

REPUBLIC OF ZAMBIA

THE PUBLIC SERVICE PENSIONS ACT

CHAPTER 260 OF THE LAWS OF ZAMBIA

CHAPTER 260 THE PUBLIC SERVICE PENSIONS ACT

THE PUBLIC SERVICE PENSIONS ACT

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CHAPTER 260

PUBLIC SERVICE PENSIONS

*Act No. 35 of 1996
Statutory Instrument
31 of 1997*

An Act to consolidate the law relating to pensions and other benefits for persons employed in the Public Service; and to provide for matters connected therewith or incidental to such consolidation.

[12th December, 1996

PART I

PRELIMINARY

1. (1) This Act may cited as the Public Service Pensions Act.

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"appropriate authority", in any case, means the authority charged by the Constitution or other written law with the power to appoint, to exercise disciplinary control over and to remove from office the person to whom that case relates;

"Board" means the Public Service Pensions Fund Board established by section four;

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"Child" in relation to any person entitled to a benefit by or under the provisions of this Act, means a child born in, or out of marriage, step-child, adopted child, and a posthumus child of that person, under the age of eighteen years;

"dependent", in relation to any person entitled to a benefit by or under the provisions of this Act, means his spouse, child or such other relative dependent on the person for maintenance, as the Permanent Secretary, responsible for personnel management may recognise for the purposes of this Act;

"due notice" means three months notice given in writing;

"existing fund" means the Civil Service (Local Conditions) Pensions Fund which was established by the Zambia Civil Service (Local Conditions) Contributory Pensions Act and continued in being by the Civil Service (Local Conditions) Pensions Act, and the Pension funds established under the Defence Act and the African Education Act;

Cap. 48,
1965 edition
Cap. 410,
Cap. 131,
Cap. 231,
1972 edition

"Fund" means the Public Service Pensions Fund established by section *nine*;

"officer" means a person serving on pensionable terms in the Public Service who has been confirmed in his appointment;

"pension", means an annual pension payable during the lifetime of the recipient;

"pensionable emoluments" means salary or wages, and any special personal addition to salary or wages granted without any condition that it shall not count for the purpose of calculating pension;

"pensionable service" means the aggregate of continuous service, if any, in respect of which contributions have been paid under Part V;

"Public Service" means the Judicial Service, the Civil Service, the Defence Forces, the Police and Prisons Service, the Teaching Service, the Zambia Security and Intelligence Service, and any other Government Service prescribed by the President.

"qualifying continuous Service" means service for a period of at least ten years for which an officer makes contributions under this Act.

PART II

PUBLIC SERVICE PENSIONS FUND BOARD

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3. There is hereby established the Public Service Pensions Fund Board which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name, and with power to acquire, hold, charge and alienate, property, real or personal, and, subject to the provisions of this Act, with power to do all such acts or things as are necessary or incidental to the performance of the duties and the exercise of the powers imposed or conferred upon it by or under the provisions of this Act.

Establishment of
public service
Pensions Fund Board

4. (1) The Directors of the Board shall be-

Directors

- (a) the Permanent Secretary in the Ministry responsible for Labour;
- (b) Permanent Secretary, responsible for personnel management;
- (c) the Director of Budget, Ministry of Finance;
- (d) a representative of the Attorney-General;
- (e) the National Secretary of the Pensioners Association representing persons who have retired under this Act;
- (f) the General Secretary Of the Civil Servants Union of Zambia;
- (g) the General Secretary of the National Union of Teachers;
- (h) a representative of the Defence Forces;
- (i) a representative of the Security Forces;
- (j) a representative of the Chamber of Commerce;
- (k) a representative of the Lusaka Stock Exchange; and
- (l) two persons appointed by the President;

(2) The President shall appoint the Chairman of the Board from the members of the Board.

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(3) A member referred to in subsection (l) may resign upon giving one month's notice in writing to the President and may be removed by the President upon giving like notice.

(4) The Office of a member shall become vacant-

- (a) if the member is declared to be of unsound mind;
- (b) if the member is adjudged bankrupt;
- (c) if the member is lawfully detained, or the member's freedom of movement is restricted under any law in force in Zambia for a period in excess of six months;
- (d) if the member is sentenced to a term of imprisonment for a period in excess of six months;
- (e) upon the expiration of not less than one month's notice given in writing by the member to the President of the member's intention to resign from the Board;
- (f) upon the expiration of not less than one month's notice given in writing by the President to the member terminating the member's appointment.

5. (1) Subject to the other provisions of this Act, the Board may regulate its own Proceedings of Board procedure.

(2) The Board shall meet for the transaction of business at least three times every twelve months at such places and at such times as the Chairman may decide.

(3) Upon giving notice of not less than fourteen days, a meeting of the Board may be called by the Chairman and shall be called if not less than five members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of fourteen days notice, a special meeting may be called, upon giving a shorter notice.

(4) Seven members shall form a quorum at any meeting of the Board.

(5) There shall preside at any meeting of the Board-

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- (a) the Chairman; or
- (b) in the absence of the Chairman, such member as the members present may elect for the purpose of that meeting.

(6) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(7) The Board may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Commission but that person shall have no vote.

(8) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled to do so took part in the proceedings.

6. The Chief Executive shall be the Secretary of the Board.

Secretary

7. The functions of the Board shall be to-

Functions of Board

- (a) control and administer the Fund in accordance with sound business practices and in the best interest of the members of the Fund, subject to the provisions of this Act;
- (b) establish a scheme for home ownership by the members of the Fund and to grant, on such terms and conditions as the Board shall determine, loans to the members of the Fund for the purpose of building or purchasing their own residential property; and
- (c) do all such other acts and things as may be conveniently combined or carried out together with any function conferred upon the Board by or under this Act or are incidental to or connected with the carrying out of any such function.

8. In the performance of its functions, the Board shall have power to-

Powers of Board

- (a) cause to be carried out actuarial assessment of the Fund in accordance with the provisions of this Act;

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- (b) co-opt any suitably qualified persons to any committee for such period as the Board may determine;
- (c) give such direction as it may deem fit regarding the operation of the Fund; and
- (d) do all such other acts and things as are necessary to give effect to the provisions of this Act.

PART III

PUBLIC SERVICE PENSIONS FUND

9. (1) As from a date to be fixed by the President by statutory instrument, in consultation with the Board, there shall be constituted the Public Service Pensions Fund. Public Service Pensions Fund

(2) Without further assurance the existing fund shall be transferred to the Public Service Pensions Fund.

10. The Fund shall comprise the following members: Members of Fund

- (a) the members of the existing fund; and
- (b) such other persons, being employees of public service, as the Board may prescribe.

11. (1) The Fund shall be vested in the Board which shall, subject to the provisions of this Act, have the sole management and control of the affairs of the Fund. Vesting of Fund and transitional provisions

(2) The law to be applied with respect to any pension benefits that will have accrued to the credit of any member of the existing fund, on the commencement of this Act, shall be the law applicable to the existing fund.

(3) The formula to be applied to the contributions and benefits of a member of the Fund as from the day after the commencement of this Act, shall be the formula set out in Parts V to XI of this Act as adjusted in accordance with the provisions of subsection (4).

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(4) The contribution and benefit structure set out in Parts V to IX shall, on the commencement of this Act, be subject to adjustment by the President, in consultation with the Board, by statutory instrument, in accordance with an actuarial valuation conducted to ascertain the viability of the Fund.

12. There shall be a Chief Executive of the Fund who shall be appointed by the Board on such terms and conditions of service as the Board may determine. Chief Executive

13. A person shall not be qualified for appointment as Chief Executive unless the Board is satisfied that he has the academic attainments and experience relevant to the management of pension schemes. Qualifications of Chief Executive

14. The Chief Executive shall, subject to the provisions of this Act and to the general directions of the Board, be responsible to the Board for the direction of persons serving in the Fund and for the management of the Fund and in particular for- Functions of Chief Executive

- (a) the collection of contributions and other moneys due to the Fund under the provisions of this Act and the payment thereof into the Fund;
- (b) the payment out of the Fund of benefits and claims under this Act and of the expenditure necessary for the administration of the Fund;
- (c) the investment of surplus funds in accordance with the provisions of this Act;
- (d) accounting for all moneys received, paid out or invested under this Act; and
- (e) carrying out such other functions as the Board may direct.

15. The Board may appoint such other staff as it may consider necessary for the performance of the functions of the Fund. Other staff

16. The Fund shall be based on the social insurance principle of pooling resources and sharing risks and shall pursue the following objectives: Objectives of Fund

- (a) the Fund shall not undertake any business or make any financial commitment which is inconsistent with the basic objectives of the Fund and the interests of the members of the Fund;
- (b) the Fund shall appreciate the concepts of the financing of pensions, the need to take account of long-term liabilities, and the linkage between higher benefits and higher contributions;

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- (c) the Fund shall maintain a distinction between employment conditions of service (such as those relating to retrenchment and early retirement) and eligibility for pension benefits;
- (d) the Fund shall endeavour to maintain the real value of benefits;
- (e) the Fund shall make adequate arrangements for the transfer or preservation of pension rights;
- (f) the Fund shall maintain a realistic contribution structure;
- (g) the Fund shall make adequate arrangements to avoid noncompliance;
- (h) the Fund shall avoid delays and other constraints to the effective provision of adequate benefits under the Fund;
- (i) the Fund shall maintain current records for members and contributions; and
- (j) the Fund shall curb excessive administrative costs and shall ensure prudential management of the Fund.

