

**CHAPTER 493B**

**THE KENYA POST OFFICE SAVINGS BANK ACT**

SUBSIDIARY LEGISLATION

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**THE KENYA POST OFFICE SAVINGS BANK (PENSIONS) REGULATIONS**

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**THE KENYA POST OFFICE SAVINGS BANK (PENSIONS) REGULATIONS**

[Legal Notice 56 of 1991]

## PART I – PRELIMINARY

**1. Citation and commencement**

These Regulations may be cited as the Kenya Post Office Savings Bank (Pensions) Regulations, 1990 and shall be deemed to have come into operation on the 1st January, 1978.

**2. Interpretation**

In these Regulations, unless the context otherwise requires—

"approved special retirement scheme" means a scheme of retirement approved by the Cabinet Secretary under regulation 4;

"Bank" means the Kenya Post Office Savings Bank established under section 3 of the Act;

"Board" means the Board of Directors of the Bank appointed under section 5 of the Act;

"other public service" means public service other than service in the Bank;

"pensionable emoluments"—

- (a) in respect of service in the Bank includes salary but does not include duty allowance, house allowance, entertainment allowance, or any other emoluments whatever; and
- (b) in respect of other public service, means emoluments which count for pension in accordance with the law of regulations in force in that service;

"pensions increase" means such increase as may from time to time be determined by the Board in accordance with regulation 8;

"pensionable office" means—

- (a) in respect of an officer's service in the Bank, an office—
  - (i) to which he has been appointed (on probation or other-wise) by the authority having power for the time being to make appointments to the service of the Bank on terms which include eligibility for the grant of pension under these Regulations; and
  - (ii) Which he has not ceased to hold such terms;
- (b) in respect of other public service, an office which is, for the time being, a pensionable office under the law or regulations in force in the service;

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

"prescribed scale" means such salary scale as may from time to time be determined by the Board;

"Provident Fund Scheme" means the Provident Fund Scheme of the Bank;

"public service" means—

- (a) service in the Bank and includes service in the East African Posts and Telecommunications Administration, East African Posts and Telecommunication Corporation and Kenya Posts and Telecommunications Corporation;
- (b) service under the East African Community or any other service not covered by paragraph (a);

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- (c) service in a civil capacity under the Government of Kenya or the government of any country or territory in the commonwealth; or
- (d) any other service which the Cabinet Secretary may determine to be public service for the purpose of these Regulations;

"qualifying service" means service which may be taken into account in determining whether an officer is eligible by length of service for pension or gratuity;

"salary" means the salary attached to a pensionable office, or where provision is made for taking service in a non-pensionable office into account as pensionable service, the salary attached to that office;

"wife" includes, in the case of an officer under whose religion or tribal custom polygamy is lawful, any person to whom the officer is lawfully married in accordance with the tenets of that religion or, tribal custom, and in any such case, the amount of any pension, gratuity or other allowance for which a wife is eligible under these Regulations shall be divided equally among all wives during the period in which there is more than one wife eligible therefore; and "widow" shall be construed accordingly;

"widow" includes a widower.

## PART II – PENSIONS, GRATUITIES AND ALLOWANCES

**3. Pensions, etc. to be charged on funds of the Bank**

(1) There shall be charged and paid out of the funds of the Bank all such sums of money as may from time to time be granted by the Bank by way of pension, gratuity, or other allowance in accordance with these Regulations.

(2) Notwithstanding these Regulations, the Cabinet Secretary may, in relation to a specified class of officers, approve a scheme of retirement provided for payment of pensions, gratuities or other allowance, in these Regulations referred to as an "approved special retirement scheme" and that scheme shall have effect as if the provisions thereof were part of these Regulations.

**4. Circumstances in which pensions, etc. may be granted**

(1) Subject to paragraphs (2) and (3), no pension, gratuity or other allowance shall be granted under these Regulations to an officer except on his retirement from the public service in one of the following circumstances—

- (a) on or after attaining the age of fifty years;
- (b) in the case of transfer to other public service, in circumstances in which he is permitted by law or regulations of the service in which he is last employed to retire on pension or gratuity:

Provided that if his service, in that other public service is superannuated under the Federated Superannuation System for Universities or a similar insurance scheme, he has retired from such service in circumstances corresponding to one of the grounds mentioned in subparagraphs (a), (c), (d), (e), (f);

- (c) on the abolition of his office;
- (d) on compulsory retirement for the purpose of facilitating improvement "in the organization of the Bank or of the department to which he belongs, by which greater efficiency or economy may be affected;
- (e) on medical evidence, to the satisfaction of the Bank that he is incapable by reason of infirmity of mind or body, of discharging the duties of his office and that infirmity is likely to be permanent;
- (f) in the case of service in the Bank, on termination of service in the public interest as provided for in regulation 6, or in the case of transfer to any other public service, on termination of service in the public interest under a corresponding provision in any law or regulation relating to the grant of pension in respect of the public service; or

- (g) on retirement in accordance with any special retirement scheme approved by the Cabinet Secretary.

(2) A gratuity may be granted to a female officer, in accordance with these Regulations, who resigns on or with a view to marriage or is required to retire on account of her marriage, notwithstanding that she is not otherwise eligible under this Regulation for the grant of a pension, gratuity or other allowance.

(3) A pension, gratuity or other allowance may be granted in accordance with these Regulations to an officer on his retirement from any local government service (which the Ministry has determined to be public service for the purpose of these Regulations) to which he has been transferred notwithstanding that there is no provision in such service for the retirement of such officer on pension or gratuity, if the circumstances in which such officer retires are circumstances in which, had he remained in the service of the Bank he would have been eligible for a pension, gratuity or other allowance under these Regulations.

(4) This regulation shall not preclude the payment of a sum of money payable under an approved special retirement scheme otherwise than upon retirement.

### **5. Pension, etc. not of right**

(1) No officer shall have an absolute right to compensation for past service or to pension, gratuity or other allowance, nor shall anything in these Regulations affect the liability of an officer to be dismissed according to law.

(2) Where it is established to the satisfaction of the Cabinet Secretary that an officer has been guilty of negligence, irregularity or misconduct, the pension, gratuity or other allowance may be reduced or altogether withheld.

### **6. Termination of service in the public interest**

(1) Where an officer's service is terminated on the ground that, having regard to the conditions of the public service and the usefulness of the officer thereto and all the other circumstances of the case, termination is desirable in the public interest, and a pension;

gratuity or other allowance cannot otherwise be granted to him under the provisions of these Regulations, the Bank may grant such pension, gratuity or other allowance as it thinks just and proper, not exceeding in amount that for which the officer would be eligible if he retired from the public service on medical grounds as provided in regulation 4(1)(e).

(2) Under this regulation the Bank shall not grant a pension, gratuity or other allowance less in amount than that for which the officer is eligible without the concurrence of the Cabinet Secretary.

### **7. Optional and compulsory retirement**

(1) Subject to paragraph 8(3), an officer may elect to retire on or at any time after attaining the age of fifty years.

(2) The Bank may, with the agreement of an officer, require him to retire from the service of the Bank at any time after he attains the age of fifty years but before he attains the age of fifty-five years.

