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## Non-designated Expatriate Pensionable Officers (Retirement Benefits) Act, 1968

Act 15 of 1968

Legislation as at 1 December 1998

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## eSwatini

# Non-designated Expatriate Pensionable Officers (Retirement Benefits) Act, 1968

Act 15 of 1968

Commenced on 13 December 1968

*[This is the version of this document at 1 December 1998.]*

**An Act to implement a scheme of retirement benefits for expatriate pensionable officers who are not designated officers for the purposes of the Overseas Service Act, [No. 55 of 1965](#), and to provide for incidental or connected matters.**

### 1. Short title

This Act may be cited as the Non-designated Expatriate Pensionable Officers (Retirement Benefits) Act, 1968.

### 2. Interpretation (First Schedule)

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

“**appropriate authority**”—

- (a) in relation to an entitled officer who is a police officer below the rank of inspector, means the Commissioner of Police;
- (b) in relation to an entitled officer who is a member of the Prison Service below the rank of chief officer, means the Director of Prisons; and,
- (c) in relation to any other service entitled officer, means the appropriate Commission;

“**appropriate factor**”, in relation to an entitled officer, means the factor obtained from the Table in the First 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;

“**confirmed officer**” means an officer in the public service—

- (a) who, on the operative date, had been confirmed in his appointment in the public service, or
- (b) who, while serving on probation or as an officer on probationary agreement is confirmed in his appointment in the public service;

“**entitled officer**” means, subject to subsection (3), a confirmed officer—

- (a) who, having become a citizen of Swaziland by operation of law on the prescribed date as defined in the Constitution was, immediately after that date, also a citizen of another country and who renounces, or is deprived by law of, the citizenship of Swaziland within two years after the sixth day of September, 1968, or who has not, in any other circumstances, become a citizen of Swaziland; and
- (b) who, but for this Act, would be eligible for the grant of an additional pension under regulation 22 of the Pensions Regulations (without taking the provisions in that regulation into account) in event of his retirement in consequence of the abolition of his office; and
- (c) who is not a designated officer for the purposes of the Overseas Service Act, [No. 55 of 1964](#); and

- (d) who has not received, and is not eligible to receive, compensation or other benefit under either the scheme of retirement benefits for designated pensionable officers set out in the First Schedule to the Designated Expatriate Pensionable Officers (Compensation and Retiring Benefit) Act, [No. 49 of 1968](#), or under any Order of Her Britannic Majesty relating to that scheme;

**“General Orders”** means the General Orders issued from time to time by the Government defining the conditions of service of public officers;

**“officer on probationary agreement”** means an officer who is serving the Government for a tour of duty under an agreement entered into between him and the Government and—

- (a) who, having entered into the agreement before he attained the age of forty-five years, is eligible under General Orders to be confirmed in his appointment in the public service on the completion of his tour of duty, subject only to satisfactory service and the fulfilment of any obligations with regard to examinations or tests, courses of instruction or other pre-requisites; or
- (b) who has been given, on behalf of the Government, a formal and written commitment to confirm him in his appointment in the public service on a specified date or after a specified period, subject only to satisfactory service and the fulfilment of any obligations with regard to examinations or tests, courses of instruction or other pre-requisites;

**“operative date”** means the first day of April, 1968;

**“pensionable emoluments”** means—

- (a) those emoluments which may be taken into account in computing the pension of an officer granted under the pensions legislation, but,
- (b) where an entitled officer is required to retire and, immediately before he was so required, he acted, to the satisfaction of the appropriate service Commission and for a period of not less than six months, in a pensionable office under the Government, the pensionable emoluments of which office being higher than those of the office of which he is the substantive holder, means the emoluments, referred to in paragraph (a), of the office in which he so acted;

**“pensionable service”** means such aggregate amount of service as may be taken into account for the purpose of computing a pension under the pensions legislation;

**“pensions legislation”** means the Pensions Act and the Pensions Regulations;

**“Pensions Act”** means the Pensions Act, [No. 3 of 1968](#);

**“Pensions Regulations”** means the regulations contained in the Schedule to the Pensions Act and any regulations varying or revoking those regulations;

**“prescribed period of resident service”**, in relation to an entitled officer, means the period or periods of resident service, amounting in the aggregate to twenty-four months, served by that officer after the operative date;

**“prescribed period of notice”**—

- (a) in relation to an entitled officer who is not on leave of absence from Swaziland at the time when he gives notice of his intention to retire, means a period expiring not earlier than the date on which he will have completed six months’ resident service reckoned from—
- (i) the date on which the notice is given; or
- (ii) the date on which, after his return from overseas leave, he completes a period of three months’ resident service;

whichever is the later; and,

- (b) in relation to an entitled officer who is on leave of absence from Swaziland at the time when he gives notice of his intention to retire, means a period expiring not earlier than the date on which he will have completed six months' resident service reckoned from the date on which he returns to Swaziland for further duty;

“**public service**” means the public service of Swaziland;

“**resident service**”, in relation to an entitled officer, means pensionable service of the officer in the public service but does not include a period spent by the officer—

- (a) on leave of absence on half pensionable emoluments or without pensionable emoluments; or
- (b) on vacation leave of absence outside Swaziland, excluding any periods of casual leave of absence from Swaziland amounting, in the aggregate, to not more than fourteen days in any period of twelve months commencing on the first day of April; or
- (c) on travelling time, that is to say, additional leave of absence granted in respect of rail, sea or air travel undertaken in proceeding on or returning from overseas leave, except to the extent, if any, that the travelling time is permitted by General Orders to be reckoned as resident service;

“**scheme**” means the scheme of retirement benefits for non-designated expatriate pensionable officers set out in the Second Schedule.

- (2) For the purposes of this Act—
- (a) but subject to subsection (3), 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 the expiry of any leave of absence granted to him pending his retirement; and,
- (b) if an officer on probation or probationary agreement—
- (i) is required to retire in the interests of localization; or
- (ii) is superseded for promotion and is permitted to retire in accordance with [section 4](#);
- he shall be deemed to have been confirmed in his appointment in the public service immediately before the day upon which he was given notice requiring him to retire or permitting him to retire, as the case may be.
- (3) Where, on the operative date, a person was on leave of absence pending his retirement from the public service otherwise than under the scheme, he shall be deemed not to be an entitled officer.

