

Zambia

## Non-Designated Expatriate Officers (Retiring Benefits) Act, 1965 Chapter 280

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## Zambia

# Non-Designated Expatriate Officers (Retiring Benefits) Act, 1965

## Chapter 280

Commenced on 7 January 1966

*[This is the version of this document at 31 December 1996.]*

*[75 of 1965; 6 of 1967]*

**An Act to implement the scheme of retirement benefits for non-designated expatriate officers; and to provide for matters incidental thereto or connected therewith.**

### 1. Short title

This Act may be cited as the Non-Designated Expatriate Officers (Retiring Benefits) Act.

### 2. Interpretation

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

**"the appropriate authority"**—

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

**"the appropriate Commission"** has the meaning assigned thereto by the Constitution;

**"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; or
- (c) who, at any time prior to his transfer to the public service, was an established officer or confirmed employee in the public service of the former Federation of Rhodesia and Nyasaland;

**"entitled officer"** means a confirmed officer—

- (a) who is a citizen of a country other than Zambia, whether or not he is also a citizen of Zambia; and
- (b) who, but for the provisions of this Act, would be eligible to be granted an additional pension under regulation 12 of the Pensions Regulations (without taking the provisos to that regulation into account) in the 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 (Northern Rhodesia) Agreement, 1961; and
- (d) who has not received and is not eligible to receive any compensation or other benefit under the Zambia (Compensation and Retiring Benefits) Order, 1964;

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

"**the Government**" means the Government of Zambia or, in respect of any period before the 24th October, 1964, the Government of the former Protectorate of Northern Rhodesia;

"**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 who—

- (a) 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 examination obligations; or
- (b) 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 examination obligations;

"**operative date**" means the 10th January, 1964;

(2) For the purposes of this Act—

- (a) 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 expiration of any leave of absence granted to him pending his retirement;
- (b) when an officer on probation is required to retire—
  - (i) under section 16 of the Zambia Independence Order, 1964; or
  - (ii) in consequence of injury or ill health; or
  - (iii) 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; or
  - (iv) on the grounds of age in accordance with the provisions of the Pensions Laws;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;
- (c) when the appointment of an officer on probationary agreement is terminated for reasons which, if he had been an officer on probation, paragraph (b) would have applied to him, 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 of the termination of his appointment.

(3) 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 authority in an office the pensionable emoluments of which were higher than those of the office of which he was the substantive holder, shall be deemed to have been confirmed in the office in which he was acting.

*[Cap. 1; Cap. 4; Cap. 266]*

### 3. Retirement

- (1) Subject to the provisions of this section, an entitled officer may, after giving to the appropriate authority notice of his intention to do so, being—
  - (a) the prescribed period of notice; or
  - (b) such shorter period of notice as the appropriate authority may accept;retire under this section at any time:

Provided that—

- (i) in the case of an officer who is not on leave of absence after completing a tour of duty at the time when he gives notice of his intention to retire under this section and who, if he gave the prescribed period of notice, 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 Zambia for further duty;
  - (ii) in the case of an officer who is not on leave of absence after completing a tour of duty at the time when he gives notice of his intention to retire under this section and who, before he gives such notice, has been granted permission to proceed on leave of absence after completing a tour of duty on a date within six months of the date on which he gives such notice, the appropriate authority shall accept such shorter period of notice as will enable the officer to proceed on such leave of absence pending retirement without returning to Zambia for further duty;
  - (iii) in the case of an officer who is on leave of absence after completing a tour of duty 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 Zambia for further duty, waive any period of notice required under this section.
- (2) An entitled officer who has given notice of his intention to retire under this section on any date may, with the consent of the appropriate authority, withdraw that notice at any time before that date.
  - (3) No entitled officer shall retire under this section without the permission of the appropriate authority:

Provided that the appropriate authority 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; or
  - (b) who is required to retire on or after his attainment of any age prescribed by law; or
  - (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; or
  - (d) who is required to retire in the public interest; or
  - (e) who is required to retire under section 16 of the Zambia Independence Order, 1964; 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 section.

