

LEGAL NOTICE NO. 237

THE KENYA DEFENCE FORCES ACT

(No. 25 of 2012)

THE KENYA DEFENCE FORCES (PENSIONS AND GRATUITIES)
(OFFICERS AND SERVICE MEMBERS) REGULATIONS, 2017

ARRANGEMENT OF REGULATIONS

PART I—PRELIMINARY

Regulation

1—Citation.

2—Application.

3—Interpretation.

PART II—POWER TO GRANT AND THE ASSESSMENT OF
PENSIONS, GRATUITIES AND ALLOWANCES

4—Power to grant pensions, gratuities and other allowances.

5—Power to review pensions.

6—Pensions, etc, not a right.

7—Suspension of pension on employment by a foreign power.

8—Pensions, etc., not assignable.

9—Pensions where promotions, etc., reduces amount of award.

10—Computation of pension.

11—Gratuity where length of service does not qualify for pension.

12—Pension to cease on death.

13—Gratuity where officer or service member dies in service or
after retirement or discharge.

14—Death and Indemnity Benefit.

15—Pension to cease on bankruptcy.

16—Pension may cease for subversive activities, etc.

17—Pension may cease on conviction.

18—Establishment of the Pensions Assessment Board.

19—Duties and powers of the Board.

20—Entitlement to disability pension.

- 21—Degrees of disablement.
- 22—Pensions for permanent disablement.
- 23—Additional hardship allowance for permanent disablement.
- 24—Basis of award for permanent disablement.
- 25—Procedure where disablement is not permanent.
- 26—Award for two or more disabilities.
- 27—Supply of surgical appliances.
- 28—Optional medical examination.
- 29—Power to reduce award for misconduct.
- 30—Power to review awards.
- 31—Review of pensions
- 32—Suspension or withholding of pension
- 33—Cost of living allowance.
- 34—Payment of pensions, etc.
- 35—Award of pension or gratuity for insanity
- 36—Procedure as to claims.
- 37—Nature of award in respect of death.
- 38—Pensions Appeals Board.

PART III— OFFICER’S PENSIONS AND GRATUITIES

- 39—Officer’s service and disablement pensions.

PART IV—SERVICEMEMBER’S PENSIONS AND GRATUITIES

- 40—Service member’s service and disablement pensions.
- 41—Service member’s service gratuity.

PART V—MISCELLANEOUS

- 41—Reduction of establishment and services.
- 42—Administrative directions.
- 43—Presumption of Death.
- 44—Military Pensions Liaison Officer.
- 45—Payment of pension and gratuity within 90 days.
- 46—Revocation of L.N No. 61 of 1980.
- 47—Savings.

SCHEDULE

THE KENYA DEFENCE FORCES ACT

(No. 25 of 2012)

IN EXERCISE of the powers conferred by section 304 (1) (g) of the Kenya Defence Forces Act, 2012, the Defence Council makes the following Regulations:—

THE KENYA DEFENCE FORCES (PENSIONS AND GRATUITIES)
(OFFICERS AND SERVICE MEMBERS) REGULATIONS, 2017

PART I—PRELIMINARY

1. These Regulations may be cited as the Kenya Defence Forces (Pensions and Gratuities) (Officers and Service members) Regulations, 2017. Citation.
2. These Regulations shall apply to all claims arising after the 1st July, 1978, in respect of all officers and service members of the Kenya Defence Forces and the dependants of such officers and service members. Application.
3. (1) In these Regulations, unless the context otherwise requires— Interpretation.
- “Act” means the Kenya Defence Forces Act, 2012; No. 25 of 2012.
- “approved institutional treatment” means approved treatment in hospital or similar institution;
- “approved treatment” means such medical, surgical or rehabilitative treatment as may be medically certified to be desirable in connection with any award payable under or by virtue of these Regulations;
- “being on duty” means anytime during any twenty-four hour period that an officer or a service member is in the lawful service of the Kenya Defence Forces;
- “Board” means the Pensions Assessment Board established by regulation 16;
- “child” means a child of an officer or servicemember who is under the age of twenty-one years and who is a dependant and includes a posthumous child, a stepchild and an adopted child, and children shall be construed accordingly;
- “death” includes presumption of death under section 245(3) of the Act or by an order of a court of competent jurisdiction;
- “degree of disablement” means the percentage of disablement assessed in accordance with regulations 19 and 20;
- “dependant” means a member of the family of an officer or servicemember or retired officer or discharged service members who before the death of such officer or servicemember or retirement of the officer or discharge of the servicemember was in receipt from him of regular and substantial support or benefit;
- “disablement” means a physical or mental injury or damage, or the loss of physical or mental capacity;

“discharge” means, in the case of a servicemember, being relieved of military duties by the Commander or an officer authorized by him in that behalf.

“heir” means a person named by the deceased in his will as heir or joint heir, or if the deceased dies intestate, the person who is accepted as the heir by the community to which the deceased officer or servicemember belonged whether by any law for the time being in force or by the law or custom applicable to that community and includes any two or more persons who are accepted as joint heirs or the person declared as an heir by a competent court;

“Medical Board” means a board of medical officers appointed by the Pensions Assessment Board;

“medical officer” means any person who is registered as a medical practitioner under the Medical Practitioners and Dentists Act;

“medically certified” means certified by a medical officer or a medical board;

“military service” means service with the Armed Forces and Kenya Defence Forces and shall include for the period prior to 12th December, 1963, service in any of the British Armed Forces “month” means a calendar month, and broken periods at the beginning and the end of service shall be totalled and each complete thirty days shall be deemed to be one complete month;

“officer” means a person commissioned in any service of the Kenya Defence Forces;

“pay” includes the basic salary, additional pay and any entitlements which the Defence Council may, with the concurrence of the Treasury, specifically declare to be pensionable entitlements;

“pensionable emoluments” means the rate of pay including additional pay in issue to an officer or servicemember at the time of his retirement or discharge;

“resignation”, in the case of an officer, means leaving service in the Kenya Defence Forces in circumstances not amounting to dismissal from the Kenya Defence Forces or termination of commission;

“retirement”, in the case of an officer, means leaving service while holding a regular commission in the Kenya Defence Forces—

compulsorily after attaining the specified age of his rank as laid down in the terms and conditions of service and being eligible by length of service to a pension in accordance with these Regulations;

- (a) voluntarily after serving for a period that makes him eligible by length of service to a pension in accordance with these Regulations;

“retired officer” means an officer who has retired from the Kenya Defence Forces;

“service member” means any member of a service of the Kenya Defence Forces who is not an officer;

“termination of commission” means terminating the commission of an officer pursuant to the provisions of section 251 of the Act;

“the Appeal Board” means the Pensions Appeal Board established under regulation 37;

“widow” includes a widower; and

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

(2) For the purposes of assessing pension under these Regulations, qualifying service shall be ten years for officers and twelve years reckonable service for service members subject to the fulfilment of the requirements of regulation 38 in the case of officers and regulation 39 in the case of service members.