### 3. Retirement

- (1) Subject to the provisions of this section, an entitled officer, after giving to the appropriate authority the prescribed period of notice, or such shorter period of notice as the appropriate authority may accept, may retire at any time.
- (2) If the entitled officer, who is eligible for the grant of overseas leave on the completion of a tour of duty not exceeding thirty-six months, is not on overseas leave at the time when he gives notice of his intention to retire under this section and where, if he gave the prescribed period of notice, he would serve a tour of duty exceeding thirty-six months, the appropriate authority shall accept such shorter period of notice as will enable the officer, after completing a tour of duty of thirty-six months, to proceed on leave of absence, pending retirement, without returning to Swaziland for further duty.
- (3) If an entitled officer is not on leave of absence, at the time when he gives notice of his intention to retire under this section and if, before he gives the notice, he has been granted permission to proceed on overseas leave or on vacation leave outside Swaziland, for a period of not less than three months, on a date not later than six months after the date on which he gives the notice, the

appropriate authority shall accept such shorter period of notice as will enable the officer to proceed on leave of absence, pending retirement, without returning to Swaziland for further duty.

- (4) If the entitled officer is on leave of absence, from Swaziland, at the time when he gives notice of his intention to retire under this section, the appropriate authority shall, unless it considers that it is essential in the public interest that the officer be required to return to Swaziland for further duty, waive the prescribed period of notice.
- (5) If an entitled officer has given notice of his intention to retire under this section on a particular date, he may, with the consent of the appropriate authority, withdraw that notice at any time before that date.
- (6) An entitled officer shall not retire under this section except with the permission of the appropriate authority, which permission shall not be withheld unless disciplinary proceedings are being taken, or are about to be taken, against the officer which might lead to his dismissal.
- (7) An entitled officer shall be deemed to have retired under this section if he is—
  - (a) permitted to retire by reason of injury or ill health; or
  - (b) required to retire on or after he attains the age prescribed by law; or
  - (c) required to retire in consequence of the abolition of his office or for the purpose of facilitating improvements in the organization of the part of the public service to which he belongs by which greater economy or efficiency may be effected; or
  - (d) required to retire in the public interest; or
  - (e) required to retire so as to facilitate the localization of the public service; or
  - (f) a woman and is required to retire upon her marriage.
- (8) Subject to the provisions of this section and [section 11](#), an entitled officer shall, on retirement under this Act, be entitled to the vacation leave on full pensionable emoluments which, at the date on which he proceeds on leave pending retirement, has accrued to him in accordance with General Orders.

#### 4. Supersession of certain entitled officers

- (1) If, in pursuance of a policy of according preference to persons who are citizens of Swaziland the appropriate authority appoints or promotes a citizen of Swaziland to a vacant office in the public service, other than office created pursuant to that policy, or vacant by reason of the voluntary retirement of an entitled officer before the age of retirement prescribed by law, in preference to an entitled officer whom, having regard to his merit, qualifications and seniority, it would otherwise have promoted to that office, the appropriate authority shall, by notice in writing, inform the entitled officer of his supersession for promotion.
- (2) Subject to the provisions of this section, an entitled officer who is informed under subsection (1) of his supersession for promotion may retire under this section, at any time, after giving the appropriate authority notice of his intention to do so.
- (3) An officer shall not retire under this section on a date more than six months after the date on which he is informed of his supersession for promotion except after giving the period of notice which he would be required to give if he were retiring under [section 3](#).
- (4) Where an officer has been informed of his supersession for promotion and subsequently is granted and accepts promotion to another office in the public service, he ceases to be entitled to retire under this section unless and until—
  - (a) he completes a period or periods of resident service, amounting in the aggregate to not less than twenty-four months, reckoned from the date with effect from which he was granted promotion; or

- (b) he is informed, under subsection (1), that he has again been superseded for promotion.
- (5) Where an entitled officer has given notice of his intention to retire under this section on a date, he may, with the consent of the appropriate authority, withdraw that notice at any time before that date.
- (6) An entitled officer shall not retire under this section except with the permission of the appropriate authority which permission shall not be withheld unless disciplinary proceedings are being taken, or are about to be taken, against the officer which might lead to his dismissal.

## 5. Leave for certain entitled officers

- (1) This section applies to an entitled officer (not being an officer to whom [section 8](#) applies) who retires in the circumstances described in [section 3\(7\)\(e\)](#), or [section 4](#), but subsection (2)(b)(i) also applies to an entitled officer who is required to retire in the circumstances described in [section 3\(7\)\(c\)](#).
- (2) An officer who—
  - (a) is on vacation leave outside Swaziland 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 on 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 the leave of absence, pending retirement, to six months; and,
    - (ii) if he returns to Swaziland to settle his affairs, be paid subsistence allowance at the rate prescribed by General Orders for the period (but not exceeding twenty-one days) of his stay in Swaziland; or
  - (b) is not on vacation leave outside Swaziland when he is required to retire shall—
    - (i) not be required to depart from Swaziland on leave of absence pending his retirement until the expiry of a period of six months from the date upon which he was given notice requiring him to retire; and,
    - (ii) 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 the leave of absence, pending his retirement, to six months.

## 6. Passage and baggage facilities

- (1) An entitled officer who retires under this Act shall be provided with such passage and baggage facilities for himself and his family as an officer of similar status is entitled to receive, under General Orders, on retirement from the public service at the age of fifty-five years.
- (2) An entitled officer who retires under this Act and who is on vacation leave outside Swaziland shall—
  - (a) if he returns to Swaziland for further duty at the requirement of the appropriate authority, be provided, after return to Swaziland for a term of duty, with such passages for himself and his family and such baggage facilities as an officer of similar status is entitled to receive under General Orders on retirement from the public service at the age of fifty-five years; or,
  - (b) if he returns to Swaziland to settle his affairs and on his return completes a tour of resident service of not less than twelve months, be paid the cost of the passages for himself and his family and of transporting his baggage to Swaziland (but not exceeding the cost of such passages and baggage allowances as an officer is entitled to receive, under General Orders, on returning to Swaziland for a tour of duty) and be provided with such passages for himself and his family and such baggage facilities as an officer of similar status is entitled to receive

under General Orders, on retirement from the public service at the age of fifty-five years after return to Swaziland for a tour of duty:

Provided that an entitled officer who retires in the circumstances referred to in [section 5\(1\)\(a\)](#) or (b) shall, if he returns to Swaziland to settle his affairs, be paid the cost of passage to Swaziland for himself only.

