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## Public Service Pensions Order, 1993

Kings Order in Council 13 of 1993

Legislation as at 1 December 1998

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## Public Service Pensions Order, 1993

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## eSwatini

# Public Service Pensions Order, 1993

## Kings Order in Council 13 of 1993

*Published in Swaziland Government Gazette 970 on 13 August 1993*

**Assented to on 28 July 1993**

**Commenced on 1 November 1993 by Public Service Pensions Order, 1993 (Date of Commencement) Notice, 1993**

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

### 1. Short title and commencement

This Order may be cited as the Public Service Pensions Order, 1993 and shall come into force on such date as the Minister may by notice in the *Gazette*, appoint.

### 2. Interpretation

In this Order, unless the context otherwise requires:

“**Board**” means the Public Service Pensions Board established under Section 4 of this Order;

“**Fund**” means the Public Service Pensions Fund established under section 3 of this Order;

“**Government**” means the Government of Swaziland;

“**Minister**” means the Minister responsible for the Public Service;

“**non-pensionable office**” means an office in the Public Service that is not pensionable;

“**pensionable office**” means an office in the Public Service in which the holder of that office is employed on a permanent basis and includes any probation period thereof;

“**public service**” means:

- (a) service in a civil capacity in the government notwithstanding that such service is permanent or probational;
- (b) service as a member of the teaching service;
- (c) service as a member of the Police Force, Fire Service, Prison Service or Defence Force;
- (d) any other service which the Minister, in consultation with the Public Service Pensions Fund Board, may determine to be public service for the purpose of this Order;

“**public officer**” means a person who holds or is appointed to a pensionable office, and includes a person whose terms and conditions of service are governed by a contract between himself and the Government;

“**Regulations**” means the Public Service Pensions Fund Regulations, 1993 and any other regulations which the Minister may, in consultation with the Public Service Pensions Fund Board, make from time to time to fulfil the objects and purpose of this Order;

“**Secretary**” means the Secretary to the Board appointed in terms of section 5 of this Order.

### 3. Establishment of the Public Service Pensions Fund

- (1) There is hereby established a Fund to be known as the Public Service Pensions Fund with perpetual succession and common seal which may sue and be sued in its corporate name.

- (2) The Fund shall, as from the commencement date of this Order, be responsible for the payment of all benefits arising under this Order and Regulations and pension benefits to individuals who are entitled to receive such benefits under the provisions of the Pensions Act, 1968, the Umbutfo Swaziland Defence Force (Gratuities) Regulations, 1979 and CUSADA Pension Scheme on that date.
- (3) The Fund may acquire, hold and dispose of any movable or immovable property or enter into such contract as may be necessary for the purposes of the Fund.
- (4) The assets of the Fund shall consist of—
  - (a) the contributions made by the members of the Fund;
  - (b) the contributions by the Government;
  - (c) the yield from the investments of the Fund;
  - (d) lump sum payments by the Government;
  - (e) the assets of the Commercial Unions Pension Scheme for teachers (CUSADA); and
  - (f) receipts from any other source.
- (5) The assets shall be the property of the Fund and shall be acquired, deposited and held in the name of the Public Service Pensions Fund and such assets shall not form part of Government assets.
- (6) The monies of the Fund shall be exempt from Income Tax.
- (7) The Fund shall keep proper records of all its assets and liabilities.
- (8) Detailed accounts of all investments and other transactions relating to the Fund shall be maintained and an annual report on the operations of the Fund including a balance sheet and a statement of income and expenditure for that year, shall be prepared by an auditor appointed by the Board on such terms and conditions as the Board may determine.
- (9) After each audit under subsection (8), the Board shall as soon as possible, but not later than three months, submit to the Minister the audited balance sheet and report of the Auditor in respect of such audit and such balance sheet and report shall be presented to Parliament by the Minister.
- (10) An actuarial evaluation of the Fund shall be carried out at least once in every three years by a qualified actuary appointed by the Board in consultation with the Minister on such terms and conditions as the Board may determine.
- (11) In each actuarial evaluation, the actuary shall determine whether changes need to be made in the benefit rates, contribution rates or any other matter relating to the Fund so as to keep the Fund actuarially solvent.
- (12) After each actuarial evaluation, the Board shall, as soon as possible, but not later than three months, submit to the Minister a report in respect of that actuarial evaluation.