(3) The Bank may require an officer to retire from the service of the Bank—

- (a) at any time after he attains the age of fifty-five years; or
- (b) in accordance with the terms of any approved special retirement scheme;

and an officer so required shall retire accordingly.

(4) Subject to the paragraph (2), an officer holding a pensionable office in the service of the Bank and who has been confirmed in that office whose salary is not below the prescribed scale in the Bank's salary scales may, on his own option and with the approval of the Board, retire, or be required by the Board to retire, from the service of the Bank—

- (a) on or after attaining the age of forty-five years; or
- (b) on or after completion of ten years of service in a pensionable office.

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## **8. Maximum pension**

(1) Except in any case provided for under paragraph (4) or (6), a pension granted to an officer under these Regulations shall not exceed four-fifths of the highest pensionable emoluments drawn by him at any time in the course of his service in the Bank, except that no pension shall be less than sixty pounds per year.

(2) An officer who has been granted a pension in respect of other public service shall not at any time drawn from the funds of the Bank an amount of pension which, when added to the amount of any pension drawn in respect of other public service, exceeds four-fifths of the highest pensionable emoluments drawn by him at any time in the course of his public service.

(3) Where an officer receives in respect of some period of public service, both a pension and a gratuity, the amount of the pension shall be deemed for the purpose of paragraph (2) to be what it would have been if part of it had not been commuted into a gratuity.

(4) In the application of paragraph (2), no regard shall be had to any pension granted in respect of other public service attributable to service which has not been taken into account in determining the amount of the pension payable under these Regulations.

(5) Where the limitation specified by paragraph (2) operations, the amount of the pension to be drawn from the funds of the Bank shall be determined with regard to the amount of any pension or pensions to be drawn in respect of public service.

(6) For the purpose of this regulation an additional pension granted in respect of injury shall not be taken into account; but where the officer is granted such an additional pension under these Regulations, the amount of that additional pension together with the remainder of his pension shall not exceed the highest pensionable emoluments drawn by him at any time in the course of his public service.

(7) The Board may from time to time increase the amount payable on any pension awarded under these Regulations and may make such rules as may be necessary to regulate such increase.

## **9. Liability of early pensioners to be called on to take further employment**

(1) Every pension granted under these Regulations shall be subject to the condition that unless or until the officer attains the age of fifty years, he may, if physically fit for service, be called upon by the Bank to accept an office in the service of the Bank not less in value than the office which he held at the date of his retirement; and where a pensioner so called upon declines to accept such office, the payment of his pension may be suspended until he has attained the age of fifty years.

(2) This Regulation shall not apply to any officer who is required to retire under the provisions of an approved special retirement scheme.

## **10. Suspension of pension on re-employment**

(1) Where an officer to whom a pension has been granted under these Regulations is appointed to another pensionable office in the public service, the payment of the whole or any part of his pension may with his consent and if the Bank thinks fit, be suspended during the period of his re-employment.

(2) In computing the pension payable on final retirement from the public service of an officer whose pension has been suspended under paragraph (1), his service prior to the re-employment shall be taken into account but all the moneys previously paid to him by way of pension or gratuity shall be deducted from either the pension or gratuity assessed and payable at the date of his final retirement.

## **11. Pensions, etc. not assignable**

A pension, gratuity or other allowance granted under these Regulations, shall not be assignable or transferable except for the purpose of satisfying—

- (a) a debt due to the Bank or due to the Commissioner of Income Tax in respect of income tax; or



- (b) an order of a court for the payment of periodical sums of money towards the maintenance of the wife; or former wife, or minor child of the officer to whom the pension, gratuity or other allowance has been granted, and shall not be liable to be attached, sequestered, or levied on; for or in respect of any debt or claim whatever.

## **12. Pensions, etc. on accepting certain appointments**

(1) Where a person to whom a pension or other allowance has been granted under these Regulations, otherwise than under regulation 14 or 15, becomes a director or an employee of a company, the principal part of whose business is in any way directly concerned with the Bank without the prior permission in writing of the Board, the pension or allowance shall cease if the Board so directs.

(2) The Board may, on being satisfied that the person, in respect of whose pension or other allowance a direction under paragraph (1) has been given, has ceased to be a director or an employee of that company, given directions for the restoration of the pension or allowance, with retrospective effect if it thinks fit, to such a date as it may specify; and the pension or other allowance shall be restored accordingly.

## **13. Gratuity where the officer dies in service or after retirement**

(1) Where an officer holding a pensionable office who is not on probation or on agreement, or an officer holding a non-pensionable office to which he has been transferred from a pensionable office in which he has been confirmed, dies while in the service of the Bank, the Bank may grant to his legal representative a gratuity of an amount not exceeding twice the amount of his annual pensionable emoluments or his commuted pension gratuity, if any, whichever is the greater.

(2) Where an officer dies after retirement from the service of the Bank having been granted, or having been eligible for a pension under these Regulations, and the sums paid or payable to him between the date of his retirement and the date of his death on account of that pension, or other allowance in respect of any public service granted under regulation 35, are less in total than twice the amount of his annual pensionable emoluments or the commuted pension gratuity for which he would have been eligible under paragraph (1) had he died on the date immediately preceding his retirement, whichever is the greater, the Bank may grant a gratuity equal to the deficiency to his personal legal representative.

(3) In this regulation—

"annual pensionable emoluments" means—

- (a) in the case of an officer holding a pensionable office, the emoluments which would be taken for the purpose of computing any pension or gratuity granted to the officer under these Regulations if he had retired from the public service in the circumstances described in regulation 4(1)(e); or
- (b) in the case of an officer not holding a pensionable office to which he has been transferred from a pensionable office to which he has been confirmed, the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office;

"commuted pension gratuity" means the maximum gratuity, if any, which might have been granted to the officer under regulation 35 if his public service had been wholly in the Bank and if on the day following the date of his death he had retired from the service of the Bank on medical grounds as provided for under regulation 4(1)(e) and had elected to receive a reduced pension gratuity equal to one quarter of the pension.

## **14. Pension to dependants on death of an officer in service or on retirement**

(1) Subject to these Regulations—

- (a) where an officer, who has served the Bank for ten or more years, dies after he has retired from the service of the Bank having been granted a pension under these Regulations, there shall continue to be paid a dependent's pension on the terms and subject to the conditions set out in this regulation, to the widow

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or children of the officer for a period of five years next following the date of the officer's death and the dependant's pension shall be at the rate of the officer's pension at the date of his death; or

- (b) where a pensionable officer who has served the Bank for ten or more years dies in the service of the Bank, the Bank may grant to the widow or child of the officer in addition to any grant made under regulation 13, a dependant's pension on the terms and subject to the conditions set out in this regulation, for a period of five years next following the date of the officer's death, at a rate not exceeding the amount of any pension that could have been granted to the officer if he had retired on medical grounds on the date of his death.

(2) If a widow to whom a dependant's pension has been granted under paragraph (1) dies or otherwise ceases to be entitled to the dependant's pension, the child or children who are entitled, in accordance with the terms and conditions set out in paragraph (3), to a dependant's pension, shall be entitled in accordance with those terms and conditions to receive the dependant's pension for the remainder of the period of five years from the date of the officer's death which is still outstanding at the date on which the widow dies or otherwise ceases to be entitled to the dependant's pension.