17. The Board shall submit to Parliament annually a comprehensive report covering the operations of the Fund. Reports to Parliament

PART IV

FINANCE AND MANAGEMENT OF FUND

18. As from the date mentioned in section *nine*, the existing fund shall be dissolved and the enabling legislation relating thereto shall stand repealed. Dissolution of existing fund and repeal of enabling legislation

19. When the existing fund is dissolved pursuant to section *eighteen*, all property, real or personal, and all rights and liabilities of the existing fund, and all property, real or personal, held by any person on behalf of the existing fund, shall, on the date mentioned in section *eighteen*, vest in the Board without any conveyance or other instrument or the authority of any court. Transfer of assets

20. The Fund shall consist of- Property of Fund

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- (a) the assets vested in the Board under the provisions of section *nineteen*;
- (b) contributions and interest paid into the Fund in accordance with the provisions of this Act;
- (c) income and capital appreciation derived from the holding of the assets of the Fund in any form; and
- (d) any other sums or assets accruing or granted to the Fund.

21. (1) All contributions shall be paid into the Fund.

Payments

(2) There shall be paid into the Fund each month from the general revenues of the Republic-

- (a) the amount equal to the sum of the contributions paid into the Fund during that month or such other amount calculated with regard to those contributions as may be fixed by the President in consultation with the Board following the advice of an actuary appointed by the Board;
- (b) the sum of all payments made during that month to persons who have been required to retire-
 - (i) on abolition of their posts;
 - (ii) to facilitate an improvement, by which greater efficiency or economy could be effected in the organisation of the parts of the service to which they belonged; or
 - (iii) in the public interest;
- (c) the sum of all payments made during that month to persons who retired on the grounds of their age or length of service, if that retirement was by virtue of an election, made as provided under section *thirty-five*, to retain a date of retirement which is earlier than the date of retirement otherwise provided:

Provided that this paragraph shall not apply to any payment made in relation to a period after the date on which an officer, had he not retired earlier, would have been required under the provisions of this Act to retire.

(3) Upon the retirement of any person in respect of whom a payment is made to the Fund by virtue of paragraph (b), of subsection (2), there shall be paid from the Fund to the general revenues of the Republic an amount equal to the sum of the aggregate of the person's contribution and the aggregate of the payments to the Fund in relation to him which were made under paragraph (a) of subsection (2).

(4) There shall be paid into the Fund from the general revenues of the Republic the sum of the amounts by which the interest on the investments of the Fund in any year is less than five per centum of the mean balance of the Fund in that year.

22. (1) Subject to the provisions of subsection (2), the sum standing to the credit of a member's account in the Fund shall, until paid out in accordance with the provisions of this Act, remain the property of the Board and shall not form part of the assets of a member in the event of his bankruptcy or insolvency, or be liable to attachment in satisfaction of his debts; and any security, pledge or assignment given before or after the commencement of this Act which purports to include any such or part thereof shall, to that extent, be void.

Protection of
member's account

(2) A pension or other benefit granted under this Act shall not be assignable or transferable except for the purposes of satisfying-

- (a) a debt due to the Fund or the Government; or
- (b) an order of any court for the periodic payment of sums of money towards the maintenance of the spouse or former spouse or child or other dependant under any written law.

23. There shall be charged on, and discharged from, the Fund-

Application of Fund

- (a) the payment of benefits in accordance with the provisions of this Act;
- (b) the whole of the expenses incurred in connection with, or incidental to the management and administration of the Fund, including the cost of staff and the audit and actuarial assessment of the Fund;
- (c) any losses incurred on the realisation, or decrease in the value of any assets of the Fund; and
- (d) any other payments authorised to be made out of the Fund under the provisions of this Act or regulations made thereunder.

24. The Board shall appoint an actuary, who shall be a person holding internationally recognised qualifications, to carry out the duties and exercise the powers imposed or conferred upon him by the provisions of this Act.

Appointment of
actuary

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25. (1) The Fund shall be valued by an actuary as may be required by the Board: Acturial valuation of Fund

Provided that the Fund shall be valued at intervals not exceeding three years.

(2) The actuary shall, upon any valuation of the Fund, prepare a report on the state of the Fund and, in regard to any surplus or deficiency revealed, the actuary shall recommend therein what action should be taken.

(3) The actuary shall submit any report prepared by him under subsection (2) to the Board which shall forthwith forward a copy to the President.

26. (1) The Board shall pay due regard to any recommendations made by the actuary and, in doing so, may cause the rates of the contribution payable in respect of members to be increased or decreased. Action on acturial report

27. The financial year of the fund shall be the period of twelve months ending on the 31st December in each year. Financial year

28. (1) The Board shall cause to be kept proper accounts in which shall be recorded all the financial transactions of the Fund and shall cause the books and accounts of the Fund to be audited as at the end of each Financial year and shall cause statements of income and expenditure, together with a balance sheet, to be prepared. Accounts and audit

(2) The Board shall appoint an auditor for each financial year.

(3) The auditor appointed under subsection (2) shall audit the accounts of the Fund for the financial year for which the auditor was appointed, and shall make a report to the Board on the accounts and other documents examined, and such report shall state-

- (a) whether or not the provisions of this Act have been complied with;
- (b) whether or not the auditor has obtained all the information and explanations which was required;
- (c) whether, in the opinion of the auditor, according to the information and the explanations given to the auditor and as shown in the books relating to the Fund, the balance sheet for the year concerned is properly drawn up so as to exhibit a true and correct view of the state of the Fund; and

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- (d) whether the expenses of the Board incurred in the year concerned in connection with or incidental to the management and administration of the Fund are excessive.

(4) As soon as the accounts of the Fund have been audited, the Board shall send a copy of the balance sheet and statement of the transactions of the Fund referred to in subsection (1) to the President together with a copy of the report made by the auditor under subsection (3), and shall keep copies of such balance sheet and statement available for inspection by any member of the Fund.

29. (1) The investment of any moneys of the Fund not required to meet the current charges upon the Fund shall, subject to this section, be of the discretion of the Board which is hereby empowered to invest such moneys in any of the following ways: Investment of moneys of fund

- (a) in any interest bearing accounts of any bank or institution which is governed by any written law of Zambia;
- (b) in stocks, securities or funds issued by or on behalf of the Government or in stocks, securities or funds guaranteed by the Government; and
- (c) in such other investment as may be approved generally or specifically by the Board.

(2) The Board shall not invest assets in excess of twenty per centum of its net asset value in any one form of investment.

PART V

CONTRIBUTIONS

30. (1) Subject to the other provisions of this section, an officer or probationer shall contribute at the rate of seven and one quarter per centum of his pensionable emoluments or at such other rate as the President may fix by statutory order in consultation with the Board following the advice of an actuary appointed by the Board. Persons required to contribute and rates of contribution

(2) An officer or probationer shall not contribute in respect of any period of service-

- (a) prior to his attaining the age of eighteen years; or
- (b) after attaining the age of his retirement under the provisions of this Act.

(3) If the initial contribution of an officer or probationer would be in respect of a period commencing after the officer has attained the age of forty-five years, such officer or probationer shall not contribute.

(4) Subject to subsection (5), where an officer or probationer is, during any period of the officer's or probationer's service, absent from duty with or without leave of absence, the officer or probationer shall contribute at the rate appropriate to the officer's or probationer's full pensionable emoluments during that absence whether the officer or probationer receives such emoluments or not.

(5) Notwithstanding the provisions of subsection (4)-

- (a) the appropriate authority may direct that any period during which an officer or probationer is absent from duty without leave of absence shall not count as pensionable service; or
- (b) an officer or probationer may elect that any period of absence exceeding thirty days which is granted to the officer or probationer on reduced pensionable emoluments or without pensionable emoluments shall not be counted as pensionable service; and, in either case, the period to which such direction or election relates shall not be counted as pensionable service and no contributions shall be paid in respect of it.

31. (1) An officer or probationer who, immediately prior to being appointed as such officer or probationer, was a temporary employee may, with the consent of the appropriate authority, elect to contribute in respect of all or any past continuous service as temporary employee-

Voluntary contributions
for previous service

- (a) which was service approved by the appropriate authority for the purposes of this section;
- (b) which was immediately followed by service as an officer or probationer; and
- (c) in respect of which contributions would have been payable under section *thirty* if such service had been as an officer or probationer.

(2) The emoluments on which contributions shall be calculated following an election made under this section shall be the emoluments determined by the Permanent Secretary, responsible for personnel management.

(3) An election made under subsection (1) shall not be valid unless made within one month of the date when the officer or probationer is advised by the Permanent Secretary, responsible for personnel management, that he may make such election, and any such election shall be irrevocable.

(4) Contributions which an officer or probationer elects to make under this section shall become payable on the date of his election.