## 7. Special gratuity on the death of certain entitled officers

- (1) If an entitled officer dies and it is lawful under the pensions legislation for a gratuity to be granted to his legal personal representatives, there shall be granted either such gratuity, or a gratuity equal to the maximum gratuity which could have been granted to that officer in accordance with [section 8](#) if at the date of his death, whichever is the greater, he had retired under this Act.
- (2) The Permanent Secretary of the Ministry of Finance may direct that, instead of a gratuity under this section being paid to the legal personal representatives, it shall be paid to one of the dependants of the deceased, or two or more of those dependants in such proportions as the Permanent Secretary thinks fit.

## 8. Grant of pensions and gratuities

- (1) Subject to [section 9](#), and on his retirement under this Act, an entitled officer may be granted at his option (exercised in accordance with regulation 24 of the Pensions Regulations)—
  - (a) a pension of the amount which may be granted under the pensions legislation; or
  - (b) a reduced pension equal to such fraction as he desires not exceeding three-quarters, of the pension which may be granted under the pensions legislation together with a sum equal to the annual amount of the remaining fraction of that pension multiplied by the appropriate factor; or
  - (c) a reduced pension equal to the fraction obtained by subtracting, from three-quarters of the pension which may be granted under the pensions legislation, one-sixteenth of the total pension for each completed year of his pensionable service after the operative date together with a sum equal to the annual amount of the remaining fraction of that pension multiplied by the appropriate factor:

Provided that—

    - (i) for the purposes of paragraph (c) “completed year of his pensionable service” does not include such leave of absence in respect of service prior to the operative date as had, on the operative date, not been taken but deferred; and
    - (ii) paragraph (c) shall not apply unless the officer has completed the prescribed period of resident service.
- (2) For the purposes of this section, an entitled officer shall be deemed eligible for the grant of a pension under the pensions legislation notwithstanding that he may—
  - (a) have retired before attaining the age specified in the pensions legislation as qualifying him for the grant of a pension; and
  - (b) not have completed, at the date of his retirement, the period of qualifying service required by the pensions legislation to render him eligible for the grant of a pension.
- (3) If an entitled officer retires by reason of injury or ill health in circumstances in which he could, under the pensions legislation, be granted an additional pension, the provisions of this section shall have effect in relation to such officer as if references to the pension which may be granted under the pensions legislation included references to such additional pension.
- (4) If an entitled officer retires under this Act in circumstances in which he is entitled to be granted an additional pension under [section 9](#), this section shall have effect in relation to that officer as if



references to the pension which may be granted under the pensions legislation included references to such additional pension.

- (5) If an entitled officer—
- (a) is required to retire in the circumstances described in [section 3\(7\)\(b\), \(c\), \(e\) or \(f\)](#); or
  - (b) retires under [section 4](#); or
  - (c) retires, under this Act, having, on or after the operative date, been required, as a condition of an offer of promotion, to undertake to serve the Government for a period of not less than twenty-four months' resident service beginning on either the effective date of promotion, or the operative date, whichever is the later;

then, for the purposes of this section, the amount of the pension or gratuity which may be granted under the pensions legislation to the entitled officer shall, notwithstanding anything contained in such legislation, be calculated by reference to the full annual pensionable emoluments enjoyed by him on the date immediately prior to his retirement.

- (6) If an entitled officer has not exercised the option conferred by subsection (1) within the period in which it is required to be exercised, he shall be deemed to have exercised his option for the grant of a pension of the amount which may be granted under the pensions legislation.

## 9. Additional pension or gratuity payable to certain entitled officers

- (1) Subject to the provisions of this section, an entitled officer who retires in the circumstances described in [section 3\(7\)\(c\) or \(e\)](#) or under [section 4](#) shall be granted at his option (exercised in accordance with regulation 24 of the Pensions Regulations) either an additional pension calculated in accordance with subsection (3) or a sum equal to the commutation of the full amount of such additional pension which is in accordance with the appropriate factor.
- (2) Subject to this section but without prejudice to the grant of an additional pension on account of injury under regulation 23 of the Pensions Regulations, an entitled officer (other than an officer to whom subsection (1) applies), who retires under this Act at any time after completing the prescribed period of resident service, shall be granted an additional pension calculated in accordance with subsection (3).
- (3) The additional pension referred to in subsections (1) and (2) shall be an amount calculated at the rate of one-two thousand, one hundred and sixtieth of the annual pensionable emoluments enjoyed by the officer on the date immediately prior to his retirement for each completed month of his pensionable service.
- (4) The additional pension payable under this section, to an entitled officer together with the pension payable under the pensions legislation to the officer shall not exceed—
  - (a) the amount of the pension which the officer would have been eligible to receive under the pensions legislation if he had continued, until he attained the age of fifty-five years, to hold the office held by him immediately prior to his retirement and had received all increments which he would have been eligible to receive by that date; or
  - (b) two-thirds of the maximum rate of pensionable emoluments received by him during his public service;whichever is the lesser.
- (5) For the purposes of this section, references in section 10 of the Pensions Act to a pension granted under that Act shall be construed as references to the aggregate of the pension granted under the pensions legislation and of any additional pension granted under this section.
- (6) If an entitled officer to whom subsection (1) applies has not exercised the option conferred by that subsection, within the period in which it is required to be exercised, he shall be deemed to have opted for the grant of an additional pension calculated in accordance with subsection (3).