(3) For the purposes of assessing pension and gratuity under these Regulations reckonable service shall be any paid service with the Kenya Defence Forces excluding therefrom –

- (a) all periods during which an officer or servicemember has been absent from duty by reason of imprisonment, desertion or absence without leave for a period exceeding seven days;
- (b) any period of service while the person was below the age of eighteen years; or
- (c) any periods ordered by a court-martial to be forfeited;
- (d) service preceding a five-year interval in the service unless specifically allowed by the Defence Council at the time service is resumed; except that where during the break in service the officer, or service member has been a member of the regular reserve and has been called out for periodical training as provided under Part XVI of , the period during which the officer or service member was on the regular reserve shall not be considered as an interval in the service for the purposes of deciding whether the previous service is admissible.

(4) For the purpose of these Regulations, a disablement or death shall be deemed to be due to service if –

- (a) the disablement is due to wound, injury or disease—

- (i) which is attributable to service; or
 - (ii) which existed before or arose during the service and has been and remains aggravated thereby;
 - (iii) in both cases the injury or wound shall not have been self-inflicted; and
- (b) the death was due to or hastened by—
- (i) a wound, injury or disease which was attributable to service; or
 - (ii) the aggravation by service of a wound, injury or disease which existed before or arose during service.

(5) For the purpose of these Regulations, where a commander issues a certificate of presumption of death in respect of any officer or servicemember or where declaration of presumption of death is made by a court of competent jurisdiction, the date on which the officer or servicemember is deemed to have died shall be the date stated in the certificate of presumption of death or declaration of presumption of death by the Court.

PART II— POWER TO GRANT AND THE ASSESSMENT OF PENSIONS, GRATUITIES AND ALLOWANCES

4. Pensions, gratuities and other allowances may be granted by the Defence Council with the concurrence of the National Treasury in accordance with these Regulations to officers and service members of the Kenya Defence Forces and shall be a charge on the Consolidated Fund.

Power to grant pensions etc.

5. The Defence Council may at any time review an award of pension made under these Regulations where it has been made in error or where, in the opinion of the Defence Council, it has been obtained by improper means and may on such review confirm, vary or cancel the award.

Power to review pensions.

6. No officer or servicemember shall have an absolute right to compensation for past services or to pension, gratuity or other allowance nor shall anything in these Regulations affect the right of the Defence Council to terminate the commission of any officer or the Commander to discharge or dismiss a servicemember at any time and without compensation. An officer or servicemember sentenced to dismissal by Court Martial or Commanding Officer shall not be entitled to pension, gratuity or other allowance.

Pensions, etc., not a right.

7. If a retired officer or a discharged servicemember enters the service of a foreign power without the consent of the Defence Council, or he continues in such service after the consent previously granted is withdrawn, his service pension or other allowances granted under these Regulations may be suspended or withheld for such period as the Defence Council, with the concurrence of the National Treasury, may determine.

Suspension of pension on employment by a foreign power.

8. A pension, gratuity or allowance granted under these Regulations shall not be assignable or transferable except for the

Pensions, etc., not assignable.

purpose of satisfying an order of any court for the payment of periodical sums of money towards the maintenance of the wife or former wife or child, of the officer or servicemember to whom the pension, gratuity or other allowance has been granted, and shall not be liable to be attached, sequestered or levied upon for or in respect of any debt or claim other than a debt due to the Government.

9. (1) Where a service member who has been promoted by being granted a commission retires or resigns and thereby becomes eligible for an award of pension which is smaller than what he would have been entitled to had he not been commissioned he may receive an award assessed as though he had retired or resigned from the service in the rank which he held before being granted the commission.

Pensions where promotion, etc., reduces amount of award.

(2) Where an officer or service member has held acting rank for a period of 90 days or more at the date of retirement, the pension granted to him shall be that applicable to such higher rank.

(3) Where an officer or service member on promotion earns less pay than he earned in the previous rank, on retirement, computation for his pension will have regard to the higher pay earned in the previous rank.

10. (1) Every pension granted to an officer or servicemember in accordance with these Regulations shall be assessed at the annual rate of one-four hundredth of his pay for each completed month of his reckonable service.

Computation of pension.

(2) A pension payable to an officer or service member shall not be less than five thousand shillings per month:

Provided that a pension granted to an officer or servicemember under these regulations shall not exceed the highest pensionable emoluments drawn by him at any time in the course of his service in the Kenya Defence Forces.

(3) Any officer or servicemember who is entitled to a pension under these Regulations which does not exceed two hundred and fifty pounds per annum may commute up to one-half of the annual pension at equivalent of twenty times the amount of the annual pension commuted.

(4) Any officer or service member who is entitled to a pension under these Regulations which exceeds two hundred and fifty pounds per annum may commute up to one-quarter of that annual pension at the equivalent of twenty times the amount of the annual pension commuted.

(5) The normal retirement date is the date when an officer or service member attains retirement age.

11. Every officer or service member, otherwise qualified for a pension, who has not been in the service of the Kenya Defence Forces for ten years in the case of officers and twelve years in the case of service members, may be granted on retirement or discharge, as the case may be, a service gratuity not exceeding five times the annual amount of the pension which would have been granted to him had he

Gratuity where length of service does not qualify for pension.

served in the defence forces for a period of not less than ten years in the case of officers and twelve years in the case of service members worked out at an annual rate of one-four-hundredth of his pensionable emoluments for each completed month of his reckonable service.

12. (1) Subject to these regulations, in the case of the death of an officer or a service member or a retired officer or discharged service member there shall be continued to be paid a dependant's pension, in addition to the grant made under regulation 13, on the terms and subject to the conditions set out in paragraph (3), to the widow or widower or the children of the officer or service member for a period of five years next following the officer's or service member's death at the rate of the officer's or service member's pension on the date of his death.

Pension to dependants of an officer or a service member.

(2) Where a widow or a widower to whom a dependant's pension has been granted under this regulation dies or otherwise ceases to be entitled to a 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 these terms and conditions to receive the dependants' pension for the remainder of the period of 5 years from the date of the officer's or service member's death, which is still outstanding at the date when the widow or widower dies or otherwise ceases to be entitled to the dependants' pension.

(3) For the purposes of paragraph (1) a dependant's pension under these regulations shall be paid on the following terms and subject to the following conditions—

- (a) where the deceased officer or service member leaves a widow or a widower whether or not he or she also leaves a child, for so long as he or she is alive and remains unmarried, be entitled to receive the whole of the dependants pension at the appropriate rate provided for under paragraph (1).
- (b) where the deceased officer or service member does not leave a widow or a widower, or within the period of five years during which the dependants' pension is payable under this regulation the deceased officer's or service member's widow or widower dies or remarries, any child of the deceased officer or service member who is entitled at the appropriate date to receive the dependants' pension shall be entitled to receive, and if more than one child, in equal shares, the dependants' pension at the appropriate rate provided for under paragraph (1).
- (c) a dependant's pension or a share thereof shall not be payable to a child who has attained the age of 21 years unless, and only during the time that the child is receiving full time education at university, college, school or other educational institution approved by the Board for the purposes of this regulation;
- (d) a dependant's pension or a share thereof granted to a female child under this regulation shall cease upon her marriage at any age;

- (e) in the event of a child ceasing to be entitled to a share of a dependant's pension, his or her share shall, from the date of the cessation, be divided equally between all other children then still entitled to receive the pension and if only one child remains entitled, the whole of dependants' pension shall be paid to him;
- (f) where the deceased officer or service member leaves more than one widow then the dependants' pension shall be shared equally among them and in the event of any one of them dying or otherwise ceasing under any of the provisions of this regulation to be entitled to a share of the dependants' pension, then the pension shall be paid to the child or shared equally among the children of the dead widow and in the case the dead widow leaves no child or children then the pension shall be paid to the remaining widow or shared equally among the remaining widows accordingly;
- (g) no dependants' pension or share thereof shall be payable at any time after the fifth anniversary of the officer's or service member's death.
- (h) the dependant's pension shall be paid irrespective of the cause or circumstances of the officer's or service member's death.