#### **4. Establishment of the Public Service Pensions Board**

- (1) There shall be a Public Service Pensions Board to perform the following functions—
  - (a) to supervise the operations and management of the Fund;
  - (b) to decide on the financing and financial position of the Fund;
  - (c) to decide upon the investments of the assets of the Fund and in making such decision, it shall act on the advice of the Investment Committee consisting of the Chairman of the Board and four other persons appointed by the Minister in consultation with the Board for their expertise in investment matters; and
  - (d) to decide on any matter from time to time referred to it by the Minister.

- (2) The Board shall consist of a Chairman and not more than nine members as the Minister shall appoint in the following manner—
  - (a) four members representing employees;
  - (b) four members representing the Government, two of these members being the Principal Secretary in the Ministry of Labour and Public Service and the Principal Secretary in the Ministry of Finance; and
  - (c) one member appointed for his expertise in a field the Minister may consider desirable for the policing of the Fund.
- (3) The Chairman and the member referred to in subsection (2)(c) shall each hold office for a period of five years on such terms and conditions as the Minister may determine and shall be eligible for re-appointment.
- (4) The Chairman and members may be removed from office by the Minister for misbehaviour, incompetence, or physical or mental incapacity.
- (5) The Chairman shall preside at the meeting of the Board and in his absence, the members present may elect one of their members to act as Chairman at that meeting.
- (6) Seven members present shall constitute a quorum.
- (7) In the event that equal votes are cast by the Board members, the Chairman shall have a casting vote in addition to his normal vote.
- (8) All expenses incurred in the administration and management of the Fund shall be charged from the Fund.

## **5. Chief Executive Officer and other staff members**

- (1) Subject to section 8 of the Public Enterprises (Control and Monitoring) Act, 1989, the Minister may, on the advice of the Board, appoint the Chief Executive Officer who shall also be the Secretary to the Board, on such terms and conditions as he may determine.
- (2) The Chief Executive Officer may be removed by the Minister, on the advice of the Board.
- (3) The Chief Executive Officer shall perform his duties under the direction of the Board.
- (4) The Board shall appoint such other staff members as may be necessary from time to time for the effective operation of the Fund.
- (5) The Board shall determine the terms and conditions of the staff members referred to in subsection (4).

## **6. Application**

This Order shall apply to every public officer who—

- (a) holds a pensionable office in the Public Service of the Government before the commencement of this Order;
- (b) is appointed to a pensionable office in the Public Service of the Government on or after the commencement of this Order;
- (c) is transferred to the Public Service of the Government on or after the commencement of this Order, and in computing pensionable service in respect of that officer, service rendered on or after the date of transfer shall be taken into account; and
- (d) before the commencement of this Order, held a non-pensionable office which has been changed to a pensionable office on or after the commencement of this Order.

## 7. Saving

Nothing in this Order shall diminish the pensions granted to any persons who have retired before the commencement of this Order under the Pensions Proclamation (Cap. 57), the Pension Act, 1968, the Umbutfo Swaziland Defence Force (Gratuities) Regulations, 1979 or the Commercial Union Pension Scheme for teachers (CUSADA), except that such pensions shall, from that date, be paid out of the Fund.

## 8. Transition

An Officer whose office is not considered a pensionable office under this Order shall make contributions to the Swaziland National Provident Fund.

## 9. Pensions Regulations (Schedule)

- (1) Pensions, gratuities and other allowances may be granted by the Fund to members in accordance with the Regulations in the Schedule to this Order.
- (2) The Minister may make regulations amending, adding to or revoking the Regulations and all regulations so made shall be published in the *Gazette*.
- (3) All regulations made under this section shall have the same force and effect as if they were contained in the Schedule.

## 10. Repeal

The Pensions Act, 1968 and the Umbutfo Swaziland Defence Force (Gratuities) Regulations, 1979 are hereby repealed.

## 11. Effect of Order on existing laws

Subject to the Public Enterprises (Control and Monitoring) Act, 1989 any law in force before or after the commencement of this Order, shall, to the extent that it is inconsistent with any of the provisions of this Order and the Pensions Regulations, be deemed to have been amended.

