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**FIJI (COMPENSATION AND RETIRING BENEFITS) ORDER 1970\***

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*Legal Notices Nos. 65 of 1970, 119 of 1970*

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\* Made 26 June 1970.

Her Majesty, by virtue and in exercise of all the powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

*Citation and commencement*

1.—(1) This Order may be cited as the Fiji (Compensation and Retiring Benefits) Order 1970.

(2) This Order shall come into operation on 10 July 1970.

*Interpretation*

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

*Application of Schedule*

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

*Governor† need not consult the Council of Ministers‡*

4. The Governor† may exercise the function conferred on him by this Order without consulting the Council of Ministers‡.

*Transitional provisions*

5.—(1) References in paragraph 3(1)(a), paragraph 4, paragraph 5, paragraph 6, paragraph 10(2) and paragraph 15(5) of the Schedule to the appropriate Service Commission shall, until 10 October 1970, be construed as references to the Governor.

(2) Any condition or notice prescribed by the appropriate Service Commission for the purpose of paragraph 3(1)(a), paragraph 4 or paragraph 10(2) of the Schedule shall be not less favourable to any officer than any condition or notice prescribed by the Governor in pursuance of subsection (1).

(3) Any officer who is declared by the Governor to be an officer required to retire, before the 10 July 1970, to facilitate the introduction of constitutional changes shall, for the purposes of the Schedule, be deemed to have been declared by the appropriate Service Commission to be an officer required to retire to facilitate the introduction of constitutional changes; and the date in relation to which the compensation of any such officer is to be assessed under paragraph 2 of the Schedule shall be such date in the period beginning on the date on which he was given notice requiring him to retire and ending on the date of his retirement, as is most advantageous in relation to the officer.

(4) In this section, “the appropriate Service Commission” has the meaning attributed to that expression in paragraph 1(1) of the Schedule.

*Modified application*

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

\* 1889 c. 63.

† References in this Order to “the Governor” should be read as references to “the Governor-General”.

‡ Cabinet.

SCHEDULE  
(Section 3)

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

*Interpretation*

- 1.—(1) In this Schedule, unless the context otherwise requires—
- “appropriate law”, in relation to an officer in the public service, means the law in force in Fiji that governs the grant of pensions, gratuities and other like benefits in respect of the service of that officer in the public service;
- “appropriate Service Commission”—
- (a) in relation to an officer who can be removed from his office by the Judicial and Legal Services Commission, means that Commission; and
  - (b) in relation to a member of the Police Force, means the Police Service Commission; and
  - (c) in any other case, means the Public Service Commission;
- “entitled officer” means an officer in the public service who, on the operative date, has not attained the age of 55 years and who—
- (a) was, before the operative date, appointed or selected for appointment to an office in the public service, being a pensionable office for the purposes of the appropriate law;
  - (b) was, on the operative date, the substantive holder of an office that was, at that date, a pensionable office for the purposes of the appropriate law;
  - (c) is a designated officer for the purposes of the Overseas Service (Fiji) Agreement 1961;
  - (d) has, since the operative date, been the substantive holder of an office service in which may, during his tenure thereof, be taken into account in computing his pension under the appropriate law; and
  - (e) has been confirmed in his appointment, where his appointment is subject to confirmation;
- but does not include an officer who is or becomes entitled to compensation under the Fiji (Retiring Benefits) Order 1970\*;
- “General Orders” means the General Orders of the Government;
- “Government” means the Government of Fiji;
- “New Zealand officer” means an officer in the public service in respect of whom the Government has entered into an agreement with the National Provident Fund Board of New Zealand;
- “operative date” means 10 July 1970;
- “pensionable emoluments” means emoluments that may be taken into account for the purpose of computing the pension of an officer under the appropriate law and, in the case of a New Zealand officer, the emoluments enjoyed by him in respect of his service in Fiji which, if

\* Legal Notices Nos. 90 of 1970, 72 of 1973.

the Pensions (1958) Act of Fiji\* had applied to him, would have been taken into account for the purpose of computing his pension under that Act;

“pensionable service” means the aggregate amount of service that may be taken into account for the purpose of computing the pension of an officer under the appropriate law and, in the case of a New Zealand officer, the aggregate amount of his service in the public service that may be taken into account for the purpose of computing his pension under the New Zealand Provident Fund Act 1950†;

“public service” means the public service of Fiji;

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

“tour of residential service” means a tour of 3 years.

