

**THE PENSIONS (CONSOLIDATION) LAW, 1965**

(No. 17 of 1965)

(Date of commencement 14th January, 1966)

as amended by

**THE PENSIONS (CONSOLIDATION) (AMENDMENT) LAW, 1965**

(No. 23 of 1965)

(Date of commencement 14th January, 1966)

and

**THE PENSIONS (CONSOLIDATION) (AMENDMENT) LAW, 1966**

(No. 39 of 1966)

(Promulgated 23rd September, 1966)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
ORDER, 1966**

(Legal Notice No. 84 of 1966)

(Date of commencement 30th September, 1966)

and

**THE PENSIONS (AMENDMENT) REGULATIONS, 1967**

(Statutory Instrument No. 3 of 1967)

(Published on 20th January, 1967)

and

**THE CONSTITUTIONAL AMENDMENT (ADAPTATION OF EXISTING LAWS)  
(NO. 10), ORDER 1967**

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## **THE PENSIONS (CONSOLIDATION) LAW, 1965**

**NO. 17 OF 1965**

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#### **FIRST SCHEDULE**

Pensionable Officers

#### **SECOND SCHEDULE**

Regulations for the Granting of Pensions, Gratuities and Other Allowances to Officers

(1) amended by Legal Notice 84 of 1966

(2) inserted by Law 23 of 1966.

**A LAW TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE GRANTING OF PENSIONS AND OF SUPERANNUATION AND OTHER ALLOWANCES TO AND IN RESPECT OF PERSONS EMPLOYED IN THE PUBLIC SERVICE OF BOTSWANA**

*(14th January, 1966)*

ENACTED by the Legislature of Bechuanaland.

**Short Title**

1. This Law may be cited as the Pensions (Consolidation) Law, 1965.

**Interpretation**

2. (1) In this Law, unless the context otherwise requires –

“Botswana” in relation to any period of time prior to the 30th September, 1966 means the Bechuanaland Protectorate<sup>1</sup>;

“inducement allowance” means the inducement allowance referred to in clause 3(a) of the Overseas Service (Bechuanaland Protectorate) Agreement, 1962, set out in the Schedule to the Overseas Service Law, 1963;

“legal personal representative” in relation to a person who is dead, means the person in whom by law or by customary law, whichever may be applicable, the estate of that person is vested;

“Lesotho” means in relation to any period prior to the 4th October, 1966, Basutoland<sup>1</sup>;

“non-pensionable office” means an office which is not a pensionable office;

“other public service” means public service not under the Government of Botswana<sup>2</sup>;

“overseas officer” means an officer serving on terms of service which provide for the payment to him of an inducement allowance;

“pensionable emoluments” –

- (a) in respect of public service in Botswana<sup>2</sup> include –

- (i) salary;

- (ii) inducement allowance;

- (iii) personal allowances;

but do not include duty allowance, entertainment allowance or any other emoluments whatever;

Provided that for the purpose of calculating the aggregate pensionable emoluments of officers retiring from the public service subsequent to

(1) inserted by S.I. 50 of 1967

(2) amended by Legal Notice 84 of 1966

the first day of January, 1967, pensionable emoluments shall include an additional onesixth of salary (which shall be deemed to be the value of free quarters) in respect of service prior to that date.

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

“pensionable office” means —

- (a) in respect of public service in Botswana<sup>1</sup> an office for the time being included in the First Schedule; but where by virtue of any amendment to the First Schedule any office ceases to be a pensionable office, then so long as any person holding that office at the time of the amendment continues therein, the office shall as respects that person continue to be a pensionable office;
- (b) in relation to other public service, an office which is for the time being a pensionable office under the law or regulations in force in respect of such service;

“personal allowance” means a special addition to salary granted personally to the holder for the time being of the office, but pensionable emoluments do not include such an addition if it is granted subject to the condition that it shall not be pensionable;

“prescribed” means prescribed by this Law and any regulations made thereunder;

“public service” means —

- (a) service in a civil capacity under the Government of Botswana<sup>1</sup> or any other country or territory in the Commonwealth;
- (b) service under the East African High Commission, the East African Railways and Harbours Administration, the East African Ports and Telecommunications Administration, or the East African Common Service Organisation;
- (c) service which is pensionable —
- (i) under the Overseas Superannuation Scheme;
- (ii) under any Acts relating to the Superannuation of teachers in the United Kingdom;
- (iii) under a local authority in the United Kingdom; or
- (iv) under the National Health Service of the United Kingdom;
- (d) any other service the President may determine to be public service for the purposes of this law;<sup>2</sup>
- (e) except for the purposes of computation of a pension, gratuity or other

(1) amended by Legal Notice 84 of 1966

(2) inserted by S.I. 50 of 1967

allowance and of section 10, service in respect of which a pension may be granted under the Governors' Pensions Act, 1957 (5 and 6 Eliz.2.c.62):

- (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 East African Court of Appeal Order in Council, 1961 (S.I. 1961 No. 2323);
- (g) service in the service of the Interim Commissioner for the West Indies;
- (h) service in the public service of the Union of South Africa in respect of any officer transferred from a pensionable office in that service to a pensionable office under the service of the Government of Bechuanaland before the 1st January, 1960;

"Public Service Commission" in relation to an officer to whom the provisions of Section 111 (2) of the Constitution are applicable, means the authority which, in terms of the Constitution, is empowered to remove such officers from office or, in cases where the provisions of section 115 of the Constitution are applicable, the appropriate Commission for the purpose of that section;

"Salary" means the salary attached to a pensionable office or a non-pensionable office for taking service in a non-pensionable office into account as pensionable service, the salary attached to that office, and includes the value of rations and fuel or any other allowances of a permanent character given as an equivalent of salary.

"The Regulations" means the Pensions Regulations, 1965, contained in the Second Schedule.

(2) For the avoidance of doubts it is hereby declared that where an officer has been confirmed in a pensionable office and is thereafter appointed to another pensionable office, then, unless the terms of such appointment otherwise require, such last mentioned office is, for the purposes of this Law an office in which he has been confirmed.

(3) Where a pensionable office is abolished, and the person holding that office retires from the public service in consequence, he shall, if the office is abolished before that day, be deemed to have continued to hold it until the day immediately preceding the date of his retirement.

(4)<sup>2</sup>

### **Pensions Regulations**

3. Pensions, gratuities and other allowances may be granted by the Minister acting with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>3</sup> in accordance with the Regulations to or in respect of officers who have been in public service under the Government of Botswana.

#### **Amendments to First and Second Schedules**

4. (1) The President<sup>1</sup> may from time to time –

(a) by notice, amend the First Schedule by the addition thereto or the removal therefrom of any office;

(b) make regulations amending, adding to or revoking the Regulations.

(2) All notices and regulations made under the provisions of sub-section (1) shall be published in the *Gazette*.

(3) Whenever the President<sup>1</sup> is satisfied that it is equitable that any notice or regulation made under sub-section (1) should have retrospective effect in order to confer a benefit upon or remove a disability attaching to any person, that notice or regulation may be given retrospective effect for that purpose.

(4) All notices and regulations made under this section shall have the same force and effect as if they were contained in the First and Second Schedule respectively and the expression "this Law" shall, wherever it occurs in this Law be construed as including a reference to the said Schedules.

(5) Any pension, gratuity or other allowance granted under this Law shall be computed in accordance with the provisions in force, or, having been in accordance with sub-section (1), may be deemed to be in force, at the actual date of an officer's retirement or death while in the public service, as the case may be.

#### **Pensions, etc., to be Charged on Revenues of Botswana<sup>1</sup>**

5. There shall be charged and paid out of the revenues of Botswana<sup>1</sup> all such sums as may from time to time be granted by way of pension, gratuity or other allowance in pursuance of this Law.

#### **Pensions, etc., Not of Right**

6. (1) No officer shall have an absolute right to compensation for past services or to pension, gratuity or other allowances; nor shall anything in this Law affect the right of the Public Service Commission<sup>1,2</sup> to dismiss any officer at any time and without compensation.

(2) Subject to the provisions of section 118 of the Constitution, where<sup>2</sup> it is established to the satisfaction of the Public Service Commission<sup>1,2</sup> that an officer has been guilty of negligence, irregularity or misconduct, the pension, gratuity or other allowance may be reduced or altogether withheld.

(3) Notwithstanding the provisions of sub-section (1) any person appointed to the public service of Botswana<sup>1</sup> as a medical officer who also exercises private practice as a physician, surgeon or accoucheur shall not be deemed to be or to have been the holder of a pensionable office unless and until he has signed an undertaking in a form approved by the President<sup>1</sup> to regard the claims of his private practice on his time as subordinate to those of his work for the Govern-

(1) amended by L.N. 84 of 1966

(2) amended by S.I. 50 of 1987

ment of Botswana<sup>1</sup> and to hold himself liable, without title to advance any claim for loss of private practice, to be removed for the purposes of public service from any one place or station in Botswana<sup>1</sup> to any other.

#### **Circumstances in Which Pensions May be Granted**

7. (1) No pension, gratuity or other allowance shall be granted under this Law to any officer except on his retirement from the public service in one of the following cases -

- (a) if he retires from public service under the Government of Botswana<sup>1</sup> -
  - (i) on or after he attains the age of fifty-five years; or subject to six months' notice of his retirement, on or after attaining the age of forty-five years;
  - (ii) on the abolition of his office;<sup>2</sup>
  - (iii) on compulsory retirement for the purpose of facilitating improvement in the organisation of the department to which he belongs, by which greater efficiency or economy may be effected;
  - (iv) on medical evidence to the satisfaction of the Public Service Commission<sup>1,2</sup> that he is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;
  - (v) on compulsory retirement in any other circumstances not amounting to dismissal.
- (b) if, having been transferred to other public service -
  - (i) he retires after he attains the age at which he is permitted by the law or regulations of the public service in which he is last employed to retire on pension or gratuity or, if no age is prescribed by the said law or regulations, he retires after he attains the age of forty-five; or
  - (ii) he retires in any other circumstances in which he is permitted by the said law or regulations to retire on pension or gratuity;

Provided that this sub-paragraph shall not apply in the case of a female officer who retires for the reason that she has married or is about to marry.