# Schedule

## The Public Service Pensions Fund Regulations, 1993

### Part I – Preliminary

#### 1. Interpretation

- (1) In these Regulations, unless the context otherwise requires—

“**child**” in relation to a member means an unmarried child of the member existing or *in utero* at the time of separation or death who is under the age of twenty one years (or twenty-five years if in full time attendance at an institution of learning) and includes an illegitimate child and a step child:

Provided that if the child is incapacitated the restrictions referred to in this definition shall not apply;

“**commute**” means cause to be converted and paid in a lump sum part of a benefit otherwise payable at periodic intervals;

“**contributions**” with respect to a member means the sum of the contributions he has made in accordance with regulation 3, together with interest on such contributions;

**“final pensionable salary”** means a member's annual rate of pensionable salary on his last working day or the day upon which he attains the age of 60 (sixty) years (or, if the member in question is a judge, the age applicable to such member as specified in sub-regulation 8(1) whichever is the earlier (his “retirement day”) except that, if he has received one or more promotions within the 36 (thirty-six) month period immediately preceding his retirement day, his final pensionable salary shall be determined by averaging the total pensionable salary he received during that 36 (thirty-six) month period; provided that such result is not less than the rate of pensionable salary applicable on his retirement day for the salary grade he held at the beginning of the said thirty-six-month period;

*[Amended L.N.78/1995; L.N.153/2009]*

**“interest”** means interest compounded annually at the rate specified by the Board, which may be changed by the Board from time to time;

**“member”** means an individual who meets the membership requirements outlined in regulation 2 and who is contributing to the Fund in accordance with regulation 3;

**“pensionable salary”** means a member's basic salary and excludes any allowance which has not been specifically designated as pensionable;

**“pensionable service”** means service which may be taken into account in computing pension under these Regulations;

**“private”** includes a member who holds the rank of Lance Corporal, Corporal and Sergeant in the Defence Force;

**“Senior Sergeant”** includes a member who holds the rank of Warrant Officer I and II, Lieutenant, Captain and Major in the Defence Force;

**“separation”** with respect to a member means his ceasing to be employed in a pensionable office.

## Part II – Membership

### 2. Membership to the Fund

- (1) Every public officer serving in a pensionable office on the commencement date of these Regulations shall become a member:

Provided that the period a member has served in a pensionable office prior to the commencement date of these Regulations shall be included in the computation of his pensionable service; and

Provided further that if an officer held a non-pensionable office prior to the commencement date of these Regulations and was then appointed to a pensionable office, his pensionable service shall include the period he served in the non-pensionable office excluding any period for which he received a gratuity payment in lieu of a pension.

- (2) Every public officer appointed to a pensionable office after the commencement date of these Regulations shall become a member as from the date of appointment
- (3) Membership to the Fund shall cease upon the member's separation or death.

### 3. Members' required contributions

- (1) As from the date of commencement of these Regulations, each member shall contribute to the Fund five percent of his pensionable salary:

Provided that a member who holds the rank of Private shall contribute eight (8%) percent of his pensionable salary; and

*[Amended L.N.75/2001]*

Provided further that a member who holds the rank of Senior Sergeant shall contribute six and a half (6½%) percent of his pensionable salary.