#### **4. Supersession of certain entitled officers**

- (1) Where, in pursuance of a policy of according preference to persons who are citizens of Zambia, the appropriate authority appoints or promotes to any office in the public service a citizen of Zambia in preference to an entitled officer whom, having regard to his merit, qualifications and seniority, it would otherwise have promoted to the office, the appropriate authority shall inform the Permanent Secretary (Establishments) of the name of that entitled officer and the Permanent Secretary (Establishments) shall thereupon, by notice in writing, inform that 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, after giving to the appropriate authority notice of his intention to do so, retire under this section at any time thereafter:

Provided that—

- (i) no officer shall 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 three;
  - (ii) if an officer who has been informed of his supersession for promotion subsequently is granted and accepts promotion to another office in the public service, he shall cease 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 last granted promotion; or
    - (b) he is informed under subsection (1) that he has again been superseded for promotion.
- (3) An entitled officer who has given notice of his intention to retire under this section on any date may, with the consent of the appropriate authority, withdraw that notice at any time before that date.
- (4) No entitled officer shall retire under this section without the permission of the appropriate authority:

Provided that the appropriate authority 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.

## 5. Date of retirement and pension of entitled officer entering contract of re-employment under Government

- (1) This section applies to an entitled officer who—
- (a) gives notice under section three or four of his intention to retire; and
  - (b) at the same time, informs the appropriate authority of his desire to enter into a contract of re-employment under the Government immediately following his retirement.
- (2) Where an entitled officer to whom this section applies enters into a contract of re-employment under the Government, he shall, notwithstanding anything to the contrary in this Act, be treated for the purpose of this Act as if—
- (a) in the case of an entitled officer who gives notice under section three of his intention to retire, he retired under that section; or
  - (b) in the case of an entitled officer who gives notice under section four of his intention to retire, he retired under that section;

on the expiry of the day immediately preceding the day on which such contract of re-employment is expressed to commence.

- (3) Where an entitled officer to whom this section applies enters into a contract of re-employment under the Government whereby it is agreed that a sum of money shall be payable in instalments to that officer by the Government in respect of and for the duration of a period of time calculated by reference to a period of leave of absence which, but for the operation of the provisions of subsection (2), might have been granted to that officer pending his retirement under this Act, such sum of money and such period of time shall, notwithstanding anything to the contrary in the Pensions

Laws, be taken into account for the purpose of computing the amount of the pension which may be granted under the Pensions Laws to that officer on his retirement under this Act as if—

- (a) references in the Pensions Laws to emoluments which shall be taken into account as pensionable emoluments included a reference to such sum of money; and
  - (b) references in the Pensions Laws to periods which shall be taken into account as pensionable service included a reference to such period of time.
- (4) In this section—

"contract of re-employment under the Government" means a written contract of service whereby the person employed is re-engaged, following his retirement under this Act, to serve in the public service for a period of not less than twenty-four months.

*[No. 6 of 1967]*

## **6. Benefits in respect of leave, passages and baggage facilities for certain entitled officers**

- (1) In the case of an entitled officer who retires under subsection (1) of section three or who retires under section four (not being an officer to whom subsection (3) applies) and—
- (a) who is on leave of absence after completing a tour of duty at the time when he gives notice of his intention to retire—
    - (i) if he returns to Zambia for further duty at the requirement of the appropriate authority, he shall be provided with such passages for himself and his family and such baggage facilities as an officer of similar status is entitled to under General Orders when returning to Zambia for a tour of duty, and when retiring from the public service having attained the age of fifty-five years and having completed a final tour of duty;
    - (ii) if he returns to Zambia to settle his affairs and on his return completes a tour of duty of not less than twelve months, he shall be paid the cost of the passages for himself and his family and of transporting his baggage to Zambia (but not exceeding the cost of such passages and baggage facilities as an officer of similar status is entitled to under General Orders when returning to Zambia for a tour of duty) and provided with such passages for himself and his family and such baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of duty;
    - (iii) if he does not return to Zambia, he shall be provided with such baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of duty;
  - (b) who is not on leave of absence after completing a tour of duty at the time when he gives notice of his intention to retire, he shall be provided with such passages and baggage facilities for himself and his family as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of duty.
- (2) In the case of the retirement of an entitled officer who is required to retire in the circumstances described in paragraph (c) or (e) of subsection (4) of section three, and—
- (a) who is on leave of absence after completing a tour of duty—
    - (i) he shall, 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 such leave of absence from that date up to six months; and