(2) Notwithstanding that she is not otherwise eligible under this section for the grant of any pension, gratuity or other allowance, a gratuity may be granted to a female officer, in accordance with the provisions of this Law, who retires from the public service for the reason that she has married or is about to marry.

(3) An officer not otherwise qualified for a pension, gratuity or other allowance under this Law, other than a pension under regulation 23 of the Regulations, may, on his retirement or removal from his employment after having

(1) amended by L.N. 84 of 1966

(3) substituted by S.I. 50 of 1967

(2) amended by S.I. 50 of 1967

served in the public service under the Government of Botswana<sup>1</sup>, be granted a gratuity in accordance with the provisions of regulation 25 of the Regulations :

Provided that this sub-section shall not apply to any officer who is serving in the public service on pensionable terms.

#### **Deferred Pensions<sup>2</sup>**

7A. (1) Notwithstanding the provisions of section 7 but subject to the provisions of this section, an officer to whom this section applies may on the termination of contract service be granted, in respect of his service on pensionable terms in the public service referred to in sub-section (6), a pension under regulation 4, 9, 10 or 11 of the Regulations as the case may be, as if those regulations had been applicable to him irrespective of the length of his service<sup>3</sup> and as if he had retired from the public service referred to in sub-section (6) on the day immediately preceding the transfer date.

(2) An officer to whom this section applies shall not be granted a pension under sub-section (1), unless he has completed a period of not less than three years<sup>4</sup> contract service exclusive of leave after the transfer date.

(3) An officer to whom this section applies may be granted a pension under sub-section (1), notwithstanding the provisions of sub-section (2), if the circumstances in which he fails to complete the period of contract service specified in the said sub-section (2) are circumstances in which, had he continued to serve on pensionable terms in the public service referred to in sub-section (6), he would have been eligible for a pension, gratuity or other allowance under this Law:

Provided that any entitlement to retire on pension under the provisions of any scheme of retirement benefits in respect of any officers serving on pensionable terms in public service under the Government of Botswana<sup>1</sup>, Lesotho<sup>4</sup> and Swaziland<sup>4</sup> shall not constitute, in respect of any officer to whom this section applies circumstances which make him eligible for the grant of a pension under the said sub-section (1).

(4) In respect of an officer to whom this section applies no regard shall be had to sections 6 (2), 8, 11 or 16.

(5)<sup>3</sup> If an officer to whom this section applies dies before he is eligible for the grant of a pension under sub-section (1), the Minister with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>4</sup>, may grant to his legal personal representative a gratuity not exceeding an amount of -

(a) the annual pensionable emoluments enjoyed by him immediately prior to the transfer date; or

(b) the maximum gratuity which might have been granted to the officer if on

(1) amended by L.N. 84 of 1966  
(2) inserted by Law 23 of 1965

(3) replaced or amended by Law 37 of 1966  
(4) amended by S.I. 50 of 1967

highest pensionable emoluments at any time in the course of his public service.

(5) For the purposes of this section any increase in pension payable from the funds of Botswana<sup>1</sup> in respect of a pension granted under this Law, or any comparable increase in the pension or pensions drawn in respect of other public service, whether or not such increase is governed by any instrument having the force of law shall not be taken into account.

#### **Suspension of Pension on Re-employment**

11. Subject to the provisions of section 118 of the Constitution<sup>2</sup>, if a person to whom a pension has been granted under this Law or any law repealed by this Law is appointed to an office in the public service, the payment of his pension may, if the President<sup>1</sup> thinks fit, be suspended during the period of his re-employment.

#### **Pensions, etc., not to be Assignable**

12. A pension, gratuity or other allowance granted under this Law shall not be assignable or transferable except for the purpose of satisfying –

- (a) a debt due to the Government of Botswana<sup>1</sup>, or
- (b) an order of any competent court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor child of the person to whom the pension, gratuity, or other allowance has been granted,

and shall not be liable to be attached, sequestrated or levied upon for or in respect of any debt or claim whatever except a debt to the Government as aforesaid.

#### **Pensions, etc., to Cease on Bankruptcy**

13. (1) Where any person to whom a pension or other allowance has been granted under this Law is adjudicated bankrupt or is declared insolvent by judgment of any competent court, then such pension or allowance shall forthwith cease.

(2) Where any officer is adjudicated bankrupt or declared insolvent by judgment of any competent court either –

- (a) after retirement in circumstances in which he is eligible for pension, gratuity, or other allowance, under this Law, but before the pension, gratuity, or other allowance is granted; or
- (b) before such retirement, and he has not obtained his discharge from bankruptcy or insolvency at the date of retirement, then, in the former case, any pension or other allowance eventually granted to him shall cease as from the date of adjudication or declaration (as the case may be) and, in the latter case, the pension or other allowance may be granted, but shall not

(1) amended by L.N. 84 of 1966

(2) amended by S.I. 50 of 1987

be paid to him and in either case the gratuity may be granted, but shall not be paid to him.

(3) Where a pension or other allowance ceases or is not paid, or where any gratuity is not paid, by reason of this section, it shall be lawful for the President<sup>1</sup>, with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>2</sup> from time to time during the remainder of such person's life, or during such shorter period or periods, either continuous or discontinuous, to direct all or any part of the moneys to which such person would have been entitled by way of pension, gratuity, or other allowance, had he not become bankrupt or insolvent, to be paid to, or applied for, the maintenance or benefit of all or any to the exclusion of the other or others, of the following that is to say, such person and his wife, child, or children, or such other dependants as the President<sup>1</sup> with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>2</sup> may determine, in such proportion and manner as he thinks proper; and such moneys shall be paid or applied accordingly.

(4) Moneys applied for the discharge of debts of the person whose pension or other allowance has ceased or has not been paid, or whose gratuity has not been paid, by reason of this section shall, for the purposes of this section, be regarded as applied for his benefit.

(5) Where a person whose pension or other allowance has ceased or has not been paid, or whose gratuity has not been paid, by reason of this section obtains his discharge from bankruptcy or insolvency, it shall be lawful for the President<sup>1</sup> with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>2</sup> to direct that the pension or other allowance shall be restored or paid and the gratuity or so much thereof (if any) as remains after deducting any payments made under sub-section (3), paid as from the date of such discharge or any later date; and the pension or other allowance shall be restored or paid and the gratuity or such remainder thereof (if any) paid, accordingly.

(6) For the purposes of this section "child" includes an illegitimate child, a step-child, an adopted child and a child for whom by any applicable customary law the officer is responsible, but shall not include a child who has attained the age of twenty-one years or, in the case of a female child, has married.

#### **Pensions, etc., May Cease on Imprisonment**

14. (1) Where any person to whom a pension or other allowance has been granted under this Law is sentenced to death or to a term of imprisonment by any competent court for any offence, such pension or allowance shall, if the President<sup>1</sup> so directs, cease as from such date as he determines.

(1) amended by L.N. 84 of 1966

(2) amended by S.I. 50 of 1967

the day following his death he had left the public service referred to in sub-section (6) in circumstances which enabled a pension to be granted to him under the said sub-section (1) and he had been granted in lieu of that pension a gratuity and a reduced pension or gratuity only in accordance with regulation 24 of the Regulations, whichever is the greater.

(6) This section applies to an officer in the public service under the Governments of Botswana<sup>1</sup>, Lesotho<sup>2</sup> or Swaziland who –

- (a) immediately before the transfer date was serving on pensionable terms in the public service under the Government of Botswana<sup>1</sup>, Lesotho<sup>2</sup> or Swaziland;
- (b) on the transfer date had not attained the age of 45 years;
- (c) is not a member of Her Majesty's Overseas Civil Service or an overseas officer;
- (d) on the transfer date was not a British protected person by reason of his connection with Botswana or in relation to an officer in service in Lesotho<sup>2</sup>, is not entitled as of right to remain permanently in Lesotho<sup>2</sup> under the provisions for the time being in force in respect of entry and residence therein, or in relation to an officer in service in Swaziland, is an officer in respect of whom Her Majesty's Commissioner in his discretion determines that the officer is not entitled as of right to remain permanently in Swaziland;
- (e) has since the transfer date been the substantive holder of an office, service in which in this section referred to as "contract service" may not during his tenure thereof be taken into account as service on pensionable terms.

(7) In this section "transfer date" means, in relation to an officer to whom the section applies, the date on which he transferred to non pensionable employment in public service under the Government of Botswana<sup>1</sup> in accordance with the Review of Emoluments of the Public Service by Thomas Monier Skinner, Esquire, C.M.G., O.B.E., as read with and modified by Establishment Circular No. 29 of 1965 and the Secretary of State's memorandum set out therein, as read with Basutoland's Establishment Skinner Report Circular No. 1 of 28th July, 1965, as read with and amended by Swaziland Establishment Circular No. 24 of 1965 and the Secretary of State's memorandum referred to therein.

#### **Retirement on Grounds of Public Interest**

8. Subject to the provisions of section 118 of the Constitution, where an officer's service is terminated in terms of section 7 (1) (a) (v) and a pension, gratuity or other allowance cannot otherwise be granted to him under the provisions of this Law, the Minister<sup>2</sup> may, if he thinks fit, grant such pension, gratuity or other allowance as he thinks just and proper, not exceeding in amount that for

(1) amended by L.N. 84 of 1966

(2) amended by S.I. 50 of 1967

which the officer would be eligible if he retired from the public service in the circumstances described in section 7 (1) (a) (iv).

#### **Compulsory and Voluntary Retirement<sup>1</sup>**

9. The Public Service Commission may require an officer to retire from the public service and an officer may retire from such service –

- (a) on or at any time after attaining the age of fifty-five years, or
- (b) at any time after attaining the age of forty-five years, subject to six months' notice in writing being given to or by the officer; or
- (c) in the case of a female officer, on marriage.

#### **Maximum Pension**

10. (1) Except in cases provided for by sub-section (2), a pension granted to an officer under this Law shall not exceed two-thirds of his highest pensionable emoluments at any time while in public service under the Government of Botswana<sup>2</sup>.