13. (1) Where an officer or servicemember dies while still serving in the Kenya Defence Forces, the Defence Council, in consultation with the National Treasury, may grant to his dependants a death gratuity of an amount not exceeding twice his annual pensionable emoluments or his commuted pension or gratuity, whichever is the greater.

Gratuity where officer or service member dies in service or after retirement or discharge.

(2) Where an officer or servicemember dies after his retirement or discharge, as the case may be, from the Kenya Defence Forces having been granted or having become eligible for a pension under these Regulations and the amount payable to him at the date of his death on account of such pension including any amount awarded by way of gratuity under regulation 11, but excluding any additional disablement pension awarded under regulation 21, is less in total than twice the amount of his annual pension, the Defence Council may grant a gratuity equal to the deficiency to his dependants.

(3) The death gratuity payable to dependants under paragraphs (1) and (2) shall be paid irrespective of circumstances or cause of the officer's or service member's death.

14. (1) Where an officer or service member dies while still serving in the Kenya Defence Forces, the Defence Council shall pay a death and indemnity benefit to a beneficiary to the widow or widower recorded in the officer's or service member's records or the designated next of kin where the officer or service member is unmarried, for a period of three consecutive months following the death of the officer or service member.

Death and
Indemnity
Benefit.

(2) The death and indemnity benefit shall be equivalent to the officers or service member's salary net after statutory deductions.

(3) The death and indemnity benefit shall not be deemed to be part of the estate of the deceased officer or service member.

15. (1) Subject to paragraph (3), where an officer or service member to whom a pension has been granted under these Regulations is adjudicated bankrupt or is declared insolvent by judgement of a competent court the pension shall cease as from the date of adjudication or declaration.

Pension to cease
on bankruptcy.

(2) Where an officer or service member qualifies for a pension under these Regulations and is adjudicated bankrupt or is declared insolvent by a judgement of a competent court:

- (a) after qualifying, he may be granted a pension or gratuity, but the pension shall cease as at the date of adjudication or declaration, or the gratuity shall not become payable, as the case may be; or
- (b) before qualifying and at the date of qualifying he has not obtained his discharge from the bankruptcy or ceased to be insolvent, he may be granted a pension or gratuity, but the pension shall cease from the date of qualifying or the gratuity shall not become payable, as the case may be.

(3) Where by virtue of paragraph (1) pension ceases to be payable or a gratuity fails to become payable to any person the Defence Council may, from time to time, during the remainder of that person's life or such shorter periods either continuous or discontinuous as the Defence Council, with the concurrence of the Treasury, thinks fit direct that all or any part of the money which the person would have been entitled to by way of pension or gratuity had he not become bankrupt or insolvent shall be paid or applied for the maintenance or benefit of that person and his wife, children or other dependants or any of them in such proportion and manner as it thinks proper or for the discharge of that person's debts and the money shall then be paid or applied accordingly.

(4) Where a person whose pension has ceased or whose gratuity has failed to become payable by virtue of paragraph (2) obtains his discharge from the bankruptcy or ceases to be insolvent the Defence Council may direct that his pension shall be restored from the date of such discharge or that he be paid any unpaid balance of his gratuity which has not been paid or applied, as the case may be, and his pension or gratuity shall then be paid accordingly.

16. Where the Defence Council is satisfied that an officer or service member to whom a pension has been granted under these Regulations—

Pension may cease for subversive activities, etc.

- (a) has shown himself by act or speech to be disloyal or disaffected towards the Republic of Kenya;
- (b) has during any war in which the Republic of Kenya is engaged, unlawfully traded or communicated with the enemy or been engaged in or associated with any business that was to his knowledge carried on in such manner as to assist an enemy during war;
- (c) has failed to fulfil his commitments concerning the reserve;
- (d) has committed any criminal offence for which he is convicted and sentenced to a term of imprisonment; or
- (e) has engaged in activities which are subversive within the meaning of Chapter VII of the Penal Code,

Cap. 63.

it may direct that the pension granted to the officer or service member shall cease from a specified date:

Provided that the Defence Council, with the concurrence of the National Treasury, may in its discretion at any time divert the whole or part of the pension to or for the benefit of his wife or husband, children or other dependants and may at any time after his pardon or release from prison restore the pension.

17. (1) Where an officer or service member to whom pension, gratuity or other allowance has been granted under these regulations is sentenced to a term of imprisonment by a competent court for any criminal offence, such pension, gratuity or allowance shall cease if the Defence Council so directs with effect from such date as the Defence Council shall determine.

Pension may cease on conviction.

(2) Where after retirement an officer or service member is sentenced to a term of imprisonment by a competent court for any criminal offence and in the circumstances in which he is eligible for pension, gratuity or some other allowance under these regulations, but before that pension, gratuity or some other allowance is granted then:

- (a) paragraph (1) shall apply in respect of any pension, gratuity or allowance which may be granted to him; and
- (b) the Defence Council may direct that any pension, gratuity or allowance which should have been paid to such an officer be not paid.

(3) Where pension, gratuity or any other allowance ceases by reason of this regulation, it shall be lawful for the Defence Council to direct all or any part of the money to which such officer or service member was entitled by way of pension, gratuity or any other allowance to be paid or applied in the same manner in all respects as provided for in these regulations and such money shall be paid and applied accordingly.

(4) Where an officer or service member whose pension, gratuity or any other allowance has ceased under this regulation, subsequently receives pardon from the President his pension, gratuity or other allowance shall be restored to him retrospectively.

18. (1) There is hereby established a Board, to be known as the Pensions Assessment Board, which shall consist of:

Establishment of
the Pensions
Assessment
Board.

- (a) two retired senior military officers one of whom shall be the chairperson, appointed by the Defence Council;
- (b) a civilian public officer qualified on matters relating to human resources appointed by the Defence Council;
- (c) a legal officer appointed by the Defence Council; and
- (d) a civilian medical practitioner appointed by the Defence Council on the recommendation of the Director of Medical Services.

(2) The members of the Board shall hold office for a period of three years renewal from the date of appointment.

(3) The Defence Council shall on the recommendation of the Director of Pensions appoint a public officer to be the secretary to the Board.

(4) The Chairperson shall preside over all meetings of the Board and in the absence of the Chairperson, the other members present at the meeting shall appoint one of the members to act as Chairperson for the purpose of that meeting.