(2) For the purposes of this Schedule—

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

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

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

(i) under any provision of the Constitution of Fiji, for the time being in force, concerning compulsory retirement to facilitate appointment of local candidates;

(ii) to facilitate the introduction of constitutional changes;

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

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

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

he shall be deemed, for the purposes of this Schedule, to have been confirmed in his appointment immediately before the day upon which he was given notice requiring him to retire.

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

\* Chapter 59, 1967 Revised Edition.

† Statutes of New Zealand (1960 reprint) Vol. 10, p. 789.

before his secondment and had been granted all increments and other increases of salary for which he would thus have been eligible.

(4) An entitled officer who is required to retire and who, immediately before being so required, acted for a period of 6 months to the satisfaction of the appropriate Service Commission in a pensionable office, the pensionable emoluments of which were higher than those of the office of which he was the substantive holder, shall be deemed to be confirmed in the pensionable office in which he was acting.

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

(6) If an officer ceases to be an entitled officer by reason of becoming entitled to compensation under the Fiji (Retiring Benefits) Order 1970†, any compensation paid to him under this Schedule should be deemed to have been paid to him under the Schedule to that Order.

(7) The provisions of this Schedule shall—

(a) in relation to a New Zealand officer or an officer to whom the Pensions (1958) Act of Fiji‡ applies, have effect as if references to the age of 55 years were references to the age of 60 years and references to Table I of the Annex to this Schedule were references to Table II of that Annex; and

(b) in relation to a judge of the Supreme Court of Fiji, have effect as if references to 55 years of age were references to the age of 62 years and references to Table I of the Annex to this Schedule were references to Table III of that Annex.

*Entitlement to compensation*

2.—(1) Subject to the provisions of this Schedule, every entitled officer and every officer permitted to retire under paragraph 6 shall, on the operative date, become entitled to compensation, which shall be assessed in accordance with the provisions of this paragraph and at each assessment shall be calculated by multiplying by the appropriate factor the amount of his annual pensionable emoluments on the date in relation to which the assessment is made and the resulting amount, or \$F29,260§ whichever is the less, shall be the amount to which he is entitled.

(2) The compensation of each entitled officer under this paragraph shall be provisionally assessed as soon as is reasonably practicable after the operative date or, in the case of a person who becomes entitled to compensation after the operative date, as soon as is reasonably practicable after that person becomes

\* 1892 c.40

† Legal Notice Nos. 90 of 1970, 72 of 1973.

‡ Chapter 59, 1967 Revised Edition. See now Chapter 77, 1978 Revised Edition.

§ See Legal Notice No. 119 of 1970.

entitled to compensation and, for that purpose, the date in relation to which the assessment is to be made shall be the operative date or, in the case of a person who becomes entitled to compensation after the operative date, the date on which that person became entitled to compensation.

(3) The compensation under this paragraph of each person who is serving as an entitled officer shall be provisionally re-assessed upon each anniversary of the date in relation to which his compensation was assessed under sub-paragraph (2) and shall be finally assessed upon his retirement or death while still serving as an entitled officer, and, for the purposes of this sub-paragraph, the date in relation to which the assessment is to be made shall be such date (not being earlier than the date in relation to which his compensation was assessed under sub-paragraph (2) or later than the date upon which his compensation is provisionally re-assessed or finally assessed, as the case may be) as is most advantageous in relation to the officer.

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

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

*Payment of compensation*

3.—(1) When the compensation of an officer has been provisionally assessed under paragraph 2(2), a payment shall be made to that officer, which—

(a) in the case of an entitled officer who has undertaken, after the operative date, otherwise than in relation to his promotion in the public service, to serve as such upon such conditions and for such period as may be prescribed by the appropriate Service Commission, shall be—

- (i) an amount equal to the amount of the compensation or \$F4,180, whichever is the less, or
- (ii) one-sixth of the amount of the compensation where the amount of this fraction exceeds \$F4,180;

(b) in any other case, shall be an amount equal to the amount of the compensation or, if that amount exceeds \$F2,090, then one-sixth of the amount of compensation or \$F2,090, whichever is the greater:

Provided that, if an entitled officer gives such an undertaking after a payment has been made to him under this sub-paragraph, but not later than 12 months after the date in relation to which his compensation was assessed under paragraph 2(2), he shall be paid as soon as is reasonably practicable after the date on which he gave that undertaking and, in any case, within 3 months of that date, an amount which, when added to the amount already paid to him, equals the amount he would have been paid under this sub-paragraph if he had given that undertaking before any payment had been made to him under this sub-paragraph.