32. (1) Contributions payable under this Part shall be payable monthly in arrears and shall ordinarily be effected by deduction from any pensionable emoluments payable to the officer or probationer and, in calculating the amount of any contribution, any fraction of the Kwacha shall be taken as one Kwacha.

Method of payment of contributions

(2) An officer or probationer who-

- (a) proceeds on leave with reduced pensionable emoluments or without pensionable emoluments; and
- (b) has made no election under subsection (5) of section *thirty*:

may elect to defer the payment of contributions in respect of the period of his leave until the expiration of that leave.

(3) Unless paid within one month from the date when they become payable, any contributions which are deferred under subsection (2) or become payable under section *thirty-one* shall be paid with interest at the ruling Central Bank deposit rate in such manner as the Board shall determine.

(4) Any contributions, including interest thereon, due under this Part which remain unpaid when any pension or other benefit becomes payable under this Act in respect of the officer or probationer from whom the contributions are due shall be deducted in such manner as the Board may determine from such pension or other benefit.

PART VI

AGE OF RETIREMENT

33. Subject to the other provisions of this section or any other written law, an officer shall retire on the *fifty-fifth* anniversary of the date of his birth:

Age of retirement

Provided that-

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- (i) any member of the Defence Forces, or an officer of or below the rank of Chief Inspector in the Police Force, or an officer of or below the rank of Chief Officer III in the Prisons Service, may, on giving due notice, retire on or after attaining the age of forty-five years or after completing twenty years service whichever is the earlier;
- (ii) the appropriate authority may, in consultation with the Board, prescribe earlier or later dates for the retirement of all or any of its officers.

34. (1) An officer who dies after completing twenty years service shall be deemed to have retired immediately before the date of his death. Death after twenty years services

(2) The estate of an officer to whom subsection (1) applies shall be entitled to the commutation of two thirds of the pension payable in lump sum.

35. No service by any officer after the date for his retirement by or under this section shall be taken into account in calculating any pension or lump sum payment under this Act. Service after retirement

PART VII

BENEFITS ON RESIGNATION, DISCHARGE OR DISMISSAL

36. (1) Subject to the provisions of Part XI and of subsection (3), an officer or probationer who resigns shall be entitled to a lump sum calculated as follows: Benefits on resignation

$$SC + (SC \times I \times Y);$$

where SC = the sum of the officer's contributions;

I = interest at current Central Bank deposit rate; and

Y = the number of completed years in respect of which the officer has contributed.

(2) If a person who is entitled to a lump sum under subsection (1) resigns without due notice, the appropriate authority may, deduct from that payment such sum as that authority may determine, being not more than the pensionable emoluments of the person, for that period of notice.

37. A probationer who is discharged shall be refunded the sum of the contributions the officer made plus interest at the ruling Central Bank deposit rate. Benefits on discharge

38. Any officer or probationer who is dismissed shall be refunded the sum of the contributions the officer made plus interest at the ruling Central Bank deposit rate. Benefits on dismissal

PART VIII

BENEFITS ON RETIREMENT

39. (1) Subject to the provisions of Part XI and of subsection (2), an officer who retires on the abolition of his post or to facilitate an improvement by which greater efficiency or economy could be effected in the organisation of the part of the service to which the officer belongs shall be entitled with effect from the date of the officer's retirement to receive a pension calculated as follows: Benefits for officers retiring on abolition of post or to effect greater efficiency or economy

$$\frac{KA \times B}{C} + \frac{KA \times D}{60};$$

where KA = his pensionable emoluments;

B = the number of completed months of his pensionable service;

C = the age at which he retires, expressed in complete months;

D = the number of completed periods of three years in his pensionable service, to a maximum of ten.

(2) A pension payable under subsection (1) shall not exceed-

- (a) the pension, calculated with reference to the salary scale on which the officer was serving at the time of retirement, to which the officer would have been entitled if the officer had continued to hold the post the officer held at the date of retirement until the date on which the officer would otherwise have retired under the provisions of this Act having received all scale increments for which the officer would have been eligible by that date; or
- (b) two-thirds of the highest annual rate of pensionable emoluments received by the officer at any time during the officer's pensionable service.

40. (l) Subject to the provisions of Part XI, an officer who retires on medical evidence to the satisfaction of the appropriate authority that he is incapable by reason of infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent shall, with effect from the date of the officer's retirement, be entitled-

Benefits for officers retiring on grounds of ill health

- (a) if the officer's pensionable service amounts to less than ten years, to a lump sum, calculated as follows:

$$SC + (SC \times I \times Y); \text{ and}$$

- (b) if the officer's pensionable service amounts to ten years or more, to a pension calculated as follows:

- (i) in the case where the officer's infirmity is, in the opinion of the appropriate authority, due to or occasioned by the officer's own default-

$$\frac{KA \times B}{C}$$

- (ii) in the case where the officer's infirmity is not, in the opinion of the appropriate authority, due to or occasioned by the officer's own default-

$$\frac{KA \times B}{C} + \frac{KA \times D \times 7}{7,200}$$

(2) For the purposes of the calculations set out in subsection (l)-

KA = pensionable emoluments;

B = the number of completed months of pensionable service;

C = the age at which an officer retires, expressed in complete months;

D = the number of complete months remaining from the officer's retirement until the date on which he would otherwise have retired under the provisions of this Act;

SC = the sum of the officer's contributions;

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I = interest at current Central Bank deposit rate;

Y = the number of completed years in respect of which the officer has contributed.

41. Subject to the provisions of Part X, an officer who retires under section *thirty-three* on grounds other than those described in sections *thirty-nine* and *forty* shall, with effect from the date of the officer's retirement, be entitled-

Benefits for officers retiring on grounds not otherwise described

- (a) if the officer's pensionable service amounts to less than ten years, to a lump sum calculated as follows:

$$SC + (SC \times I \times Y); \text{ or}$$

- (b) if the officer's pensionable service amounts to ten years or more, to a pension calculated as follows:

$$\frac{KA \times B}{C};$$

where KA = the officer's pensionable emoluments;

B = the number of completed months of the officer's pensionable service;

C = the age at which the officer retires expressed in complete months;

SC = the sum of the officer's contributions;

I = interest at current Central Bank deposit rate;

Y = the number of completed years in respect of which the officer has contributed.

PART IX

BENEFITS FOR SPOUSES AND CHILDREN OF DECEASED PENSIONERS

42. (1) Subject to the provisions of Part X, if a probationer dies, there shall be paid the gratuity which would have been payable to the officer under section *thirty-six* had the officer resigned on the date of the officer's death and such lump sum payment shall be in addition to any benefit payable under Part X.

Benefits on death of probationer

- (2) A lump sum payable under subsection (1) shall be paid in accordance with-

(a) the will left by the deceased; or

(b) where the deceased has not left a will, the mode of distribution specified in the Intestate Succession Act. Cap. 59

43. (1) Subject to the provisions of Part X, if an officer dies and no pension, other than a pension payable in respect of injury or death, is payable to any remaining spouse or child, there shall be paid a lump sum equal to the sum which would have been payable to the officer under section *thirty-six* had the officer resigned on the date of his death. Benefits on death of officer

(2) A lump sum payable under subsection (1) shall be paid in accordance with-

(a) the will left by the deceased; or

(b) where the deceased has not left a will, the mode of distribution specified in the Intestate Succession Act. Cap. 59

44. (1) Subject to the provisions of Part X, a gratuity shall be paid in respect of an officer who dies, and whose death, in the opinion of the appropriate authority, was not caused by any wrongful act or omission on the part of such officer in discharging the officer's official duties. Special death gratuity

(2) A gratuity payable under this section shall be equal to the officer's annual pensionable emoluments at the date of the officer's death and shall be paid-

(a) in accordance with the will left by the deceased; or

(b) where the deceased has not left a will, in accordance with the mode of distribution specified in the Intestate Succession Act. Cap. 59

45. (1) Subject to the provisions of Part X, if an officer whose pensionable service amounts to ten years or more dies and leaves a spouse, there shall be paid to the spouse a pension calculated as follows: Pensions for spouses

$$\frac{KA \times B}{1,800} + \frac{KA \times C \times 7}{18,000}$$

where KA = the officer's pensionable emoluments at the date of the officer's death;

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B = the number of months of pensionable service completed by the officer at the date of the officer's death; and

C = the number of complete months remaining from the date of the officer's death to the fifty-fifth anniversary of the officer's birth.

(2) Subject to the provisions of Part XI, if a retired person who, on the date of the officer's retirement-

- (a) was entitled to a pension under Part XIII of this Act; and
- (b) had pensionable service amounting to ten years or more;

dies and leaves a spouse, there shall be paid to the spouse a pension calculated by means of the formula set out in subsection (1) as though the deceased officer had died on the last day of the officer's pensionable service.

(3) Any pension payable under this section shall be paid with effect from the date following the death of the deceased.

46. (1) Subject to the provisions of Part X, this section shall have effect where- Pensions for children

- (a) an officer whose pensionable service or total service, as the case may be, amounts to ten years; or more;
- (b) a retired person who at the date of the officer's retirement was-
 - (i) a person described in paragraph (a); and
 - (ii) entitled to a pension under Part VIII of this Act;

dies and leaves children.