(5) The quorum for a meeting of the Board shall be three members and the Secretary.

(6) Subject to the provisions of these Regulations and to any direction issued by the Defence Council under these Regulations, the Tribunal shall regulate its own procedure.

19. (1) Where an officer or service member suffers disablement as a result of a wound, injury or disease, the Board shall-

Duties and
powers of the
Board.

- (a) shall determine whether the wound, injury or disease was due to, hastened by or aggravated by his service; or
- (b) in the case of disability, assess the degree thereof,

and may award pension for permanent disablement and additional hardship allowance in accordance with regulations 21 and 22.

(2) In the exercise of its powers and duties under these Regulations the Board may appoint a service medical officer or board of service medical officers-

- (a) to advise on any claim; or
- (b) to carry out any medical examination which is required to be carried out by or under these Regulations or which, in the

opinion of the Board, should be carried out in order to enable the Board to assess the entitlement or the degree of disablement of any officer or service member for any other reason which the Board considers sufficient.

(3) Where in these Regulations a power is conferred upon the Board to review and revise any pension, gratuity or allowance, such power shall include the power to review and revise any pension or allowance awarded under the provisions of any of the regulations repealed by these Regulations (hereinafter referred to as the "repealed Regulations") except that the Board shall not revise such award if the effect of such revision would be to decrease the amount previously awarded.

(4) The Board shall keep a record of all the awards made and shall—

- (a) furnish a copy thereof to the Chief of the Kenya Defence Forces; and
- (b) inform every person in respect of whom an award has been made of the terms of the award and the procedure to be followed in order to obtain payment.

20. (1) The disablement of an officer or service member or retired officer or discharged service member shall be accepted as due to service for the purpose of these Regulations if—

Entitlement to disability pension.

- (a) the disablement is due to a wound, injury or disease which was inflicted or caused while on duty; or
- (b) it arose during service or has been aggravated by service.

(2) For the purpose of these regulations every officer and service member shall, unless the contrary is proved, be deemed to have been medically fit and not suffering from any wound, injury or disease at the effective date of his commissioning or enlistment, as the case may be.

(3) Where a wound, injury or disease which has led to an officer's or service member's retirement or discharge during service was not recorded in any medical report made on the officer or service member at the commencement of his service, such wound, injury or disease shall be accepted as being due to service unless the evidence shows that the conditions set out in paragraph (1) are not fulfilled.

(4) Where after the expiration of the period of seven years from the retirement of an officer or discharge of a service member, a claim is made in respect of his disablement, such disablement shall be accepted as due to service if—

- (a) in the case of disablement the Board is satisfied that the conditions set out in paragraph (1) are applicable and fulfilled; and
- (b) in the case of death the retired officer or discharged service member was at the time of his death, or had at any time previously thereto been, in receipt of a pension or temporary

allowance awarded by the Board in respect of the wound, injury or disease which was the cause of or substantially hastened his death and the Board is satisfied that the conditions set out in paragraph (1) are applicable and fulfilled.

(5) Where upon reliable evidence a reasonable doubt exists as to whether in respect of a claim under paragraph (3) the conditions set out in paragraph (1) are fulfilled, the benefit of that reasonable doubt shall be given to the claimant, and where there is no note in contemporary official records of a material fact on which the claim is based, other reliable corroborative evidence of that fact may be accepted.

(6) Where a wound, injury or disease which has led to an officer's or service member's death during his service was not recorded in any medical report made at the commencement of his service, the wound, injury or disease shall be accepted as being due to service unless the evidence shows that the conditions in paragraph (1) (a) and (b) are not fulfilled.

(7) Where after the expiration of a period of seven years from the retirement of an officer or discharge of a service member, a claim is made in respect of his death (being death occurring after the expiration of that period), such death shall be accepted as being due to service if at the time of his death or anytime previous thereto the officer or service member had been in receipt of a pension or temporary allowance awarded by the Board in respect of the wound, injury or disease which was the cause of or substantially hastened his death and the Board is satisfied that the death is due to service.

21. (1) The degree of disablement to be assessed by the Board shall be the measure of disablement which is considered to have been suffered by an officer or service member or retired officer or discharged service member by a comparison of his current condition with the condition of a healthy able-bodied person of the same age without taking into account –

Degrees of
disablement.

- (a) his earning capacity in his disabled condition in his own or in any other specific trade or occupation, and
- (b) the effect of any individual factors or extraneous circumstances.

(2) The degree of disablement shall be expressed as a percentage (100 per cent representing total disablement) in any one of the following classifications:

- (a) 100 per cent;
- (b) less than 100 per cent but not less than 80 per cent;
- (c) less than 80 per cent but not less than 60 per cent;
- (d) less than 60 per cent but not less than 40 per cent;
- (e) less than 40 per cent but not less than 20 per cent;
- (f) less than 20 per cent but not less than 11 per cent;
- (g) 10 per cent and under.

(3) In the case of disablement suffered by reason of two or more disabilities attributable to service the degrees of disablement shall be determined with reference to the combined disablement from the disabilities together, but it shall not exceed 100 per cent.

(4) The degree of disablement for specified injuries and certain other disabilities shall be assessed in accordance with the Schedule.

22. (1) Subject to the provisions of regulation 20, in the case of the permanent disablement of a retired officer or discharged servicemember the Board shall award, in addition to the gratuity or pension provided for under these Regulation, pension in accordance with the following table—

Pensions for permanent disablement.

**MONTHLY RATES OF PENSIONS AND ALLOWANCES FOR
DISABLEMENT**

<i>Degree of disablement</i>	<i>1%-9%</i>	<i>10% - 19%</i>	<i>20%-39%</i>	<i>40%-79%</i>	<i>80%-100%</i>
<i>Rates of pensions and allowances</i>	<i>"Lump-sum" 2 months' pay</i>	<i>"Lump-sum" months' pay</i>	<i>25% of monthly pay as at the date of retirement</i>	<i>35% of monthly pay as at the date of retirement</i>	<i>50% of monthly pay as at the date of retirement</i>

(2) An award of pension under this regulation shall, where temporary allowances have been granted under these Regulations, be made to take effect after the cessation of the payment of such temporary allowances, and where no temporary allowances has been granted such award shall, except where the Board otherwise directs, be made to take effect—

- (a) in the case of a retired officer or discharged service member, where the application for the award was made prior to his retirement or discharge, from the day following the date of his retirement or discharge; or
- (b) in any other case, from the date on which the application for the award was made or on such other date as the Board may determine.

23. (1) Where a pension has been awarded under these Regulations based on a degree of disablement, and in the opinion of the Board there are conditions of exceptional hardship, the Board may award an additional allowance of an amount not exceeding fifty per cent of the pension.

Additional hardship allowance for permanent disablement.

(2) An additional pension allowance under paragraph (1) may be of either a temporary or permanent nature as the Board may determine.

(3) Where the allowance is made on a temporary basis, it shall be reviewed and may be varied or terminated, at such time or times as the Board may direct.