(2) An officer who has been granted a pension in respect of other public service shall not at any time draw from the public funds of Botswana<sup>2</sup> an amount of pension which, when added to the amount of any pension or pensions drawn in respect of other public service, exceeds two-thirds of his highest pensionable emoluments at any time in the course of his public service:

Provided<sup>3</sup>

\*(2a) Where an officer receives in respect of some period of public service both a gratuity and a pension, the amount of such pension shall be deemed for the purposes of subsections (1) and (2) to be –

- (i) where the right to commute any part of a pension in return for the payment of a gratuity has been exercised, the amount if that right had not been exercised; or
- (ii) in all other cases, four-thirds<sup>6</sup> of its actual amount.

(3) Where the limitation prescribed by sub-section (2) operates, the amount of pension to be drawn from the public funds of Botswana<sup>2</sup> shall be such amount as the Minister with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>2, 5</sup> shall determine in order that it may be determined with due regard to the amount of any pension or pensions to be drawn in respect of other public service.

(4) For the purposes of sub-sections (1), (2) and (3) an additional pension granted in respect of injury shall not be taken into account; but where the officer is granted such an additional pension under this Law, the amount thereof together with the remainder of his pension or pensions shall not exceed five-sixths of his

(1) replaced by S.I. 50 of 1967

(2) amended by L.N. 84 of 1966

(3) proviso deleted by S.I. 50 of 1967

(4) inserted by S.I. 50 of 1967

(5) amended by S.I. 50 of 1967

(6) see G.N. 113 of 1965

(2) Where any officer is sentenced to death or to a term of imprisonment by any competent court for any offence after retirement in circumstances in which he is eligible for pension, gratuity, or other allowance under this Law but before the pension, gratuity, or other allowance is granted, then –

- (a) the provisions of sub-section (1) shall apply as respects any pension or other allowance which may be granted to him; and
- (b) the President<sup>1</sup> may direct that any gratuity which may be granted to him shall not be paid.

(3) Where a pension or other allowance ceases or is not paid, or a gratuity is not paid, by reason of this section, it shall be lawful for the President<sup>1</sup> to direct all or any part of the moneys to which such person would have been entitled by way of pension, gratuity or other allowance, but for the provisions of this section, to be paid or applied in the same manner in all respects as provided in section 13; and such moneys shall be paid or applied accordingly.

(4) Where any person whose pension or other allowance ceases or is not paid or whose gratuity is not paid, by reason of this section after conviction at any time receives a free pardon, the pension or allowance shall be restored or paid with retrospective effect, or his gratuity shall be paid, but in determining whether arrears of such pension or allowance are payable to such person and in computing the amount thereof and the amount of any gratuity, account shall be taken of all moneys paid or applied under sub-section (3).

(5) Where any pension or other allowance ceases or is not paid or a gratuity is not paid by reason of this section it shall be lawful for the President<sup>1</sup> at any time, and upon such terms and from such date (including any past date) as he thinks fit to restore or direct the payment of, either in whole or in part, such pension or allowance or to direct the payment of such gratuity or any part thereof, but in determining whether arrears of such pension or allowance are payable and in computing the amount thereof and the amount of any gratuity, account shall be taken of all moneys paid or applied under sub-section (3).

<sup>2</sup>(6) In the exercise of his functions under this section the President<sup>1</sup> shall act with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution.

#### **Pensions, etc. on Accepting Certain Appointments**

15. Where any person to whom a pension or other allowance has been granted under this Law, otherwise than under section 17, becomes either a director of any company, or proprietor or partner of any firm, the principal part of whose business is in any way directly concerned with Botswana<sup>1</sup> or an officer or servant employed in Botswana<sup>1</sup> by any such company, without the prior permission in writing of the President<sup>1</sup>, such pension or allowance shall cease if the President<sup>1</sup>

(1) amended by L.N. 84 of 1966

(2) inserted by S.I. 50 of 1967

with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>1</sup> so directs:

Provided that it shall be lawful for the President<sup>2</sup> on being satisfied that the person in respect of whose pension or other allowance any such direction has been given has ceased to be a director of such company, or proprietor or partner of any such firm, or to be employed as an officer or servant of such company in Botswana<sup>3</sup>, as the case may be, to give directions for the restoration of such pension or allowance, with retrospective effect, if he thinks fit, to such a date as he may specify; and the pension or other allowance shall be restored in accordance with any such directions.

#### **Gratuity Where Officer Dies in The Service or After Retirement**

16. (1) Where an officer holding a pensionable office who is not on probation or agreement, or an officer holding a non-pensionable office to which he has been transferred from a pensionable office in which he has been confirmed, dies while in public service under the Government of Botswana<sup>2</sup>, the Minister may, with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>1,2</sup> grant to his legal personal representative a gratuity of an amount not exceeding his annual pensionable emoluments or his commuted pension gratuity, if any, whichever is the greater:

Provided that for the purposes of this section an officer who has not been confirmed in his office and who dies in the circumstances mentioned in section 17 (1) shall be deemed to have been confirmed in his office.

(2) Where an officer dies after retirement from public service under the Government of Botswana<sup>2</sup> having been granted, or having become eligible for, a pension under this Law and the sums paid or payable to him at the date of his death on account of such pension including any sum awarded by way of gratuity under regulation 24 of the Regulations and any pension or gratuity paid or payable in respect of his service under any scheduled administration (as defined in regulation 8 of the Regulations) but excluding any additional pensions awarded in accordance with the provisions of regulations 23 (3) (b) of the Regulations are less in total than the amount of his annual pensionable emoluments the Minister may, with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>1,2</sup> grant a gratuity equal to the deficiency to his legal personal representative.

(3) The provisions of this section shall not apply in the case of the death of any officer where benefits corresponding to the benefits which may be granted under this section are payable under the Overseas Superannuation Scheme in respect of such death or in the case of the death of an officer to whom section 16A applies<sup>3</sup>.

(1) amended by S.I. 50 of 1967

(2) amended by L.N. 84 of 1966

(3) amended by Law 37 of 1966

(4) In this section –

- (a) “annual pensionable emoluments” means the emoluments taken for the purpose of computing any pension or gratuity granted to the officer under this Law or in the case of such officer as is described in sub-section (1), the emoluments which would have been taken in accordance with regulation 18 of the Regulations for the purpose of computing the pension or gratuity that would have been granted to the officer if, on the day following the date of his death, he had retired from the public service in circumstances which enabled such a grant to be made;
- (b) “commuted pension gratuity” means the gratuity, if any, which might have been granted to the officer under regulation if the pensionable service which would be taken for the purpose of computing any pension or gratuity granted to him under this Law had been wholly under the Government of Botswana<sup>1</sup> and if, on the day following the date of his death he had retired from the public service in the circumstances which enabled such a grant to be made and had elected to receive a gratuity and reduced pension.

**\*Gratuities to Dependants when a Non-pensionable Officer Dies in Service as a Result of Injuries Received in the Discharge of his Duties**

16A. (1) Subject to the provisions of section 118 of the Constitution, where<sup>2</sup> an officer to whom this section applies dies while in public service under the Government of Botswana<sup>3</sup> after serving in that public office for not less than five years, it shall be lawful for the Minister<sup>3</sup> to grant to his legal personal representative a gratuity at the rate herein specified for each complete year of that public service, that is to say –

- (a) for each of the first five years, one week's pay;
- (b) for each of the next five years, two weeks' pay;
- (c) for each additional year, four weeks' pay:

Provided that the total amount of the gratuity shall not exceed the amount of one year's pay.

(2) Subject to the provisions of section 118 of the Constitution, where<sup>3</sup> an officer to whom this section applies dies as a result of injuries received in public service under the Government of Botswana<sup>4</sup> in the circumstances specified in section 17 (1) (a) and (b) before completing five years' public service under that Government, it shall be lawful for the Minister<sup>3</sup> to grant to his legal personal representative a gratuity not exceeding five weeks' pay.

(3) This section applies to an officer who holds –

- (a) a non-pensionable office; or

(1) amended by L.N. 84 of 1966

(2) added by Law 23 of 1965

(3) amended by S.I. 50 of 1967

(b) a pensionable office in which he is not serving on probation and (if his appointment to that office is subject to confirmation) in which he has not been confirmed, and who is not eligible for the grant of a pension, gratuity or other allowance under this Law (other than a pension under regulation 23 (4) contained in the First Schedule) or for the grant, under his terms of service, of a gratuity or benefit under any other scheme of superannuation.

(4) For the purposes of this section –

- (a) “pay” means pay at the date of the officer’s death and includes any allowance that the Minister<sup>1</sup> may see fit to include;
- (b) an officer who, having held a non-pensionable office, holds a pensionable office in which he is serving on probation shall be deemed to hold a non-pensionable office and his pay shall be deemed to be the pay last received by him in respect of the non-pensionable office he previously held or the pensionable emoluments of the pensionable office held by him, whichever is the greater;
- (c) in calculating the period in which any officer has served in public service under the Government of Botswana<sup>2</sup> –
- (i) subject to any general or special directions to the contrary that may be given by the Minister<sup>1</sup> only continuous service terminating at his retirement or death shall be taken into account;
- (ii) no regard shall be had to any period of service for which he is eligible for the grant of or has been granted a pension, gratuity or other allowance under this Law (other than a pension under regulation 23 (4) contained in the First Schedule) or, as provided under his terms of service, a gratuity or benefit under any other scheme of superannuation.

**Pensions to Dependants when an Officer Dies as a Result of Injuries Received or Disease Contracted in the Discharge of his Duties**

17. (1) Where an officer while in public service under the Government of Botswana<sup>2</sup>.