- (ii) he shall (if he returns to Zambia to settle his affairs) be provided with a passage to Zambia for his own use as if he were returning to Zambia for a further tour of duty and such passage and such baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of duty; and
    - (iii) in the case of the retirement of an entitled officer who is required to retire in the circumstances described in paragraph (e) of subsection (4) of section three and who returns to Zambia to settle his affairs, he shall be paid a subsistence allowance at the rate prescribed by General Orders for the period (but not exceeding twenty-one days) of his stay in Zambia;
  - (b) who is not on leave of absence after completing a tour of duty—
    - (i) he shall not be required to depart from Zambia 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; and
    - (ii) he shall be provided with such passages and baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of duty;
    - (iii) he 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.
- (3) In the case of an entitled officer who is informed under subsection (1) of section four of his supersession for promotion and—
  - (a) who, being on leave of absence after completing a tour of duty when he is so informed, gives notice of his intention to retire under section four on the expiry of that leave of absence—
    - (i) he shall, if the period of leave on full pensionable emoluments for which he is eligible on the date upon which he is so informed is less than six months, be granted such additional leave on full pensionable emoluments as will bring the aggregate period of such leave of absence from that date up to six months; and
    - (ii) he shall, if he returns to Zambia to settle his affairs—
      - (A) be provided with a passage to Zambia for his own use as if he were returning to Zambia for a further tour of duty and such passage and such baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a tour of duty; and
      - (B) be paid a subsistence allowance at the rate prescribed in General Orders for the period (but not exceeding twenty-one days) of his stay in Zambia;
  - (b) who, not being on leave of absence after completing a tour of duty when he is so informed and who, not having been on such leave of absence after being so informed, gives notice of his intention to retire under section four—
    - (i) he shall, if the period of leave on full pensionable emoluments for which he is eligible on the date upon which he proceeds on leave pending retirement is less than six months, be granted such additional leave on full pensionable emoluments as will bring the aggregate period of such leave of absence from that date up to six months; and
    - (ii) he shall be provided with such passages and such baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public

service having attained the age of fifty-five years and having completed a final tour of duty;

- (c) who, not being on leave of absence after completing a tour of duty when he is so informed, thereafter proceeds on such leave of absence and within six months of being so informed gives notice of his intention to retire under section four on the expiry of that leave of absence—
  - (i) he shall, if the period of leave on full pensionable emoluments for which he was eligible on the date on which such leave of absence commenced 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 the date on which it commenced up to six months; and
  - (ii) he shall be provided with such baggage facilities as an officer of similar status is entitled to under General Orders when retiring from the public service having attained the age of fifty-five years and having completed a final tour of duty.
- (4) No entitled officer shall, in pursuance of the provisions of this section, be provided with overseas passages for himself or his family or be paid the cost of such passages unless his conditions of service include an entitlement to overseas passages.

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

- (1) Where an entitled officer dies and it is lawful under the provisions of the Pensions Laws 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 section eight if he had retired under this Act at the date of his death, whichever is the greater:

Provided that, in the case of an officer to whom Part II of the Pensions Regulations applied, in respect of that proportion of the pensions for which he would have been eligible, if he had retired under this Act at the date of his death and which is attributable to his pensionable service otherwise than in the public service, the permitted fraction referred to in section eight shall not be less than three-quarters.

- (2) For the purposes of the proviso to subsection (1), the proportion of a pension which is attributable to the pensionable service of an officer otherwise than in the public service shall be that proportion of the pension for which the officer would have been eligible if his pensionable service had been wholly in the public service as the aggregate amount of his pensionable emoluments during his pensionable service otherwise than in the public service bears to the aggregate amount of his pensionable emoluments throughout his pensionable service.
- (3) The Permanent Secretary, Ministry of Finance, may direct that instead of being paid to the personal representatives, any gratuity payable under this section 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.