24. (1) Every award under these Regulations shall be made on the degree of disablement assessed by the Board at the time it accepts the

Basis of award for permanent

disablement as permanent, except that the Board may at any time make a final assessment of the degree of disablement and if, at the expiration of seven years from the date of retirement or from the date on which the retired officer or discharged service member was first notified of the award, whichever is the later, the Board has not made such final assessment, it shall thereupon do so having regard to all the circumstances of the case.

disablement.

(2) Nothing in this regulation shall be read as precluding a review of a final assessment in accordance with these Regulations.

25. (1) Where the Board has reason to believe that the disablement accepted as being due to service may not be permanent, and the degree of disablement is assessed at less than 20 per cent, but the Board considers that the disablement or the degree of disablement accepted as due to service is likely to persist for more than one year from the date of retirement or from the date of application, as the case may be, it may in its discretion award a gratuity equal to one-half of the disablement gratuity appropriate to the degree of disablement then found in accordance with these Regulations which shall be deducted from any award which may be made later should the Board accept the disablement as permanent.

Procedure where disablement is not permanent.

(2) Where –

- (a) the Board has reason to believe that the disablement or the degree of disablement accepted as being due to service may not be permanent;
- (b) in the case of a disablement accepted as permanent, in the opinion of the Board and on the medical evidence there is likely to be a material and early decrease in the degree of disablement; or
- (c) in either case, the degree of disablement is assessed as 20 per cent or over,

the Board may award a temporary allowance which shall be at the appropriate rate set out in these Regulations, which allowance may be reviewed and reassessed after medical examination at a date to be recorded in the proceedings of the Board and which medical examination shall be carried out at such time and place as the Board may direct.

(3) The Board shall have power to direct that the medical examination referred to in sub regulation (2) be done by service medical officers.

(4) Where a retired officer has been awarded a temporary allowance under paragraph (2) and there has been no material decrease in the degree of his disablement during the period of two years from the date of his retirement or from the date on which he was notified of the award of such temporary allowance, whichever is the later, during which time he has received adequate medical treatment, the Board may in its discretion make an award of a gratuity equal to one-half of the disablement gratuity appropriate to the degree

of disablement than that found in accordance with regulation 19, which award shall be deducted from any award of gratuity made thereafter, should the Board accept the disablement as permanent, but the retired officer or discharged service member shall be required to make any refund if the amount of the final gratuity is less than the award made by the Board under this paragraph.

(5) Where the Board has reason to believe that an increase in the degree of disablement of a retired officer or discharged service member to whom an award of a pension has been made after a final assessment under these regulations may not be permanent, it may award a temporary allowance, in addition to the pension, of an amount that will bring the combined awards up to the rate appropriate to the increased degree of disablement, and such temporary allowance shall be reviewed and reassessed from time to time after medical examination as the Board may direct, and may be reduced, increased, terminated or made permanent as the Board, having regard to the circumstances, may decide.

26. (1) Where an award is to be made in respect of disablement suffered by reason of two or more disabilities, not all of which are accepted as permanent, and the permanent disability or disabilities is as set out in the Schedule, the Board shall, subject to the provisions of these Regulations, award the appropriate gratuity immediately, notwithstanding that the award made in respect of the combined disablement from the disabilities together may be temporary.

Award for two or more disabilities.

(2) Where the disability or disabilities referred to in sub-regulation (1) and which are not accepted as permanent are subsequently so accepted or disappear, and when a final assessment is made and a pension awarded, then the amount of gratuity appropriate on assessment of the combined disablement may be awarded.

27. In cases where it is medically certified that the disablement in respect of which an award has been made under these Regulations renders surgical appliances necessary the Board may order that such appliances be supplied free of charge.

Supply of surgical appliances.

28. Any retired officer or discharged service member who has been awarded a pension under these Regulations other than on an interim basis may at his own request be medically examined by a service medical officer or a board of service medical officers appointed by the Board, once in every year, at such time and place as the Board may consider appropriate.

Optional medical examination.

29. (1) Where a retired officer or discharged service member who has been awarded a pension whether on an interim or other basis, for any reason neglects or refuses to be medically examined as required by the Board under these Regulations, the Board may, if it considers that such neglect or refusal is unreasonable, reduce the pension as it thinks fit, and the amount so reduced shall not be restored until the retired officer or discharged service member has been medically examined or until the Board is satisfied that the neglect or refusal was not or is no longer unreasonable.

Power to reduce award for misconduct.

(2) Where a retired officer or discharged service member who has been awarded a temporary allowance neglects or refuses to present

himself for medical examination as required under these Regulations, the Board may, if it considers the neglect or refusal unreasonable, suspend the award until he so presents himself, and in so doing it shall be for the Board to determine, having regard to the circumstances, from what date the restoration (if any) of the award shall take effect.

(3) Where it is medically certified that a retired officer or discharged service member should receive approved treatment or approved institutional treatment, and such retired officer or discharged service member, having been so informed, refuses or neglects to receive such treatment, the Board may, if it considers the refusal or neglect unreasonable, reduce the gratuity, pension or temporary allowance in respect of such retired officer's or discharged service member's disablement by such amount, not exceeding one-half, as the Board may think fit.

(4) For the purpose of paragraph (3), any misconduct on the part of a retired officer or discharged service member which in the opinion of the Board, prevents the treatment from being given or counteracts its effects may be considered as a refusal by such retired officer or discharged service member to receive the treatment.

(5) Where the Board is satisfied that the death or disablement in respect of which a claim is made is attributable to negligence or misconduct on the part of the retired officer or discharged service member concerned, it may refuse to award a pension, gratuity or allowance, either in whole or in part.

(6) Where third party compensation is paid by or on behalf of a person alleged to be responsible for any act, omission or circumstances which caused the injury or death of an officer or service member or a retired officer or discharged service member the Board may reduce any pension, gratuity or allowances to be awarded under these Regulations by such amount as the Board may, in all the circumstances of the case, consider appropriate.

30. The Board may at any time review an award made under these Regulations where it has been made in error or where, in the opinion of the Board, it has been obtained by improper means, and on any such review the Board may confirm, vary or cancel the award or may substitute another award.

Power to review awards.

31. Pensions and gratuities shall be kept under review from time to time but in any event within a maximum interval of four years by the Defence Council in consultation with the National Treasury and on the advice of the Salaries and Remuneration Commission.

Review of pensions.

32. (1) The Defence Council shall have the power to suspend or withhold pensions or gratuities either wholly or in part as the case may be, and subject to any other regulations made under this Act or generally relating to pensions.

Suspension or withholding of pensions.

(2) In exceptional cases payment of part or the whole of suspended pensions, gratuity or any other allowance, may with the consent of the Treasury be made by the Defence Council to or for the benefit of the wife or other dependant of the officer or service member.

33. Every award of a pension or temporary allowance made by the Board under these Regulations shall be subject to such increase by the addition of a cost of living allowance as the Government may from time to time, by order published in the Gazette, provide.

Cost of living allowance.

34. (1) Subject to the provisions of these Regulations the Principal Secretary to the Treasury shall pay all pensions, allowances, gratuities and other charges payable under or by virtue of these Regulations, including such travelling and other expenses as may be certified under these Regulations.

Payment of pensions, etc.