(2) Subject to the provisions of paragraph 13, a further payment shall be made to every person who has become entitled to compensation under paragraph 2 and who has not already received the whole of that compensation (whether that person is serving as an entitled officer or has retired) upon each anniversary of the date in

relation to which his compensation was assessed under sub-paragraph (2) of that paragraph, which—

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

Provided that—

- (i) where the balance of compensation outstanding upon the first, second, third or fourth anniversary exceeds \$F1,045 and, in the case of an officer to whom sub-paragraph 1(a) of this paragraph applies, where that balance, if added to the amount of compensation already paid under this paragraph, would exceed \$F4,180, an amount equal to the appropriate fraction of that balance or \$F836, whichever is the greater, shall be paid;
  - (ii) where the balance so outstanding is less than \$F1,045, or, in the case of an officer to whom sub-paragraph (1)(a) of this paragraph applies, where that balance exceeds \$F1,045, but would not, if added to the amount of compensation already paid under this paragraph, exceed \$F4,180, an amount equal to that balance shall be paid.
- (3) In this section, “the appropriate fraction”—
- (a) in relation to an assessment made upon the first anniversary, means one-fifth;
  - (b) in relation to an assessment made upon the second anniversary, means one-quarter;
  - (c) in relation to an assessment made upon the third anniversary, means one-third; and
  - (d) in relation to an assessment made upon the fourth anniversary, means one-half.

#### *Retirement*

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

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

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

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

(4) An entitled officer—

- (a) who is permitted to retire by reason of injury or ill-health;
- (b) who is required to retire on or after his attainment of any age prescribed by law;

- (c) who is required to retire in consequence of the abolition of his office or for the purpose of facilitating improvements in the organisation of the part of the public service to which he belongs by which greater economy or efficiency may be effected;
- (d) who is required to retire in the public interest;
- (e) who is required to retire under any provision of the Constitution of Fiji, for the time being in force, concerning compulsory retirement to facilitate appointment of local candidates; or,
- (f) in the case of a woman officer, who is required to retire upon her marriage,

shall be deemed to have retired under this paragraph.

*Retirement on constitutional grounds*

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

(2) An officer to whom this paragraph applies shall, as soon as reasonably practicable after the date on which he is notified that he is required to retire, be paid a disturbance grant equal to one-quarter of his annual pensionable emoluments at his retirement.

*Retirement on ground that career is prejudiced*

6.—(1) This paragraph shall apply to an officer who would have been an entitled officer if he had been designated for the purposes of the Overseas Service (Fiji) Agreement 1961 and who was, before the operative date—

- (a) a member of Her Majesty's Overseas Civil Service or Her Majesty's Overseas Judiciary; or
- (b) selected for appointment, or whose appointment was approved, by a Secretary of State.

(2) If, on the application of an officer to whom this paragraph applies made before he attains the age of 55 years, the appropriate Service Commission is satisfied that, as a consequence of constitutional changes, the public service career of the officer has been adversely affected or there are reasonable grounds for believing that his public service career will be adversely affected, the appropriate Service Commission may permit the officer to retire forthwith or on such date as may be specified by the appropriate Service Commission and the officer shall be entitled to retire accordingly.



(3) The provisions of paragraph 11 shall apply in relation to an officer upon his retirement under this paragraph, as if he were an entitled officer retiring in the circumstances described in paragraph 4(4)(b).

*Special gratuity on the death of certain officers*

7.—(1) Where an entitled officer, other than a New Zealand officer, dies and it is lawful, under the provisions of the appropriate law, for a gratuity to be granted to his personal representatives, there shall be granted to his personal representatives either that gratuity or a gratuity equal to the maximum gratuity that could have been granted to that officer under the provisions of paragraph 11 if he had retired under this Schedule at the date of his death, whichever is the greater:

Provided that, in the case of an officer to whom the provisions of the appropriate law relating to transferred officers applied, in respect of that proportion of the pension for which he would have been eligible, if he had retired under this Schedule at the date of his death and which is attributable to his pensionable service otherwise than in the public service, the provisions of paragraph 11 (1)(c) shall not apply and the permitted fraction referred to in that paragraph shall not be less than three-quarters.

