and their return journey to Swaziland and in respect of his and their journey from Swaziland.

(5) In this paragraph "appropriate passages" and "appropriate baggage facilities", in relation to an entitled officer or, as the case may be, to the family of an entitled officer, mean respectively such passages and such baggage facilities as an officer of his status is entitled to under General Orders for the purpose of travelling to Swaziland in order to begin a tour of residential service or, as the case may be, for the purpose of travelling from Swaziland when retiring from the public service, having attained the age of fifty-five years and having completed such a tour.

Disciplinary proceedings and dismissal.

15.—(1) When disciplinary proceedings are taken, or are about to be taken, against any person who is serving as an entitled officer and those proceedings might lead to his dismissal, the payment of compensation under this Schedule and interest thereon shall be withheld pending the determination of those proceedings.

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

Place of payment and rate of exchange.

16. Any compensation, gratuity, disturbance grant or interest payable under this Schedule to an officer or to his personal representatives or dependants shall be paid, in accordance with any request made from time to time by such officer, his personal representatives or his dependants, as the case may be, in any of the following countries—

(*a*) in the United Kingdom;

(*b*) in Swaziland;

(*c*) in the country from which the officer was recruited or where he intends to reside;

(*d*) in the case of payment to the personal representatives of an officer or his dependants, in the country in which the personal representatives or the dependants, as the case may be, reside; or

(*e*) in such other country as the officer or his personal representatives or dependants may, with the concurrence of the Permanent Secretary, Ministry of Finance, select,

in the currency of the country in which payment is to be made; and, where payment is to be made in a country other than Swaziland, the amount of the payment shall be such as would produce, at the official rate of exchange prevailing at the date of the payment, the amount in sterling of the compensation, gratuity, disturbance grant or interest as calculated at the official rate of exchange prevailing on the operative date.

Right to opt for abolition terms.

17.—(1) An entitled officer who, before he receives his initial payment of compensation, gives notice of retirement under paragraph 4 of this Schedule, or is required to retire in any of the circumstances described in paragraph 4(4) or paragraph 5(1) of this Schedule may at his option (such option to be exercised within three months of the commencement of this Order or, in the case of an officer who was not an entitled officer on the operative date, within three months of the date on which he became an entitled officer) become an officer to whom this paragraph applies.

(2) An officer to whom this paragraph applies shall not be entitled to compensation under this Schedule or be granted a pension, gratuity or disturbance grant under this Schedule but, subject to the provisions of paragraph 19 of this Schedule may, on his retirement under this Schedule, be granted such benefits as may be granted under the appropriate law to an officer whose office has been abolished.

(3) An officer to whom this paragraph applies shall repay the amount of any compensation that may have been paid to him.

Aquisition of citizenship by entitled officer.

18.—(1) If an entitled officer becomes at any time after the commencement of this Order a citizen of Swaziland by virtue of his own act he shall thereupon cease to be an entitled officer.

(2) If any person ceases to be an entitled officer by virtue of this paragraph, the amount of compensation (if any) he has received under this Schedule shall forthwith become repayable, but in any such case any interest received shall not be repayable.

Application of appropriate law.

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

Provided that section 10 of the Pensions Proclamation or any law amending or replacing that section shall not apply in relation to any pension granted under the provisions of this Schedule.

Exemption from tax.

20. Any compensation, gratuity or disturbance grant payable under any of the provisions of this Schedule shall be exempt from tax under

any law in force in Swaziland relating to the taxation of incomes or imposing any other form of taxation.

Exercise of options.

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

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

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

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

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

ANNEX

Instructions for obtaining the Appropriate Factor from Table I

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

(*a*) completed years of service,

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

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

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

IV. Repeat steps to III for the officer's age at his next birthday.

V. Divide the difference between III and IV by twelve and multiply by the number of completed months of age, if any, since the officer's last birthday.

VI. If IV is greater than III, add V to III.
If IV is less than III subtract V from III.

VI is the factor required.

Instructions for obtaining the Appropriate Factor from Table II, III or IV

I. Read off from the Table the factors for the officer's age—

(*a*) at his last birthday;

(*b*) at his next birthday.

II. Divide the difference between I(*a*) and I(*b*) by twelve and multiply by the number of completed months of age since the last birthday.

III. If I(*b*) is greater than I(*a*), add II to I(*a*).
If I(*b*) is less than I(*a*), subtract II from I(*a*).

III is the factor required.

In calculating factors by interpolation in respect of Tables I to III the calculations should be rounded off to two decimal points and where this results in a difference of point nought one in either direction such difference should be ignored.