(2) Every pension payable under or by virtue of these Regulations shall be payable monthly in arrears.

(3) Every temporary allowance payable under or by virtue of these Regulations shall be payable in arrears, at intervals not less frequent than once in every month for such length of time as may be determined by the Board.

35. An officer or servicemember who is pronounced by a medical board to be mentally unfit and has at least ten years' service in the case of officers and twelve years of reckonable service in the case of service members, may be granted a service pension and where the remaining period is less than ten years in the case of officers and less than twelve years' reckonable service in the case of service members, he may be granted a gratuity.

Award of pension or gratuity for insanity.

36. All claims for pensions, allowances or gratuities under these Regulations shall be submitted to the Board, which shall, on receipt thereof, obtain from the appropriate service authorities –

Procedure as to claims.

- (a) full particulars of the officer or service member in respect of whom the claim is made, including all such particulars regarding his service as may be relevant to the claim;
- (b) the medical history of the officer or service member and a copy of the proceedings and findings of the medical board with regard to him;
- (c) a copy of the proceedings of any court of inquiry into the cause of the accident, injury or death giving rise to the claim, and where the claim is based on the death of an officer or service member—
 - (i) a certificate of death signed by a medical officer; and
 - (ii) unless unobtainable a declaration of death, signed by a responsible service authority; or
 - (iii) where the claim is based on presumed death, a certificate of presumption of death or a declaration of presumption of death made by a court of competent jurisdiction, as the case may be; and
- (d) the names, addresses and particulars of—

the officer's or service member's dependants and the degree of their dependency on him; and

- (ii) the officer's or service member's heir; or
- (iii) where there is a will, particulars of the executor named in the will

37. (1) In the case of the death of an officer or service member or retired officer or discharged service member (in this regulation referred to as the "deceased") the Board may, as from the day next following the death of the deceased, award—

Nature of award
in respect of
death.

- (a) where the deceased leaves a widow or widower, a pension to him or her at the rate not exceeding one-third of the deceased's rate of pay as at the date of his death or retirement and if there is more than one widow, the pension shall be divided equally between them;
- (b) if in addition to the widow or widower, the deceased leaves a child or children, a pension in respect of each child until such child attains the age of twenty-one years, of an amount not exceeding one quarter of the pension awarded to the widow;
- (c) where the deceased leaves no widow or widower but leaves a child or children, or if the pension payable to the widow or widower ceases, or if no pension is payable to the widow or widower, the pension payable to each of the children under subparagraph (b) shall be doubled from the date following the date of the death of the deceased or from the date on which the pension payable to the widow or widower ceases, as the case may be,

Provided that—

- (i) a pension to a child under subparagraph (b) shall cease upon the marriage of such child;
- (ii) where any widow who is in receipt of a pension under subparagraph (a) and who has under her charge a child or children in receipt of a pension under this subparagraph dies or otherwise ceases to be entitled to a pension the Board may in its discretion continue to pay the pension or any part of it to an approved guardian, provided that it is applied towards the maintenance and education of the child or children to the satisfaction of the Board.

(2) Where any widow or widower to whom a pension has been awarded under this regulation remarries, or cohabits with any person as his wife or as her husband, the Board shall, if there is no child of the deceased under his or her charge, cease payment of the pension from the date next following such remarriage or cohabitation upon confirmation of the same, but if the widow or widower has under his or her charge such child or children of the deceased the Board may continue to pay the pension or any part thereof to the widow or widower or in the event of his or her death to an approved guardian on the conditions set out in paragraph (1) (b).

(3) Where any child is in receipt of a pension under paragraph (1) (b) and is under the charge of the widow or widower of the deceased the pension shall be paid to the widow or widower provided that it is applied towards the maintenance and education of the child to the satisfaction of the Board.

(4) Where there is no widow or widower, or if the widow or widower abandons any child of the deceased, the Board may in its discretion continue to pay the pension or any part thereof to which the child may be entitled under paragraph (1) (b) to an approved guardian provided it is applied towards the maintenance and education of the child to the satisfaction of the Board.

(5) Where the pension of a childless widow or widower has been terminated in accordance with the provisions of paragraph (2) or has ceased on her death the Board may in its discretion after consultation with the County Commissioner of the County in which the deceased resided award to any needy dependant of the deceased as a gratuity, the total amount of the pension for six months that would be awarded to the widow, and such gratuity shall be distributed at the discretion of the Board.

(6) Where the deceased leaves neither a widow or widower nor children, the Board may in its discretion, award a gratuity to any surviving parents, brothers and sisters of the deceased of an amount not exceeding the pension for six months that would be awarded to the widow or widower and such gratuity shall be distributed at the discretion of the Board.

(7) Where the deceased leaves neither a widow or widower, children nor dependants, the Board shall award to the heir of the deceased a gratuity not exceeding the deceased's pay for one month as at the date of his death or retirement.

(8) No widow or widower shall be entitled to an award under this regulation unless his or her marriage to the deceased was recognized by any law for the time being in force or by the law or custom of the community to which the deceased belonged.

(9) A gratuity awarded under paragraph (7) shall be in full and final settlement.

38. (1) There is hereby established an Appeals Board to be known as the Pensions Appeal Board which shall consist of –

Pensions Appeal Board.

- (a) a chairperson who shall be a retired general officer appointed by the Defence Council;
- (b) a medical officer appointed by the Defence Council on the recommendations of the Director of Medical Services; and
- (c) three other persons appointed by the Defence Council, one of whom shall be a legal officer,

and none of whom may also be a member of the Pensions Assessment Board established under regulation 18.

(2) The chairperson, the secretary and two other members shall constitute quorum for any meeting of the Appeals Board.

(3) The members of the Appeals Board appointed under paragraph (1) shall hold office for a period of three years.

(4) Subject to the provisions of these Regulations and to any direction issued by the Defence Council under these Regulations, the Appeals Board shall regulate its own procedure.

(5) There shall be a secretary who shall be a public officer to be appointed by the Defence Council on the recommendation of the Director of Pensions.

(6) An appeal shall lie to the Appeals Board against any decision of the Board established under these Regulations affecting –

- (a) an entitlement to pension, gratuity or allowance under these Regulations;
- (b) the degree of disablement under these Regulations where-
 - (i) final assessment and award of a disablement pension or gratuity or both, has been made; or
 - (ii) a disablement pension awarded on an interim basis, or a temporary allowance, has been terminated by the Appeals Board on the ground either that there is now no disablement due to or aggravated by service or that disablement still persisting is under 20 per cent;
- (c) the suspension of a temporary allowance under regulation 32; or
- (d) the reduction of or refusal to make an award, under these regulations, and against any decision of the Board on review.

(7) Every appeal under this regulation shall be brought within twelve months from the date on which the decision of the Board is notified to the claimant except that the Appeals Board may allow an appeal to be brought after the expiration of the period limited by this paragraph if in the opinion of the Board there was reasonable excuse for delay.

(8) Notice of the time, date and place of hearing of an appeal shall be given to the appellant provided that where the Appeals Board is satisfied that an appellant cannot be traced it shall be sufficient if such notice shall have been sent to him by registered post to his last known address or place at which he was last known to reside.