(2) In the case where a person described in subsection (1) leaves a spouse, there shall be paid in respect of the person's children a pension proportionate to the pension payable to the spouse in accordance with section *forty-five* and calculated as follows:

- (a) for one child twenty-five per centum;
- (b) for two children forty per centum;

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- (c) for three children fifty per centum;
- (d) for four children sixty per centum;
- (e) for five children or more sixty-six and two thirds per centum.

(3) In the case where a person described in subsection (1) leaves no spouse, there shall be paid in respect of the person's children a pension proportionate to the pension which would have been payable to the person's spouse in accordance with section *forty-five* had the person left one, and calculate as follows:

- (a) for one child fifty per centum;
- (b) for two children eighty per centum;
- (c) for three children one hundred per centum;
- (d) for four children one hundred and twenty per centum;
- (e) for five or more children one hundred and thirty-three and one third per centum.

(4) A pension payable under this section shall be recalculated whenever there is any change in the number of children in respect of whom it is payable.

(5) A pension payable under this section shall be paid with effect from the day following the death of the deceased to such persons.

PART X

MISCELLANEOUS

47. (1) The Board may require any officer or probationer to furnish such particulars relating to himself and his family, and proof of those particulars, as the Board may specify.

Information relevant to payment of benefits to be furnished

(2) The Board may require any claimant or recipient of any benefit payable under this Act upon the death of a person described in sub section (1) to furnish such particulars relating to that person and his family, and proof of those particulars, as the Board may specify.

(3) The Board may require any person described in subsection (1) or the recipient of any benefit payable under this Act upon the death of that person to notify the Board of any future occurrence relating to that person or his family which the Board may specify and to furnish the Board with proof of that occurrence.

(4) For the purposes of this section-

(a) "claimant" and "recipient" shall include, respectively, any person claiming or receiving for the benefit of any child or other dependant of a person described in subsection (1); and

(b) "proof" shall be proof to the satisfaction of the Board.

48. (1) The Board may, with the concurrence of the appropriate authority, withhold the payment of any benefit, or any portion thereof, otherwise payable under this Act in respect of any person described in subsection (1) of section *forty-seven*, if any particulars or notification relevant to the payment of that benefit and the proof thereof have not been furnished in accordance with a requirement made under that section.

Circumstances when benefits may be withheld, suspended or reduced

(2) If any person, in the opinion of the Board wilfully fails to comply with a requirement made under section *forty-seven* or, in complying with that requirement, knowingly makes any false representation of fact, any benefit or portion thereof otherwise payable under this Act the payment of which may be affected-

(a) as to amount;

(b) as to the date in relation to which it shall commence or terminate; or

(c) as to the person or persons to whom it shall be made;

by such failure or such representation, shall be liable to be suspended or reduced at the discretion of and in accordance with the directions of the Board.

(3) If a person becoming entitled to or in receipt of a pension under this Act is convicted of an offence involving-

(a) the misappropriation of public moneys or property; or

- (b) the making of a false representation for the purposes of obtaining a pension, knowing that representation to be false or not believing it to be true;

the person's pension shall be withheld, suspended or reduced, as the case may be, at the discretion and in accordance with the directions of the Board.

(4) Where a probationer is discharged or an officer or probationer is dismissed, the appropriate authority may cause to be set off against the sum otherwise payable to him under Part VII the amount of any loss which, in the opinion of the appropriate authority, was sustained by the Government by reason of the conduct of the officer or probationer on account of which he was discharged or dismissed.

(5) Where an officer is prematurely retired in order to enable him to take up an appointment with a recognised authority, the pension of such officer shall be paid with effect from the date of such premature retirement.

49. If a person to whom a pension is otherwise payable under this Act fails to maintain, deserts or abandons any child of a deceased officer entitled to a pension that pension may be reduced by such proportion as the Board may direct, and that proportion shall be paid to such person as the Board may determine for the benefit of such child.

Termination or reduction of pension to spouse

50. (1) Where a person dies and is survived by more than one spouse of a polygamous marriage and a pension or other benefit is payable to a spouse under this Act, Then that pension or other benefit shall be calculated as if there had been only one spouse and shall be divided equally into the same number of parts as the number of spouses surviving at the date of that person's death and each surviving spouse shall be paid one such part.

Pensions in relation to spouse and children of polygamous marriage
Medical examination or treatment of certain pensioners

(2) A pension payable to a spouse in accordance with subsection (1) shall cease on the date on which such spouse remarries or dies and the pension of the remaining spouse or spouses shall not be increased.

(3) Subject to subsection (4), when a person dies and is survived by more than one spouse of a polygamous marriage and a pension is payable under this Act in respect of the children of the deceased, then that pension shall be calculated on the pension payable as if there had been one spouse.

(4) Where a person dies and is survived by a widower of a polygamous marriage, thirty per centum of the benefits shall be paid to the widower while the rest shall be distributed equally amongst the issue of the biological children of the deceased.

51. Any person who is in receipt of a pension or allowance on the grounds of ill health or any person retiring in consequence of injury may be subsection, the person's pension or allowance shall be restored-

Medical examination or treatment of certain pensioners

- (a) in the case where the person's pension or allowance was payable in consequence of injury, with effect from the date the person submits to that examination or undergoes that treatment; or
- (b) in any other case, if the person is certified unfit to resume duty or is not required to resume duty, with effect from the date on which it was withheld.

52. (1) If any person who is in receipt of a pension on the grounds of ill health is within two years of the date of the person's retirement and before the date on which the person would otherwise retire under section *thirty-three*, certified by a medical board to be fit to resume duty in the person's former or in any other post, the person may, subject to the provisions of subsection (2), be required by the appropriate authority to resume duty in the person's former or in another post.

Resumption of duty by officer retired on grounds of ill health

(2) The pension of the person who, without reasonable cause, fails to comply with a requirement made under subsection (1) may, at the discretion of the appropriate authority, be withheld with effect from the date on which the person is required to resume duty:

Provided that a pension so withheld shall, unless the appropriate authority otherwise directs, be restored with effect from the fifty-fifth anniversary of the birth of that person.

(3) The following provisions shall apply in relation to any person required to resume duty under subsection (1)-

- (a) the pensionable emoluments attached to the post to which the person is to be appointed shall not, without the person's consent, be less than the pensionable emoluments received by him immediately before the date of the person's retirement;
- (b) the person shall not, without the person's consent, be appointed to a post other than the person's former post unless, in the opinion of the appropriate authority, the duties thereof correspond to those which the person could have been called upon to perform before the date of the person's retirement;
- (c) the pension which the person was receiving on the grounds of ill health shall cease with effect from the date of the person's resumption of duty;
- (d) the person's continuous service shall be deemed not to have been interrupted by the period during which the person was receiving that pension but that period shall not form part of the person's pensionable service or total service; and

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- (e) any gratuity paid on the person's earlier retirement shall be recovered in the manner determined by the appropriate authority from any pension or gratuity payable to the person under this Act on the person's final retirement.

53. (1) An officer who is entitled to a pension may elect before the payment of pension commences, to receive *in lieu* of either one-third or two-thirds of that pension, a lump sum calculated by multiplying the amount of pension to be commuted by the factor obtained from the Third Schedule appropriate to the officer's age on the officer's last day of pensionable service or total service as the case may be: Commutation of pensions

Provided that if the portion of the pension not so commuted is less than fifty thousand kwacha, the Board may commute the whole pension at the election of the officer.

(2) An officer who retires may opt to commute either one-third or two-thirds of the officer's pension for a lump sum, calculated in accordance with the commutation factors as set out in the Third Schedule.

(3) Nothing in this section authorises the commutation of any pension or part of a pension payable in respect of injury or death.

54. There shall be a review of pensions at such intervals as the Board may determine. Review of pension

55. The transitional provisions and conditions of service relating to death or injury in the course of duty are provided for in the First and Second Schedules respectively. Transitional provisions and conditions of service

56. The Minister may, after consultation with the Board, by statutory instrument, make regulations for the better carrying into effect of the provisions of this Act. Regulations

57. This Act shall bind The Republic. Act to bind the Republic

58. The Civil Service (Local Conditions) Pensions Act, Cap. 410, is hereby repealed. Repeal of Civil service (Local Conditions) Pensions Act 1972 edition

FIRST SCHEDULE

The Laws of Zambia

(Section 55)

TRANSITIONAL PROVISIONS

ARRANGEMENT OF SECTIONS

PART I

BENEFITS ON RETIREMENT OF OFFICERS TRANSFERRED FROM A
RECOGNISED AUTHORITY OR FROM LOCAL CONDITIONS

Section

1. Application of Part I
2. Benefits for officers transferred from a recognised authority on abolition of post or to effect greater efficiency on economy
3. Benefits for officers transferred from a recognised authority retiring on grounds of ill health
4. Benefits for officers transferred from a recognised authority retiring on grounds not otherwise described
5. Further pension for certain transferred Federal officers
6. Increase in pension for certain officers transferred from a recognised authority
7. Benefits for persons transferred from local conditions
8. Further pension for certain persons transferred from Division I or II
9. Emoluments factor
10. Transferred persons
11. Payments
12. Application of Fund
13. Age of retirement
14. Benefits on resignation
15. Benefits on dismissal
16. Pensions for spouses
17. Pensions for children
18. Special pension for spouse, children and dependants or certain transferred officers
19. Revival of special pension which ceased on remarriage
20. Officer's deemed to be in Division IV
21. Commutation of pensions
22. Certain benefits to be granted or increased retrospectively Cap. 48 of 1965 Edition
23. Increase of certain pensions
24. Definitions