## 10. Promotion

- (1) If an entitled officer has accepted or accepts promotion commencing effectively on a date after the operative date, he shall be deemed to have undertaken to serve the Government for a period of not less than the prescribed period of resident service and commencing with the effective date of promotion.
- (2) If an officer commits a breach of such undertaking and the appropriate authority does not condone the breach, then, notwithstanding [section 8\(5\)](#), regulation 18 of the Pensions Regulations applies for the purpose of computing the amount of the pension or gratuity which may be granted to him in accordance with this Act.

## 11. Re-employment on contract

- (1) An entitled officer who retires, under this Act, may, with the approval of the appropriate authority, be re-employed by the Government but only on contract.
- (2) Such contract shall commence on the first day of the month following his acceptance of an offer of re-employment.
- (3) Unless the date of his retirement has already occurred, the day immediately preceding the date of commencement of such contract shall be deemed to be the date of retirement for the purposes of this Act.
- (4) Any leave due to the officer on the date so deemed shall be regarded as having accrued under such contract and not to form part of the pensionable service of the officer.
- (5) An entitled officer who has retired under this Act and who is re-employed on contract is entitled to receive, during the period of the contract, all payments due to him in accordance with both this Act, and the contract.
- (6) Where such contract is terminated either by the Government or the officer, any payment referred to in subsection (5)(a) other than those due to him under such contract shall be deemed unaffected by the termination.

## 12. Place of payment and rate of exchange

- (1) A pension or gratuity payable under this Act to an officer or his legal personal representatives or dependants shall, subject to the provisions of this section, be paid (in accordance with a request made from time to time by the officer, his personal representatives or his dependants, as the case may be) in any of the following countries and in the currency of the country in which payment is to be made, namely—
  - (a) the United Kingdom;
  - (b) Swaziland;
  - (c) the country from which the officer was recruited or where he intends to reside;
  - (d) if payments are to the legal personal representatives of an officer or his dependants, the country in which those representatives or dependants, as the case may be, reside;
  - (e) such other country as the officer or his legal personal representatives or dependants may, with the concurrence of the Permanent Secretary of the Ministry of Finance, select.
- (2) If 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 payment, the amount in sterling of the pension or gratuity as calculated at the official rate of exchange prevailing on the operative date.

### 13. Application of the pensions legislation

Subject to this Act, the pensions legislation shall apply in relation to the grant of a pension or gratuity or a pension or gratuity granted, under this Act, in the same way as the pensions legislation applies, respectively, in relation to the grant of a pension or gratuity and to a pension or gratuity granted under the pensions legislation.

### 14. Transitional provisions

- (1) If an officer or authority has, before the commencement of this Act, in pursuance of a provision of the Scheme—
  - (a) given permission or consent; or
  - (b) prescribed a condition; or
  - (c) granted a benefit; or
  - (d) made a payment or declaration; or
  - (e) done any other thing;

for the purposes of the 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 this Act, and this Act shall have effect accordingly.

- (2) If an officer has, before the commencement of this Act, in pursuance of a provision of the scheme given or received notice, or retired or received a benefit, he shall, provided that any conditions prescribed or deemed to have been prescribed by or under this Act are satisfied, be deemed 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 of this Act, and this Act shall have effect accordingly.
- (3) If, before the sixth day of September, 1968, an officer has in accordance with the scheme, been required to retire to facilitate the localization of the public service he shall, for the purposes of this Act, be deemed to have retired under [section 3\(7\)\(e\)](#).

### 15. Employment during retirement leave

- (1) Subject to subsection (2), an entitled officer may, during the period of his retirement leave, be employed, for remuneration, by any person or authority.
- (2) Except with the prior written sanction of the appropriate authority an entitled officer shall not, during the period of his retirement leave, be employed for remuneration if—
  - (a) the place of employment is in Swaziland; or
  - (b) he is employed as a director of a company, the principal part of the business of which is directly concerned with Swaziland.

### 16. Regulations

The Prime Minister may, with the approval of the appropriate service Commission and by notice published in the *Gazette*, make regulations necessary to implement the objects of this Act.

## First Schedule (Section 2)

### Instructions for obtaining the appropriate factor

- I. Read from the Table below the factors for the age of the officer—
  - (a) at his last birthday, and
  - (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. Subtract II from I(a). The result is the factor required.

In calculating a factor by interpolation, the calculation shall be taken to three places of decimals and, where—

- (a) the three numbers are 010, they shall be ignored;
- (b) the first two numbers are followed by the number 2, 3 or 4, the third number shall be ignored; and
- (c) the first two numbers are followed by the number 5, 6, 7, 8, or 9, the second number shall be changed to the next higher number.

**Table**

<b>Age of officer</b>	<b>Factor</b>	<b>Age of officer</b>	<b>Factor</b>
25	17.08	40	15.07
26	16.97	41	14.90
27	16.86	42	14.73
28	16.74	43	14.55
29	16.62	44	14.36
30	16.50	45	14.17
31	16.38	46	13.97
32	16.25	47	13.76
33	16.12	48	13.54
34	15.98	49	13.32
35	15.84	50	13.08
36	15.70	51	12.84
37	15.55	52	12.59
38	15.40	53	12.50
39	15.24	54	12.50

## Second Schedule

### Scheme of retirement benefits for pensionable non-designated expatriate officers

#### Establishment Circular No. 13 of 1968

In accordance with the undertaking given in the Chief Secretary's Circular Memorandum No. 31 of 20th May, 1964, and by agreement between the United Kingdom Government and the Government of Swaziland, a Scheme of retirement benefits for pensionable non-designated expatriate officers has been prepared and will be introduced with effect from the 1st April, 1968. A copy of the Scheme is attached to this Circular.