*[Amended L.N.75/2001]*

- (2) If a member referred to in the proviso in paragraph (1) is promoted or demoted to a rank with a different contribution rate, his contribution shall, as from the date of promotion or demotion, be adjusted to accommodate such promotion or demotion.
  - (3) The provisions of paragraph (2), shall apply with equal force to a member of the Defence Force who holds a rank above those mentioned in that paragraph.
  - (4) A member's contributions shall be recorded in the member's account which shall be credited with interest every year at a rate fixed by the Board.
  - (5) The provisions of the Income Tax Act shall apply to the contribution referred to in this regulation.
4. **Government's contributions**
- (1) The Government shall contribute to the Fund every month an amount equal to fifteen (15) percent of each member's pensionable salary.
  - (2) The Government's contributions shall not be credited to any member's account but shall be accumulated in an unallocated fund and used to meet the cost of benefits which exceeds the value of the member's own contributions.
5. **Secondment to a non-pensionable office**
- (1) A member who has been confirmed in a pensionable office and who is temporarily seconded to a non-pensionable office without a break in service, may, with the consent of the Board, continue to be a member, provided he makes the required member's and Government contributions under regulations 3 and 4.
  - (2) If the member in the circumstances contemplated in paragraph (1) elects not to continue his membership in the Fund or is not permitted to do so, he shall be treated as having separated from the Fund and shall be entitled to the appropriate benefit, depending upon his age and his years of service at that time.
6. **Leave without pay**
- (1) A member who is absent from duty on leave without pay shall not be treated as having separated from the Fund but shall, during his leave, not be required to contribute to the Fund.
  - (2) Upon his return to duty in a pensionable office, he shall resume contributing to the Fund, but the period during which he was on leave shall not be included in his pensionable service.
  - (3) Notwithstanding paragraphs (1) and (2), a member may, with the consent of the Board, continue to contribute to the Fund provided he makes the member's and Government's contributions in terms of regulations 3 and 4.

### **Part III – Retirement benefits**

7. **Service requirements**

- (1) Subject to these Regulations, no member shall qualify for any benefit under this Part, unless he has ten (10) or more years' continuous service.

*[Amended L.N.5/1997]*



- (2) A member who retires or resigns from the Public Service, for reasons other than disability as defined in Part IV, before having ten or more years of service to his credit, shall be entitled to a refund of his contributions with interest as accrued in terms of the provisions of regulation 3(4).

*[Amended L.N.5/1997]*

#### 8. **Compulsory retirement**

- (1) A member shall retire from the Public Service of the Government of Swaziland on attaining the age sixty (60) years, and such retirement shall be referred to as compulsory retirement:

Provided that a member who holds the office of a judge, shall retire on attaining the age of sixty-five (65) years.

*[Amended L.N.153/2009]*

- (2) A member entitled to benefits under this part shall be entitled to a pension equal to 2% (two *per centum*) of his final pensionable salary for each completed year of his pensionable service or part thereof and the minimum pension of which a member is entitled to shall not be less than E120.00 (One hundred and twenty Emalangeni) per month or such other amount which the Board may, after the Minister's approval, fix from time to time by publication in the *Gazette*.

*[Amended L.N.78/1995; L.N.87/1997; L.N.153/2009]*

- (3) Payment of the pension under this regulation shall commence on the last day of the month following retirement and shall thereafter be paid to the member until his death.

*[Amended L.N.153/2009]*

- (4) Notwithstanding paragraph (2), a member may commute a portion, not exceeding one-fourth of the pension referred to in paragraph (2), in which case he shall be entitled to the following benefits:

- (a) a lump-sum gratuity equal to fifteen times the amount of pension which is being commuted; and
- (b) a reduced pension equal to the amount which has not been commuted, payable in accordance with paragraph (3).

*[Amended L.N.153/2009]*

#### 8bis **Over-age members**

- (1) Any member who, as at the date of coming into effect of the Public Service Pensions Order, 1993 was in service notwithstanding the fact that on that date he was older than 60 (sixty) years of age (or, if the member in question was a judge, Private or Senior Sergeant, older than the age applicable to such member as specified in sub-regulation 8(1)), shall, if he has not already done so, retire by no later than 30th June, 1995.

- (2) A member referred to in (1) who is entitled to benefits under this Part shall be entitled to—

- (a) a pension equal to 2% (two *per centum*) of his final pensionable salary for each completed year of service in a pensionable office; provided that a member shall not be entitled to have his pension calculated on more than ten years of such service unless he had completed more than ten years of such service by the time he attained the age of 60 (sixty) years (or if the member in question is now a judge, Private or Senior Sergeant, the age applicable to such a member as specified in sub-regulation 8(1)); and
- (b) a gratuity for each completed year of service in a pensionable office for which he does not receive a pension after application of the provisions of (a) above.

- (3) No service beyond 30th June, 1995, of any member referred to in (1) who fails to retire by that date shall be taken into account for the purposes of determining any pension or gratuity payable to such member.