(3) A dependant's pension under this regulation shall be paid in accordance with and subject to the following terms and conditions—

- (a) where the deceased officer leaves a widow or widows, whether or not he also leaves any child, the widow or widows shall, for as long as they are alive and remain unmarried, be entitled to receive, in equal shares, the whole of the dependant's pension at the appropriate rate provided for under paragraph (1);
- (b) where the deceased officer leaves more than one widow, and if any one of them dies or otherwise ceases to be entitled to a share of the dependant's pension, then—
  - (i) her share of the pension shall be shared in equal amounts amongst her surviving children; or
  - (ii) if there are no surviving children, then her share of the pension shall be shared equally amongst the remaining widows entitled to a share or the deceased officer's pension;
- (c) Where the deceased officer does not leave a widow, or if within the period of five years during which the dependant's pension is payable under this regulation the deceased officer's widow dies or otherwise ceases to be entitled to a share of the dependant's pension, any child of the deceased officer who is entitled at the appropriate date to receive the dependant's pension shall be entitled to receive (and if more than one child, in equal shares), the dependant's pension at the appropriate rate provided for under paragraph (1);
- (d) a dependant's pension or a share thereof shall not be payable to a child who has attained the age of twenty-one years unless, and only during the time, that a child is receiving full time education at a university, college, school or other educational establishment approved by the Bank for the purpose of this regulation; and
- (e) in the event of any child ceasing to be entitled to a share of a dependant's pension, his or her share shall, from the date of cessation, and subject to subparagraph (b)(i), be divided equally between all the other children then still entitled to receive the share or pension, as the case may be, and if only one child then remains so entitled, the whole of the dependant's pension shall be paid to him.

(4) No dependant's pension or share thereof shall be payable in respect of any period after the fifth anniversary of an officer's death.

(5) In this regulation, "child" includes—

- (a) a posthumous child;

- (b) a step child or illegitimate child born before the date of the officer's death who is wholly or mainly dependant on the deceased officer for support;
- (c) an adopted child, adopted in a manner recognized by law before the date of the officer's death and wholly or mainly dependent on the deceased officer for support.

### 15. Pension to dependants where officer is killed on duty

(1) Where an officer holding a pensionable or non-pensionable office dies as a result of injuries received—

- (a) in the actual discharge of his duty;
- (b) without his default; and
- (c) on account of circumstances specifically attributable to the nature of his duty while in the service of the Bank, the Bank may grant in addition to the grant, if any, made to his personal legal representative under regulation 13 or 14—
  - (i) where the deceased officer leaves a widow, a pension to her while unmarried, at a rate not exceeding ten-fiftieths of his annual pensionable emoluments as at the date of the injury or one hundred and twenty pounds a year, whichever is the greater;
  - (ii) Where the deceased officer leaves a widow to whom a pension is granted under sub-paragraph (i) and a child, or children, a pension in respect of each child until the child attains the age of twenty-one years, of an amount not exceeding one-eighth of the pension specified in that sub-paragraph;
  - (iii) where the deceased officer leaves a child or children, but does not leave a widow or no pension is granted to the widow, a pension in respect of each child, until the child attains the age of twenty-one years of double the amount specified in sub-paragraph (ii);
  - (iv) where the deceased officer leaves a child, or children, and a widow to whom a pension is granted under sub-paragraph (i) and the widow subsequently dies, a pension in respect of each child, as from the date of death of the widow until the child attains the age of twenty-one years, of double the amount specified in sub-paragraph (ii);
  - (v) where the deceased officer does not leave a widow, or if no pension is granted to the widow and where either or both his mother or father was or were wholly or mainly dependant on him for support, a pension to either or both the mother and father, as the case may be, while either or both remain adequate means of support, of an aggregate amount not exceeding the pension which might have been granted to his widow.

(2) A pension shall not be payable under this regulation at any time in respect of more than six children, and where there are more than six children in respect of whom, but for this paragraph, a pension would be payable, then the amount payable in respect of the six children shall be divided equally among all the children during the period in which there are more than six children of pensionable age.

(3) In the case of a pension granted under sub-paragraph (1)(v)—

- (a) if the mother is a widow or the father is a widower at the time of the grant of the pension and subsequently remarries, the pension shall cease as from the date of remarriage; and
- (b) if it appears to the Bank at any time that either or both the mother or father is or are adequately provided with other means of support, the pension or pensions shall cease as from such date as the Bank may determine.

(4) For the purpose of this regulation—

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- (a) an officer who dies as a result of injuries received while travelling in pursuance of official instructions shall be deemed to have died as the result of injuries received—
  - (i) in the actual discharge of his duty;
  - (ii) without his own default; and
  - (iii) on account of circumstances specifically attributable to the nature of his duty;
- (b) an officer proceeding by air, rail, sea, road or any other mode of travel approved by the Bank to or from his duty station within Kenya at the commencement or termination of his service in the Bank or a period of secondment, duty or leave therefrom, who dies as a result of damage to or accident involving the vessel, aircraft or vehicle in which he is travelling, or as a result of any act of violence directed against that vessel, aircraft or vehicle, shall be deemed to have died as the result of injuries received—
  - (i) in the actual discharge of his duty;
  - (ii) without his own default; and
  - (iii) on account of circumstances specifically attributable to the nature of his duty.

(5) In the case of an officer not holding a pensionable office, in this regulation

"pensionable emoluments" means the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office.

(6) In this regulation, "child" includes—

- (a) a posthumous child;
- (b) a step-child or illegitimate child born before the date of the injury and wholly or mainly dependent on the deceased officer for support; and
- (c) an adopted child, adopted in a manner recognized by law before the date of the injury and wholly or mainly dependent on the deceased officer for support.

(7) In the case of the death of an officer whose dependants are entitled to compensation under the Work Injury Benefits (Cap. 236) or any other law relating to workmen's compensation, the Bank may take such compensation into account to such an extent as it thinks fit in fixing the amount of pension to be paid under this regulation.

#### PART III – OFFICERS WHO'S SERVICE HAS BEEN WHOLLY IN THE BANK

### 16. Application of part III

Except when the Cabinet Secretary in any special case otherwise directs, this part shall not apply in the case of an officer transferred to or from the service of the Bank from or to other public service except for the purpose of determining whether that officer would have been eligible for pension or gratuity, and the amount of pension or gratuity for which the officer would have been eligible, if the service of the officer had been wholly in the Bank.

### 17. To whom and at what rate pensions may be granted

(1) Subject to these Regulations, an officer holding a pensionable office in the service of the Bank for ten or more years may be granted on retirement a pension at the annual rate of one five-hundredth of his pensionable emoluments for each complete month of his pensionable service.

(2) Notwithstanding paragraph (1), it shall be lawful to grant any officer who retires in accordance with the terms of an approved special retirement scheme such addition to the annual rate provided for in that paragraph as may be provided by such scheme.

### 18. Gratuity where length of service does not qualify for pension

An officer, otherwise qualified for a pension, who has not been in the service of the Bank for ten years, may be granted on retirement, a gratuity not exceeding five times, the

annual amount of the pension which, if there had been no qualifying period, might have been granted to him under regulation 17.