SECOND SCHEDULE

(Section 54)

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CONDITIONS OF SERVICE RELATING TO DEATH OR INJURY IN THE COURSE OF DUTY

Section

1. Sick leave for injured persons
2. Benefits following injury
3. Benefits following death in consequence of injury
4. Reimbursement of medical and other expenses of injured persons
5. Definitions

APPENDIX I

APPENDIX II

THIRD SCHEDULE

FIRST SCHEDULE

(Section 55)

TRANSITIONAL PROVISIONS

PART I

BENEFITS ON RETIREMENT OF OFFICERS TRANSFERRED FROM A
RECOGNISED AUTHORITY OR FROM LOCAL CONDITIONS

4. Subject to the provisions of this Act, an officer transferred from a recognised authority who retires under section *thirteen* of this Schedule on grounds other than those described in sections *two* and *three* of this Schedule shall, with effect from the date of his retirement, be entitled-

- (a) in the case of a transferred Federal officer or an officer whose total service amounts to ten years or more, to a pension calculated as follows:

$$\frac{KA \times B \times C}{C}; \text{ and}$$

- (b) in any other case, to a gratuity calculated as follows:

$$\frac{KA \times B \times C}{144};$$

Provided that if the officer was transferred from service in Zambia, the gratuity shall be calculated as follows:

$$\frac{KA \times B \times C}{120}$$

where KA = his average pensionable emoluments;

B = the number of completed months of his total service;

C = his emoluments factor; and

D = the age at which an officer retires, expressed in complete months

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5. (1) Subject to the provisions of this Act, a transferred Federal officer who retires on any ground other than the abolition of his post or to facilitate an improvement by which greater efficiency or economy could be effected in the service to which he belongs, shall, in addition to any other pension payable under this Act, be entitled, with effect from the date of his retirement, to a further pension calculated as follows:

$$KA \frac{2(KA \times B)}{8};$$

where KA = the additional abolition of office pension, determined by the Central African Pension Agency, to which he would have been entitled under the Federation of Rhodesia and Nyasaland (Dissolution) Order in Council, 1963, if he had retired from the service of the Government of the former Federation of Rhodesia and Nyasaland on the day before his transfer and if he had not been offered an appointment in the service of any of the Territorial Governments of that former Federation; and

B = the number of completed years of his pensionable service after the fourth anniversary of the date of his transfer.

(2) A further pension granted under subsection (1) shall not exceed the difference between the sum of any other pensions granted in respect of service on local conditions and with a recognised authority (but not including a pension granted in respect of injury or death) and two-thirds of the highest annual rate of pensionable emoluments paid to the officer at any time during his pensionable service.

6. (1) Subject to the provisions of this Act, where an officer who was transferred from service in Zambia retires and the sum of-

- (a) the pension payable to him under this Part; and
- (b) the pension or pensions payable to him under the appropriate law;

is less than the pension or the sum of the pensions which would have been payable to him with effect from the date of his retirement had he not been transferred, the pension payable to him under this Part shall be increased by an amount equal to the difference.

(2) The pension or pensions which, for the purposes of subsection (1), would have been payable to an officer had he not been transferred shall be calculated with reference to the emoluments which, in the opinion of the Permanent Secretary, responsible for personnel management, would have been payable to him if his period of service on local conditions had been the same period of service in Zambia and he had received during such service in Zambia the same promotions, if any, as he received during his service on local conditions.

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7. (1) Any person who has been transferred from local conditions and who-
- (a) is required to retire under the Non-Designated Expatriate Officers (Retiring Benefits) Act;
 - (b) is required to retire on the abolition of his post or to facilitate an improvement by which greater efficiency or economy could be effected in the organisation of the part of the service to which he belongs, in circumstances in which he is eligible for a pension or gratuity from the recognised authority with which he is serving at the date of the retirement; or
 - (c) retires on completion of total service amounting to ten years or more in circumstances in which he is eligible for a pension or gratuity from the recognised authority with which he is serving at the date of his retirement;

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shall be entitled with effect from the date of his retirement, to a pension calculated as follows:

$$\frac{KA \times B \times C}{D};$$

where KA = the annual pensionable emoluments taken by the recognised authority for the purpose of calculating his pension or gratuity;

B = the number of completed months of his total service;

C = his emoluments factor; and

D = the age at which he retires expressed in completed months.

(2) A person-

- (a) who has transferred from local conditions;
- (b) who retires under circumstances in which he is eligible for a pension or gratuity from the recognised authority with which he is serving at the date of his retirement;
- (c) whose total service amounts to less than ten years; and
- (d) who is not entitled to a pension under subsection (1);

shall be entitled to a gratuity calculated as follows:

$$\frac{KA \times B \times C}{144};$$

where KA = the annual pensionable emoluments taken by the recognised authority for the purpose of calculating his pension or gratuity;

B = the number of completed months of his total service; and

C = his emoluments factor.

(3) A female person-

- (a) who transferred from Division I, II or III;
- (b) who, at the time of her retirement, is eligible to retire on the grounds of her age or length of service:

shall be entitled-

- (i) if her total service amounts to ten years or more, to a pension calculated in the manner set out in subsection (1); and
- (ii) if her total service amounts to less than ten years to a gratuity calculated in the manner set out in subsection (2).

(4) A female person-

- (a) who was transferred from local conditions;
- (b) who is not entitled to a pension or gratuity;

shall be entitled to a gratuity calculated as follows:

- (i) if the date of her retirement is less than twenty years after the date of commencement of her total service-

$$KA \frac{2}{50} \times B; \text{ and}$$

- (ii) if the date of her retirement is less than twenty years after the date of commencement of her total service-

$$2 \times KA;$$

- (iii) if the date of her retirement is twenty-five years or more after the date of the commencement of her total service-

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8. (1) Subject to subsection (2), a person-

- (a) who was a federal officer transferred to Division I or II;
- (b) who subsequently transferred from Division I or II to service in Zambia;
- (c) who thereafter has completed the prescribed period of resident service as defined in section *two* of the Non Designated Expatriate Officers (Retiring Benefits) Act;
- (d) who then retires under the Non-Designated Expatriate Officers (Retiring benefits) Act; and
- (e) whose additional pension, if any, payable under section *nine* of the said Act is less than the further pension to which he would have been entitled at the date of his retirement had he not been transferred;

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shall be entitled with effect from the date of retirement, to a further pension equal to the difference between the further pension to which he would have been entitled had he not been transferred and the additional pension, if any, which he received under section *nine* of the said Act.

(2) No further pension shall be payable under subsection (1) in respect of a person who, pursuant to section *nine* of the Non Designated Expatriate Officers (Retiring Benefits) Act,

elects to receive a gratuity in *lieu* of an additional pension payable under that section.

9. The "Emoluments factor" shall be calculated as follows:

$$\frac{KA}{KA + KB} ;$$

where KA = aggregate emoluments during pensionable service;

KB = aggregate emoluments from one or more recognised authorities during an officer's service forming part of his total service;

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Provided that where under this Act only part of a person's service is included in his pensionable or total service, as the case may be, a proportionate part only of the aggregate emoluments paid during the service so divided shall be taken into account in determining KA or KB.

10. For the purposes of this part,
"transferred" means

- (a) appointed from the service of a recognised authority to service on local conditions; or
- (b) appointed from service on local conditions to a post in the service of a recognised authority or so appointed and thereafter appointed from the service of one recognised authority to a post in the service of another;

under arrangements recognised by the Government whereby it is agreed that the service of the person concerned shall be treated as continuous for pension purposes.

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PART II

GENERAL

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11. (1) There shall be paid into the Fund each month from the general revenues of the republic- Payme

- (a) the sum of all payments of further pensions and increases in pensions made during that month under the provisions of this Act;
- (b) the sum of all payments of special pensions made to dependants during that month under the provisions of this Act;
- (c) the sum of all payments of pensions made during that month to persons who were dismissed after becoming transferred Federal officers;
- (d) the sum of all payments made during that month under the provisions of this Act to retired persons who were transferred from Division I, II or III;
- (e) The sum of all payments made under this Act during that month to persons who retired from Division I, II or III-
 - (i) on the grounds of their age or length of service, if that retirement was by virtue of an election, made as provided under this Act, to retain a date of retirement which is earlier than the date of retirement otherwise provided;
 - (ii) in the case of transferred Federal officers, within five years of transfer:

Provided that this paragraph shall not apply to any payment made in relation to a period after the date on which an officer, had he not retired earlier, would have been required under the provisions of this Act to retire;
- (f) the sum, relating to the payments made during the month under this Act (other than in respect of injury or death) to persons retired from Division I, II or III following service in Division IV of the amounts calculated in respect of every such payment as follows:

$$\frac{KA \times B}{C}$$

where KA = the payment made to the person during the month in question;

B = the number of completed months of his pensionable service in Division IV; and

C = the total number of completed months of his pensionable service.