## 8. Grant of pensions and gratuities

- (1) Subject to the provisions of section twelve, an entitled officer, on his retirement under this Act, may be granted at his option (such option to be exercised in accordance with the provisions of regulation 16 of the Pensions Regulations) either—
  - (a) a pension of such amount as may be granted under the Pensions Laws; or
  - (b) a reduced pension equal to such fraction as he may desire of the pension that may be granted under the Pensions Laws (not being, in the case of an entitled officer who retires after completing less than twelve years' service under the Government after 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 entitled officer who retires after completing not less than twelve years' service under the Government after the operative date, a gratuity equal to the annual amount of the pension that may be granted under the Pensions Laws multiplied by the appropriate factor.
- (2) For the purposes of this section, an entitled officer shall be deemed to be eligible for the grant of a pension under the Pensions Laws—
- (a) notwithstanding that he may have retired before attaining the age specified in the Pensions Laws 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 Pensions Laws to render him eligible for the grant of a pension.
- (3) Where an entitled officer retires by reason of injury or ill health in circumstances in which he could under the Pensions Laws be granted an additional pension, the provisions of this section shall have effect in relation to that officer as if references to the pension that may be granted under the Pensions Laws included references to that additional pension.
- (4) Where an entitled officer retires under this Act in circumstances in which he is entitled to be granted an additional pension under section nine, the provisions of this section shall have effect in relation to that officer as if references to the pension that may be granted under the Pensions Laws included references to that additional pension.
- (5) Where an entitled officer—
- (a) is required to retire in the circumstances described in paragraph (c) or (e) of subsection (4) of section three;
  - or
  - (b) is required to retire on the grounds of age before attaining the age of fifty-five years; or
  - (c) retires under section four; or
  - (d) retires under the provisions of this Act after completing a period or periods of resident service, amounting in the aggregate to not less than twenty-four months, reckoned from the operative date or the date with effect from which he was last granted promotion in the public service, whichever is the later;

then, for the purposes of this section, the amount of the pension or gratuity that may be granted to the entitled officer under the Pensions Laws 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 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 opted for the grant of a pension of such amount as may be granted under the Pensions Laws.
- (7) In this section—

"the appropriate factor", in relation to an entitled officer, means the factor obtained from the Table in the 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 entitled officer who retires after completing less than one year's service under the Government after the operative date, means three-quarters;

- (b) in relation to an additional pension granted on account of injury under regulation 13(1) of the Pensions Regulations, means three-quarters;
- (c) subject to paragraph (b), in relation to an entitled officer who retires after completing not less than one and not more than twelve years' service under the Government after the operative date, means such fraction as is obtained by subtracting one-sixteenth for each completed year of his pensionable service under the Government after the operative date from three-quarters:

Provided that, in reckoning for the purposes of this definition the years of pensionable service under the Government after the operative date of an entitled officer whose pensionable service has been wholly under the Government and 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.

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

- (1) Subject to the provisions of this section, an entitled officer who retires—
  - (a) in the circumstances described in paragraph (c) or (e) of subsection (4) of section three; or
  - (b) under section four;
 shall be granted at his option (such option to be exercised in accordance with the provisions of regulation 16 of the Pensions Regulations) either—
  - (i) an additional pension calculated in accordance with subsection (3); or
  - (ii) a gratuity equal to one-half of the compensation (excluding interest thereon) to which he would have been entitled if, on the 1st May, 1964, or the date on which his pensionable service under the Government commenced, whichever is the later, he had been a designated officer for the purposes of the Overseas Service (Northern Rhodesia) Agreement, 1961, and an entitled officer for the purposes of the Zambia (Compensation and Retiring Benefits) Order, 1964.
- (2) Subject to the provisions of this section, but without prejudice to the grant of an additional pension on account of injury under regulation 13 (1) of the Pensions Regulations, an entitled officer (not being 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—
  - (a) in the case of an entitled officer to whom Part II of the Pensions Regulations applies, a pension equal to one-third of the amount of the pension which the officer would have been eligible to be granted under the Pensions Laws if the pensionable service of the officer had been wholly under the Government;
  - (b) in the case of any other entitled officer, a pension equal to one-third of the amount of the pension which the officer is eligible to be granted under the Pensions Laws.
- (4) The additional pension payable to an entitled officer under this section, together with the pension payable to the officer under the Pensions Laws, shall not exceed the amount of the pension which the officer would have been eligible to be granted under the Pensions Laws 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, having received all increments for which he would have been eligible by that date.
- (5) For the purposes of this section, references in section eleven 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 Laws 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).
- (7) The provisions of regulation 12 of the Pensions Regulations shall not apply to an entitled officer.