#### PART IV – OFFICERS TRANSFERRED TO OR FROM OTHER PUBLIC SERVICE

### 19. Application of part IV

This Part shall apply in the case of an officer transferred to or from the service of the Bank from or to other public service.

### 20. Pension in other public service

(1) Where the other public service of an officer to whom this Part applies has not included service in other public service and his aggregate service would have qualified him, had it been wholly in the service of the Bank, for a pension under these Regulations, he may, subject to regulations 4(1)(b), upon his retirement from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on a pension or gratuity, be granted, in respect of his service in the Bank, a pension at the annual rate of one-five-hundredth of his pensionable emoluments for each complete month of his pensionable service in the Bank or, in the case of a pension beginning on or after 1st January, 1978, at the annual rate of sixty pounds, whichever is the greater.

(2) Where the officer is not in the service of the Bank at the time of his retirement in the circumstances referred to in paragraph (1), his pensionable emoluments for the purpose of that paragraph shall be those which would have been taken for the purpose of computing his pension if he had retired from the public service and had been granted a pension at the date of his last transfer from the service of the Bank.

(3) Notwithstanding this regulation, it shall be lawful to grant to any officer who retires in accordance with terms of an approved special retirement scheme such addition to the annual rate provided for in this regulation as may be provided by such scheme.

### 21. Gratuity where length of service does not qualify for pension

Where an officer to whom this Part applies retires from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity, but has not been in public service in a civil capacity for ten years, he may, subject to regulation 4(1)(b), be granted in respect of his service in the Bank a gratuity of an amount not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to him under regulation 20.

#### PART V – GENERAL PROVISIONS

### 22. General provisions as to qualifying service and pensionable service

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

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

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

### 23. Continuity of service

(1) Except as otherwise provided in these Regulations, only continuous service shall be taken into account as qualifying service or as pensionable service, but any break in service caused by temporary suspension of employment not arising from misconduct (the gravity of which, in the opinion of the Bank, would warrant summary dismissal) or voluntary resignation shall be disregarded for the purpose of this paragraph.

(2) An officer—

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- (a) whose pension has been suspended under regulation 10 or under a corresponding provision in any law or regulation relating to the grant of pensions in respect of public service; or
- (b) who has retired from the public service without pension on medical grounds, abolition of office or reorganization designed to effect greater efficiency or economy, and has subsequently been re-employed in the public service, may, if the Bank thinks fit, be granted the pension or gratuity for which he would have been eligible if any break in his public service immediately prior to his suspension, re-employment or employment had not occurred and that pension shall be in lieu of—
  - (i) any pension previously granted to him under the service of the Bank; and
  - (ii) any gratuity so granted which is required to be refunded as a condition of the application to the officer of this regulation, but additional to any gratuity so granted which is not required to be refunded.

**24. Leave without salary**

No period during which an officer has been absent from duty on leave without salary shall be taken into account as pensionable service unless that leave has been granted on grounds of public policy.

**25. Emoluments to be taken for computation of pension, etc.**

(1) Subject to paragraph (4), for the purpose of computing the amount of pension or gratuity of an officer who has had a period of not less than three years' pensionable service before his retirement—

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

Provided that—

- (i) if that one-third is less than the highest annual pensionable emoluments enjoyed by him at the date of any transfer within that period of three years, those annual pensionable emoluments shall be taken;
- (ii) if that one-third is less than the full annual pensionable emoluments which would have been enjoyed by him at the date of his retirement if he had continued to hold an office from which he had been transferred at any time during that period of three years and had received all annual increments in the scale which, in the opinion of the Bank, would have been granted to him, the annual pensionable emoluments which he would have so enjoyed shall be taken;
- (iii) if that one-third is more than the full annual pensionable emoluments enjoyed by him at the date of his retirement in respect of the office then held by him, those pensionable emoluments shall be taken.

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

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

Provided that if he has been transferred from an office which has been abolished and for this reason the pensionable emoluments of that office have not been considered in a general revision of pensionable emoluments then, for the purposes of this regulation, the pensionable emoluments attached to the abolished office shall be equated with those of such office or offices as are certified by the Bank in its discretion as having enjoyed the same pensionable emoluments as the abolished office at the time of revision;

- (c) not to have been transferred from one office to another merely because he is promoted from one segment to another of the same scale and thereby suffers a change of nomenclature.

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

- (a) the average annual pensionable emoluments enjoyed by him during that period shall be taken;
- (b) he shall be deemed to have been on duty on full pensionable emoluments throughout that period;
- (c) he shall be deemed to have enjoyed the benefit of any increase due to a general revision of salaries in the pensionable emoluments of any office in the service of the Bank or a scheduled government or governments held by him as if the increase had been payable throughout the period;
- (d) he shall be deemed not to have been transferred from one office to another merely because he is promoted from one segment to another of the same scale and thereby suffers of a change of nomenclature.

(4) For the purpose of computing the amount of pension or gratuity of an officer who retires in accordance with an approved special retirement scheme, the pensionable emoluments provided for that scheme for the computation of such pension or gratuity shall taken.

## **26. Service otherwise than in pensionable office**

(1) Subject to this regulation, only service in a pensionable office shall be taken into account as pensionable service.

(2) Subject to paragraph (4), where a period of continuous service is otherwise than in a pensionable office and the officer is confirmed therein, one-half of that period, or such greater portion, or the whole thereof, as the Bank may determine, may be taken into account.

(3) Where an officer was a contributor under the provisions of the East African External Telecommunications Company Limited Retirement Benefit and Life Assurance Plan, Kenya External Telecommunications Company Limited Retirement Benefit and Life Assurance Plan, East African Posts and Telecommunications Administration Provident Fund Scheme, East African Post and Telecommunications Corporation Provident Fund Scheme or Kenya Posts and Telecommunications Corporation Provident Fund Regulations and has subsequently been confirmed in a pensionable office, the whole period during which he was a contributor, irrespective of his age during that period, shall be taken into account provided that the officer shall surrender all claims to the amount of money then credited or provisionally credited to him in the Fund or life assurance plan and that amount of money shall be paid into the Bank's funds.

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(4) Where a period of continuous service as a trainee, officer in training or apprentice is immediately followed by service in a pensionable office and the officer is confirmed therein, the whole of that period of continuous service shall be taken into account.

(5) Any break in service which may be disregarded under regulation 23 may likewise be disregarded in determining for the purpose of paragraph (2), (3) or (4) whether one period of service immediately follows another period of service.

(6) Where an officer has been transferred from a pensionable office in which he has been confirmed to an office other than a pensionable office and subsequently retires either from a pensionable office or from that other office, his service in that other office may, with the approval of the Bank, be taken into account as though it were service in the pensionable office which he held immediately prior to the transfer, and, except where the transfer was the result of a reduction in rank for a disciplinary offence, at the pensionable emoluments which were payable to him at the date of transfer:

Provided that where the annual pensionable emoluments of the pensionable office from which he has been transferred are not taken into account by reason of his having been reduced in rank for a disciplinary offence, then the emoluments in that other office which would have been pensionable emoluments had that office been a pensionable office shall be taken into account provided that the amount in that other office does not exceed the annual pensionable emoluments of the office from which he has been transferred.