(2) For the purposes of the proviso to sub-paragraph (1), the proportion of a pension which is attributable to the pensionable service of an officer otherwise than in Fiji shall be that proportion of the pension for which the officer would have been eligible if his pensionable service had been wholly in Fiji as the aggregate amount of his pensionable emoluments during his pensionable service otherwise than in Fiji bears to the aggregate amount of his pensionable emoluments throughout his pensionable service.

(3) The Secretary for Finance\* may direct that, instead of being paid to the personal representatives, any gratuity payable under this paragraph shall be paid to 1 of the dependants of the deceased or to 2 or more of those dependants in such proportions as the Secretary for Finance may think fit.

*Officers reappointed to United Kingdom or certain other services*

8.—(1) This paragraph applies to an entitled officer who has retired under this Schedule and who was transferred to the public service—

- (a) in the case of a New Zealand officer, from employment pensionable under the provisions of the National Provident Fund of New Zealand;
- (b) in the case of a police officer, from pensionable employment in the Metropolitan Police Force in the United Kingdom;
- (c) in any other case, from pensionable employment under the Government of the United Kingdom in a public office as defined by the Superannuation Act 1892†,

and who, not later than 12 months after he retired, has returned to such pensionable employment to which, in the case of returning to a public office as defined in the Superannuation Act 1892, he returns otherwise than as a result of a competition conducted by the Civil Service Commission of the United Kingdom.

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

\* Now the Permanent Secretary for Finance. See Legal Notice No. 137 of 1975.

† 1892 c. 40.

- (a) one-half of the amount he would receive if he were entitled to compensation under paragraph 2; or
- (b) the amount he would receive if he were entitled to compensation under paragraph 9, having been transferred to the pensionable employment referred to in paragraph 9(1)(a) and (c) on the date on which he retired,
- whichever is the less.
- (3) If the provisions of this paragraph become applicable to any person—
- (a) if the amount of compensation to which he is entitled under this paragraph exceeds the amount he has already received under this Schedule, the balance of compensation then outstanding shall be paid, together with any unpaid interest that has accrued under this Schedule before this paragraph applied to him, in the manner prescribed by paragraph 3 for the payment of compensation assessed under paragraph 2; or
- (b) if the amount of compensation he has already received under this Schedule exceeds the amount of compensation to which he is entitled under this paragraph, the excess shall forthwith become repayable, but, in any such case, any interest on account of such excess shall not be repayable.

*Transfer to other public service*

9.—(1) This paragraph applies to an eligible officer who, before the date of his retirement, is transferred from the public service—

- (a) to the service of a government or authority that is a Scheduled Government for the purposes of the provisions of the appropriate law relating to transferred officers in circumstances in which he remains eligible for the grant of a pension under the appropriate law upon his eventual retirement;
- (b) to service in the office of Governor in such circumstances that he is or may become eligible for a pension under the Governors' Pensions Act 1957\*; or
- (c) in the case of a New Zealand officer, to service in an office pensionable under the New Zealand Provident Fund Act 1950†:

Provided that it does not apply to an officer to whom paragraph 8 applies.

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

- (a) the amount of the excess multiplied by the appropriate factor; or
- (b) the amount he would receive if he were entitled to compensation under paragraph 2, having retired on the date of his transfer,
- whichever is the less.

\* 1957 c. 62.

† Statutes of New Zealand (1960 Reprint) Vol. 10, p. 789.

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

- (a) if the amount of compensation as so re-assessed exceeds the amount he has already received under this Schedule, the balance of compensation then outstanding shall be paid, together with any unpaid interest that has accrued under that paragraph before the re-assessment, in the manner prescribed by paragraph 3 for the payment of compensation assessed under paragraph 2; or
- (b) if the amount of compensation which has already been received under that paragraph exceeds the amount of compensation to which he is entitled under this paragraph, the excess shall forthwith become repayable, but, in any such case, any interest received on account of such excess shall not be repayable.

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

*Penalties for breach of undertakings*

10.—(1) If an entitled officer who has given an undertaking for the purposes of paragraph 3(1)(a) ceases to serve in accordance with the terms of that undertaking at any time before the end of the period to which the undertaking relates otherwise than with the consent of the Government or by reason of his death, his retirement in circumstances beyond his control or his transfer to other public service in the circumstances described in paragraph 8, then the amount of compensation to which he would otherwise be entitled under paragraph 2 shall be reduced by an amount equal to one-half per cent for each month or part of a month during that period in which he has not served in accordance with the undertaking, or \$F418, whichever is the less.