THE SCHEDULE, PARAGRAPH 2

TABLE I

Age of Officer	Factor when length of service is								
	2 years	3 years	4 years	5 years	6 years	7 years	8 years	9 years	10 years or more
21	·11	·16							
2	·12	·19	·25						
3	·14	·21	·28	·36					
4	·16	·24	·32	·40	·49				
25	·18	·27	·36	·46	·55	·64			
6	·20	·31	·41	·51	·61	·71	·82		
7	·23	·34	·45	·56	·68	·79	·90	1·02	
8	·25	·38	·50	·63	·76	·88	1·01	1·13	1·26
9	·28	·42	·56	·70	·85	·99	1·13	1·27	1·41
30	·32	·48	·64	·80	·97	1·13	1·29	1·45	1·61
1	·37	·56	·74	·93	1·12	1·30	1·49	1·67	1·86
2	·43	·65	·87	1·08	1·30	1·52	1·74	1·95	2·17
3	·50	·76	1·01	1·26	1·51	1·76	2·02	2·27	2·52
4	·58	·87	1·16	1·45	1·74	2·03	2·32	2·61	2·90
35	·65	·98	1·31	1·64	1·96	2·29	2·62	2·94	3·27
6	·72	1·08	1·44	1·80	2·16	2·52	2·88	3·24	3·60
7	·77	1·16	1·55	1·94	2·32	2·71	3·10	3·48	3·87
8	·82	1·22	1·63	2·04	2·45	2·86	3·26	3·67	4·08
9	·84	1·27	1·69	2·11	2·53	2·95	3·38	3·80	4·22
40	·86	1·29	1·72	2·14	2·57	3·00	3·43	3·86	4·29
1	·86	1·29	1·72	2·15	2·58	3·01	3·44	3·87	4·30
2	·85	1·28	1·70	2·12	2·55	2·98	3·40	3·82	4·25
3	·83	1·24	1·65	2·06	2·48	2·89	3·30	3·72	4·13
4	·79	1·18	1·57	1·96	2·36	2·75	3·14	3·54	3·93
45	·73	1·10	1·46	1·83	2·20	2·56	2·93	3·29	3·66
6	·67	1·01	1·34	1·68	2·02	2·35	2·69	3·02	3·36
7	·61	·92	1·22	1·53	1·84	2·14	2·45	2·75	3·06
8	·55	·83	1·10	1·38	1·66	1·93	2·21	2·48	2·76
9	·49	·74	·98	1·23	1·48	1·72	1·97	2·21	2·46
50	·43	·64	·86	1·08	1·29	1·50	1·72	1·94	2·15
1	·36	·54	·72	·90	1·09	1·27	1·45	1·63	1·81
2	·29	·43	·57	·72	·86	1·00	1·14	1·29	1·43
3	·20	·30	·40	·50	·60	·70	·80	·90	1·00
4	·10	·15	·20	·25	·30	·35	·40	·45	·50
55 and above ...	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil

THE SCHEDULE, PARAGRAPHS 1(6) and 2

TABLE II

AGE OF OFFICER	FACTOR
55	2·50
56	2·27
57	2·04
58	1·76
59	1·42
60	1·00
61	·50
62 and above	Nil

NOTE: (a) These factors apply where the judge has at least ten years service.
(b) The factor corresponding to the judge's age in years and completed months should be obtained by interpolation.

THE SCHEDULE, PARAGRAPH 8

TABLE III

AGE	FACTOR
30 and under	5·00
31	5·08
32	5·21
33	5·47
34	5·90
35	6·56
36	7·44
37	8·10
38	8·53
39	8·79
40	8·92
41	9·00
42	8·92
43	·77
44	8·40
45	7·61
46	6·39
47	5·60
48	5·23
49	5·08
50 and above	5·00

THE SCHEDULE, PARAGRAPHS 10 AND 11

TABLE IV

AGE OF OFFICER	FACTOR	AGE OF OFFICER	FACTOR
25 and under	17·08	40	15·07
26	16·97	41	14·90
27	16·86	42	14·73
28	16·74	43	14·55
29	16·62	44	14·36
30	16·50	45	14·17
31	16·38	46	13·97
32	16·25	47	13·76
33	16·12	48	13·54
34	15·98	49	13·32
35	15·84	50	13·08
36	15·70	51	12·84
37	15·55	52	12·59
38	15·40	53 and above	12·50
39	15·24		

EXPLANATORY NOTE

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

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