(7) Where a period of service in a non-pensionable office is taken into account under this regulation, the officer shall during that period be deemed for the purposes of regulation 20 or 30 to be holding a pensionable office, and where that period is taken into account under paragraph (6), to have been confirmed therein.

### **27. Acting service**

Any period during which an officer has performed only acting service in a pensionable office may be taken into account as pensionable service if the period of acting service—

- (a) is not taken into account as a part of the officer's own pensionable service in other public service; and
- (b) is immediately preceded or followed by service in a substantive capacity in a pensionable office under the Bank, and not other.

### **28. Service under 18 years or on probation or agreement**

Except as otherwise provided in these Regulations, there shall not be taken into account as pensionable service—

- (a) any period of service while the officer was under the age of eighteen years, or where it would be to his advantage, twenty years;
- (b) any period of service while he was on probation or on a letter of agreement, unless, without break of service, he is confirmed in a pensionable office in the public service:

Provided that any break in service which may be disregarded under regulation 23 may likewise be disregarded in determining whether the officer is confirmed in a pensionable office without break of service.

## **PART VI – MISCELLANEOUS PROVISIONS**

### **29. Abolition of office and re-organization**

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

- (a) if he has been in the public service for less than ten years, be granted, in lieu of a gratuity under regulation 18 or 21, a pension under regulation 20 or 17, as if the words "for ten years or more" were omitted from regulation 17;



- (b) if he retires from the service of the Bank, be granted an additional pension at the annual rate of one-fiftieth of his pensionable emoluments for each complete period of three year's pensionable service:

Provided that—

- (i) the additional pension shall not exceed ten-fiftieths of his pensionable emoluments; and
- (ii) the additional pension together with the remainder of the officer's pension shall not exceed the pension for which he would have been eligible if he had continued until the age of fifty-five years to hold the office held by him at date of his retirement, having received all annual increments for which he would have been eligible by that date.

### 30. Officer retiring on account of injuries

(1) Where an officer holding a pensionable office in which he has been confirmed is permanently injured—

- (a) in the actual discharge of his duty;
- (b) without his own default; and
- (c) on account of circumstances specifically attributable to the nature of his duty, he may—
  - (i) if his retirement is thereby necessitated or materially accelerated and he has been in the public service for less than ten years, be granted, in lieu of a gratuity under regulation 18 or 21, a pension under regulation 17 or 20 as if the words "for ten years or more" were omitted from regulation 17;
  - (ii) if so injured while in the service of the Bank be granted, on retirement, an additional pension calculated at the annual rate of the proportion of his actual pensionable emoluments at the date of his injury appropriate to his case as shown in the following table:

Where his capacity to contribute to his own support is—slightly impaired—five-fiftieths; impaired—ten-fiftieths; materially impaired-fifteen-fiftieths; totally destroyed—twenty-fiftieths:

Provided that the amount of the additional pension may be reduced to such extent as the Bank shall think reasonable where the injury is not the sole cause of the retirement.

(2) An officer holding a pensionable office in which he has not been confirmed or a non-pensionable office and who is injured as described in paragraph (1) while in the service of the Bank may be granted, on retirement, a pension of the same amount as the additional pension which might be granted to him under paragraph (1) if his office were a pensionable office and he had been confirmed therein, but regulation 31 shall not apply to a pension granted under this paragraph.

(3) For the purpose of this regulation—

- (a) an officer who is permanently injured as a result of injuries received while travelling on duty or in pursuance of official instructions shall be deemed to have been permanently injured—
  - (i) in the actual discharge of his duty;
  - (ii) without his own default; and
  - (iii) on account of circumstances specifically attributable to the nature of his duty;
- (b) an officer preceeding by air, rail, sea, road or any other mode of travel approved by the Bank to or from his duty station within Kenya at the commencement or termination of his service in the Bank or of a period of secondment, duty or leave therefrom, and who is permanently injured as the vessel, aircraft or vehicle in which he is travelling, or as a result of any act of

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violence directed against that vessel, aircraft or vehicle, shall be deemed to have been permanently injured—

- (i) in the actual discharge of his duty;
- (ii) without his own default; and
- (iii) on account of circumstances specifically attributable to the nature of his duty.

(4) In the case an officer not holding a pensionable office, in this regulation

"pensionable emoluments" means the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office.

(5) Neither paragraph (1)(ii) nor paragraph (2) shall apply in the case of an officer who, in consequence of his injury, is entitled to compensation under the Work Injury Benefits Act (Cap. 236) or any other law relating to workmen's compensation.

### 31. Gratuity and reduced pension

(1) An officer to whom a pension has been granted under these Regulations may, at his option, exercisable (and if already exercised, revocable) not later than the day immediately preceding the date of his retirement from the public service or at such later date as the Bank may in any special case approve, be paid in lieu of that pension, a pension at the rate of three-fourths or any greater fraction of that pension together with a gratuity equal to fifteen times the amount of the reduction so made in the pension.

(2) In the application of this regulation to cases where the limitation prescribed by regulation 8(2) operates, the words in paragraph (1) "that pension" shall mean the amount of pension which the officer would have drawn from the funds of the Bank if he had not exercised his option under this regulation.

(3) An officer to whom a pension not exceeding sixty pounds per year before the exercise of the option under paragraph (1) has been granted under these Regulations may, at his option exercisable before the first payment of pension has been made to him, be paid in lieu of that pension a gratuity provided for in that scheme shall be subject to such modification as is provided for in the scheme.

### 32. Compassionate gratuity for non-pensionable

(1) An officer holding a pensionable office in which he has not been confirmed or a non-pensionable office and who is not eligible for any pension, gratuity, or allowance from the funds of the Bank other than a pension under regulation 30(2) or such a gratuity as is referred to in proviso (iii) to this paragraph, may, if he has been in the public service—

- (a) for not less than seven years and—
  - (i) retires from that service on medical grounds under regulation 4(1)(e); or
  - (ii) is removed from that service in any of the circumstances described in regulation 4(1)(c), (d) or (f); or
- (b) for not less than ten years and retires from that service in any of the circumstances described in regulation 4(1)(a) or (b), be granted a compassionate gratuity of an amount not exceeding one-twelfth of a month's pay at the date of his retirement for each completed month of his service in the Bank, continuously which would be pensionable service if he were eligible for a pension under these Regulations:

Provided that—

- (i) for the purpose of computing such total public service, no regard shall be had to any service under a government or authority which does not grant a gratuity on an officer's retirement from the public service under provisions substantially corresponding to those contained in this paragraph;
- (ii) where an officer who is serving on temporary terms of service has been paid or is eligible for a gratuity of either 10 or 25 per cent of his salary from the

funds of the Bank under the terms of his agreement of service, then there shall be deducted from the compassionate gratuity for which he is eligible under this paragraph the amount of the gratuity which has been paid or which is payable to the officer under the terms of his agreement of service;

- (iii) notwithstanding that an officer may be eligible for a benefit under the Provident Fund Scheme or Assurance Plan, he may, upon his retirement or removal from office, be granted a compassionate gratuity under this regulation if his service, including service as a contributor under the Provident Fund Scheme or Assurance Plan, so enables, but in calculating any such compassionate gratuity, except as herein before provided, service as a contributor under the Provident Fund Scheme or Assurance Plan shall not be taken into account.