- (a) is injured in the actual discharge of duty by some injury specifically attributable to the nature of his duty which is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct; or
- (b) contracts a disease to which he is exposed by the nature of his duty, not being a disease wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct;

and dies as a direct result of such injury or disease, and such death occurs within seven years of the date when he was injured or contracted the disease,

(1) amended by S.I. 50 of 1967

(2) amended by L.N. 84 of 1966

the Minister<sup>2</sup>,<sup>1</sup> may grant, in addition to the grant, if any, made to his legal personal representative under section 16 –

- (i) if the deceased officer leaves a widow, a pension to her at a rate not exceeding ten sixtieths of his annual pensionable emoluments at the date of the injury or forty rand a year, whichever is the greater;
- (ii) if the deceased officer leaves a widow to whom a pension is granted under the preceding paragraph and a child or children, a pension in respect of each child, until such child attains the age of twenty-one years, of an amount not exceeding one-eighth of the pension prescribed under the preceding paragraph;
- (iii) if the deceased officer leaves a child or children, but does not leave a widow, or no pension is granted to the widow, a pension in respect of each child, until such child attains the age of twenty-one years, of double the amount prescribed by the preceding paragraph;
- (iv) if the deceased officer leaves a child or children and a widow to whom a pension is granted under paragraph (i) and the widow subsequently dies, a pension in respect of each child as from the date of the death of the widow until such child attains the age of twenty-one years, of double the amount prescribed in paragraph (ii);
- (v) if the deceased officer does not leave a widow, or if no pension is granted to his widow and if his mother was wholly or mainly dependent on him for her support, a pension to the mother of an amount not exceeding the pension which might have been granted to his widow;
- (vi) if the deceased officer does not leave a widow or mother, or if no pension is granted to his widow or mother and if his father was wholly or mainly dependent on him for his support, a pension to the father of an amount not exceeding the pension which might have been granted to his widow;
- (vii) if the deceased officer does not leave a child or children who is or are eligible for a pension under the provisions of this section, and if any brother or sister was wholly or mainly dependent on him for support, a pension to such brother or sister until he or she attains the age of twenty-one years, of the same amount and subject to the same conditions as the pension which might have been granted under paragraph (ii), (iii) or (iv) as the case may be:

Provided that –

- (a) if in the opinion of the President<sup>1</sup> there are compassionate grounds for so doing, he may grant to any child of a deceased officer being a child who at the date of the death of the officer was wholly or mainly dependent on him

(1) amended by L.N. 84 of 1966

(2) amended by S.I. 50 of 1967

for support and who has attained the age of twenty-one a pension for such period as the President<sup>1</sup> may determine, of an amount not exceeding the pension which may be granted under paragraph (ii), (iii) or (iv) as the case may be;

- (b) where a deceased officer leaves a child who was incapacitated at the time of the officer's death (hereinafter in this section referred to as an "incapacitated child") the President<sup>1</sup> may, notwithstanding any pension which may have been granted under paragraph (ii), (iii) or (iv) grant an additional pension in respect of such incapacitated child after he has attained the age of twenty-one years and so long as his incapacity shall continue, of an amount not exceeding one-half the pension which might have been granted under paragraph (ii), (iii) or (iv) aforesaid, as the case may be;
- (c) where compensation in respect of the death is payable under any law in force in Botswana<sup>1</sup> which provides for the payment of workmen's compensation, or where benefits granted under this section are payable under the Overseas Superannuation Scheme or under the law in force in respect of any other public service, in respect of death, the President<sup>1</sup> may reduce or withhold any pension which may be payable under this section in such manner as he may consider reasonable;
- (d) no pension shall be payable under this sub-section at any time in respect of more than six children exclusive of incapacitated children, and where there are more than six such children, in respect of whom, but for this proviso, a pension would be payable, then the amount payable in respect of six children shall be divided equally among all such children during the period in which there are more than six children of pensionable age;
- (e) in the case of a pension granted under paragraph (v), (vi) or (vii) if it appears to the President<sup>1</sup> at any time that the mother or father, or any brother or sister, is adequately provided with other means of support, such pension shall cease as from such date as the President<sup>1</sup> may determine;
- (f) where a deceased officer has contracted polygamous marriages, and leaves more than one widow, or children born of such marriages and it is impracticable to grant a pension or pensions in the manner prescribed in any of the preceding provisions of this sub-section, the President<sup>1</sup> may –
  - (i) grant a pension, not exceeding the pension which might be granted to a widow under the said provisions to be divided between the polygamous widows in such proportions as the President<sup>1</sup> may direct; and
  - (ii) grant a pension to each such child not exceeding the pension which might have been granted to a child under the said provisions.

(2) No pension shall be granted to the widow of the deceased officer if she was not married to him at the date of injury.

(3) No pension shall be payable to the widow of the deceased officer or to any other female if –

(a) in the case of the widow, she was at the time of the death cohabiting with a person other than the deceased officer or after the death she marries or cohabits with any person;

(b) in the case of a female who is not the widow of the deceased officer, she was at the time of the death married to or cohabiting with any person or after the death she marries or cohabits with any person;

and if, after the grant of pension to the widow or other female, she marries or cohabits with any person, the pension shall cease from the date of the marriage or the commencement of the cohabitation:

Provided that where –

(i) a pension is withheld or ceases under this sub-section; and

(ii) The President<sup>1</sup> is satisfied at a subsequent date that the marriage or cohabitation has come to an end or that there are compassionate grounds for the payment of the pension notwithstanding marriage, the President<sup>1</sup> may, if he thinks fit grant or regrant the pension as from that date.

(4) In the case of an officer not holding a pensionable office the expression “pensionable emoluments” in the preceding sub-section shall mean the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office.

(5)<sup>2</sup>

(6) An officer who dies as a result of an injury received while travelling by air in pursuance of official instructions, which injury is not wholly or mainly due to or seriously aggravated by, his own serious and culpable negligence or misconduct shall be deemed for the purposes of this section to have died in the circumstances described in subsection (1)<sup>3</sup> (a):

Provided that in such a case the rates of pension prescribed in sub-section (1) (i) and (ii) shall be fifteen sixtieths and one-sixth respectively.

(7) (a) Where the President<sup>1</sup> is satisfied that damages have been or will be recovered in respect of the death for which a pension may be granted under sub-section (1), the President<sup>1</sup> may take those damages into account against such pension in such manner and to such extent that he may think fit and may withhold or reduce the pension accordingly;

(1) amended by L.N. 84 of 1966

(2) deleted by S.I. 50 of 1967

(3) amended by S.I. 50 of 1967

- (b) for the purposes of this sub-section an officer shall be deemed to recover damages whether they are paid in pursuance of a judgment or order of a court by way of settlement or compromise of his claim and whether or not proceedings are instituted to enforce that claim.

(8) For the purposes of this section the following words have in relation to an officer, the meanings hereby respectively assigned to them –

- (a) "brother" includes every male child of his father or his mother;
- (b) "child" includes –
- (i) a posthumous child;
  - (ii) a step-child or illegitimate child born before the date of the injury or contracting the disease, as the case may be, and wholly or mainly dependent upon the deceased officer for support;
  - (iii) an adopted child, adopted before the date of the injury or contracting the disease, as the case may be, and dependent as aforesaid; and
  - (iv) a child for whom by any applicable customary law the officer is responsible when the officer became responsible before the date of the injury or contracting the disease, as the case may be, and dependent as aforesaid;
- (c) "incapacitated" means in relation to a child, incapable by reason of some specific bodily or mental disability of earning his own living, and a child who is in any event too young to earn his own living shall be treated as incapacitated for the purposes of this section if it appears that, by reason of any specific bodily or mental disability, he will be incapable of earning his own living when he attains the age at which he would otherwise be capable of doing so;
- (d) "father" includes his step-father and a male person by whom he has been adopted;
- (e) "mother" includes a step-mother and a female person by whom he has been adopted;
- (f) "sister" includes every female child of his father or his mother.

(9) In this section, unless the contrary intention appears, reference to an officer being injured and to the date on which an injury is sustained shall respectively be construed as including references to him contracting a disease such as is mentioned in sub-section (1) (b) of this section and to the date on which such disease is contracted.

(10) In the exercise of their functions under this section the Minister and President shall act with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution.

### **War Service to Count for Pension Purposes**

18. Where an officer shall have served with Her Majesty's Forces in time of war, prior to the 30th September, 1966<sup>(1)</sup> with the approval of the authority in whose service he was last employed before so serving or of the Secretary of State, the following provisions shall have effect –

- (a) during the period of such service in Her Majesty's Forces including any period after the termination of the war (in this section referred to as "military service"), he shall be deemed, for the purposes of this Law, to have been on leave on full salary from the public service in which he was last employed, and to have held the substantive office last held by him in that service prior to military service;
- (b) during any period between his leaving the public service for the purpose of serving in Her Majesty's Forces and the date of his commencing military service, he shall, for the purposes of this Law, be deemed to be on leave without pay, not granted on grounds of public policy, from the public service in which he was last employed, and to have held the substantive office last held by him in that service, prior to military service; and during any period between the termination of his military service and the date of his re-entering the public service he shall, for the said purposes, be deemed to be on leave as aforesaid from the service, and to have held the substantive office, in which he is re-employed:

Provided that –

- (i) this section shall not apply when either period mentioned in paragraph (b) exceeds three months, or such longer period as the President<sup>(2)</sup> may in any special case determine; or if the officer failed, after serving with Her Majesty's Forces, to re-enter the public service otherwise than in circumstances in which he would be permitted, under the law applicable to the public service in which he is last employed prior to military service, to retire on pension or gratuity, such circumstances arising not later than the expiration of three months, or such longer period as may be determined aforesaid, after the termination of his military service;
- (ii) if during any period mentioned in paragraph (a) the officer shall have qualified for pension, or received emoluments in lieu of pension rights, actually in respect of military service, paragraph (a) shall, as respects that period, have effect as if the words "leave without salary not on grounds of public policy" were substituted for the words "leave on full salary";
- (iii) if during his military service the officer shall have been injured or killed, he shall not, for the purposes of this Law, be deemed to have been injured or killed in the discharge of his duty:

(1) amended by S.I. 50 of 1967

(2) amended by L.N. 84 of 1966

- (iv) the provisions of this section which require that the officer shall be deemed to have held a specified office and to have been on leave from a specified service shall not apply in respect of any period during which he shall actually have held any other substantive office and have been on leave from any public service;
- (v) save wherein any particular case the President<sup>1</sup> otherwise directs, this section shall not apply where the office in the public service last held by the officer prior to military service was not a pensionable office.