(2) If an entitled officer who has been granted promotion in the public service after the operative date upon his giving an undertaking to serve upon such conditions as may be prescribed by the appropriate Service Commission for any period ceases to serve in accordance with the terms of that undertaking at any time before the end of the period to which the undertaking relates otherwise than with the consent of the appropriate Service Commission or by reason of his death or his retirement in circumstances beyond his control, then the amount of compensation to which he is entitled under paragraph 2 shall be re-assessed and the amount of his compensation shall be determined as if his annual pensionable emoluments in relation to the date of his promotion or any subsequent date were the amount of the pensionable emoluments which would have been used in accordance with the appropriate law concerning the averaging of an officer's pensionable emoluments for the purpose of pension as if he had retired on that date.

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

*Grant of pensions and gratuities*

11.—(1) Subject to the provisions of paragraphs 18 and 19, an entitled officer, other than a New Zealand officer, on his retirement under this Schedule, may be granted, at his option (such option to be exercised in accordance with the

provisions of the appropriate law relating to the grant of a gratuity and a reduced pension), either—

- (a) a pension of such amount as may be granted under the appropriate law;  
or
- (b) the pension for which he is eligible under the appropriate law, reduced by such fraction as he may desire (not being, in the case of an officer who retires within 12 years of the operative date, more than the permitted fraction) or \$F640, whichever is the greater, together with a gratuity equal to the amount of the reduction so made in the annual pension multiplied by the appropriate factor; or
- (c) in the case of an officer who retires not less than 12 years after the operative date, a gratuity equal to the annual amount of the pension that may be granted under the appropriate law multiplied by the appropriate factor.

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

- (a) notwithstanding that he may have retired before attaining the age specified in the appropriate law as qualifying him for the grant of a pension; and
- (b) notwithstanding that he may not have completed, at the date of his retirement, the period of qualifying service required by the appropriate law to render him eligible for the grant of a pension.

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

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

(5) For the purposes of this paragraph, the amount of the pension or gratuity that an officer who is required to retire in the circumstances described in paragraph 4(4)(c) or (e) or paragraph 5 or on the grounds of age before attaining the age of 55 years may be granted under the appropriate law shall be calculated by reference to the full annual pensionable emoluments enjoyed by him on the date immediately prior to his retirement.

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

(7) In this paragraph—

“the appropriate factor”, in relation to an officer, means the factor obtained from Table V of the Annex that is appropriate to the age of that officer on the date immediately prior to his retirement, reckoned in completed years and completed months;

“the permitted fraction”—

- (a) in relation to an officer who retires within 1 year of the operative date, means one-quarter;
- (b) in relation to an additional pension granted on account of injury under the appropriate law, means one-quarter; and
- (c) subject to head (b) of this definition, in relation to an officer who retires within not less than 1 and not more than 12 years of the operative date, means such fraction as is obtained by adding one-sixteenth for each complete year of his pensionable service after the operative date to one-quarter;

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

*Special gratuity for certain officers*

12.—(1) Subject to the provisions of paragraphs 18 and 19, where any entitled officer to whom the provisions of the appropriate law relating to transferred officers apply or any New Zealand officer retires under this Schedule and is granted by any government or other authority that is a Scheduled Government for the purposes of those provisions or under the New Zealand Provident Fund Act 1950\*, as the case may be, both a pension and a gratuity, having elected to receive that pension and that gratuity in lieu of a pension of greater amount, he may be granted (in addition to any gratuity that may be granted to him under paragraph 11) a gratuity equal to the amount (if any) by which the amount produced by—

- (i) subtracting the annual amount of the pension granted to him by the Scheduled Government or under the New Zealand Provident Fund Act 1950, as the case may be, from the annual amount of the pension that would have been granted to him by that Government or under that Act had he not elected to receive the gratuity granted to him by that Government or under that Act, as the case may be; and
- (ii) multiplying the resulting amount by the appropriate factor, exceeds the amount of the gratuity granted to him by the Government or under that Act, as the case may be.

(2) In this paragraph, “the appropriate factor” has the same meaning as in paragraph 11.