(9) Every appellant shall have the right of appearing before the Appeals Board in person or by a legal representative and should an appellant fail to appear, either in person or by a legal representative, at the time and at the date and place notified to him for the hearing of the appeal, the Appeals Board may, in the absence of any satisfactory explanation, proceed to determine the appeal.

(10) The Appeals Board shall have power to vary the amount of any award made by the Board, either by increasing or decreasing the award, but except in an appeal against such a decision the Appeals Board shall not make an award where no award has been made by the Board.

(11) The Appeals Board shall have power to call for any document relating to the appellant's service from the appropriate service authority, and to order the appellant to undergo a medical examination by a medical officer to be appointed by the Appeals Board in any particular case and may certify to the Principal Secretary to the National Treasury any reasonable travelling and other expenses which have been incurred by any person appearing, with the permission and in accordance with the instructions of the Appeals Board or before any medical examination of such person under the provisions of this paragraph.

(12) The decision of the Appeals Board upon an appeal made under this Regulation shall be final.

PART III— OFFICER'S PENSIONS AND GRATUITIES

39. (1) An officer who is –

Officer's service
and disablement
pensions.

- (a) retired or allowed to retire on or after reaching the normal age of retirement as laid down in the terms and conditions of service in the Defence Forces drawn under the provisions of the Act; or
- (b) retired compulsorily before reaching the age of retirement because it has been decided that further employment is not available for him, may, provided that he has completed at least ten years reckonable service, be granted on retirement a service pension in accordance with these Regulations.

(2) Every officer otherwise eligible for pension who has not completed ten years' reckonable service may be granted on retirement a gratuity in accordance with regulation 11;

(3) An officer who is removed from service in the Defence Forces for misconduct or whose services are terminated pursuant to section 251 of the Act, and who has at least ten years reckonable service may be granted a pension at such rate as the Defence Council may determine, not exceeding ninety per cent of the sum which would have been granted to him under paragraph (1) had he retired in normal circumstances.

(4) Notwithstanding any other regulation, an officer who has suffered disablement as a result of a wound, injury or disease may, if his retirement is necessitated or materially accelerated by the wound, injury or disease before completing ten years' reckonable service, be granted, in lieu of a gratuity under paragraph (2), a pension under paragraph (1).

(5) A gratuity may be granted in accordance with regulation 11 to an officer who is ineligible for a service pension when retired for the following reasons—

- (a) on reduction of the establishment; or
- (b) if for any reason his services are no longer required.

PART IV— SERVICE MEMBER'S PENSIONS AND GRATUITIES

40. (1) A service member who is—

Service member's
service and
disablement
pensions.

- (a) discharged on or after the completion of colour service; or
- (b) discharged compulsorily having regard to the usefulness of such service member in the Kenya Defence Forces and the circumstances of the case,

may, provided that he has completed twenty one year's reckonable service, be granted a service pension in accordance with the provisions of these Regulations.

(2) A service member who is discharged for inefficiency, or misconduct or any other cause within his control but not amounting to gross misconduct and who has completed at least twelve years' reckonable service may be granted a service pension at such rate as the Defence Council may determine, not exceeding ninety per cent of the sum which would have been granted under paragr (1) had he applied for his discharge.

(3) A service member who is pronounced by a medical board to be mentally or physically unfit may be granted a pension provided it is not connected to the service, and provided he has completed at least twelve years' reckonable service and the mental or physical unfitness is not connected to the service.

(4) Notwithstanding any other regulation, a service member who has suffered disablement as a result of a wound, injury or disease due to, hastened by or aggravated by his service may, if his retirement is necessitated or materially accelerated by his service and has not completed more than twelve years' reckonable service, be granted in lieu of a gratuity, a pension under paragraph (1).

41. (1) A gratuity in accordance with the provisions of regulation 11 may be granted to—

Service member's
service gratuities.

- (a) a service member who is transferred to the reserve or discharged before or after the completion of his colour service without being granted a service pension; or
- (b) a service member who is discharged under paragraphs (d), (e), (f) and (g) of section 255 of the Act, provided that he has completed at least one year's reckonable service.

(2) A gratuity of thirty per cent of the amount that would have been granted under sub-regulation (1) may be granted at the discretion of the Defence Council to a service member discharged for inefficiency or unsuitability due to causes not within his control.

PART V— MISCELLANEOUS

42. An officer or service member retired or discharged from the service when eligible for pension in consequence of the abolition of his office or for the purpose of facilitating improvement in the Defence Forces by which a greater efficiency or economy may be effected, may be granted an additional pension of one-sixtieth of his annual pension for each period of three years' reckonable service:

Reduction of
establishment and
services.

Provided that such additional pension shall not exceed ten sixtieth of such annual pension.

(2) When an officer or a service member who is in receipt of a pension is recalled for service with the Defence Forces, he shall be entitled to his full pension notwithstanding that he is in receipt of any other pay.

(3) When an officer or service member who was previously retired or discharged with a pension is re-commissioned or re-enlisted, as the case may be, his pension shall cease from the date on which his further service commences, and he shall either repay both his pension and gratuity already received or have it deducted from the pension he would finally be entitled to so as to allow his previous service to count towards his pension when he finally retires.

43. The Defence Council may from time to time issue such directions, not inconsistent with the provisions of these Regulations, as it may consider necessary for the administration of these Regulations, and without prejudice to the generality of the foregoing such direction may make provisions for—

Administrative directions

- (a) the registration of pensions, allowances and gratuities awarded;
- (b) the issue of pension certificates;
- (c) the notification to the person entitled thereto of the amounts of the pensions, allowances and gratuities awarded;
- (d) the procedure to be followed in drawing pensions, allowances and gratuities;
- (e) the procedure to be followed in the hearing of an appeal by the Appeals Board.

44. A declaration of presumption of death by a Service Commander shall be done in accordance with regulations 5 and 6 of Kenya Defence Forces (Missing Persons) Regulations, 2017.

Presumption of Death

45. The Defence Council shall appoint an officer to serve as the Military Pensions Liaison Officer, who shall liaise with the National Treasury on pension matters.

Military pensions liaison officer.

46. Any pension or gratuity awarded under these Regulations shall be paid within 90 days from the date of retirement or 90 days from the date of the death of an officer or service member except where such payment is delayed by legal proceedings.

Payment of pension and gratuity within 90 days.

47. The Armed Forces (Pensions and Gratuities)(Officers and Service Members) Regulations, 1980 are revoked.

Revocation of L.N No. 61 of 1980.

48. Notwithstanding regulation 47, an officer or service member or retired officer or discharged service member entitled to a pension, gratuity or allowance under the Armed Forces (Pensions and Gratuities) (Officers & Service members) Regulations, 1980 (now revoked) shall be deemed to be entitled to pension, gratuity or allowance under these Regulations.

Savings.