**Contributions to Certain Pensions, etc., Payable by the Government of Lesotho<sup>2</sup> and Swaziland**

19. When a pension, gratuity or other allowance is payable to or in respect of any officer from the funds of Lesotho<sup>2</sup> or Swaziland in respect of service remunerated by a salary or emoluments towards which contributions have been paid out of the funds of Botswana contributions towards the amount of such pension, gratuity, or other allowance may be paid from the funds of Botswana to the funds of Lesotho<sup>2</sup> or Swaziland, as the case may be, which shall bear the same proportion to such pension, gratuity or other allowance as the annual contribution towards the said salary or emoluments at the date of the officer's retirement or death bears to the total annual amount of the officer's salary or emoluments at that date.

**Application**

20. The provisions of this Law shall apply –

- (a) to every officer in the public service of the Government of Botswana on the date of commencement of this Law;
- (b) to every officer appointed to the public service of the Government of Botswana on or after the date of commencement of this Law;
- (c) to every officer transferred to the public service of the Government of Botswana after the date of commencement of this Law in respect of service on or after that date;
- (d) to every officer transferred from the public service of the Government of Botswana to other public service before the date of commencement of this Law and still in other public service on that date:

Provided that when an officer to whom the Pensions Proclamation (Cap. 59) repealed by section 21 left the public service before the commencement of this Law and has been re-employed in the public service after such commencement, he shall for the purposes of this paragraph be deemed to be in the public service at the commencement of this Law.

**Repeal and Savings**

21. (1) The Pensions Proclamation (Cap. 59) is hereby repealed.

(1) amended by L.N. 84 of 1966

(2) amended by S.I. 50 of 1967

(2) Nothing in this Law shall either diminish the rights acquired by any person under any Proclamation repealed by this Law or affect the pensions granted to any persons who have retired before the coming into operation of this Law.

## FIRST SCHEDULE

(section 1)

### PENSIONABLE OFFICERS

#### **Administration of Justice :**

Registrar and Master.  
Resident Magistrate.

#### **Agriculture :**

Director of Agriculture.  
Deputy Director of Agriculture.  
Senior Agricultural Officer.  
Agricultural Officer.  
Dairy Officer.  
Senior Agricultural and Livestock Officer.  
Agricultural and Livestock Officer.  
Senior Agricultural Supervisor.  
Agricultural Supervisor.  
Grain Control Clerk.  
Agricultural Demonstrator.

#### **Attorney-General :**

Attorney-General.  
Deputy Attorney-General.  
State Counsel

#### **Audit :**

Director of Audit.  
Senior Auditor.  
Auditor.  
Senior Examiner of Accounts.  
Examiner of Accounts.

#### **Audit — Local Government :**

Auditor.  
Examiner of Accounts.

(1) amended by L.N. 84 of 1966

**Community Development :**

Community Development Officer.  
Assistant Community Development Officer.

**District Administration :**

Senior District Officer.  
District Officer.  
District Assistant.  
Foreman, Peleng Village.  
Messenger/Interpreter.  
Switchboard Operator.

**Education :**

Director of Education.  
Deputy Director of Education.  
Senior Education Officer.  
Education Officer.  
Education Officer (Female).  
Principal, Lobatsi Teacher Training College.  
Inspector of Schools.  
Secretary of the Botswana Teaching Service.  
Vice-Principal.  
Graduate Teacher.  
Headmaster (Primary School).  
Teacher Grade 1.  
Teacher Grade II.  
Teacher Grade I (Female).  
Matron.  
Bursar, Lobatsi Teacher Training College.  
Supervisor of Schools.  
Boarding Master.

**Game :**

Game Officer.  
Game Ranger.  
Assistant Game Ranger.  
Senior Game Scout.

**Geological, Hydrological and Mineral Survey :**

Director of Geological Services.  
Deputy Director of Geological Services.  
Geologist.  
Chemist.

Geological Draughtsman.  
Scientific Assistant.  
Senior Driller.  
Drill Foreman.  
Laboratory Technician.  
Prospector.  
Geological Draughting Assistant.  
Tracer.  
Laboratory Assistant.  
Drill Superintendent.  
Assistant Drill Superintendent.  
Driller.  
Artisan.

**Judiciary :**

Chief Justice.  
Puisne Judge.

**Legislative Assembly :**

Clerk of Assembly.  
Assistant Clerk.  
Cook/Caretaker.

**Medical :**

Director of Medical Services.  
Deputy Director of Medical Services.  
Medical Officer of Health.  
Medical Officer.  
Health Inspector.  
Field Officer.  
Senior Matron.  
Matron.  
Sister Tutor.  
Sister-in-charge.  
Nursing Sister.  
Senior Staff Nurse.  
Senior Medical Aide.  
Medical Aide.  
Sanitary Inspector.  
Staff Nurse.  
Male Mental Attendant.

**Ministries and Departments :**

Permanent Secretary.  
Assistant Secretary.  
Chief Executive Officer.  
Senior Executive Officer.  
Higher Executive Officer.  
Executive Officer.  
Assistant Executive Officer.  
Personal Assistant.  
Stenographer.  
Accountant.  
Administrative Assistant.  
Accounts Officer.  
Accounts Assistant.  
Storekeeper.  
Clerk.  
Registry Clerk.  
Motor Driver.  
Head Labourer.  
Senior Storekeeper.  
Works Staff, Grade I.  
Clerk/Interpreter.  
Typist.  
Mechanic.  
Assistant Storekeeper.  
Storeman.

**Ministry of Agriculture:**

Registrar of Co-operative Societies.  
Senior Co-operatives Officer.  
Co-operatives Officer.  
Assistant Co-operatives Officer.

**Ministry of Finance :**

Financial Secretary and *ex officio* Minister of Finance.  
Registry Clerk/Typist.  
Assistant Stock Verifier.  
Accountant-General and Collector of Income Tax.  
Deputy Accountant-General.  
Accounts Assistant (Cashier).  
Income Tax Officer and Assistant Collector of Income Tax.  
Income Tax Officer.  
Assistant Income Tax Officer.

**Ministry of Home Affairs :**

Senior Permanent Secretary.  
Establishment Officer.  
Assistant Establishment Officer.  
Office Superintendent.  
Clerk/Office Keeper.  
Clerk/Messenger.  
Chief Information Officer.  
Information Officer.  
Assistant Information Officer.  
Information Assistant.  
Assistant Immigration Officer.  
Assistant Registrar-General.  
Examiner of Deeds.

**Ministry of Education, Health and Labour**

Commissioner of Labour.  
Assistant Labour Officer.

**Police :**

Commissioner of Police.  
Deputy Commissioner of Police.  
Senior Superintendent of Police.  
Superintendent of Police.  
Deputy Superintendent of Police.  
Assistant Superintendent of Police.  
Senior Inspector of Police.  
Inspector of Police.  
Paymaster (Inspector of Police).  
Sub-Inspector of Police.  
Sergeant.  
Corporal.  
Trooper.  
Constable.  
Force Wireless Officer (Senior Inspector).  
Assistant Force Wireless Officer.  
Radio Technician.  
(Inspector) Radio Technician.

**Posts and Telegraphs :**

Director of Posts and Telegraphs.  
Deputy Director of Posts and Telegraphs.  
Engineer.

Supervising Technician.  
Senior Postal Officer.  
Technician.  
Postal Officer.  
Telephonist Grade I and II.  
Postal Assistant.

**Prisons :**

Director of Prisons.  
Chief Prison Officer.  
Prison Officer.  
Warder Instructor.  
Sergeant Warder.  
Corporal Warder.  
Warder.

**Public Service Commission :**

Secretary, Public Service Commission.

**Public Works Department :**

Director of Public Works.  
Deputy Director of Public Works.  
Divisional Engineer.  
Clerk/Storeman.  
Personnel Officer.  
Senior Architect.  
Quantity Surveyor's Assistant.  
Works Staff Grade I and II.  
Artisan Leading Hand.  
Artisan.  
Tracer.  
Senior Engineer.  
Engineer (Mechanical).  
Inspector of Works.  
Plant Operator.  
Power House Attendant.  
Senior Land Surveyor and Surveyor General.  
Land Surveyor.  
Survey Assistant.  
Senior Draughtsman.  
Senior Roads Engineer.  
Engineer (Civil)  
Engineering Assistant.

Technical Officer.  
Technical Assistant.  
Roads Section Officer.  
Road Supervisor.  
Senior Water Engineer.  
Draughtsman, Engineering.  
Water Supply Operator.

**Tsetse Fly Control :**

Chief Tsetse Officer.  
Field Officer.  
Mechanic.  
Survey Assistant.  
Stores Clerk.  
Head Fly Scout.

**Veterinary :**

Director of Veterinary Services.  
Deputy Director of Veterinary Services.  
Senior Veterinary Officer.  
Veterinary Officer.  
Senior Laboratory Technician.  
Senior Livestock Officer.  
Quota Control Officer.  
Teacher Graduate.  
Livestock Officer.  
Principal Detention Officer.  
Senior Detention/Grading Officer.  
Senior Meat Inspector.  
Cannery Superintendent.  
Meat Inspector.  
Hide Improvement Officer.  
Statistical Assistant.  
Stock Inspector.  
Works Foreman, Grade II.  
Fence Foreman.  
Veterinary Assistant.  
Hide Demonstrator.  
Farm Foreman.  
Cattle Guard.  
Abattoir Assistant.  
Cook.

SECOND SCHEDULE  
**THE PENSIONS REGULATIONS 1965**  
**ARRANGEMENT OF REGULATIONS**

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**SCHEDULE TO REGULATIONS**

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**PRELIMINARY**

**Short Title**

1. These regulations may be cited as the Pensions Regulations, 1965.

**Interpretation.**

2. In these regulations, unless the context otherwise requires —  
“pensionable service” means service which may be taken into account in computing pension under these regulations.  
“qualifying service” means service which may be taken into account in determining whether an officer is eligible by length of service for pension, gratuity, or other allowance;  
“the Law” means the Pensions (Consolidation) Law, 1965.