2. This Circular constitutes authority for the provisions of the attached scheme to be put into force administratively with effect from the 1st April, 1968, which is the operative date for the Scheme. The Scheme will be given legal effect by legislation in due course.
3. The Scheme provides that entitled officers have certain options open to them. These are—
  - (a) to continue to serve on pensionable terms for an indefinite period in which case they may give the prescribed notice of intention to retire at any time. Entitled officers who continue to serve on pensionable terms for a further minimum period of twenty-four months' residential service become eligible for an additional pension provided for in paragraph 7 of the Scheme;
  - (b) to give notice that they wish to continue to serve but on contract terms (see paragraph 9 of the Scheme);
  - (c) to give six months' notice of their intention to retire under the Scheme (see paragraph 4 of the Scheme).
4. It will be noted that the Scheme provides for an entitled officer to be granted an additional pension (see paragraph 7 of the Scheme)—
  - (a) when he voluntarily retires, having completed not less than two years' residential service after the operative date, inclusive of the period of notice but exclusive of any vacation leave due to him;
  - (b) if, after the operative date, he is required to retire to facilitate the localisation of the service;
  - (c) when he retires voluntarily at any time, having been informed by the Public Service Commission that he has been superseded for promotion.
5. With effect from the date of this Establishment Circular it will be open to any officer to give notice of his intention to retire under the Scheme. No period of notice may, however, begin to run until the operative date. Any officer who wishes to take this course should give notice of his intention to retire by completing the Form SD Comp. 9 which is attached as Appendix 'B' to this Circular, in triplicate and forwarding it through his Head of Department to the Permanent Secretary of the Ministry in which he is serving. On receipt of the Form the Permanent Secretary should complete Form SD Comp. 10, attached as Appendix 'C' to this Circular, in triplicate and forward all three copies of both Form SD Comp. 9 and SD Comp. 10 to the Chief Establishment Officer,  
  
Box 170,  
  
Mbabane.  
  
Supplies of Forms SD Comp. 9 and SD Comp. 10 are being distributed to Ministries and Departments for distribution to officers as required.
6. The Scheme provides that an officer must normally give six months' residential service notice of his intention to retire but a shorter period of notice may be accepted by the Government. No guarantee, however, can be given that a shorter period of notice will be accepted except in the circumstances mentioned in paragraph 10(a)(i)(2) of the Scheme. Subject to the provisions of paragraph 10(a)(i)(2) and

- (4), notice of intention to retire will, if given within one month of the operative date, be deemed to run from the operative date; thereafter a period of notice will run from the date on which the officer notifies his intention to retire.
7. Officers are reminded that should they wish to remove a motor vehicle from Swaziland on which there remains an outstanding advance, permission must first be obtained from the Accountant-General, P.O. Box 38, Mbabane. In accordance with the agreements entered into when personal advances are issued, officers are required to make arrangements to repay all advances before the expiration of their leave prior to retirement and officers who give notice of retirement should make arrangements accordingly. There may be other liabilities outstanding at the time of an officer's departure from Swaziland, e.g. in respect of Income Tax, fees for miscellaneous services, etc. Officers will be required to settle these liabilities before they leave or where this is impracticable to leave an authority for such outstanding amounts to be recovered from any payments subsequently due to them. This matter is under consideration by the Ministry of Finance and the Accountant-General will communicate direct with officers soon after they give notice of retirement. It must be stressed, however, that Government cannot accept responsibility for discharge of private debts.
  8. Where an application is made under paragraph 3(b) above the Government's decision upon it will be given as soon as possible after consultation with the Public Service Commission. While a decision will be made at the earliest possible date, contracts will not be expressed as commencing on a date less than three months after the operative date of the Scheme.
  9. An officer acting in a higher post, and required whilst so acting to retire, will be confirmed in that post so that his emoluments will be the pensionable emoluments on which his benefits under the Scheme will be calculated, provided he has so acted for a continuous period of not less than six months to the satisfaction of the Government.
  10. The attention of entitled officers is drawn to paragraph 4 of Form SD Comp. 9 which refers to contributions to the Swaziland Widows' and Orphans' Pensions Fund or another Widows' and Orphans' Fund or Scheme to which entitled officers contribute. In making their options in relation to the Fund or Scheme in question, officers should bear in mind that if they elect to contribute at the rate applicable to their pensions then the benefits to their dependants under the Fund or Scheme in question will be reduced and should they elect to stop contribution on the date of retirement such benefits will be still further reduced.
  11. The attention of entitled officers is drawn to the provisions of the Pensions Bill, 1968 which has been presented to Parliament. If and when the Bill becomes law all references in the Scheme to the Pensions Proclamation (Cap. 57) should be construed as if they were made to the Pensions Act, 1968, and the necessary changes will be reflected in the amending legislation referred to in paragraph 2 of this Circular. Officers should note, however, the protection afforded them by section 117 of the Schedule to the Swaziland Constitution Order 1967 ([Legal Notice No. 10 of 1967](#)).
  12. Permanent Secretaries and Heads of Departments are requested to ensure that a copy of this Circular is sent to each individual entitled officer as soon as possible. Individual officers who wish to make enquiries regarding their position under the Retirement Benefit Scheme should address those enquiries to the Chief Establishment Officer, P.O. Box 170, Mbabane, Direct. An explanatory pamphlet is being prepared and copies will be sent as soon as possible to Ministries and Departments for distribution to all individual officers affected by the Scheme.

E. BROADBENT

Chief Establishment Officer.

Distribution:

All Permanent Secretaries and Heads of Departments

## Swaziland

### General Scheme of retirement benefits for pensionable officers who are not designated officers under the overseas service aid scheme or local officers

#### 1. Date of introduction of the Scheme

- (a) The Scheme shall come into operation on the date (which shall be the “operative date” of the Scheme) on which the Public Service Commission ceases to be advisory and becomes executive.
- (b) Effect will initially be given to the Scheme by administrative circular but it will, as soon as possible, be given effect by legislation.

#### 2. Entitlement under the Scheme

- (a) Permanent and pensionable officers who are not designated officers under the Overseas Service (Swaziland) Agreement, 1962, who—
  - (i) having become citizens of Swaziland by operation of law on the prescribed date (as defined in section 132 of the Constitution of the Kingdom of Swaziland) are immediately after that day also citizens of some other country and renounce or are deprived by law of the Swaziland citizenship within two years after Independence Day; or
  - (ii) do not in any other circumstances become citizens of Swaziland; and who were (a) selected for appointment or (b) admitted to the pensionable establishment -governed by the Swaziland Pensions Proclamation (Cap. 57), or (c) transferred to the service of the Swaziland Government from another scheduled Government before the operative date, shall be entitled officers and are referred to hereinafter as “entitled officers” for the purpose of this scheme.
- (b) If the post of an officer serving on probation or probationary agreement (who is otherwise an entitled officer within the meaning of sub-paragraph (a) above) is required in the interests of localisation or if such an officer is superseded for promotion in accordance with paragraph 6 below, that officer will on being required or being given permission to retire, be confirmed in his appointment forthwith, and shall then be entitled to the appropriate benefits provided in this Scheme.

