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Pensions (Overseas Officers) Takeover Order, 1975

Kings Order in Council 24 of 1975

Legislation as at 1 December 1998

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Pensions (Overseas Officers) Takeover Order, 1975
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Pensions (Overseas Officers) Takeover Order, 1975

Kings Order in Council 24 of 1975

Assented to on 31 July 1975

Commenced on 1 September 1975

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

A King's Order-in-Council to make provision for the payment of pensions and other benefits due to overseas officers and for purposes connected therewith and incidental thereto.

1. Short title

This King's Order-in-Council may be cited as the Pensions (Overseas Officers) Takeover Order, 1975.

2. Interpretation

In this Order-in-Council unless the context otherwise requires—

“**appointed day**” means the day mutually agreed upon by the Governments of the United Kingdom and of Swaziland;

“**inducement allowance**” means any inducement allowance enjoyed by an overseas officer under the Overseas Service (Swaziland) Agreement, 1962, defined in section 2 of the Pensions Act, [No. 3 of 1968](#) or any agreement or arrangement amending or replacing it;

“**Minister**” means the Minister for Finance and Economic Planning;

“**overseas officer**” means an officer to whom the Public Officers Agreement applies or applied and who was not a citizen of Swaziland on 1st April 1971 or who, having retired from the public service or having died in public service after that date, is not or was not a citizen of Swaziland at the time of his retirement or death, as the case may be;

“**pension**” means any pension, gratuity, compensation and interest thereon, or any retiring allowance or other like benefit, or any increase of pension, or any contributions repayable to, or interest on contributions payable to, any overseas officer, payable under the pension laws by the Government of Swaziland to or in respect of any overseas officer, or to the widow or child of any overseas officer or to his legal personal representative;

“**pensionable emoluments**”—

- (a) in respect of public service under the Government of Swaziland includes: salary; inducement allowance; and personal allowance; but does not include entertainment allowance or any other emoluments whatever:

Provided that if an officer's date of retirement is after 1 January, 1947, pensionable emoluments shall include house allowance in respect of service prior to 1 January, 1947;

- (b) in respect of other public service, means emoluments which count for pension in accordance with the law or rules in force in such public service;

“**pensions laws**” means.

- (a) in relation to pensions other than widows' and orphans' pensions—

- (i) any law, regulation or administrative direction providing for the payment of pensions to officers in respect of public service (including service which is so defined under the Swaziland (Benefits under Retirement Scheme) Order, 1966); published under [Legal Notice](#)

[No. 47 of 1966](#) and in force in Swaziland at any time prior to 13 October, 1972 and enacted prior to such date; and

- (ii) the Designated Expatriate Pensionable Officers (Compensation and Retiring Benefits) Act, [No. 49 of 1968](#) and the Non-Designated Expatriate Pensionable Officers (Retirement Benefits) Act, [No. 15 of 1968](#);
- (b) in relation to widows' and orphans' pensions, the Widows' and Orphans' Pension Act, 1966 and any amendments thereto in force at any time prior to 13 October 1972 and enacted prior to such date; and
- (c) in relation to both widows' and orphans' and to other pensions any other law, regulation or administrative direction accepted by the Government of the United Kingdom and the Government of Swaziland for the purposes of this Order;

"public officers' agreement" means the agreement between Her Majesty's Government in the United Kingdom and the Government of Swaziland signed at Mbabane on 8th day of September, 1968; now known as Public Officers (Swaziland) Agreement Act, [No. 54 of 1968](#);

"public service" means:

- (a) service in a civil capacity under the Government of Swaziland or any other country or territory in the Commonwealth and, in relation to any time at which the office of the High Commissioner for Basutoland, the Bechuanaland Protectorate and Swaziland existed, includes service in such office,
- (b) service under the East African High Commission, the East African Common Services Organisation, the East African Posts and Telecommunications Administration, the East African Railways and Harbours Administration, the East African Community, the East African Harbours Corporation, the East African Posts and Telecommunications Corporation or the East African Railways Corporation;
- (c) service which is pensionable under the Overseas Superannuation Scheme of the United Kingdom; under any Act relating to the superannuation of teachers in the United Kingdom; under a local authority in the United Kingdom; under the National Health Service of the United Kingdom;
- (d) any other service accepted by the Government of the United Kingdom and the Government of Swaziland to be public service for the purposes of this Order;
- (e) except for the purposes of computation of a pension, gratuity or other allowance and of determination of the maximum pension grantable service as a Governor in respect of which a pension may be granted under the Overseas Pensions Act, 1973 of the United Kingdom or any Act amending or replacing such Act;
- (f) service as the holder of the office of President, Vice-President, Justice of Appeal, Registrar, officer or servant of the Court of Appeal for Eastern Africa established by the Eastern Africa Court of Appeal Order-in-Council, 1961 (United Kingdom S.I. 1961, No. 2323) or the Court of Appeal for East Africa;
- (g) service in the service of the Interim Commissioner for the West Indies;