(2) Unless paid within one month from the date when they become payable, all payments under this section and section *twelve* shall be with interest at the commercial rate.

12. All benefits payable under this Act-

- (a) in respect of injury or death; or
- (b) in respect of persons all of whose service on local conditions was in Division IV;

shall be paid from the general revenues of the Republic.

Applicæ
Fund

13. (1) A transferred Federal officer in Division I, II or III who was entitled under his terms and conditions of service while in the service of the Government of the former Federation of Rhodesia and Nyasaland to retire at the age of fifty-five years and who has elected in writing, within six months of the date of his transfer or before attaining the age of fifty years, whichever first occurs, to retain that age of retirement shall retire on the fifty-fifth anniversary of the date of his birth.

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(2) An officer in division I, II or III who-

- (a) was transferred from service in Zambia;
- (b) is eligible on his retirement to receive a pension or gratuity under the appropriate law; and
- (c) within five years of the date of his transfer or before attaining the age of fifty years, whichever first occurs, elects in writing to retain the rules that applied to his age of retirement immediately before his transfer;

shall retire on the fifty-fifth anniversary of his birth.

(3) For the purposes of this section, "appropriate law" means the Constitution, the Service Commissions Act, the European Officers' Pension Act, the African Civil Servants' Pensions Regulations, the Subordinate Police (Pensions) Regulations, the Police Act, the Defence Act, the National Service Act, the Education Act, the African Education Act and the Technical Education and Vocational Training Act.

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14. Subject to the provisions of this Act, a transferred officer or probationer who resigns shall be entitled to a gratuity calculated as follows: Benefit resigne

- (a) if his total service amounts to less than twenty years-

$$KA = \frac{KA \times 19}{400};$$

- (b) if his total service amounts to twenty years or more but less than twenty-five years-

$$2 \times KA;$$

- (c) if his total service amounts to twenty-five years or more-

$$(2 \times KA) + \frac{KA \times B}{25}$$

where KA = the sum of his contributions; and

B = the number of completed years in respect of which he has contributed.

15. Notwithstanding anything to the contrary contained in this Act, a Federal officer who was transferred to division I or II and is dismissed shall thereupon, in addition to a refund of his contributions, be entitled to a pension equal to the pension, if any (but not the additional abolition of office pension), calculated as at the date of his transfer in accordance with Part III of the Second Schedule to the Federation of Rhodesia and Nyasaland (Dissolution) Order in Council, 1963, as though he were a person to whom that Part applied. Benefit dismiss

16. (1) Subject to the provisions of this Act, if a transferred officer in Division I or II or a person transferred from Division I or II- Pensio spouse

- (a) whose total service amounts to ten years or more; or

- (b) who is a transferred Federal Officer; dies and leaves a spouse, there shall be paid to the spouse a pension calculated as follows:

$$\frac{KA \times B \times D}{1,800} + \frac{KA \times C \times D}{18,000}$$

where KA = his pensionable emoluments or the annual pensionable emoluments taken by the recognised authority for the purpose of calculating pension, as the case may be, at the date of his death;

B = the number of months of total service completed by him at the date of his death;

C = the number of completed months remaining from the date of the officer's death to the fifty-fifth anniversary of his birth; and

D = his emoluments factor.

- (2) Subject to the provisions of this Act, if a retired person who on the date of his retirement-

- (a) was entitled to a pension under this Act, other than a pension payable in respect of injury or death;

- (b) was a transferred officer in Division I or II or a person transferred from Division I or II in the service of a recognised authority; and

- (c) had pensionable service of total service, as the case may be, amounting to ten years or more or was a transferred Federal officer serving in Division I or II;

dies and leaves a spouse, there shall be paid to the spouse a pension calculated by means of the formula set out in subsection (1) as though that person had died on the date of his retirement.

17. Subject to the provisions of this Act, pensions for children shall be payable where-

- (a) a person in the service of a recognised auzthority who has transferred from local conditions whose total service amounts to ten years or more; or

- (b) a transferred Federal officer serving on local conditions;

dies and leaves one or more children. Pensio for chil

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18. (1) This section applies only in relation to the spouse, children or dependants of-
- (a) transferred Federal officers who were appointed to the service of the Government of one of the former Protectorates of Northern Rhodesia and Nyasaland;
 - (b) retired persons to whom paragraph (a) applied immediately before their retirement;
 - (c) officers who were transferred from service in Zambia to local conditions; and
 - (d) retired persons to whom paragraph (c) applied immediately before their retirement.
- (2) Subject to the provisions of this Act, if a person described in subsection (1) dies and-
- (a) there remains a spouse;
 - (b) no special pension is payable under this section to a spouse and there remains any child of the deceased; or
- (c) no special pension is payable or continues to be payable under this section to a spouse or in respect of any child and there remains any dependant of the deceased;

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there shall be payable, in addition to any pension payable under the provisions of this Act, the special pension, if any, calculated under subsection (3).

Cap. 2
Cap. 5

- (3) A special pension payable under subsection (2) shall be calculated as follows:

KA 2 (B 1 C 1 D);

where KA = the pension which would have been payable under the widows and Orphans Pension Act and the person described in subsection (1) died immediately before the date of his appointment to the service of the Government of the former Federation of Rhodesia and Nyasaland or of his transfer from service in Zambia, as the case may be;

B = the pension which is payable under the Widows and Orphans Pension Act in respect of the person described in subsection (1) or which would have been so payable had that person not voluntarily continued to contribute under that Act in respect of the period after his appointment to the service of the Government of the former Federation of Rhodesia and Nyasaland or of his transfer from service in Zambia, as the case may be;

C = the pension, if any, payable under the provisions of this Act to the spouse of the person described in subsection (1); and

D = the pension, if any, payable under the provisions of this Act in respect of the children of a person described in subsection (1).

(4) A special pension calculated under subsection (3) shall be recalculated whenever any circumstance arises which results in any change in the factors B, C or D set out in that subsection.

- (5) Any special pension payable under this section shall be in accordance with-

- (a) the will left by the deceased; or
- (b) where the deceased has not left a will, the mode of distribution specified in the Intestate Succession Act.

The Laws of Zambia

19. (1) the special pension of a spouse-

- (a) to whom that special pension was payable under the provisions of this Act;
- (b) whose special pension ceased on remarriage;
- (c) whose subsequent spouse dies; and
- (d) who is not entitled to a pension under this Act in respect of any service with the Government by the subsequent spouse:

shall be restored to the spouse as from the date-

- (i) of the death of the subsequent spouse; or
- (ii) when the last special pension payable in respect of any child or dependant of the previous spouse, ceases to be so payable:

whichever is the later.

(2) A spouse-

- (a) to whom a special pension was payable under the provisions of this Act;
- (b) whose special pension ceased on remarriage;
- (c) whose subsequent spouse has died; and
- (d) who is entitled to a pension under this Act in respect of any service with the Government by the subsequent spouse;

may, subject to subsection (3) and on the election of such spouse, instead of the pension to which such spouse is entitled in respect of the subsequent spouse, be paid the special pension which ceased on remarriage.

(3) The provisions of subsection (2) shall be effective-

- (a) if a special pension is payable under this Act in respect of any child or previous spouse, when the last such pension ceases to be so payable; and
- (b) in any other case, upon the death of the subsequent spouse.

(4) In the event of a spouse making an election in accordance with subsection (2) to receive the special pension which ceased on remarriage, the pension to which such spouse became entitled in respect of the subsequent spouse shall be paid for the benefit of all or any remaining children or dependants of the subsequent spouse in accordance with-

- (a) the will left by the deceased; or
- (b) where the deceased officer has not left a will, the mode of distribution specified in the Intestate Succession Act.

20. (1) Subject to the provisions of subsection (2), any person who was serving in the Junior Division of the former Protectorate of Northern Rhodesia on the 31st October 1961, shall, for the purposes of this Act, be deemed to have been an officer in Division IV throughout such of his continuous service as preceded the 1st November, 1961, and shall not be entitled to any benefits under the African Civil Servants Pensions Regulations.

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Cap. 51

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(2) Subsection (1) shall not apply to persons who on the 31st October, 1961 held the post of District Messenger, Senior District Messenger, Second District Messenger, Head District Messenger or any Scheduled post.

The Laws of Zambia

21. (1) An officer who is entitled to a pension may elect before the payment of pension commences, to receive *in lieu* of either one third or two-thirds of that pension a gratuity calculated by multiplying the amount of pension to be commuted by the factor obtained from the Fourth Schedule appropriate to the officer's age on his last day of pensionable service or total service as the case may be: Comm
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Provided that if the portion of the pension not so commuted is less than K50,000, the Board may commute the whole pension at the election of the officer.

(2) In the case of a transferred Federal officer who is granted a further pension under the provisions of this Act his pension for the purpose of subsection (1) shall be the aggregate of his pension and further pension:

Provided that, in calculating the amount of the single payment to be paid by way of commutation in such cases, the Board shall apply in respect of so much of the amount of pension to be commuted as does not exceed the amount of the further pension, a factor not less than the factor which would have been applied had the recipient retired on the day immediately before the date he was transferred to local conditions.