*Special provisions as to payment of compensation*

13.—(1) Whenever—

- (a) a person who has become entitled to compensation under paragraph 2 but who has not already received the whole of that compensation (and in the case of an entitled officer whether he is still serving as such or has already retired) attains the age of 55 years, or dies before attaining that age;
- (b) an entitled officer who has not already received the whole of the

\* Statutes of New Zealand (1960 Reprint) Vol. 10, p. 789.

- compensation to which he is entitled under paragraph 2 retires in the circumstances described in paragraph 4(4)(a), (c) or (d) before he has attained that age or is required to retire in the circumstances described in paragraph 4(4)(b); or
- (c) an entitled officer who has not already received the whole of the compensation to which he is entitled under paragraph 2 retires in any other circumstances before he has attained that age but on or after the fifth anniversary of the operative date or, in the case of a person who became an entitled officer after that date, of the date on which he became an entitled officer, the balance then outstanding of the compensation to which he is entitled shall be paid to that person or, if that person is dead, to his personal representatives.
- (2) Whenever an entitled officer, who has not already received the whole of the compensation to which he is entitled under paragraph 2, is required to retire in the circumstances described in paragraph 4(4)(e) before attaining the age of 55 years, the balance then outstanding of the compensation to which he is entitled under that paragraph shall be paid to him—
- (a) if notice requiring him to retire is given to him while he is engaged upon a tour of residential service, before his departure from Fiji; or
- (b) if such notice is given to him while on leave of absence after completing a tour of residential service, as soon as reasonably practicable after the date upon which such notice is given to him.
- (3) Whenever an officer, who has not already received the whole of the compensation to which he is entitled under paragraph 2, is required to retire in the circumstances described in paragraph 5, the balance then outstanding of the compensation to which he is entitled under that paragraph shall be paid to him as soon as practicable after the date of the notice requiring him to retire.
- (4) The Secretary for Finance\* may direct that, instead of any payment being made to the personal representatives of a deceased person, payment shall be made to 1 of the dependants of the deceased or to 2 or more of those dependants in such proportions as the Secretary for Finance may think fit.
- (5) Whenever any payment of compensation becomes due under paragraph 3, interest at the rate of 5 per cent per annum shall accrue from day to day—
- (a) in cases where the compensation has not been finally assessed, during the period between the date on which the amount of the compensation was last due to be assessed and the date on which the next following assessment is to be made;
- (b) in cases where the compensation has been finally assessed, during the period between the date on which that payment of compensation became due and the date on which the next following payment of compensation will become due,
- upon any part of the compensation that did not then become payable and that interest shall become payable at the end of the period during which it accrued:
- Provided that, for the purpose of calculating interest under this sub-paragraph, in the case of compensation payable to an officer retiring under paragraph 6, the date on which the first instalment of compensation was paid to that officer shall be

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\* Now the Permanent Secretary for Finance. See Legal Notice No. 137 of 1975.

deemed to be the date of his retirement, and in the case of any other officer, the operative date.

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

*Leave and subsistence allowance*

14.—(1) This paragraph shall apply to an entitled officer (not being an officer to whom paragraph 18 applies) who is required to retire in the circumstances described in paragraph 4(4)(e) or under paragraph 5.

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

(a) if the period of leave on full pensionable emoluments for which he is eligible on the date upon which he is given notice requiring him to retire is less than 6 months, be granted such additional leave on full pensionable emoluments as will bring the aggregate period of such leave of absence from that date up to 6 months;

(b) if he returns to Fiji to settle his affairs, he shall be paid a subsistence allowance or hotel allowance, as appropriate, at the rate prescribed by General Orders for the period of his stay in Fiji or 21 days, whichever is the less.

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

(a) shall not be required to depart from Fiji on leave of absence pending his retirement until the expiration of a period of 6 months from the date upon which he was given notice requiring him to retire;

(b) shall, if the period of leave on full pensionable emoluments for which he is eligible is less than 6 months, be granted such additional leave on full pensionable emoluments as will bring the aggregate period of such leave of absence pending his retirement up to 6 months.