"other public service" means public service not under the Government of Swaziland;

"relevant service" means public service under the Government of Swaziland on or after 1 April, 1968;

"Swaziland element" in relation to a pension (other than compensation or interest thereon payable under the Designated Expatriate Pensionable Officers (Compensation and Retiring Benefits) Act, [No. 49 of 1968](#) or a widows' and orphans' pension) means:

- (a) in respect of a pension arising from death resulting from an injury on duty, or from contracting a disease, or a pension or additional pension arising from such an injury or from such a disease, being a pension which results from an occurrence during relevant service, that proportion of the pension which the rate of the overseas officer's pensionable emoluments other than inducement allowance at the date he received the injury or contracted the disease bears to the rate of the overseas officer's total pensionable emoluments at that date;

- (b) in the case of any other pension, that proportion of the pension which the total pensionable emoluments other than inducement allowance enjoyed by the overseas officer during his relevant service bears to the total pensionable emoluments enjoyed by him throughout his public service under the Government of Swaziland (including service which is so defined under the Swaziland (Benefits under Retirement Scheme) Order, 1966) which have been taken into account in determining the amount of that pension;

“Widows’ and Orphans’ Pensions” means pensions payable under the Widows’ and Orphans’ Pensions Act, [No. 35 of 1966](#);

“Widows’ and Orphans’ Pensions Act” means the Widows’ and Orphans’ Pensions Act, 1966, and any amendments thereto in force prior to the 13 October, 1972.

3. Power to enter into agreement

The Minister may enter into a written agreement with representatives of the Government of the United Kingdom to give effect to the provisions of this Order.

4. Relinquishment of responsibility

- (1) With effect from the appointed day the Government of Swaziland shall relinquish responsibility for the award, control, administration and payment of any pensions or widows’ and orphans’ pensions to or in respect of any overseas officer or a widow or child or legal personal representative of such overseas officer if the relationship with the Government of Swaziland entitles such overseas officer or a widow or child or legal personal representative of such officer to pensions or widows’ and orphans’ pensions.
- (2) The Government shall pay to the Government of the United Kingdom in respect of any pension (other than a Widows’ and Orphans’ pension) awarded before the appointed day to or in respect of an overseas officer, a sum representing the cost, if any, of the Swaziland element of such pensions.
- (3) The Government shall pay to the Government of the United Kingdom in respect of any pension (other than a widows’ and orphans’ pension) awarded on or after the appointed day to or in respect of an overseas officer—
- (a) that part of the sum which would represent the Swaziland element of such pensions, if the service of the overseas officer ceased on the appointed day, which is attributable to the overseas officer’s relevant service up to the day immediately preceding the appointed day; and
- (b) 25% of the overseas officer’s pensionable emoluments, other than inducement allowance earned during that part of his relevant service which occurs on or after the appointed day.
- (4) (i) The Government shall transfer to the United Kingdom Government such stocks, funds, securities or moneys as represent the interest of contributory overseas officers and their potential beneficiaries alive on the appointed day, and beneficiaries alive on the appointed day of deceased contributory overseas officers, in the Widows’ and Orphans’ Pensions Fund established under the Widows’ and Orphans’ Pension Act;
- (ii) The Government shall pay to the Government of the United Kingdom in respect of any overseas officer who continues in relevant service on or after the appointed day, the contributions to the scheme for widows’ and orphans’ pensions which would have been payable during such relevant service, under the provisions of the Widows’ and Orphans’ Pensions Act, [No. 35 of 1966](#).
- (5) The sums payable under this section shall be actuarially determined by an actuary nominated by the Government of the United Kingdom and acceptable to the Government of Swaziland and shall be reduced by a sum accepted by the two Governments as representing the tax which the Government of Swaziland would have received in respect of the Swaziland element of the pensions.

5. Cessation of all previous pensions agreements

- (1) On or after the appointed day the provision of the Overseas Service (Swaziland) Agreement, 1962 and any agreement amending or replacing it relating to the re-imbursement of the Government of Swaziland by the Government of the United Kingdom of a proportion of the cost of a pension shall cease to apply to any pension payable to or in respect of an overseas officer in respect of any period beginning on the appointed day.
- (2) On or after the appointed day the provisions of articles 3, 4, 5, 6, 7 of the Public Officers' Agreement and the words "and shall take any action that may be necessary to preserve his pension rights when he is so transferred or promoted" in article 8(2) and articles 8(3) and 9 of the Public Officers' Agreement shall cease to apply to or in respect of overseas officers.