(2) An officer who has been granted a gratuity under paragraph(1), or who would have been granted a gratuity under paragraph (1) but for proviso (ii) or (iii) to that paragraph, and who retires on or after attaining the age of fifty-five years having been in the public service for not less than twenty years and whose salary on retirement on or after 1st May, 1978 is not more than the maximum salary payable for the time to officers serving in the semi-skilled Service Group or such other amount as the Cabinet Secretary may declare for the purposes of this paragraph, may be granted an annual allowance which shall be in addition to any gratuity under paragraph (1) of sixty pounds or the minimum pension for the time being payable under these regulations or any regulations increasing pensions payable under these Regulations or, if he has had other public service, an annual allowance as bearers the same proportion to annual allowance stipulated in this paragraph as his service under the Bank bears to his total public service.

(3) Where an officer holding a non-pensionable office and having not less than seven years' public service dies while in the service of the Bank and his dependants are not otherwise eligible for any gratuity under these Regulations, the Bank may grant to the dependants of such officer a gratuity of an amount not exceeding the amount which might have been granted to the officer under paragraph (1) (a)(i) had he retired in the circumstances set out therein at the date of his death.

(4) For the purposes of this regulation—

- (a) notwithstanding regulation 23, directions may be given by the Bank, either generally or in any particular case, for disregarding breaks in service from whatever cause and for determining the minimum number of days work in any year which shall count as a complete year of service; and such directions shall have effect as if they were contained in these Regulations;
- (b) an officer who, having held a non-pensionable office, is serving on probation in a pensionable office and his pay shall be the pensionable emoluments of the pensionable office or the pay last received by him in respect of his service in a non-pensionable office or the pay last received by him in respect of his service in non-pensionable office, whichever is the greater.

### 33. Application of regulations

These Regulations shall apply—

- (a) to every officer appointed whether on transfer from public service or otherwise to the service of the Bank on or before 31st December, 1977 and who retires from the service of the Bank on or after 1st January, 1987;
- (b) to every officer who was transferred from the East African High Commission, East African Common Service Organization, East African Community, East African Railways and Harbours Administration, East African Harbours Corporation, Kenya Ports Authority, East African Railways Corporation, Kenya Telecommunications Company Limited, External Telecommunications Company Limited, East African Posts and Telecommunications Administration or East African Posts and Telecommunications Corporations to other public service before 1st January,

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1978, who retires from the public service after that date, and whose retirement benefits are payable from the funds of the Bank.

**34. Disputes under regulations to be determined by the board**

Where any dispute relating to the interpretation or application of these Regulations arises, it may be determined by the Board.

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**THE KENYA POST OFFICE SAVINGS  
BANK (PROVIDENT FUND) REGULATIONS**

ARRANGEMENT OF REGULATIONS

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FACTOR FOR ANNUITIES

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## THE KENYA POST OFFICE SAVINGS BANK (PROVIDENT FUND) REGULATIONS

[Legal Notice 57 of 1991]

### 1. Citation and commencement

These Regulations may be cited as the Kenya Post Office Savings Bank (Provident Fund) Regulations, 1990 and shall be deemed to have come into operation on the 1st January, 1978.

### 2. Interpretation

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

"management committee" means the Management Committee of the Fund appointed under regulation 3(2);

"bonus" means the sum of money provisionally credited to a depositor under regulation 7;

"bank" means the Kenya Post Office Savings Bank established under the Act;

"deposit" means a deposit to the Fund under regulation 5;

"depositor" means an employee of the Bank—

(a) by whom or on whose behalf deposits in the Fund are made under these Regulations; or

(b) in respect of whom any amount is standing to his credit in the Fund;

"financial year" means the period from the 1st January in any year to the 31st December in that year, both days inclusive;

"fund" means the Kenya Post Office Saving Bank Provident Fund established by regulation 3(1);

"fund chairman" means the chairman of the Management Committee of the Fund appointed under regulation 3(3);

"holder of a provident fund office" has the meaning given in regulation 4(3);

"managing director" means the managing director of the Bank;

"other public service" means public service other than service in the Bank;

"provident fund office" means non-pensionable office of the Bank;

"pensionable office" has the meaning given in regulation 2 of the Pension Regulations;

"Pension Regulations" means the Kenya Post Office Savings Bank (Pensions) Regulations (L.N. 56/1990);

"public service" means—

(a) service in the Bank and includes service in the East African Posts and Telecommunications Administration, East Africa Posts and Telecommunications Corporation, East African External Telecommunications Company Limited or Kenya External Telecommunications Company Limited;

(b) service in a civil capacity under the Government of any country or territory in the Commonwealth; or

(c) any other service which the Cabinet Secretary may determine to be public service for the purposes of these Regulations;

"salary" means the substantive salary payable to a depositor and includes any other payment or allowances.

(2) When it appears to the Bank that there is no satisfactory proof of the correct age of a depositor, then the Bank may, on such evidence as it thinks fit, presume the age of the depositor and that presumed age shall be taken to be the correct age of the depositor for the purposes of these Regulations.

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### **3. Establishment and management of fund**

(1) There shall be established a fund to be known as the Kenya Post Office Savings Bank Provident Fund.

(2) The managing director shall appoint a Management Committee of the Fund which shall be responsible for the control and management of the Fund in accordance with these Regulations.

(3) The management committee appointed under paragraph (2) shall consist of a chairman and four other members to be appointed by the managing director.

(4) The procedure of the management committee may be determined by the management committee in consultation with the managing director.

(5) The money paid into the Fund shall, so far as is practicable, be invested by the management committee in Treasury bills and bonds in consultation with the Treasury.

(6) Where The interest earned by the Fund is insufficient to meet the interest which under these Regulations is to be credited or provisionally credited to the account of the depositors, then there shall be paid out of the Bank's funds into the Fund such amount as may be necessary to meet the deficiency.

(7) The management committee shall submit to the managing director as soon as practicable after the last day of each financial year fully audited statements showing the workings of the fund and all clans on the Fund and containing full particulars of all transactions connected with the workings of the Fund; and the account or the Fund shall be audited under the directions of the Auditor-General.

### **4. Who shall be depositor**

(1) Subject to this regulation, every employee of the Bank who—

(a) on 1st January, 1978 was a holder of a non-pensionable office shall be a depositor as from that date;

(b) on or after 1st January, 1978 is a holder of a provident fund office shall become a depositor as from the date of his appointment.

(2) An employee who—

(a) is transferred to a pensionable office and is permitted under the Pensions Regulations to have his service in the provident fund office taken into account as pensionable service under the Pensions Regulations; or

(b) is serving under an agreement which provides for the payment of a gratuity on the termination of the agreement, shall not become or continue to be depositor.

(3) Subject to paragraphs (2) and (4), an employee of the Bank who—

(a) is the substantive holder (even if he is on probation) of a non-pensionable office; and

(b) is serving in that office for a continuous period of not less than two years shall be a holder of a provident fund office.

(4) If the managing director is satisfied that it is reasonable in any particular circumstances, he may determine that an employee otherwise entitled under paragraph (3) shall not in future be considered to be a holder of a provident fund office.