#### 3. Eligibility for pension

- (a) Any entitled officer who—
  - (i) elects to retire from pensionable service under this Scheme; or
  - (ii) retires from the service on medical grounds; or
  - (ii) is required to retire from the service either to facilitate the localisation or the reorganisation of the Public Service, or on the grounds of public interest, or because of the abolition of his office, or under section 7 of the Pensions Proclamation (Cap. 57);

will be eligible to receive such a pension from the Government of Swaziland as he has earned by his pensionable service with that Government, irrespective of whether his length of service is less than ten years, and of whether he has attained the minimum retiring age at the date of his retirement.

- (b) Where an entitled officer has other scheduled service his eligibility for pension in respect of that other service will depend on the pensions law relating to it. An entitled officer who retires before he has completed ten years’ total pensionable service (including qualifying service which is not in itself reckonable for the computation of pension) would normally be eligible only for a gratuity in respect of that part of his scheduled pensionable service which was not served in Swaziland, provided that under reciprocal arrangements made by the Lesotho, Botswana and Swaziland



Governments an officer who retires under this Scheme with less than ten years' total pensionable service which includes other scheduled pensionable service in Lesotho and Botswana, will receive pension in respect of his pensionable service under those Governments, notwithstanding that his length of pensionable service is less than ten years.

- (c) The pension of any entitled officer who is required to retire under this Scheme (either to facilitate the localisation of the Public Service, or the reorganisation of the Public Service, or because of the abolition of his office, or under section 7 of the Pensions Proclamation (Cap. 57)) will be calculated on the basis of the pensionable emoluments which he is drawing at the date on which his leave prior to retirement expires and the "averaging" provisions of the Pensions Proclamation (Cap. 57) will not apply to him.

#### 4. **Voluntary retirement after the operative date**

An entitled officer shall be entitled to retire, with his pension earned to date, at any time after the operative date on giving notice as prescribed in paragraph 10.

#### 5. **Compulsory retirement to facilitate the localisation of the Public Service**

- (a) The Government may inform the Service Commissions that as a general policy entitled officers should be required to retire in sufficient numbers whenever suitably qualified local candidates are available for appointment or promotion and sufficient vacancies are not available to accommodate them; or, alternatively, it may inform the Service Commissions of the application of this policy to particular cadres from time to time. It will be for the Service Commission concerned to determine whether suitably qualified local candidates are available who cannot be accommodated in existing vacancies and, if so, to select the individual entitled officers who should be required to retire.
- (b) It will be for the appropriate Service Commission to determine, in the light of the public interest, what period of notice should be given to an entitled officer who is required to retire in these circumstances provided that—
  - (i) unless the officer is on vacation leave the period of notice shall be not less than six months' resident service or such shorter period as may be mutually agreed between the officer and the Government; or
  - (ii) if an entitled officer is required to retire while absent from Swaziland on vacation leave, he shall be granted passages at Government expense to and from Swaziland for himself, but not for his family, to enable him to settle up his affairs, and full baggage facilities to which he would have been entitled had he retired in normal circumstances, to enable him to transport his effects from Swaziland. He will also be eligible for subsistence allowance at the rates then current during his stay in Swaziland for a period of up to twenty-one days.
- (c) An entitled officer who is required to retire in these circumstances shall be entitled to the following benefits—
  - (i) his pension earned to date together with an additional allowance calculated according to the provisions of paragraph 7;
  - (ii) if he has less than six months' earned leave (including any deferred leave) standing to his credit when he leaves Swaziland he will be granted additional leave to bring his period of leave up to a total of six months;
  - (iii) his pension will be calculated on the basis of the pensionable emoluments which he is drawing at the date on which his leave prior to retirement expires and the "averaging" provisions of the Pensions Proclamation (Cap. 57) will not apply to him;
  - (iv) if he is not on vacation leave he will be given full retirement passage and baggage facilities as if he had completed a minimum tour.

#### 6. **The supersession of entitled officers for promotion**

- (a) The Government may inform the appropriate Service Commission that entitled officers should be superseded for promotion to a normal vacancy (i.e. not one created in pursuance of localisation or

by the voluntary retirement of an entitled officer before the age of forty-five years) by local officers qualified for promotion, either as a general policy or from time to time in relation to particular departments or cadres.

- (b) An entitled officer shall be informed by the appropriate Service Commission that he has been superseded for promotion in these circumstances and may, if he wishes, elect to retire forthwith or at any time thereafter with the benefits prescribed in paragraph 5; but if he elects to retire more than six months after he has been notified of his supersession, he must give notice in accordance with paragraph 10.

#### 7. **Method of calculation of the additional allowance**

In addition to the earned pension award an entitled officer who retires under paragraph 4 of this Scheme, having completed not less than two years resident service (inclusive of the period of notice but exclusive of any vacation leave due to him) after the operative date or who is required to retire under paragraph 5 of this Scheme or an officer who retires under paragraph (6) will be entitled to receive an additional allowance calculated at the rate of 1/2160th of his unaveraged annual pensionable emoluments as defined in the Swaziland Pensions Proclamation (Cap. 57) at the date of his retirement for each complete month of his pensionable service; provided that the additional allowance which then added to the officer's earned pension shall not exceed either the pension for which he would have been eligible under the Swaziland Pensions Proclamation (Cap. 57) if he had continued to hold the office held by him at the date of his retirement until he had reached the age of 55 and had then retired having been granted all increments of salary for which he would have been eligible by that date, or two-thirds of the highest pensionable emoluments enjoyed by him during his public service, whichever is the lesser.