<sup>(1)</sup> Amended by L.N. 84/1966

## **PART II**

### **OFFICERS WITHOUT OTHER PUBLIC SERVICE**

#### **Application of Part II.**

3. Save when the President<sup>1</sup> in any special case otherwise directs, this Part of these regulations shall not apply in the case of any officer transferred to or from the public service under the Government of Botswana<sup>1</sup> from or to other public service except for the purpose of determining whether such officer would have been eligible for pension or gratuity, and the amount of pension or gratuity for which the officer would have been eligible, if the service of the officer had been wholly service in public service under the Government of Botswana<sup>1</sup>.

#### **Pension to Whom and at What Rates to be Granted.**

4. Subject to the provisions of the Law and of these regulations, every public officer holding a pensionable office under the Government of Botswana<sup>1</sup> who has been in public service under the Government of Botswana<sup>1</sup> for ten years or more may be granted on his retirement a pension at the rate of one six-hundredth of his pensionable emoluments in respect of each completed month of pensionable service.

#### **Gratuities Where Length of Service Does Not Qualify for Pension.**

5. Every officer, otherwise qualified for a pension, who has not completed the minimum period of service qualifying for a pension, may be granted on retirement a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to the officer under regulation 4.

#### **Marriage Gratuities.**

6. Where a female officer having been in public service under the Government of Botswana<sup>1</sup> for not less than five years and having been confirmed in a pensionable office, retires or is required to retire for the reason that she is about to marry, or has married, and is not eligible for the grant of any pension or otherwise eligible for gratuity under this Part, she may be granted, on production within six months after her retirement, or such longer period as the President<sup>1</sup> may in any case allow, of satisfactory evidence of her marriage, a gratuity of an amount not exceeding —

- (a) one year's annual pensionable emoluments; or
- (b) five times the annual amount of the pension which might have been granted to her under regulation 4 had there been no qualifying period and had that regulation been applicable to her, whichever amount shall be the less.

(1) Amended by L.N. 84/1966

**PART III**  
**TRANSFERRED OFFICERS**

**Application of Part III.**

7. This Part shall apply only in the case of an officer transferred to or from public service under the Government of Botswana<sup>1</sup> from or to other public service.

**Interpretation.**

8. (1) In this Part and Part IV —

“scheduled administration” means —

- (a) the Government of any territory, or any authority, mentioned in the Schedule to these regulations;
- (b) the Government of Ceylon, in respect of any officer appointed to service under that Government before the 4th day of February, 1948;
- (c) the Government of Palestine, in respect of any officer appointed to service under that Government before the 15th day of May, 1948;
- (d) the Government of the Somali Republic, in respect of any officer appointed to service under the former Government of the Somaliland Protectorate before the 26th day of June, 1960;
- (e) the Government of Cyprus, in respect of any officer appointed to service under that Government before the 16th day of August, 1960;
- (f) the East African Common Services Organisation in respect of any person deemed to have been appointed or appointed to service as President, Vice-President, Justice of Appeal, Registrar, officer or servant of the Court of Appeal for Eastern Africa by or under the Eastern Africa Court of Appeal Order in Council, 1961; (S.I. 1961 No. 2323);
- (g) the Interim Commissioner for the West Indies in respect of any person deemed to have been appointed or appointed to service as Judge, Registrar, Officer or servant of the British Caribbean Court or Caribbean Court of Appeal by or under the British Caribbean Court of Appeal Order in Council, 1962; (S.I. 1962 No. 1086);

“service in the group” means service in the public service under the Government of Botswana<sup>1</sup> and under a scheduled administration or scheduled administrations.

(2) For the purpose of these regulations —

- (a) any officer in public service under the Government of the Federation of Rhodesia and Nyasaland immediately before the 1st January, 1964, who was

(1) amended by L.N. 84 of 1966

immediately before that date employed on secondment to service under the Government of Southern Rhodesia or Northern Rhodesia or Nyasaland, or was as from that date so employed, shall be deemed to continue to serve in public service under the Government of the Federation of Rhodesia and Nyasaland until his employment on secondment is terminated;

- (b) any pension awarded on or after the 1st January, 1964 in respect of service under the Government of the Federation of Rhodesia and Nyasaland shall be deemed to have been granted by that Government notwithstanding the provisions of the Federation of Rhodesia and Nyasaland (Disolution) Order in Council 1963 (S.I. 1963 No. 2085).

(3) Where an officer to whom this Part applies, is, on his retirement from the public service, not granted a pension or gratuity in respect of his employment in the service in which he was last employed, solely by reason of the fact that he has not held office or pensionable office therein for a specified period, he shall nevertheless be deemed for the purposes of this Part to have retired in circumstances in which he is permitted by the law in force in respect of the service in which he is last employed to retire on pension or gratuity.

#### **Pension for Service wholly within the Group.**

9. (1) Subject to the provisions of the Law and of these regulations where the other public service of an officer to whom this Part applies has been wholly under one or more scheduled administrations and his aggregate service would have qualified him had it been wholly service in public service under the Government of Botswana<sup>1</sup> for a pension under this Law, he may, on his retirement from the public service, be granted in respect of his service in public service under the Government of Botswana<sup>1</sup> a pension of such an amount as shall bear the same proportion to the amount of pension for which he would have been eligible had his service been wholly in public service under the Government of Botswana<sup>1</sup> as the aggregate amounts of his pensionable emoluments during service in public service under the Government of Botswana<sup>1</sup> shall bear to the aggregate amounts of his pensionable emoluments throughout his service in the group.

(2) In determining for the purposes of this regulation the pension for which an officer would have been eligible if his service had been wholly service in public service under the Government of Botswana —

- (a) in the application of regulation 18, his pensionable emoluments shall be determined by reference to the pensionable emoluments enjoyed by him at the date of his retirement from the public service or during the three years or lesser period preceding that date, as the case may be, except that where the officer is not serving under a scheduled administration at that date, the date upon which he was last transferred from the public service under a scheduled administration shall be deemed to be the date of his retirement for the purposes of this sub-paragraph;

(1) amended by L.N. 84 of 1966

- (b) no regard shall be had to an additional pension under regulation 22 or 23 ;
- (c) regard shall be had to the condition that pension may not exceed two-thirds of the highest pensionable emoluments enjoyed by him at any time during his public service ;
- (d) no period of public service under a scheduled administration or under the Government of Botswana<sup>1</sup> in respect of which no pension or gratuity is granted to him by that administration or Government, as the case may be, shall be taken into account.

(3) For the purposes of this regulation the aggregate amount of an officer's pensionable emoluments shall be taken as the total amount of pensionable emoluments which he would have received or enjoyed had he been on duty on full pay in his substantive office or offices throughout his period of service in the group subsequent to the attainment of the age of twenty years ;

Provided that —

- (a) in calculating the aggregate amount of his pensionable emoluments, no account shall be taken of any service under a scheduled administration or under the Government of Botswana<sup>1</sup> in respect of which no pension or gratuity is granted to him by that administration or Government, as the case may be ;
- (b) where service in a civil capacity otherwise than in a pensionable office is taken into account as pensionable service, the officer's aggregate pensionable emoluments during that service shall be taken into account to the same extent as that service is taken into account as pensionable service.

(4) For the purposes of this regulation where an officer retires from the public service under the Government of Lesotho<sup>2</sup> or Swaziland under the provisions of a scheme of retirement, whether contained in a law or not, which is applicable to that public service and in circumstances in which he is permitted to retire therefrom on pension, he may, notwithstanding that his total public service is less than ten years, be granted, in lieu of any gratuity under regulation 12, a pension under this regulation as if the words "for ten years or more" were omitted from regulation 4.

#### **Pension Where Other Service is Not Within the Group.**

10. (1) Subject to the provisions of the Law and of these regulations, where the other public service of an officer to whom this Part of these regulations applies has not included service under any of the scheduled administrations, and his aggregate service would have qualified him, had it been wholly service in public service under the Government of Botswana<sup>1</sup> for a pension under these regulations, he may on his retirement from public service, be granted in respect of his service in public service under the Government of Botswana<sup>1</sup>, a pension of an amount equal to the pension for which he would have been eligible under

(1) amended by L.N. 84 of 1966

(2) amended by S.I. 50 of 1967

regulation 4, if there had been no qualifying period and if he had no other public service.

(2) Where the officer is not in public service under the Government of Botswana<sup>1</sup> at the time of such retirement, his pensionable emoluments for the purpose of paragraph (1) shall be those which would have been taken for the purposes of computing his pension if he had retired from the public service and been granted a pension at the date of his last transfer from public service under the Government of Botswana<sup>1</sup>.

(3) Any officer who, prior to the 1st January, 1960, has been transferred from a pensionable office in the public service of the Union of South Africa or in the public service of Southern Rhodesia, to a pensionable office under the public service of the Government of Botswana<sup>1</sup>, and has served not less than ten years in all in a pensionable office, shall on retirement receive in respect of the period of such other public service and of his service in a pensionable office in Botswana such pension as would have been payable to him if the whole of such service had been in Botswana<sup>1</sup> notwithstanding that he may not have completed ten years' actual service in Botswana<sup>1</sup> :

Provided, however, that any pension, or the aggregate of any reduced pension and of any portion of the unreduced pension used for the purpose of computing a gratuity, which may be payable by the Government of South Africa or the Government of Southern Rhodesia, as the case may be, towards the pension of any such officer shall be deducted from the unreduced pension payable to such officer; and any gratuity payable to such officer under the provisions of regulation 24 shall in no case exceed a sum equal to twelve and one half times one-fourth of the pension payable to such officer out of Botswana<sup>1</sup> funds.

#### **Pension Where Other Service Both Within and not Within the Group.**

11. Where a part only of the other public service of an officer to whom this Part applies has been under one or more of the scheduled administrations, the provisions of regulation 9 shall apply; but in calculating the amount of pension, regard shall be had only to service in the group.

#### **Gratuities Where Length of Service Does Not Qualify for Pension.**

12. Subject to the provisions of the Law and of these regulations, where an officer to whom this Part applies retires from the public service but has not been in the public service for ten years, he may be granted in respect of his service in the public service under the Government of Botswana<sup>1</sup>; a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to him under regulation 9, 10 or 11, as the case may be.