### **5. Amount of deposit**

(1) Subject to this regulation, every depositor shall, so long as he remains the holder of a provident fund office, deposit in the Fund monthly an amount equal to one Shilling and fifty cents for each pound of his monthly salary; and those deposits shall be calculated on full salary, whether the depositor is on full, reduced, or no salary.

(2) If a depositor is on reduced salary or on salary for a period exceeding two consecutive months, he may elect to contribute in respect of that period at the rate of one shilling and fifty cents for each pound of the salary which he actually receives.



(3) Where the monthly salary of a depositor includes a fraction of a pound, an amount of salary less than ten shillings shall be disregarded and an amount of ten shillings or more shall be regarded as a pound.

(4) The amount of deposit into the Fund shall be reduced by the amount which the Bank has deducted from the salary of that depositor for that month as his share of that contribution made in respect of him under the National Social Security Fund Act (Cap. 258).

(5) Deposits required to be made under this regulation shall be deducted by the Bank from the salary of the depositor on each occasion on which he receives salary and shall be forwarded to the Management Committee; and notwithstanding the actual date on which deduction is made a deposit shall be deemed for the purposes of these Regulations to be credited to the depositor's account on the last day of the month in respect of which the salary is payable.

## 6. Interest

(1) Interest shall be credited on deposits at a rate, of not less than ten per cent per year, to be fixed in relation to each financial year with the concurrence of the Treasury by the managing director on the advise of the management committee on—

- (a) the balance of deposits on hand at the beginning of each financial year; and
- (b) half the total of the deposits made during such financial year, and shall begin to accrue from the first day of each such financial year; and, subject to these Regulations, that interest shall be calculated to the last day of each such financial year and shall then, subject to paragraph (2), be added to and become part of the principal and be deemed for the purposes of these Regulations to be a deposit.

(2) Where the interest calculated to the last day of a financial year includes a fraction of a shilling which is—

- (a) one-quarter or less, that fraction shall be disregarded;
- (b) more than one-quarter but less than three-quarters, that fraction shall be regarded as one-half;
- (c) three-quarters or more, that fraction shall be regarded as a shilling;

and the amount of interest to be added to and become part of the principal sum shall be determined accordingly.

## 7. Bonuses

(1) Subject to this regulation, on the last day of each financial year there shall be paid out of the Bank's funds—

- (a) in the case of depositor who has not before the first day of the next following financial year completed a period of ten continuous years as a depositor, a sum equal to the aggregate of the deposits made by the depositor to the Fund during the financial year together with the interest on that sum which is added to and becomes part of the principal under regulation 6;
- (b) in the case of a depositor who has before the first of the next following financial year completed a period of ten continuous years or more but less than twenty continuous years as a depositor, a sum equal to one-and-half times the aggregate of the deposits made by the depositor to the Fund during the financial year together with the interest on that sum which is added to and becomes part of the principal under regulation 6;
- (c) in the case of the depositor who has before the first day of the next following financial year completed a period of twenty continuous years or more as a depositor, a sum equal to twice the aggregate of the deposits made by the depositor to the Fund during the financial year together with the interest on that sum which is added to and becomes part of the principal under regulation 6,

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and that sum shall be provisionally credited by the management committee to the account of the depositor.

(2) If the account of depositor is closed under regulation 9 before the last day of a financial year, the amount to be paid out of the Bank's funds and provisionally credited by the management committee to the account of the depositor shall be determined by reference to the aggregate of the deposits made by the depositor to the Fund during the financial year up to the date of closure together with the interest on that sum up to the end of the month previous to the closure.

(3) In the financial year in which a bonus is first increased in accordance with paragraph (1)(b) or (c), the increased bonus shall be calculated only in respect of deposits (together with the interest on those deposits) credited to a depositor's account during the last half of that financial year.

(4) The provisions of regulation 6 in relation to the crediting and calculation of interest and the addition of interest to the principal shall apply in like manner to all sums provisionally credited to the account of a depositor under paragraph (1).

## **8. Information to depositors**

As soon as practicable after the last day of each financial year, the management committee shall, if so required by a depositor, inform him of the total amount of the deposits credited and bonuses provisionally credited to him in the Fund at that last day.

## **9. Closing of accounts**

(1) Subject to these Regulations, on the death of a depositor, or on his ceasing to be the holder of a provident fund office, interest up to the end of the previous month shall be credited to his account, which shall then be closed.

(2) Where an account is closed under this regulation, notice of the closure and of the amount of the account shall be given—

- (a) if the depositor is living, to the depositor;
- (b) if the depositor is dead, to the person to whom payment is to be made under regulation 15 and additionally to such persons as the Management Committee, thinks fit, and, in either case, to such other persons as, in the opinion of the Management Committee, reasonably require notice.

## **10. Where account closed by death or satisfactory termination of service**

(1) Subject to these Regulations, if a depositor dies while in the service of the Bank or leaves that service in any of the following circumstances—

- (a) retirement on medical evidence to the satisfaction of the Bank that he is incapable by reason of some infirmity of mind or body of discharging the duties of his office, that incapacity being likely to be of such duration that the Bank considers retirement reasonable;
- (b) completion of contract to the satisfaction of the Bank;
- (c) abolition of office;
- (d) on or after attainment of the age of fifty years;
- (e) termination of service by the Bank in the public interest;
- (f) resignation after not less than ten years service as a depositor;
- (g) the case of a female depositor, resignation on or with a view to marriage, or on being required to retire on account of marriage, subject to the production to the Management Committee of satisfactory evidence of her marriage within six months after her resignation or retirement, or such longer period as the Management Committee may permit, the amount of the deposits and bonuses credited or provisionally credited to the depositor in the Fund at the closing of the account shall be paid to the depositor or to any other person to whom by virtue of these Regulations or otherwise payment may lawfully be made.

(2) If a depositor leaves the service of the Bank in the circumstances set out in paragraph (1) (f) the amount of the bonuses which shall be paid to the depositor under this regulation shall be only such amount as would have been provisionally credited by the Management Committee to his account if the sum paid out of the Bank's Fund each year under regulation 7 had not been increased by reason of the depositor having completed ten continuous years or more as depositor; and any part of the bonuses not paid to the depositor shall be refunded to and credited to the Bank's funds.

### **11. Optional and compulsory retirement**

(1) Subject to paragraph (3), a depositor may elect to retire on or at any time after attaining the age of fifty years.

(2) The Bank may, with the agreement of a depositor, require him to retire from the service of the Bank at any time after he attains the age of fifty years but before he attains the age of fifty-five years.

(3) The Bank may require an officer to retire from the service of the Bank at any time after he attains the age of fifty-five years and an officer who is so required shall retire accordingly.

### **12. Where account closed by dismissal, resignation, etc.**

(1) Subject to these Regulations, if a depositor is dismissed, or resigns or leaves the service of the Bank for any reason or in any circumstances in either case other than those specified in regulation 10—

- (a) the amount of his deposits in the Fund, and interest on those deposits, shall be paid to the depositor;
- (b) in the discretion of the Management Committee with the approval of the managing director, the whole or a part of the bonuses provisionally credited to the depositor may also be paid to the depositor.