*Passages and baggage facilities*

15.—(1) Where an entitled officer who is on leave of absence after completing a tour of residential service gives notice of his intention to retire under paragraph 4, then, if he returns to Fiji at the requirement of the Government to undertake a further tour of residential service of not less than 6 months, or if, with the permission of the Government, he returns to Fiji to settle his affairs and, on his return, completes a tour of residential service of not less than 12 months, he shall be provided with appropriate passages and appropriate baggage facilities for himself and his family in respect of his and their return journey to Fiji and in respect of his and their journey from Fiji consequential upon his retirement; and, in any other case (whether or not he returns to Fiji), he shall be provided with appropriate baggage facilities for himself and his family for the purpose of removing his and their effects from Fiji.

(2) Where an entitled officer who is on leave of absence after completing a tour of residential service is required to retire in the circumstances described in

paragraph 4(4)(e) or under paragraph 5, he shall, if he returns to Fiji to settle his affairs, be provided with appropriate passages for himself in respect of his return journey to Fiji and his subsequent journey from Fiji; and, in any case (whether or not he returns to Fiji), he shall be provided with appropriate baggage facilities for himself and his family for the purpose of removing his and their effects from Fiji.

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

(4) Where an entitled officer who has given the undertaking referred to in paragraph 3(1)(a) or in paragraph 10(2) returns to Fiji at the requirement of the Government to undertake a further tour of residential service of not more than 12 months in order to fulfil such undertaking and is willing to undertake such a tour, he shall be provided with appropriate passages and appropriate baggage facilities for himself and his family in respect of his and their return journey to Fiji and in respect of his and their journey from Fiji.

(5) In this paragraph, "appropriate passages" and "appropriate baggage facilities", in relation to an entitled officer or, as the case may be, to the family of an entitled officer, mean respectively such passages and such baggage facilities as an officer of his status is entitled to under General Orders for the purpose of travelling to Fiji in order to begin a tour of residential service or, as the case may be, for the purpose of travelling from Fiji when retiring from the public service, having attained the age of 55 years and having completed such a tour:

Provided that the appropriate Service Commission may direct that the baggage facilities with which an officer is to be provided shall include freight facilities in respect of a motor car.

*Disciplinary proceedings and dismissal*

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

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

*Place of payment and rate of exchange*

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

- (a) in the United Kingdom;
- (b) in Fiji;
- (c) in the country from which the officer was recruited or where he intends to reside;



- (d) in the case of payment to the personal representatives of an officer or his dependants, in the country in which the personal representatives or the dependants, as the case may be, reside; or
- (e) in such other country as the officer or his personal representatives or dependants may, with the concurrence of the Secretary for Finance\*, select,
- in the currency of the country in which payment is to be made; and, where payment is to be made in a country other than Fiji, the amount of the payment shall be such as would produce, at the official rate of exchange prevailing at the date of the payment, the amount in sterling of the compensation, gratuity, disturbance grant or interest as calculated at the official rate of exchange prevailing on the operative date.

*Right to opt for abolition terms*

- 18.—(1) An entitled officer, other than a New Zealand officer, who, before he receives his initial payment of compensation, gives notice of retirement under paragraph 4, or is required to retire in the circumstances described in paragraph 4(4)(e) or under paragraph 5 may, at his option (such option to be exercised within 3 months of the operative date or, in the case of an officer who was not an entitled officer on the operative date, within 3 months of the date on which he became an entitled officer), become an officer to whom this paragraph applies.
- (2) An officer to whom this paragraph applies shall not be entitled to compensation under this Schedule or be granted a pension, gratuity or disturbance grant under this Schedule but, subject to the provisions of paragraph 19, may, on his retirement under this Schedule, be granted such benefits as may be granted under the appropriate law to an officer whose office has been abolished.
- (3) An officer to whom this paragraph applies shall repay the amount of any compensation that may have been paid to him.

*Application of appropriation law*

19. The provisions of the appropriate law shall, subject to the provisions of this Schedule, apply in relation to the grant of any pension or gratuity under this Schedule and to any pension or gratuity granted thereunder as they apply in relation to the grant of a pension or gratuity, and to any pension or gratuity granted, under the appropriate law:
- Provided that the provisions of the appropriate law relating to the suspension of an officer's pension during his re-employment in the public service or any law amending or replacing those provisions shall not apply in relation to any pension granted under the provisions of this Schedule.

*Acquisition of Fiji citizenship*

20. If an entitled officer becomes, at any time after the operative date, a citizen of Fiji by virtue of his own act, he shall thereupon cease to be an entitled

\* Now the Permanent Secretary for Finance. See Legal Notice No. 137 of 1975.

officer and shall cease to be entitled to compensation under this Schedule; but the amount of compensation (if any) he received before becoming a citizen of Fiji, and interest paid thereon, shall not be repayable.