## 10. Additional pension or gratuity payable to certain retired officers re-employed

- (1) This section applies to an entitled officer who has retired under this Act and—
  - (a) who, immediately prior to his retirement, was not eligible to be granted an additional pension under section nine; and
  - (b) who, without a break in the continuity of his service, is re-employed by the Government.
- (2) Subject to the provisions of subsection (4), where the re-employment under the Government of a person to whom this section applies is terminated in circumstances in which, if he had not retired, subsection (1) of section nine would have applied to him, he shall, with effect from the day following the last day of his re-employment under the Government, be granted, at his option, the additional pension or gratuity which he would have been entitled to be granted under subsection (1) of section nine on the date immediately prior to his retirement under this Act if that subsection had applied to him on that date.
- (3) Subject to the provisions of subsection (4), where a person to whom this section applies continues in re-employment under the Government until such time as, if he had not retired, he would have completed the prescribed period of resident service, he shall, with effect from the day following the day on which he completes such period, be granted the additional pension which he would have been entitled to be granted under subsection (2) of section nine on the date immediately prior to his retirement under this Act had he completed the prescribed period of resident service on such date.
- (4) No person shall—
  - (a) be granted an additional pension or gratuity by virtue of subsection (2) if he has been granted an additional pension by virtue of subsection (3); or
  - (b) be granted an additional pension by virtue of subsection (3) if he has been granted or is eligible to be granted an additional pension or gratuity by virtue of sub-section (2).
- (5) Where a person who has been granted a pension or a reduced pension and gratuity in accordance with the provisions of subsection (1) of section eight is subsequently granted an additional pension by virtue of this section, the option exercised or deemed to have been exercised by him under that section shall have effect as if it had been exercised in relation to the aggregate of that pension and the additional pension granted by virtue of this section:

Provided that where such person did not opt to be granted a reduced pension equal to the permitted fraction of the pension that may be granted under the Pensions Laws, he may, on or before the date on which he becomes eligible to be granted an additional pension by virtue of this section or such later date as the appropriate Commission may allow—

- (a) revoke his previous option; and
- (b) opt instead for the grant of a reduced pension equal to the permitted fraction of the aggregate of the pension that may be granted under the Pensions Laws and the additional pension granted by virtue of this section together with a gratuity equal to the annual amount of the remaining fraction of the aggregate of those pensions multiplied by the appropriate factor;

and, if he does so, the pensions payable to him shall be adjusted accordingly and any pension over-payments made to him after his retirement shall be recovered by deducting an equivalent amount from the gratuity payable to him.

- (6) An option conferred by subsection (5) shall be exercised by notice in writing addressed to the Permanent Secretary (Establishments) and shall, when exercised, be irrevocable.
- (7) In this section, "the appropriate factor" and "the permitted fraction", in relation to a person to whom this section applies, mean respectively the appropriate factor and the permitted fraction (as defined by subsection (7) of section eight) which were applicable to such person on the date immediately prior to his retirement.

## 11. Place of payment and rate of exchange

- (1) Any pension or gratuity payable under this Act to an officer or to his personal representatives or dependants shall, subject to the provisions of subsection (2), 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 Zambia;
  - (c) in the country from which the officer was recruited or where he intends to reside;
  - (d) in the case of payments 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 Zambia, 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.

- (2) A request made under subsection (1) for the payment of any pension or gratuity outside Zambia shall have effect.

## 12. Application of the Pensions Laws

The provisions of the Pensions Laws shall, subject to the provisions of this Act, apply in relation to the grant of any pensions or gratuity under this Act 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 Pensions Laws.

## 13. Exemption from tax

Any gratuity payable under the provisions of this Act shall be exempt from tax under any written law relating to the taxation of incomes or imposing any other form of taxation.

## 14. Transitional provisions

- (1) Where any officer or authority has before the commencement of this Act in pursuance of any provisions of the 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 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 the provisions of this Act shall have effect accordingly.
- (2) Where any officer has before the commencement of this Act in pursuance of any provision in the Scheme 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 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 the provisions of this Act shall have effect accordingly.

- (3) Any officer who has, before the 24th October, 1964, been required under the provisions of the Scheme to retire to facilitate the localisation of the public service shall, for the purposes of this Act, be deemed to have retired under section 16 of the Zambia Independence Order, 1964.

### **Schedule (Sections 8 and 10)**

#### **Instructions for obtaining the appropriate factor**

- 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. Subtract II from I (a). III is the factor required.

In calculating factors by interpolation, calculations should be taken to three places of decimals.

<b>Table</b>			
<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