(3) An officer who was transferred from service in Zambia may, provided he so elects in writing before the date of his retirement, elect that subsection (1) shall not apply to him and that instead his pension shall be reduced by an amount, not exceeding one-quarter of that pension, determined by him on that election and that he shall be paid a gratuity equal to twelve and one-half times the amount by which his pension is so reduced.

(4) An officer who retires may opt to commute either one-third or two-thirds of his pension for a lump sum, calculated in accordance with the commutation factors as set out in the Third Schedule.

(5) Nothing in this section authorises the commutation of any pension or part of a pension payable in respect of injury or death.

22. (1) Where any benefit which has been or is payable under the Zambia Civil Service (Local Conditions) Contributory Pensions Act, to or in respect of any person is less than the equivalent benefit which would have been payable if at the date with respect to which the benefit is calculated the provisions of this Act had been in operation, there shall be paid to or in respect of that person with effect from that date an additional benefit equal to the difference. Certain
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(2) Where prior to the commencement of the said Act and after the 31st October, 1961, there existed circumstances in which-

(a) no benefit was payable under the said Act to any person;

(b) a benefit would have been payable had this Act been in operation at the appropriate time:

there shall be paid to or in respect of that person the benefit which would have been payable had this Act been in operation at the appropriate time:

Provided that this subsection shall not apply in any case in which a payment was made *ex gratia* or under the appropriate law in relation to the circumstances and the person described.

23. (1) With effect from the specified date-

(a) any pension payable under this Act which does not exceed ten kwacha per month shall be increased to fifteen kwacha per month; Increas
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(b) any pension payable under this Act which exceeds ten kwacha per month but does not exceed fifty thousand kwacha per month shall be increased by seven thousand kwacha;

(c) any pension payable under this Act which exceeds fifty thousand kwacha per month but does not exceed eighty thousand kwacha per month shall be increased so as to amount to eighty thousand kwacha per month.

(2) For the purposes of this section, "specified date" means the first day of January, 1977.

The Laws of Zambia

24. For the purposes of this Schedule-

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Cap. 21
Cap. 1:

"Division I, II, III, or IV", as the case may be, in relation to any person, means belonging of the four Divisions into which persons serving on local conditions were divided;

"Federal", in relation to any officer, means in the service of the Government of the former Federation of Rhodesia and Nyasaland immediately before his transfer to local conditions on or after the 1st October, 1963;

"local conditions" means-

- (a) in respect of any period before the 24th October, 1964, the terms and conditions of civil service, including service in the Police Force and Prisons Service, which were known as Local Conditions and were introduced with effect from the 1st November, 1961, by the Government; and
- (b) in respect of any period after the 23rd October, 1964, the terms and conditions of the Public Service, including service in the Police Force and Prisons Service, which are known as Local Conditions and are issued by the Government from time to time for public officers who are citizens of Zambia;

"pensionable service", in respect of any person, means the aggregate of-

- (a) his continuous service, if any, in respect of which contributions have been paid;
- (b) his qualifying service if any, in a scheduled post; and
- (c) in the case of a person who has served in Division III or IV in a scheduled post or has both so contributed and so served, half his qualifying service, if any, in any post other than a scheduled post:

Provided that for the purpose of determining whether such person has completed ten years pensionable service, the whole of his continuous service in Division III or IV shall be deemed to be pensionable service; less any period of absence from duty which is not counted as pensionable service;

"qualifying service" means-

- (a) in the case of a person whose service commenced before the 1st January, 1946, continuous service in Division III or IV; and
- (b) in the case of a person whose service commenced after the 31st December, 1945, continuous service in Division III or IV after he attains the age of twenty years;

less any period of temporary suspension arising from misconduct and any period of leave without salary which was not granted on the grounds of public policy with the approval of the Permanent Secretary, responsible for Personnel Management;

"recognised authority" means-

- (a) any government or administration included in the Schedule made under regulation (17) of the Regulations set out in the Third Schedule to the European Officers' Pensions Act;
- (b) any other government or administration which the President may, by statutory order, declare to be a recognised authority;
- (c) in relation to service in the Public Service other than on local conditions, the Government;
- (d) the Unified African Teaching Service and the Teaching Service created under the African Education Act, and any service replacing those services;
- (e) the Zambia Defence Force; and
- (f) any public corporation or public organisation which the President may, by statutory order, declare to be a recognised authority;

"scheduled post" means a post described in the Appendix to this Schedule;

"service in Zambia" means service prior to a transfer to local conditions which is pensionable in accordance with the appropriate law.

APPENDIX

TO FIRST SCHEDULE

(Section 24 of First Schedule)

SCHEDULED POSTS

Fish Guard

Senior Fish Guard

Head Fish Guard

The Laws of Zambia

SECOND SCHEDULE

(Section 54)

CONDITIONS OF SERVICE RELATING TO
DEATH OR INJURY IN THE COURSE OF DUTY

ARRANGEMENT OF SECTIONS

Section

1. Sick leave for injured persons
2. Benefits following injury
3. Benefits following death in consequence of injury
4. Reimbursement of medical and other expenses of injured persons
5. Definition

APPENDIX I-DEGREE OF DISABLEMENT OF AN INJURED PERSON

APPENDIX II-CALCULATION OF SINGLE PAYMENT TO DISABLED PERSONS

SECOND SCHEDULE

(Section 54)

CONDITIONS OF SERVICE RELATING TO DEATH OR INJURY IN THE
COURSE OF DUTY

The Laws of Zambia

1. (1) Subject to the provisions of subsection (4), the Permanent Secretary, responsible for Personnel Management, may, on production of a medical certificate by any medical practitioner or dentist or, if the Permanent Secretary, responsible for Personnel Management, so stipulates, by a Government medical officer, grant sick leave not exceeding ninety days in aggregate to a person serving on local conditions who sustains an injury in the course of duty. Sick leave for injured person

(2) Subject to the provisions of subsection (4), the Permanent Secretary, responsible for Personnel Management, may, on production of a medical certificate by a Government medical officer or, if the Permanent Secretary, responsible for Personnel Management, so stipulates, by a medical board, grant further sick leave not exceeding ninety days in aggregate to a person who has been granted the maximum period of sick leave under subsection (1).

(3) Subject to subsection (4), the Permanent Secretary, responsible for Personnel Management, may, on the recommendation of a medical board, grant further sick leave not exceeding one hundred and eighty days in aggregate to a person who has been granted the maximum period of sick leave under subsections (1) and (2).

(4) No period of leave shall be granted under this section-

- (a) if the appropriate authority, after considering the report of a medical board, is satisfied that the person concerned will be permanently unfit to perform his work and deems his degree of disablement to have reached a final and stationary condition; or
- (b) which is less than the period of sick leave recommended in a medical certificate or by a medical board, except with the concurrence of the appropriate authority.

(5) Sick leave granted under this section shall be on full salary.

(6) Any sick leave which may be granted under the rules and instructions relating to persons serving on local conditions shall be-

- (a) in addition to sick leave granted under this section and shall be taken after such leave; and
- (b) granted under those rules and instructions as they applied on the person's injury.

The Laws of Zambia

2. (1) A person who, in consequence of an injury sustained in the course of duty, suffers any disability shall, in addition to any other benefit provided for in this Act, be entitled-

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- (a) with effect from the date of his injury until such a time as his disability is deemed by the appropriate authority to have reached a final and stationary condition, to a temporary allowance calculated under subsection (3), according to his percentage disability as assessed from time to time; and
- (b) with effect from the date when his disability is deemed by the appropriate authority to have reached a final and stationary condition-
 - (i) to a pension calculated under subsection (3); or
 - (ii) with his consent and the concurrence of the appropriate authority, to a single payment calculated as provided in Appendix II to this Schedule.

(2) In any case where, in consequence of an injury sustained in the course of duty, a person who is eligible for any benefit under subsection (1) has retired or his probationary appointment or his agreement has been determined, there shall be paid during his life time, with effect from the last day of his continuous service, in respect of that person's children, to such persons and in such proportions as the appropriate authority may determine, an allowance at an annual rate equal to the sum of-

- (a) the product of his percentage disability and one forty-eighth of the annual rate of his emoluments immediately before the date of his injury, for his first child; and
- (b) the product of his percentage disability and one sixtieth of the annual rate of his emoluments immediately before the date of his injury, for each additional child;

and such allowance shall be recalculated whenever there is any change in the percentage disability of that person or in the number of his children.

(3) The annual rate of a temporary allowance or pension payable to a person under subsection (1) shall be calculated as follows:

$$\frac{A}{100} ; \times 2/3B \text{ } 1/3C$$

where A = his percentage disability;

B = the annual rate of his emoluments immediately before the date of his injury, not exceeding (K1,300); and

C = the annual rate of his emoluments immediately before the date of his injury, if any, in excess of (K1,300) but not exceeding (K3,040);

and, except in relation to a single payment made under subsection (1), shall be recalculated whenever any circumstance arises which results in any change in the factor A, B, or C.