*Exemption from tax*

21. Any compensation, gratuity or disturbance grant payable under any of the provisions of this Schedule shall be exempt from tax under any law in force in Fiji relating to the taxation of incomes or imposing any other form of taxation.

*Exercise of options*

22. Any option exercisable by any person for the purposes of this Schedule—
- (a) shall be irrevocable after the end of the period within which it is to be exercised;
  - (b) shall be exercised by notice in writing to the appropriate Service Commission;
  - (c) shall be deemed to have been exercised on the date on which the notice is received:

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

ANNEX  
INSTRUCTIONS FOR OBTAINING THE APPROPRIATE  
FACTOR FROM

TABLE II

- I. Read off from the Table the factors for officer's age at his last birthday and his—
  - (a) completed years of service.
  - (b) completed years of service plus 1 year.
- II. Subtract I(a) from I(b), divide the difference by 12 and multiply the result by the number of completed months of service, if any, in excess of the completed years of service.
- III. Add I(a) and II.
- IV. Repeat steps to III for the officer's age at his next birthday.
- V. Divide the difference between III and IV by 12 and multiply by the number of completed months of age, if any, since the officer's last birthday.
- VI. If IV is greater than III, add V to III.  
If IV is less than III subtract V from III.  
VI is the factor required.

INSTRUCTIONS FOR OBTAINING THE APPROPRIATE  
FACTOR FROM

TABLE I, III, IV OR V

- I. Read off from the Table the factors for the officer's age—
  - (a) at his last birthday;
  - (b) at his next birthday.
- II. Divide the difference between I(a) and I(b) by 12 and multiply by the number of completed months of age since the last birthday.
- III. If I(b) is greater than I(a), add II to I(a).  
If I(b) is less than I(a), subtract II from I(a).  
III is the factor required.

In calculating factors by interpolation in respect of Tables I to V, the calculations should be rounded off to 2 decimal points and, where this results in a difference of .01 in either direction, such difference should be ignored.

TABLE I

*Officers with Retirement Age of 55*

<i>Age of Officer</i>	<i>Factor</i>	<i>Age of Officer</i>	<i>Factor</i>
25 .....	.88	40 .....	3.70
26 .....	.99	41 .....	3.68
27 .....	1.11	42 .....	3.60
28 .....	1.26	43 .....	3.46
29 .....	1.43	44 .....	3.29
30 .....	1.63	45 .....	3.09
31 .....	1.87	46 .....	2.87
32 .....	2.13	47 .....	2.63
33 .....	2.39	48 .....	2.40
34 .....	2.66	49 .....	2.17
35 .....	2.92	50 .....	1.93
36 .....	3.17	51 .....	1.68
37 .....	3.38	52 .....	1.42
38 .....	3.55	53 .....	1.00
39 .....	3.66	54 .....	.50
		55 and over .....	NIL



TABLE III  
Judges

Paragraph 1(7)(b)

Age of Judge	Factor	Age of Judge	Factor
40 .....	3.60	50 .....	2.55
41 .....	3.68	51 .....	2.34
42 .....	3.70	52 .....	2.13
43 .....	3.68	53 .....	1.92
44 .....	3.60	54 .....	1.71
45 .....	3.47	55 .....	1.50
46 .....	3.32	56 .....	1.30
47 .....	3.15	57 .....	1.11
48 .....	2.96	58 .....	.93
49 .....	2.76	59 .....	.76
		60 .....	.60
		61 .....	.40
		62 and over .....	NIL

TABLE IV

Paragraph 9(4)

*Compensation in respect of transferred officers*

Age	Factor	Age	Factor
30 and below	5.00	40 .....	8.92
31 .....	5.08	41 .....	9.00
32 .....	5.21	42 .....	8.92
33 .....	5.47	43 .....	8.77
34 .....	5.90	44 .....	8.40
35 .....	6.56	45 .....	7.61
36 .....	7.44	46 .....	6.39
37 .....	8.10	47 .....	5.60
38 .....	8.53	48 .....	5.23
39 .....	8.79	49 .....	5.08
		50 and over .....	5.00

TABLE V

Paragraphs 11 and 12

*Commutation of pension*

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