*[Added L.N.78/1995]*

#### 9. **Early retirement**

- (1) A member may retire from the Public Service of the Government of Swaziland if he has ten (10) years' continuous service and has at least attained the age of forty-five (45) years and such retirement shall be referred to as early retirement:

*[Amended L.N.5/1997; L.N.153/2009]*

- (2) The early retirement pension shall be computed in accordance with regulation 8(4), but reduced by one-third of one percent for each month by which the commencement date of the member's pension precedes his—

*[Amended L.N.5/1997]*

- (a) sixty-fifth birthday, in the case of a judge;
- (b) sixtieth birthday, in the case of a member other than a judge.

*[Amended L.N.153/2009]*

- (3) Such member may defer payment of his early retirement pension to commence on the last day of any month between his date of retirement and the month of his sixty-fifth, sixtieth, fiftieth or forty-fifth birthday as the case may be; provided that the reduction in terms of paragraph (2) will only be effected when payment of the pension commences.

*[Amended L.N.78/1995; L.N.153/2009]*

- (4) Notwithstanding paragraph (2), a member may, before the commencement date of the pension, commute a portion not exceeding one-fourth of that pension, in which case he shall be entitled to the following benefits:

- (a) a lump sum gratuity equal to fifteen times the amount of pension which is being commuted; and
- (b) a reduced pension equal to the amount which has not been commuted, payable in accordance with regulation 8(3).

*[Amended L.N.153/2009]*

#### 10. **Deferred retirement**

- (1) A deferred retirement benefit shall be payable to a member who has 10 years of service to his credit and is, on separation, less than forty-five years of age.

- (2) The deferred retirement benefit shall be computed in the manner stipulated in regulation 8(2) except that its commencement shall be deferred until the last day following the member's—

- (a) sixty-fifth birthday, in the case of a judge;
- (b) sixtieth birthday in the case of a member other than a judge.

*[Amended L.N.153/2009]*

- (3) Notwithstanding paragraph (2), a member entitled to deferred retirement may at any time have his pension commence on the last day of any month between his—

- (a) forty-fifth and sixty-fifth birthday, in the case of a member referred to in sub-paragraph (2) (a);

- (b) forty-fifth and sixtieth birthday, in the case of a member referred to in sub-paragraph (2)(b);
- (c) *[Deleted L.N.153/2009]*
- (d) fortieth and forty-fifth birthday, in the case of a member referred to in sub-paragraph (2)(d);

in which case his pension shall be computed in accordance with regulation 9(2).

*[Amended L.N.153/2009]*

#### 11. **Forced retirement**

If a member's service is terminated before he attains the compulsory retirement age on the ground that, having regard to the conditions of the Public Service, the usefulness of the member thereto and all the other circumstances of the case, including medical unfitness, such termination is desirable in the public interest, the Minister may, in consultation with the Board, grant that member compulsory retirement benefits in accordance with regulation 8, notwithstanding his age and period of service.

*[Amended L.N.78/1995]*

#### 12. **Abolition of office**

- (1) Subject to sub-regulation 12(4), if an office held by a member is abolished by way of re-organisation or restructuring of the Service and the member is not offered a transfer or appointment to a similar position in the Public Service, the Minister may, in consultation with the Board, grant that member compulsory retirement benefit in accordance with regulation 8, notwithstanding the member's age and period of service.
- (2) Notwithstanding regulation 7, if a member retires from the Public Service in consequence of the abolition of his office, he shall be granted an additional pension at the annual rate of one-one-hundred-and-eightieth of his pensionable emoluments for each year of his pensionable service.
- (3) The addition, together with the remainder of the member's pension, shall not exceed the pension for which he would have been eligible if he had continued to hold the office held by him at the date of his retirement age applicable to him in terms of regulation 8, having received all increments for which he would have been eligible by that date.
- (4) If, on the abolition of the post held by the member, he is offered a transfer or appointment to a similar position in the Public Service but declines the transfer or appointment, he shall be treated as having separated from the fund and shall receive retirement benefits in accordance with regulation 7, 8, 9 or 10, as the case may be.

*[Amended L.N.1/1998]*

#### 13. **Retirement or dismissal from the Service in consequence of disciplinary proceedings**

If a member is dismissed from the Service or forced to retire in consequence of disciplinary procedures taken against him, he shall be entitled to a refund of his contributions with interest as accrued in terms of the provisions of regulation 3(4).