(1) amended by L.N. 84 of 1966

### **Marriage Gratuities.**

13. Where a female officer to whom this Part applies retires or is required to retire for the reason that she is about to marry or has married, and —

- (i) would have been eligible for a gratuity under regulation 6 if her public service had been wholly under the Government of Botswana<sup>1</sup>; and
- (ii) is not eligible for the grant of any pension or otherwise eligible for gratuity under this Part,

she may be granted in respect of her public service under the Government of Botswana<sup>1</sup> a gratuity of an amount not exceeding five times the annual amount of the pension for which she would have been eligible under regulation 9, 10 or 11 had there been no qualifying period and had regulation 9, 10 or 11, as the case may be, been applicable to her:

Provided that for the purpose of computing the amount of such a gratuity —

- (a) in relation to regulation 9 or 11, regulation 9 (2) (c) shall have effect as if the reference to two-thirds of her highest pensionable emoluments were a reference to one-fifth of her annual pensionable emoluments;
- (b) in relation to a pension under regulation 9, 10 or 11, the annual amount of that pension shall not exceed one-fifth of her annual pensionable emoluments.

## **PART IV**

### **GENERAL**

#### **General Rules as to Qualifying Service and Pensionable Service.**

14. (1) Subject to the provisions of these regulations, qualifying service shall be the inclusive period between the date on which an officer begins to draw salary in respect of public service and the date of his leaving the public service without deduction of any period during which he has been absent on leave.

(2) No period which is not qualifying service by virtue of paragraph (1) shall be taken into account as pensionable service.

(3) No period during which the officer was not in public service shall be taken into account as qualifying service or as pensionable service.

#### **Continuity of Service.**

15. (1) Except as otherwise provided in these regulations, only continuous public service shall be taken into account as qualifying service or as pensionable service:

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(1) amended by L.N. 84 of 1966

Provided that any break in service caused by temporary suspension of employment in the public service not arising from misconduct or voluntary resignation shall be disregarded for the purposes of this paragraph:

Provided also that any person holding office in public service under the Government of Palestine immediately before the fifteenth day of May, 1948, shall be deemed to have continued in his office until either he was appointed to the service of a scheduled administration<sup>1</sup> elsewhere, or if he was not so appointed, he retired or was removed from office.

(2)<sup>2</sup> An officer—

- (a) whose pension has been suspended under section 11 of the Law or under a corresponding provision in any law relating to the grant of pensions in respect of public service; or
- (b) who has retired from the public service without pension on account of ill health, abolition of office or reorganisation designed to effect greater efficiency or economy, and has subsequently been re-employed in the public service; or
- <sup>3</sup>(c) who has left pensionable service —
  - (i) under any Acts relating to the Superannuation of teachers in the United Kingdom, or
  - (ii) under a local authority in the United Kingdom; or
  - (iii) under the National Health Service of the United Kingdom;

with a view to entering public service, not being pensionable service as aforesaid and has, not later than three months, or such extended period as the President may in any particular case approve, after leaving such pensionable service received any salary in respect of employment in public service not so pensionable may if the President, acting with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution, thinks fit, be granted the pension or gratuity for which he would have been eligible if any break in his public service immediately prior to such suspension, re-employment or employment had not occurred, such pension being in lieu of —

- (A) any pension previously granted to him from the funds of Botswana; and
- (B) any gratuity so granted which is required to be refunded as a condition of the application to the officer of this regulation, but additional to any gratuity so granted which is not required to be refunded as aforesaid.

### **Leave Without Salary.**

16. No period during which an officer has been absent from duty on leave without salary shall be taken into account as pensionable service unless such leave has been granted on grounds of public policy with the approval of the President<sup>1</sup>.

### **Service in Her Majesty's Forces.**

17. Where an officer, during some period of his service has been on the active list of the Royal Navy, the Army or the Royal Air Force and pension contributions have been paid in respect of that period from the funds of the Bechuanaland Protectorate<sup>1,2</sup> or of any scheduled administration and have not been refunded, such period shall not be taken into account as pensionable service.

### **Emoluments to be Taken For Computation of Pensions Etc.**

18. (1) For the purpose of computing the amount the pension or gratuity of an officer who has had a period of not less than three years' pensionable service before his retirement —

- (a) in the case of an officer who has held the same office for a period of three years immediately preceding the date of his retirement the full annual pensionable emoluments enjoyed by him at that date in respect of that office shall be taken;
- (b) in the case of an officer who at any time during such period of three years has been transferred from one office to another, but whose pensionable emoluments have not been changed by reason of such transfer or transfers, otherwise than by grant of any scale increment, the full annual pensionable emoluments enjoyed by him at the date of his retirement in respect of the office then held by him shall be taken;
- (c) in other cases one-third of the aggregate pensionable emoluments enjoyed by the officer in respect of his service during the three years of his service immediately preceding the date of his retirement shall be taken;

Provided that —

- (i) if such one-third is less than the highest annual pensionable emoluments enjoyed by him at the date of any transfer within such period of three years these annual pensionable emoluments shall be taken; and
- (ii) if such one-third is less than the annual pensionable emoluments which would have been enjoyed by him at the date of his retirement, if he had continued to hold any office from which he has been transferred at any time during such period of three years, and had received all scale increments which, in the opinion the President<sup>1</sup> would have been granted to him, the annual pensionable emoluments which would have been so enjoyed shall be taken.

(2) For the purpose of determining under paragraph (1) the pensionable emoluments that an officer has enjoyed or would have enjoyed, as the case may be, he shall be deemed —

- (a) to have been on duty on full pensionable emoluments throughout the period of three years immediately preceding the date of his retirement; and
- (b) to have enjoyed the benefit of any increase due to a general revision in the pensionable emoluments of any office held by him as if such increase had been payable throughout such period of three years.

<sup>1</sup> Provided that if he has been transferred from an office which has been abolished and for this reason the pensionable emoluments of that office have not been considered in a general revision of pensionable emoluments, then for the purposes of this Regulation, the pensionable emoluments attached to the abolished office shall be equated with those of such office or offices as are certified by the President in his discretion as having enjoyed the same pensionable emoluments as the abolished office at the time of the said revision.

(3) For the purpose of computing the amount of the pension or gratuity of an officer who has had a period of less than three years' pensionable service before his retirement —

- (a) the average annual pensionable emoluments enjoyed by him during such period shall be taken;
- (b) he shall be deemed to have been on duty on full pensionable emoluments throughout such period; and
- (c) he shall be deemed to have enjoyed the benefit of any increase due to a general revision in the pensionable emoluments of any office held by him as if such increase had been payable throughout such period.

(4) Notwithstanding any other provision of this regulation the pensionable emoluments taken for the purposes of computing the pension or gratuity of any officer shall in no circumstances exceed the full annual pensionable emoluments enjoyed by the officer at the date of retirement in respect of the office then held by him.

#### **Non-pensionable Service.**

19. Only service in a pensionable office (not being service in respect of which the officer is entitled to a gratuity in lieu of pension or to benefit under any other scheme of superannuation) shall be taken into account as pensionable service:

Provided that —

- (a) where a period of service in a civil capacity otherwise than in a pensionable office (not being service in respect of which the officer is entitled to a

(1) added by S.I. 3 of 1967

gratuity in lieu of pension) is immediately followed by service in a pensionable office and the officer is confirmed therein, the whole or any part of such period may with the approval of the President<sup>1</sup> be so taken into account;

- (b) any break in service which may be disregarded under the provisions of regulation 15 may likewise be disregarded in determining for the purposes of the preceding provisions of this regulation whether one period of service immediately follows another period of service;
- (c) (i) where an officer has been transferred from a pensionable office in which he had been confirmed to an office which is not pensionable and subsequently retires either from a pensionable office or an office which is not pensionable his service in the office which is not pensionable may, with the approval of the President<sup>1</sup>, be taken into account as though it were service in the pensionable office which he held immediately prior to such transfer and at the pensionable emoluments which were payable to him at the date of transfer;
- (ii) where a period of non-pensionable service is taken into account under this regulation, the officer shall, during that period, be deemed for the purposes of regulations 6, 22 and 23 to be holding a pensionable office, and where that period is taken into account under paragraph (c) (i) to have been confirmed therein.

#### **Acting Service.**

20. Any period during which an officer has performed only acting service in an office may be taken into account as pensionable service (subject if the service is a non-pensionable to the provisions of the preceding regulation) if the period of such acting service —

- (a) is not taken into account as part of his pensionable service in other public service, and
- (b) is immediately preceded or followed by service in a substantive capacity in a pensionable office in the public service under the same government or authority, and not otherwise.

#### **Service Under Age of 20 or on Probation or Agreement.**

21. Save as otherwise provided in these regulations, there shall not be taken into account as pensionable service —

- (a) any period of service while the officer was under the age of twenty years, or
- (b) any period of service while he was on probation or agreement, unless without break of service he is confirmed in a pensionable office in the public service:

<sup>(1)</sup> amended by L.N. 84 of 1966

Provided that any break of service which may be disregarded under the provisions of regulation 15 may likewise be disregarded in determining whether the officer is confirmed in a pensionable office without break of service.

## **PART V**

### **SUPPLEMENTARY**

#### **Abolition of Office and Reorganisation.**

22. If an officer holding a pensionable office retires from the public service in consequence of the abolition of his office or for the purpose of facilitating improvements in the reorganisation of the department to which he belongs, by which greater efficiency or economy may be effected, he may —

- (a) if he has been in the public service for less than ten years, be granted in lieu of any gratuity under regulation 5 or regulation 12, a pension under regulation 4, 9, 10 or 11 as the case may be, as if the words "for ten years or more" were omitted from regulation 4;
- (b) if he retires from the public service under the Government of Botswana<sup>1</sup>, be granted an additional pension at the annual rate of one one-hundred-and-eightieth of his pensionable emoluments for each complete year of his pensionable service:

Provided that —

- (i) the addition shall not exceed thirty one-hundred-and-eightieths; and
- (ii) the addition together with the remainder of the officer's pension shall not exceed the pension for which he would have been eligible if he had continued to hold the office held by him at the date of his retirement, and retired on reaching the age of fifty-five years, having received all increments for which he would have been eligible by that date.