(2) Any part of the bonuses not paid to the depositor under this regulation shall be refunded to and credited to the Bank's funds.

### **13. Transfer to pensionable office in public service**

(1) If a depositor is transferred to a pensionable office in the public service, his account shall be closed in accordance with regulation 9; and the amount of the deposits and bonuses credited or provisionally credited to the depositor in the Fund at the time of closure shall not then be paid to the depositor but shall be dealt with in accordance with this Regulation.

(2) Notwithstanding that a depositor's account is closed in terms of paragraph (1), interest on the amount in the account shall continue to be credited in accordance with regulations 6 and 7.

(3) If the depositor transferred to a pensionable office in the public service—

- (a) is confirmed in that office, his service as a depositor shall be taken into account as pensionable service for the purposes of the Pensions Regulations, and he shall surrender all claim to the amount then credited or provisionally credited to him in the Fund and that amount shall be paid into the Bank's Fund;
- (b) is not confirmed in that office and leaves the public service because he is dismissed or is guilty of negligence, irregularity or misconduct, the total amount credited or provisionally credited to him in the Fund up to the end of the month before the date of his leaving the public service shall, subject to these Regulations, be dealt with as if the service of the depositor had ended in circumstances in which regulation 12 applies;
- (c) is not confirmed in that office and consequently leaves the public service, or dies in that service prior to his confirmation or non-confirmation in that office, the total amount credited or provisionally credited to him in the Fund up to the end of the month before the date of his leaving the public service or of his death shall subject to these Regulations, be paid out of the Fund as if the

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service of the depositor had ended in circumstances in which regulation 10 applies;

- (d) is not confirmed in that office but continues in the public service in an office which is not a pensionable office, then on the depositor leaving the public service in any circumstance or on his death in such service; the total amount credited or provisionally credited to him in the Fund up to the end of the month before the date of his leaving the public service or of his death shall, subject to these Regulations, be paid out of the Fund as if the service of the depositor had ended in circumstances in which regulation 10 applies.

#### **14. Transfer to officer other than pensionable or provident fund office in public service**

Subject to these Regulations—

- (a) where a depositor is transferred to any office in the service of the Bank which is neither a pensionable office nor a provident fund office, the depositor shall continue to be subject to these Regulations as if he were the holder of a provident fund office;
- (b) where a depositor is transferred to any office in other public service which is not a pensionable office—
  - (i) his account shall be closed in accordance with regulation 9;
  - (ii) the amount of the deposits and bonuses credited or provisionally credited to the depositor in the Fund at the time of closure shall not then be paid to the depositor but shall be dealt with in accordance with this paragraph;
  - (iii) notwithstanding that the account is closed, interest on the amount in the account shall continue to be credited in accordance with regulations 6 and 7;
  - (iv) if the depositor subsequently leaves the public service in any circumstances, or on his death in that service, the total amount credited or provisionally credited to him in the Fund up to the end of the month previous to the date of his leaving the public service or of his death shall be paid out of the Fund as if the service of the depositor had ended in circumstances in which regulation 10 applies.

#### **15. Payment on death of depositor**

(1) Subject to these Regulations, on the death of a depositor—

- (a) if the amount credited or provisionally credited to him in the Fund does not exceed five hundred pounds the Management Committee shall pay it—
  - (i) to the persons nominated for the purpose by the depositor in such manner as may be prescribed; or
  - (ii) if no such nomination has been made, to the legal personal representative of the depositor, or, at the discretion of the Management Committee, to the person appearing to the Management Committee to be entitled ultimately by law to receive it; or
- (b) if the amount credited or provisionally credited to him in the Fund exceeds five hundred pounds the Management Committee shall pay it to the legal personal representative of the depositor.

(2) If in the opinion of the Management Committee immediate relief to the widow or children or other dependants of the depositor is required, the Management Committee may make an immediate payment, not exceeding one hundred and fifty pounds in any one case, out of the amount credited or provisionally credited to the depositor in the Fund.

(3) Any payment made by the Management Committee under this regulation shall be valid and effectual against any demand made on the Bank or the Management Committee by any other person in respect of the amount credited to the depositor.

#### **16. Deposits, etc., not to be assigned or attached**

Subject to regulations 10(2) and 12, a deposit, bonus, or interest on deposit under these Regulations shall not be assignable or transferable except for the purpose of satisfying a debt due to the Bank or due to the Commissioner of Income Tax in respect of income tax and shall not be liable to the attached, sequestered, or levied upon, for, or in respect of, any debt or claim whatever.

#### **17. Payment of annuities**

(1) Where under these Regulations a depositor is entitled to have paid out to him from the Fund a total sum of five hundred pounds or more, the depositor may elect, in accordance with this regulation, to receive that total sum in the form of either—

- (a) one lump sum of the total amount to him; or
- (b) a lump sum equal to one-quarter of the total amount due to him, together with an annual payment equal to the product of the balance of the total sum after deduction of the lump sum payment and the factor given in the Schedule corresponding to the age of the depositor at the date of leaving the public service.

(2) An election under paragraph (1) shall be exercisable by a written notification addressed to the Management Committee at any time—

- (a) before the expiration of three months from the date on which the depositor becomes entitled to have paid out to him any money from the Fund; or
- (b) with the approval of the Management Committee, before any payment out of the Fund has been made to the depositor.

(3) An election in terms of paragraph (2) is irrevocable.

(4) If no election is made in terms of paragraph (2) the depositor shall be deemed to have elected to receive the total sum as one lump sum in accordance with paragraph (1)(a).

(5) Where a depositor elects to receive the total sum—

- (a) as one lump sum in accordance with paragraph (1)(a), that lump sum shall be paid to depositor as soon as practicable after he becomes entitled to receive it;
- (b) as a lump sum and annual payments in accordance with paragraph (1)(b), that lump sum shall be paid to the depositor as soon as practicable after he becomes entitled to receive it and the annual payments shall be payable either in monthly or quarterly instalments in arrears as the Management Committee may direct.

(6) Where a depositor is entitled to receive in respect of other public service any sum under the regulations in that other public service and there exist in those regulations provisions corresponding to the provisions of these Regulations, then, if the amount payable to him under the regulations in that other public service together with any amount payable from the Fund amount to a total sum of five hundred pounds or more, the depositor shall be entitled to elect in terms of paragraph (2) notwithstanding that the amount payable to him from the Fund is less than five hundred pounds:

Provided that this paragraph shall not have effect where the depositor has elected to receive the total amount due to him under the regulations in that other public service in one lump sum.

#### **18. Disputes under Regulations to be determined by the Cabinet Secretary**

Where any dispute relating to the interpretation or application of these Regulations arises, it may be determined by the Cabinet Secretary.

Kenya Post Office Savings Bank

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SCHEDULE

[r. 17 (1)]

FACTOR FOR ANNUITIES

<i>Age on Leaving Public Service</i>	<i>Factor</i>
45 or below .....	.0667
46 .....	.0684
47 .....	.0700
48 .....	.0718
49 .....	.0737
50 .....	.0758
51 .....	.0779
52 .....	.0803
53 .....	.0828
54 .....	.0855
55 .....	.0884

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