*[Amended L.N.87/1997]*

### **Part IV – Disability benefits**

#### 14. **Officers injured or contracting disease in the discharge of their duties**

- (1) This regulation shall apply to an officer who is injured in the actual discharge of his duty by some injury specifically attributed to the nature of his duty or contract a disease to which he is exposed by the nature of his duty:

Provided that such injury or disease is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct.

- (2) In this regulation, unless the contrary intention appears, references to an officer being injured and to the date on which the injury is sustained shall respectively be construed as including references to his contracting a disease referred to in paragraph (1) and to the date on which such disease is contracted.
- (3) If an officer to whom this regulation applies holds a pensionable office in which he has been confirmed he may—
- if his retirement is necessitated or materially accelerated by his injury he shall be entitled to pension under regulation 8;
  - if he was injured while in the Public Service of the Government of Swaziland, be granted, on retirement, an additional pension, at the annual rate of the proportion of his actual pensionable salary at the date of his injury appropriate in his case as shown in the following table:

When his capacity to contribute to his own support is

Slightly impaired \_\_\_\_\_ five-sixtieths;

Impaired \_\_\_\_\_ ten-sixtieths;

Materially impaired \_\_\_\_\_ fifteen-sixtieths

Totally destroyed \_\_\_\_\_ twenty-sixtieths:

Provided that the amount of the additional pension may be reduced to such an extent as the Board in consultation with the Minister, thinks reasonable where the injury is not the cause or the sole cause of his retirement.

- (4) An officer to whom this regulation applies who is injured while in the Public Service of the Government of Swaziland and who holds a non-pensionable office, or who holds a pensionable office in which he has not been confirmed, may be granted, on retirement, a pension of the same amount as the additional pension which may be granted to him under paragraph (3) if his office were a pensionable office and he has been confirmed therein.
- (5) If, for the purpose of assessing the amount of any additional pension or pensions to be granted under paragraph (3)(b) or under paragraph (4) to any officer to whom this regulation applies, the degree of permanent impairment of his capacity to contribute to his support is in doubt, he may be granted a provisional award to have effect until such time as his degree of impairment can be determined.
- (6) An officer who is injured while travelling by air in pursuance of official instructions, and whose injury is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct, shall be deemed, for the purpose of this regulation, to have been injured in the circumstances described in paragraph (1):
- Provided that in such a case the rates of pension prescribed in paragraph (3)(b) shall be seven-and-a-half-sixtieths, fifteen-sixtieths, twenty-two-and-a-half-sixtieths, thirty-sixtieths, respectively.
- (7) If compensation in consequence of the injury is payable under any law in force in Swaziland which provides for the payment of workmen's compensation, in consequence of the injury, the Board in consultation with the Minister, may reduce or withhold any additional pension or pension payable under either paragraph (3) or paragraph (4) in such a manner as it may consider reasonable.
- (8) If the Board in consultation with the Minister, is satisfied that the damages have been or will be recovered by an officer in respect of an injury for which an additional pension or pension may be granted under paragraph (3) or under paragraph (4), it may take these damages into account against

such additional pension or pension in such a manner and to such an extent as it may think fit and may withhold or reduce the additional pension accordingly.

- (9) For the purpose of paragraph (10), an officer shall be deemed to recover damages whether they are paid in pursuance of a judgement or order of the court or by way of settlement or compromise of his claim and whether or not proceedings are instituted to enforce the claim.

## **Part V – Death benefits**

### **15. Requirements for benefits**

A member who is entitled to, or receiving, a pension from the Fund shall be covered for one or more of the following benefits in the event of his death—

- (a) a death benefit,
- (b) a surviving spouse's pension,
- (c) children's pensions, and
- (d) a residual settlement.

### **16. Death benefit**

A member of the Fund who dies while still being a member shall be entitled to a death benefit equal to two years' salary based upon that member's pay scale as at the day of the member's death, and such benefit shall be paid to the member's estate.