#### 8. **Promotion**

Every entitled officer who is offered promotion with effect from a date after the operative date will be required, as a condition of the offer of promotion, to undertake to serve the Government of Swaziland for a period of not less than twenty-four months' resident service beginning from the effective date of promotion. The "averaging" provisions of the Pensions Proclamation (Cap. 57) will not apply to an officer who completes twenty-four months' resident service in accordance with this undertaking or who retires in the circumstances described in paragraph 5 and 6 above. An officer who breaks his undertaking without the agreement of the Government will be subject to the "averaging" provisions of the Pensions Proclamation (Cap. 57).

#### 9. **Contract appointments**

- (i) An entitled officer who retires under this Scheme may, with the approval of the appropriate Service Commission, be re-engaged on contract terms.
- (ii) The contract will commence with effect from the first day of the month following the officer's acceptance of the offer of contract employment. The day immediately preceding the effective date for the commencement of the contract will be regarded as the last day of the officer's pensionable service for the purpose of computation of his pension and gratuity. The pension and gratuity entitlement will not be affected by subsequent service on contract.
- (iii) Any leave due to the officer on the day on which his contract service starts will not be regarded as pensionable service. It will be carried forward to the end of his contract when it will attract leave pay and gratuity as though it had been earned by contract service, and during the period of the contract the officer will draw in addition to his salary (without abatement) the pension which he has earned in respect of his pensionable service up to the date of his retirement.

#### 10. **The giving of notice by entitled officers who elect to retire**

- (a) Giving of notice while in Swaziland:

An entitled officer may, at any time after the operative date, give notice of his intention to retire from the Public Service. An officer will normally be required to give six months' resident service notice of retirement provided that—

- (i) No period of notice can start before the operative date.

- (ii) An entitled officer who wishes to proceed on leave prior to retirement at the date of independence may do so if he gives notice before the expiration of one month after the operative date.
  - (iii) A shorter period of notice than six months may be accepted by mutual agreement between the officer and the Government.
  - (iv) The Government will not insist on the full period of six months' notice if approval has already been given for the officer to proceed on overseas leave or on vacation leave of not less than three months' duration within six months of the date on which he gives notice of his intention to retire.
  - (v) If the officer gives notice of his intention to retire within three months of resumption of duty after overseas leave his period of notice will start on the day following the expiration of the three months' period.
- (b) Giving notice while on vacation leave:
- (i) An entitled officer who is absent from Swaziland on vacation leave may, at any time after the operative date, give notice of his intention to retire from the Service provided that no period of notice can start before the operative date.
  - (ii) In the case of an officer who is entitled to overseas leave at the end of each tour and who gives notice whilst absent on such leave, the Government may require him to return to Swaziland after the expiration of the leave granted to him to complete a period of six months' resident service to work out his notice; in such event the Government will pay the full costs of passage for the officer and his family to and from Swaziland and will give the officer full retirement passage and baggage concessions on his final journey from Swaziland as if he was returning for and completing a minimum tour of service. The Government will only avail itself of its right to require an officer to return to Swaziland in these circumstances if this is essential in the public interest. Provided that: if it is agreed that such officer need not return to Swaziland to work out a period of notice, he will forthwith be granted any balance of leave (including any deferred leave) earned up to the day on which he proceeded on vacation leave; he will be allowed the retirement concessions prescribed in General Orders to enable him to transport his effects from Swaziland and his service will be deemed to finish on the expiration of the leave due to him. If such officer himself expresses a wish to return to Swaziland to settle up his affairs he will be permitted to do so, but the cost of his and his family's passages and baggage allowances will only be paid by the Government if he completes on his return a final tour of not less than twelve months.
- (c) Withdrawal of notice:

An entitled officer may request permission to withdraw his notice of retirement but it will be for the Government to decide whether or not he should be permitted to do so.

#### 11. **Commutation of pension and additional allowance**

- (i) Entitled officers retiring under this Scheme shall be entitled to commute up to one-quarter of their earned Swaziland pension in accordance with the special table of Commutation Factors which is set out in Appendix A. In addition where entitled officers are entitled to elect to commute part of their pensions earned by service under another Government or Administration which schedules Swaziland in its pension law, the Swaziland Government will pay an amount equal to the difference, if any, between the gratuities which would have been payable if the Commutation Factors in Appendix A had applied and the gratuities actually payable by reference to the commutation factor provided for in the pensions law of the other Government or Administration.
- (ii) An entitled officer who remains in the Service on pensionable terms and completes not less than two years' resident service (inclusive of the period of notice but exclusive of any vacation leave due to him) after the operative date shall be entitled, on retirement, to commute a further one-sixteenth of his pension earned in respect of his service in Swaziland for each completed year of service after the operative date, in accordance with the special table of Commutation Factors set

out in Appendix A; provided that deferred leave accumulated before the operative date shall not count as service in respect of which the officer may commute an extra one-sixteenth of his pension.

- (iii) Entitled officers retiring under this Scheme shall be entitled to commute the full amount of any additional allowance payable under paragraphs 5, 6 or 7 above in accordance with the special table of Commutation Factors in Appendix A.

#### 12. **Death of an entitled officer**

- (i) The dependents or the legal personal representatives of an entitled officer will receive the appropriate death gratuity under section 15 of the Pensions Proclamation (Cap. 57) provided that—
  - (a) in computing the death gratuity no account shall be taken of any additional allowance payable under the Scheme, and
  - (b) in calculating the commuted pension gratuity for the purposes of the death gratuity payable under section 15 of the Pensions Proclamation (Cap. 57) reference shall be made to the special table of Commutation Factors in Appendix A to this Scheme and to the additional commutation of pension provided for in paragraph 11(ii) above.
- (ii) Where an entitled officer, who has been given permission to retire, or has been given notice of compulsory retirement or has remained in Service for a period of not less than two years from the operative date in accordance with paragraph 7 in circumstances entitling him to an additional allowance on retirement under this Scheme, dies while still serving or on leave prior to retirement his dependants or legal personal representatives will receive the additional allowance which would have been paid to the officer had he so retired at the date of his death and had elected to commute the additional allowance.