#### **Officers Injured or Contracting Diseases in the Discharge of Their Duties.**

23. (1) This regulation shall apply to an officer who —

- (a) is injured in the actual discharge of his duty by some injury specifically attributable to the nature of his duty which is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct; or
- (b) contracts a disease to which he is exposed by the nature of his duty, not being a disease wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct.

(2) In this regulation unless the contrary intention appears, references to an officer being injured and to the date on which an injury is sustained shall

<sup>(1)</sup> amended by L.N. 84 of 1966

respectively be construed as including references to him contracting such a disease as is mentioned in paragraph (b) of this regulation and to the date on which such disease is contracted.

(3) Where an officer to whom this regulation applies is holding a pensionable office in which he has been confirmed he may —

- (a) if his retirement is necessitated or materially accelerated by his injury and he has been in the public service for less than ten years, be granted in lieu of any gratuity under regulation 5 or regulation 12, a pension under regulations 4, 9, 10 or 11, as the case may be, as if the words "for ten years or more" were omitted from regulation 4;
- (b) if he was injured while in public service under the Government of Botswana<sup>1</sup> be granted on retirement an additional pension, at the annual rate of the proportion of his actual pensionable emoluments at the date of his injury appropriate to his case as shown in the following table: —

When his capacity to contribute to his own support is: —

Slightly impaired.....	— five sixtieths;
Impaired.....	— ten sixtieths;
Materially Impaired.....	— fifteen sixtieths;
Totally destroyed.....	— twenty sixtieths;

Provided that the amount of the additional pension may be reduced to such an extent as the President<sup>1</sup> with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>2</sup> shall think reasonable where the injury is not the cause or the sole cause of retirement.

(4) (a) An officer to whom this regulation applies who is injured while in public service under the Government of Botswana<sup>1</sup> who holds a non-pensionable office or who holds a pensionable office in which he has not been confirmed, may be granted on retirement, a pension of the same amount as the additional pension which may be granted to him under paragraph (3) if his office were a pensionable office and he had been confirmed therein.

(b) The provisions of regulation 24 shall not apply to a pension granted under this paragraph.

(5) (a) If, for the purpose of assessing the amount of any additional pension or pension to be granted under paragraph (3) (b) to any officer to whom this regulation applies, the degree of permanent impairment of his capacity to contribute to his support is in doubt, he may be granted a provisional award to have effect until such time as his degree of permanent impairment can be determined.

(b) The provisions of regulation 24 shall not apply to an award made under this paragraph.

(1) amended by L.N. 84 of 1966

(2) amended by S.I. 50 of 1967

(6)

(7) An officer who is injured while travelling by air in pursuance of official instructions, and whose injury is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct, shall be deemed for the purpose of this regulation to have been injured in the circumstances described in paragraph (1):

Provided that in such a case the rates of pension prescribed in paragraph (3) (b) of this regulation shall be seven-and-a-half sixtieths, fifteen sixtieths, twenty-two-and-a-half sixtieths and thirteenth sixtieths respectively.

(8) Where compensation in consequence of the injury is payable under any law in force in Botswana<sup>2</sup> which provides for the payment of workmen's compensation, or where benefits corresponding to an additional pension or pension under paragraph (3) or paragraph (4) are payable, under the Overseas Superannuation Scheme or under the law in force in respect of any other public service, in consequence of the injury, the President<sup>2</sup> with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>3</sup> may reduce or withhold any additional pension or pension payable under either paragraph (3) or paragraph (4) aforesaid in such manner as he may consider reasonable.

(9) (a) Where the President<sup>2</sup> is satisfied that damages have been or will be recovered by an officer in respect of an injury for which an additional pension or pension may be granted under paragraph (3) (b) or under paragraph (4), the President<sup>2</sup> may with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>3</sup> take these damages into account against such additional pension or pension in such manner and to such extent as he may think fit and may withhold or reduce the additional pension or pension accordingly.

(b) For the purpose of this paragraph an officer shall be deemed to recover damages whether they are paid in pursuance of a judgment or order of the court or by way of settlement or compromise of his claim and whether or not proceedings are instituted to enforce that claim.

#### **Gratuity and Reduced Pension**

24. (1) Any officer to whom a pension is granted under the Law may at his option exercisable as in this regulation provided, be paid in lieu of such pension a pension at the rate of not less than three-fourths of such pension together with a gratuity equal to twelve and a half times the amount by which such pension is reduced:

Provided that in the application of this regulation to cases where the limitation prescribed by sub-section (2) of section 10 of the Law operates, the words "such pension" shall mean the amount of pension which the officer might have drawn from the funds of Botswana<sup>2</sup> if he had not exercised his option under this regulation.

(1) deleted by S.I. 50 of 1967

(2) amended by L.N. 84 of 1966

(3) amended by S.I. 50 of 1967

<sup>1</sup>Provided further that where a pension is granted in terms of section 7 A (1) of the Law and the amount of the pension is four hundred rand or less, an officer to whom that section applies may at his option be paid in lieu of such pension a gratuity equal to twelve and a half times the amount of such pension.

(2) An option exercisable in accordance with this regulation —

- (a) shall be exercisable, and if exercised, may be revoked on or before the date of the officer's retirement or with the permission of the President<sup>1</sup> at any time between that date and the date of the final award of the pension granted to him under the Law;
- (b) shall be exercised or revoked by notice in writing addressed to the Minister;<sup>2, 3</sup>
- (c) shall be deemed to have been exercised or revoked on the date on which such notice is received.

(3) If an officer who has not exercised an option in accordance with this regulation dies after he has retired but before a pension has been granted to him under the Law the President<sup>2</sup> may with the concurrence of the appropriate Commission in accordance with the provisions of section 118 of the Constitution<sup>3</sup> grant to his legal personal representative a gratuity and a reduced pension as provided in paragraph (1) as if the officer had exercised the option before his death.

#### **\*Gratuities for Officers who Have Served in Non-pensionable Offices**

25. (1) Subject to the provisions of section 118 of the Constitution, where<sup>4</sup> an officer to whom this regulation applies retires or resigns from public service under the Government of Botswana<sup>1</sup> after serving in that public service for not less than five years, he may be granted by the President a gratuity at the rate herein specified for each complete year of service, that is to say —

- (a) for each of the first five years, one week's pay;
- (b) for each of the next five years, two week's pay;
- (c) for each additional year, four week's pay;

Provided that the total amount of the gratuity shall not exceed the amount of one year's pay;

(2) This regulation applies to an officer who holds —

- (a) a non-pensionable office;
- (b) a pensionable office in which he is not serving on probation and (if his appointment to that office is subject to confirmation) in which he has not been confirmed and who is not eligible for the grant of a pension, gratuity or other allowance under the Law (other than a pension under regulation 23 (4) or for the grant, under the terms of service, of a gratuity or a benefit under any other scheme of superannuation.

(1) added by Law 23 of 1965.  
(3) amended by S.I. 50 of 1967

(2) amended by L.N. 84 of 1966  
(4) replaced by Law 23 of 1965

(3) For the purpose of this regulation —

- (a) "pay" means pay at the date of the officer's retirement or resignation and includes any allowance the President<sup>1</sup> may think fit to include;
- (b) an officer who having held a non-pensionable office holds a pensionable office in which he is serving on probation shall be deemed to hold a non-pensionable office and his pay shall be deemed to be the pay last received by him in respect of the non-pensionable office he previously held or the pensionable emoluments of the pensionable office held by him, whichever is the greater;
- (c) in calculating the period in which any officer has served in public service under the Government of Botswana<sup>1</sup> —
  - (i) subject to any general or special directions that may be given by the President<sup>1</sup>, only continuous service terminating at his retirement or resignation shall be taken into account;
  - (ii) no regard shall be had to any period of service for which he is eligible for the grant of or has been granted a pension, gratuity or other allowance under the Law (other than a pension under regulation 23 (4) or, as provided under his terms of service, a gratuity or a benefit under any other scheme of superannuation

## SCHEDULE TO REGULATIONS

(Regulation 8 (1))

### LIST OF SCHEDULED ADMINISTRATIONS AND AUTHORITIES

Aden  
Antigua  
Bahamas  
Barbados  
Basutoland  
Bermuda  
British Antarctic Territory  
British Honduras  
British Solomon Islands Protectorate  
Brunei  
Cayman Islands  
Crown Agents for Overseas Governments and Administrations  
Dominica  
East African Common Services Organisation  
East African High Commission  
East African Railways and Harbours Administration

(1) Amended by L.N. 84/1966

Eastern Nigeria  
Employing Authorities under the Overseas Superannuation Scheme  
Falkland Islands  
Federal Republic of Nigeria  
Federation of Malaya  
Federated Malay States  
Federation of Nigeria  
Federation of Rhodesia and Nyasaland  
Fiji  
Gambia  
Ghana  
Gibraltar  
Gilbert and Ellice Islands  
Gold Coast  
Grenada  
Guyana  
Hong Kong  
Interim Commissioner for the West Indies  
Jamaica  
Kenya  
Kenya and Uganda Railways and Harbours Administrations  
(1) Kingdom of Lesotho  
Leeward Islands (before 1.7.1956)  
Malawi  
Malayan Establishment  
Malayan Union  
Malaysia  
Malta  
Mauritius  
Mid West Nigeria  
Montserrat  
Nigeria  
North Borneo  
Northern Nigeria  
Northern Rhodesia  
Nyasaland  
Overseas Audit Department (Home Establishment)  
(2) Republic of Botswana  
Sabah  
St. Christopher, Nevis and Anguilla  
St. Helena  
St. Lucia  
St. Vincent  
Sarawak  
Seychelles

(1) added by S.I. 3 of 1967.

(2) added by Law 23 of 1965.

Sierra Leone  
Singapore  
Somaliland Protectorate  
Southern Cameroons  
Southern Rhodesia  
Straits Settlements  
Swaziland  
Tanganyika  
The West Indies (Federation)  
Tonga  
Trinidad and Tobago  
Turks and Caicos Islands  
Uganda  
Unfederated Malaya States  
United Kingdom of Great Britain and Northern Ireland  
United Republic of Tanzania  
Virgin Islands  
Western Nigeria  
Zambia  
Zanzibar  
Service under the Overseas Act, 1958. (6 & 7 Eliz. 2.c.14.)