*[Amended L.N.71/2000]*

### **17. Surviving spouse pension**

- (1) If the member dies before his separation from the Fund and was married at the time of his death, his surviving spouse shall be entitled to a pension equal to one-half the pension referred to in regulation 8(2).

*[Amended L.N.153/2009]*

- (2) If the member dies after his separation from the Fund and while he is entitled to, or in receipt of, a pension from the Fund, his surviving spouse, if any, shall be entitled to a pension equal to one-half the amount of pension which the member was receiving, or was entitled to receive.
- (3) The surviving spouse's pension shall be payable until the spouse's death or remarriage, whichever comes first.
- (4) In the event that the deceased member leaves more than one surviving spouse, the surviving spouse's pension shall be divided among them in such proportion as the Master of the High Court may determine.

### **18. Child's pension**

- (1) Subject to paragraph (3), if a member dies before separation from the Fund, a child shall receive ten percent (10%) of the pension referred to in regulation 8(2).

*[Amended L.N.153/2009]*

- (2) Subject to paragraph (3), if the member dies after separation from the Fund and while he is entitled to or in receipt of a pension from the Fund, a child shall receive a pension equal to ten percent (10%) of the pension which the member was receiving, or is entitled to receive, at that time.
- (3) If the member has more than five (5) children, the total amount of pension referred to in paragraph (1) and (2), shall be computed as if there were five (5) children, and such total shall be divided among all the member's children.

- (4) If there is no surviving spouse's pension payable in terms of regulation 17, the child's pension shall be twice the amount referred to in paragraph (1) and (2) as the case may be.

## Part VI – Gratuities

### 19. Non-pensionable office

If an officer who holds a non-pensionable office dies while in the Service, or retires or resigns from the Public Service of the Government of Swaziland after serving for not less than five continuous years, he will be granted from the Public Service Pensions Fund a gratuity at the following rate for such service, that is to say—

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

Provided that the total amount shall not exceed an amount equal to the officer's annual salary on his last day of service and, in the event of the death of such officer, the gratuity shall be paid to his estate.

### 19bis. Payment of gratuity to over age members

Any member referred to in sub-regulation 8bis(1) who, by reason of not having 10 (ten) years of service in a pensionable office, is not entitled to benefits under Part III, shall be entitled to a gratuity calculated in the same manner as set out in regulation 19 above for his completed years of service in a pensionable office, provided that no service beyond the 30th June 1995 of any such member who fails to retire by that date shall be taken into account for the purposes of calculating any gratuity payable to such member.

*[Added L.N.78/1995]*

### 20. Contract officers

A public officer whose terms and conditions of service are governed by a contract between that officer and the government shall only be entitled to the gratuity stipulated in his contract and such gratuity shall be payable from the Fund.

## Part VII – General provisions

### 21. Recipients of pensions under the Pensions Act, 1968 or the Cusada Teachers' Pension Scheme

Individuals who are entitled to and receiving pensions from the Government under the provisions of the Pensions Act, 1968 or the Commercial Union Cusada Pension Scheme for Teachers in the month immediately preceding the date of entry into force of these Regulations shall receive those pensions from the Fund as from that date and in the event of the individual's death, the provisions of regulations 17 and 18 shall apply.

### 22. Review of pensions

All pensions being paid from the Fund, as well as deferred pensions not yet in payment, shall be subject to periodic reviews by the Board, who shall decide, after consultation with the Minister, the timing and the extent of any pension increases, consistent with the rise in the cost of living and with the financial resources of the Fund.

### 23. Non-assignability of rights

A pension or gratuity granted under these Regulations may not be attached, ceded or transferred except for the purpose of satisfying—

- (a) a debt to the Government of Swaziland; or

- (b) an order of any court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor child of the person to whom the pension or gratuity has been granted.

**24. Additional voluntary contributions by members**

- (1) A member may make additional voluntary contributions to the Fund in addition to the contributions he is required to make under regulation 3.
- (2) A member's additional voluntary contributions shall be credited to an account in his name and shall earn interest in the same manner as his required contributions.
- (3) Upon his separation from the Fund, the member shall be entitled, in addition to any other entitlement under these Regulations, to receive the balance of his additional voluntary contribution account in a lump sum, unless he requests that it be paid in instalments over a given period and this is acceptable to the Board.