SCHEDULE

[Regulation 20(4)]

*Assessment of Disablement Due to Specific Injuries and Certain Other Disablement**Part –A Amputation*

<i>Description of Injury</i>	<i>Assessment per cent</i>
<i>Amputation Cases-Upper Limbs</i>	
1. Loss of both hands or amputation at higher sites	100
2. Amputation through shoulder joint	90
3. Amputation below shoulder with stump less than eight inches from tip of acromion	80
4. Amputation from eight inches from tip to acromion to less than four and a half inches below tip of olecranon	70
5. Amputation from four and a half inches below tip of olecranon	60
6. Loss of thumb	30
7. Loss of thumb and its metacarpal bone	40
8. Loss of four fingers	50
9. Loss of three fingers	30
10. Loss of two fingers	20
11. Loss of terminal phalanx of thumb	20
<i>Amputation Cases - Lower Limbs</i>	
12. Double amputation through thigh or through thigh on one side and loss of other foot or double amputation below thigh to five inches below knee	100
13. Double amputation through leg lower than five inches below knee	100
14. Amputation of one leg lower than five inches below knee and loss of other foot ...	100
15. Amputation of both feet resulting in end-bearing stumps	90
16. Amputation through both feet proximal to the metatarso-phalangeal joint	80
17. Loss of all toes of both foot through the metatarso-phalangeal joint	70
18. Loss of all toes of both foot proximal to the proximal interphalangeal joint	30
19. Loss of all toes of both feet distal to the proximal interphalangeal joint	20
20. Amputation through hip joint	90
21. Amputation below hip with stump not exceeding five inches in length measured from tip of great trochanter	80
22. Amputation below hip with stump exceeding five inches in length measured from tip of great trochanter, but not beyond middle thigh	70
23. Amputation below middle thigh to three and a half inches below knee	60

24. Amputation below knee with stump exceeding three and a half inches but not exceeding five inches50
25. Amputation below knee with stump exceeding five inches40
26. Amputation of one foot resulting in end-bearing stump30
27. Amputation through one foot proximal to the metatarso-phalangeal joint20
28. Loss of all toes of one foot proximal to the proximal interphalangeal joint, including amputation through the metatarso-phalangeal joint20

Part – B

Other Specific Injuries

29. Loss of a hand and a foot100
30. Loss of one eye, without complications, the other being normal40
31. Loss of vision of one eye, without complications, or disfigurement of the eye-ball the other being normal30
32. Loss of sight100
33. Accidental loss of natural teeth, without prior replacement thereof at public expense.....1% for loss of each natural tooth up to a maximum of 32%
34. Loss of natural teeth (not being less than 10 teeth) due to natural disease(s) and not replaced already at public expenses.....10% for the loss of the first 10 teeth, 10% for the next 10 and 12% for the remainder, whether the losses have occurred simultaneously or over a period of time.
35. Loss or impairment of one testes or an ovary.....25
36. Loss or impairment of both testes or both ovaries.....50
37. Loss or impairment of penis.....upto..100
38. loss of one lip.....upto...40
39. Loss of both lips.....upto...80
40. Loss of the tongue.....upto 100
41. Loss of the external part of the nose.....upto 60
42. Loss of a Pinna.....upto..30
43. Loss of both pinnae.....upto...60
44. Permanent loss of sense of smell.....50
45. Permanent loss of taste.....50
46. Severe disfiguring soft tissue injuries to any part of the body (excluding severe facial disfigurement), extensive scarring or loss of skin or hair due to an accident in the nature of severe scalding, burning by fire, corrosion by acid, and the like.....upto 40
47. Loss of or severe damage to any other organ (not otherwise specified in this schedule and where the loss or damage does not amount to end – organ failure) upto50

The losses or damage caused to or suffered by the organs falling under this part are those which are total and permanent in relation to the normal functioning of the organ concerned.

Part – C

Other Disablement

48. Very severe facial disfigurement 100
49. Absolute deafness 100
50. Ankylosis of any joint....25-100% depending on the degree of incapacity suffered for loss of use of the joint or part thereof according to whether the joint is ankylosed in a favourable or unfavourable position.

Note.- Where the scheduled assessment for a specified injury involving multiple losses differs from the sum of the assessment for the separate injuries the former shall be the appropriate assessment.

Part – D

Disablement due to Diseases and Surgical Conditions.

51. A confirmed chronic medical or surgical condition or conditions only e.g diabetes (as opposed to the condition itself or the conditions which, additionally, has or have a complication(s) and further to the complication itself or complications themselves which result from the condition or conditions in question).....10% for each specific condition subject to a maximum of 50% where two or more such conditions exist. A chronic condition is one requiring a life-time management.
52. Two or more confirmed chronic medical or surgical conditions with a complication or complications e.g. diabetes with hypertension20% for the conditions, whatever their number, plus 10% for each specific complication involved upto a maximum of 80% for both. This provision does not apply to a situation of end-organ failure.
53. Terminal illness, end-organ failure or removal of an internal organ (e.g. brain, heart, lung, liver, kidney or part thereof).....50-100%.

Part – E

Psychiatric Conditions

54. Chronic neurotic condition.....50%. The condition must be chronic and persistently relapsing in nature.
55. Chronic psychotic condition.....51% to 100%

Part – F

Inclusion Of The “X” Factor In Certain Composite Injuries Other Than Injuries To The Hand And Feet.

66. Injuries to a,b.....etc. a+b+.....X%. The X% is the “X” factor. It represents the percentage by which the sum of the schedule percentages of the two or more injuries shall be increased.
67. The “X” factor shall be taken into account in certain cases where there are several injuries suffered are especially disabling or disadvantageous to the claimant e.g. loss of hand and a foot both on one side of the body. The injuries must in all cases where the “X” factor is applied be composite.

68. The "X" factor shall be added to the sum of the schedule percentages of the two or more injuries suffered by the claimant (subject to a maximum of 100%) save where these regulations have expressly made provision for such cases (e.g as in paragraphs 12,13 and 29 of part A).
69. The "X" factor shall be 20% of the sum of the several injuries involved.

Part – G

Composite Injuries Involving The Hand And Feet

70. Injuries involving the hand or the feet:
- (i) Where 2 digits are lostD1 +D2 + "X" factor of 20%
 - (ii) Where 3 digits are lost.....D1+D2+D3+ "X" factor of 30%
 - (iii) Where 4 digits are lost.....D1+D2+D3+D4+ "X" factor of 40%
 - (iv) Where the big toe or the big thumb has been lost in addition to the other
 - (v) 4 digits on one foot or hand.....D1+D2+D3+D4+Big toe/thumb+ such an "X" factor as to render the assessment 100%.
 - "D" means a digit of the hand or foot and the figure following it represents the number of digits lost by the claimant.
71. In each of the first four of the mentioned cases in this part, the sum total assessment for the lost digits shall be increased by 20%, 30% or 40% as the case may be according to the number of digits lost. In the last case of this part the assessment shall amount to 100% where the big toe or thumb, as the case may be, and whether on one foot or one hand or on all the said limbs has been lost in addition to all the other digits on the same foot or hand or on all the said limbs.

Dated the 17 July, 2017.

SAITOTI TOROME,
*Principal Secretary and
Secretary to the Defence Council.*

AMB. RAYCHELLE OMAMO,
*Cabinet Secretary for Defence and
Chairperson of the Defence Council.*