#### 13. **Employment during retirement leave**

An entitled officer who wishes to take up any paid employment while on leave pending retirement may accept such employment without obtaining the prior sanction of the Government, saving that this sanction must be obtained if the employment is in Swaziland or is as a director of any company, the principal part of whose business is in any way directly concerned with Swaziland.

#### 14. **Proceedings which may affect the pension of an entitled officer serving after the operative date**

- (i) If any decision of a Service Commission has the effect of with-holding, suspending, reducing or otherwise altering to his detriment any pension or other retiring benefit due to or in respect of an entitled officer, he or his legal personal representatives as the case may be, shall have the right to appeal against the decision to an Appeals Board whose decision shall be final. The Appeals Board will be composed of one member selected by the Prime Minister, one member selected by an association representing public officers or a professional body, nominated by the entitled officer concerned, and one selected by the other members jointly to be Chairman of the Board, or, in the event of their disagreement, by the Chief Justice.
- (ii) If an entitled officer who has retired from the pensionable service and has been engaged on contract terms, terminates his contract or has his contract terminated for any reason, this will not affect the payment of his pension or other retiring benefit due to him.

#### 15. **General**

Any payments payable under this Scheme to an officer or to his legal personal representative or dependants shall be paid when due in accordance with any request made from time to time by such officer, his legal personal representative 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 legal personal representative of an officer or his dependants, in the country in which the personal representative or the dependants, as the case may be, reside; or
- (e) in such other country as the officer or his personal representative or dependants may, with the concurrence of the Swaziland Government, select. Payment shall be made 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 payment, the amount of sterling of the payment as calculated at the official rate of exchange prevailing on the operative date of the Scheme.

### **Appendix A (Paragraph 11)**

#### **Commutation of pension under compensation arrangements**

Table showing the lump sum to be paid for the commutation of each R1 p.a. of pension.

Age of officer	Factor	Age of officer	Factor
25	17.08	40	15.07
26	16.97	41	14.90
27	16.86	42	14.73
28	16.74	43	14.55
29	16.62	44	14.36
30	16.50	45	14.17
31	16.38	46	13.97
32	16.25	47	13.76
33	16.12	48	13.54
34	15.98	49	13.32
35	15.84	50	13.08
36	15.70	51	12.84
37	15.55	52	12.59
38	15.40	53	12.50
39	15.24	54 or over	12.50

### Instructions for obtaining the appropriate factor for commutation

- I Read from the table the factor 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 Subtract II from I(a). The result is the factor required.

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

### Appendix C (Form SD Comp. 10)

*This form to be submitted in triplicate—*

*Delete as applicable.*

To the Chief Establishment Officer,

Box 170,

Mbabane.

From

### Retirement notification

#### Scheme of retirement benefits for pensionable non-designated officers

Name of Officer

Ministry/Department

1. The officer whose notification is attached (on Form SD Comp. 9)—
  - (a) has given six months’ residential service notice of retirement. His notification is submitted for your action; or
  - (b) has given less than six months’ residential service notice of retirement.  
 I recommend the application. (If (b) is applicable state full reasons).  
 I do NOT recommend the application for the following reasons—
2. (a) On completion of period of notice the amount of vacation leave due is days  
 (b) Leave due as at 1st 196 is days (applicable only when applying to transfer to contract terms).  
 A copy of leave record is attached
3. I have submitted my recommendation to the Public Service Commission regarding—
  - (a) a replacement. The reference of my Savingram to the Public Service Commission is of (date)
  - (b) the application of transfer to contract terms. The reference of my Savingram to the Public Service Commission is \_\_\_ of (date)

Date	Signature	Title

*Note: This form must be signed personally by a Permanent Secretary or Head of Department.*

For completion by the Chief Establishment Officer.

To

(1)	<b>Accountant-General, Ministry of Finance (duplicate copy)</b>
(2)	<b>Permanent Secretary, (triplicate copy)</b>

The recommendation set out above has been accepted and is submitted for your action.

Date \_\_\_\_\_ Signed \_\_\_\_\_

for Chief Establishment Officer \_\_\_\_\_

*[Please note: numbering as in original.]*

### **Appendix B (Form SD Comp. 9)**

*To be submitted in triplicate by the officer—*

*Delete as applicable.*

#### **Retirement notification**

#### **Scheme of retirement benefits for pensionable non-designated expatriate officers**

To Permanent Secretary

(through Director of \_\_\_\_\_)

Sir,

I have the honour to give notification of retirement in terms of the Scheme of retirement for pensionable non-designated expatriate officers.

2. I hereby give \_\_\_\_ months' notice to take effect from (if less than six months' notice given, state reasons)
3. I wish to apply for retirement passage to (State destination in Southern Africa)
4. I intend, in respect of contributions to the Swaziland Widows' and Orphans' Pensions [Law No. 35 of 1966](#)—
  - (i) to continue to contribute at the rate at which I am contributing at the date of my retirement; or
  - (ii) to notify the Crown Agents for Overseas Governments and Administrations, 4, Millbank, S.W.1 (copy to Accountant-General) to elect to continue to contribute but at the rate applicable to the pension awarded to me; or
  - (iii) to notify the Crown Agents for Overseas Governments and Administrations, 4, Millbank, S.W.1 (copy to Accountant-General) to elect to cease to contribute.
5. (a) I wish to commute of my total pension (the maximum amount which can be commuted under this sub-paragraph is one-quarter of pension).
  - (b) I wish to commute a further one-sixteenth of pension earned for each completed year of service after the operative date (this is applicable only to entitled officers who continue to serve on pensionable terms for a further minimum period of twenty-four months' residential service from the operative date exclusive of any vacation leave due).
  - (c) I do not wish to commute any portion of my pension (these options may be charged up to and including the day prior to going on retirement).



- (d) I wish my pension and gratuity to be paid
- (i) direct to me at (state full address)
- or
- (ii) through the Crown Agents for Overseas Governments and Administrations, 4, Millbank, London, S.W.1 to me at (state full address)

6. I have/have not made application to be re-engaged on contract terms

Date	Signature	Post held