(4) If the appropriate authority considers the percentage disability of a person entitled under subsection (1) to any benefit to be inadequate by reason of the particular consequences of his disability in relation to the special nature of his occupation, it may increase his percentage disability to such figure not exceeding one hundred as it considers equitable in the circumstances:

Provided that, if there is any material improvement in the earning capacity of the person concerned, the appropriate authority may reduce his percentage disability to a figure not lower than that before such increase.

(5) If, in the opinion of a medical board the percentage disability or any person in receipt of a pension under subsection (1) has varied by more than five since that pension become payable, the appropriate authority may at any time vary the percentage disability of that person.

(6) For the purposes of this section, if the date of a person's injury is not established to the satisfaction of the appropriate authority, that authority shall determine a date in relation to the injury and the date so determined shall be deemed to be the date of that person's injury.

The Laws of Zambia

3. (1) Subject to the provisions of this Act, the benefits set out in this section shall become payable following the death of a person in consequence of an injury sustained in the course of duty and such benefits-

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- (a) shall be in addition to any other benefits provided for in this Act;
- (b) shall be paid-
 - (i) in the case of a pension which becomes payable to the children of the deceased only when the pension payable to his spouse ceases, with effect from the day following the day when the pension of the spouse so ceases; and
 - (ii) in any other case, with effect from the day following the death of the deceased; and
- (c) shall, when payable in respect of the children of the deceased, be recalculated whenever there is any change in the number of such children remaining.

(2) There shall be paid to the spouse if any, of the deceased a pension equal to two-thirds of the pension which would have been payable to the deceased under the provisions of this Act had he suffered a percentage disability of one hundred.

(3) Subject to subsection (4), there shall be paid, in respect of any children of the deceased, to such persons and in such proportions as the appropriate authority may determine, a pension equal to the sum of-

- (a) one twenty-fourth of the annual rate of the deceased person's emoluments immediately before the date of his injury or (K120) per annum, whichever is the greater, for the first child; and
- (b) one-fortieth of the annual rate of the deceased person's emoluments immediately before the date of his injury or (K72) per annum, whichever is the greater for each additional child:

Provided that where any children of different marriages live in any household other than that of the spouse, the pension may, at the discretion of the appropriate authority, be calculated at the rates appropriate as if the children in each such household had been the only children of the deceased.

(4) If no pension is payable under subsection (2) or such pension ceases to be payable on the marriage or death of the spouse, there shall be paid, in respect of the children of the deceased, to such persons and in such proportions as the appropriate authority may determine, a pension additional to the pension payable under subsection (3) and equal to the sum of one-fifteenth of the annual rate of the deceased person's emoluments immediately before the date of his injury or (K 192) per annum, whichever is the greater, for each such child.

(5) where an accident arising out of and in the course of duty of any officer, probationer, or other person called upon to perform any function or undertake any task in, the service of the Government happens and results in the death of such officer, probationer or other person, his spouse, children or other dependants shall, in addition to any other benefits payable under this Act, become entitled to compensation in the manner following, that is to say-

- (a) a lump sum payment equal to five times the basic annual salary of such officer, probationer, or other person, at the time of death; or
- (b) a lump sum payment of K75,000 where the person aforesaid has no basic salary-

(6) For the purpose of this section, if the date of a person's injury is not established to the satisfaction of the appropriate authority, that authority shall determine a date in relation to that injury and the date so determined shall be deemed to be the date of that person's injury.

The Laws of Zambia

4. (1) When it is necessary for any person who sustains an injury while serving, on local conditions to make a journey for the purpose of undergoing medical examination or treatment in connection with his injury, the Permanent Secretary, responsible for Personnel Management, shall, unless the appropriate authority otherwise directs, authorise the payment of subsistence allowance and transport costs at such rates and subject to such conditions as he may determine:

Reimbursement of medical and other expenses of injured person

Provided that no subsistence allowance shall be payable in respect of any period during which a person is an in-patient at an institution or hospital the cost of which is repaid in whole or in part under subsection (2).

(2) A person who sustains an injury while serving on local conditions shall be entitled to the repayment of such expenses in respect of dental, medical, surgical, hospital or other treatment, including the supply of appliances and artificial limbs, as the appropriate authority considers to have been reasonably incurred by that person.

Provided that-

- (i) where his expenses exceed (K500) in aggregate, any such repayment thereof shall be made only if the appropriate authority, after considering the recommendations of the Permanent Secretary, responsible for health so directs;
- (ii) where those expenses are in respect of any aggravation to a material extent of ill health, physical or mental unfitness, physical or mental incapacity or personal injury, such proportion only of those expenses shall be repayable as, in the opinion of the Permanent Secretary, responsible for health is due to that aggravation.

(3) In any case where a person incurs unavoidable expenses, of a nature other than that described under subsections (1) and (2), which the appropriate authority considers to be directly attributable to his undergoing medical examination or treatment in respect of his injury while on local conditions, the Permanent Secretary, responsible for Personnel Management, shall, for the period during which that person is undergoing examination, treatment and travelling in connection therewith, unless the appropriate authority otherwise directs authorise-

- (a) in the case of a person in receipt of a temporary allowance or pension, an increase in that allowance or pension, together with any allowance in respect of children payable under that section; or
- (b) in the case of a person not in receipt of a temporary allowance or pension, a temporary allowance together with allowances in respect of any children of that person;

to such amount not exceeding that which would have been payable had the person's percentage disability been one hundred, as the Permanent Secretary, responsible for Personnel Management, thinks fit.

The Laws of Zambia

5. For the purposes of this Schedule-

"aggravation to a material extent", in relation to a person's ill health, unfitness or incapacity, or personal injury, means an increase in that person's percentage disability-

- (a) in the case where his percentage disability is less than twenty, or more than five and of not less than half that percentage disability; and
- (b) in any other case, of not less than ten;

"ill health" means physical or mental unfitness or incapacity, or personal injury which, in the opinion of the appropriate authority, is caused by or due to a person's work without any wrongful act or omission on his part and includes an aggravation to a material extent of such ill health, physical or mental unfitness or incapacity, or personal injury;

"percentage disability" means

- (a) in the case of any disability described in Appendix I to this Schedule, the appropriate percentage therein set out; and
- (b) in the case of any other disability, the percentage assessed by a medical board by comparing the condition of the person concerned with the condition of a normal healthy person of the same age and sex without reference to earning capacity:

Provided that-

- (i) where the person concerned suffers more than one disability in consequence of one or more injuries, his percentage shall be the sum of the appropriate percentages or one hundred, whichever is the less;
- (ii) where the appropriate authority varies the percentage disability of a person under the provisions of this Act, his percentage disability shall be so varied;

"total service" means the aggregate of pensionable service including service with a recognised authority taken into account for the purpose of computing pension:

Provided that, in the case of a transferred Federal officer, total service shall include any service which would have been regarded as counting for pension had the officer retired from the service of the Government of the former Federation of Rhodesia and Nyasaland immediately before his transfer.

APPENDIX I

TO SECOND SCHEDULE

(Section 5 of Second Schedule)

DEGREE OF DISABLEMENT OF AN INJURED PERSON

<i>Item</i>	<i>Nature of disablement</i>	<i>Degree of disablement per centum</i>
GENERAL		
1.	Loss of hand and foot above site of Syme's Amputation	100
2.	Injury resulting in the injured person being permanently bedridden	100
INJURY TO UPPER LIMB		
3.	Loss of both hands or both arms at higher sites	100
4.	Loss of remaining arm by injured person who has previously lost one arm	100
5.	Loss of arm at shoulder or below shoulder with stump of less than 8 inches from tip of acromion	70
6.	Loss of arm from 8 inches below tip of acromion to less than 4 and half inches below tip of olecranon	68
7.	Loss of arm 4 and half inches below the tip of olecranon	65
8.	Loss of hand at wrist	60

The Laws of Zambia

THIRD SCHEDULE

The Laws of Zambia

(Section 52)

COMMUTATION TABLE

Single case payment in commutation of pension K1 (one kwacha) per annum.

<i>Half-age</i>	<i>Cash payment</i>	<i>Half-age</i>	<i>Cash payment</i>
Up to 20	35.66	48	28.76
20.5	35.58	48.5	28.56
21	35.48	49	28.38
21.5	35.40	49.5	28.18
22	35.30	50	28.00
22.5	35.22	50.5	27.80
23	35.12	51	27.60
23.5	35.04	51.5	27.38
24	34.94	52	27.18
24.5	34.86	52.5	26.96
25	33.76	53	26.74
25.5	34.66	53.5	26.52
26	34.56	54	26.30
26.5	34.46	54.5	26.06
27	34.36	55	25.84
27.5	34.26	55.5	25.58
28	34.16	56	25.34
28.5	34.06	56.5	25.10
29	33.96	57	24.84
29.5	33.86	57.5	24.60
30	33.74	58	24.34
30.5	33.64	58.5	24.06
31	33.54	59	23.80
31.5	33.42	59.5	23.52
32	33.30	60	23.26
32.5	33.20	60.5	22.98
33	33.08	61	22.70
33.5	32.96	61.5	22.40
34	32.84	62	22.12
34.5	32.72	62.5	21.82
35	32.60	63	21.52
35.5	32.48	63.5	21.22

The Laws of Zambia