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CHAPTER 12A

RETIRING ALLOWANCES (LEGISLATIVE SERVICE)

An Act to provide retiring allowances, on a contributory basis, to persons who have served as legislators, to provide allowances for the widows of such persons and to provide for matters connected with or incidental to the foregoing purposes.

1969-8.
1979-16.
1979-32.
1979-42.
1985-10.
1989-28.
1992-20.
1999-19.

[1st March, 1969]

Commencement.

1. This Act may be cited as the *Retiring Allowances (Legislative Service) Act*.

Short title.

2. For the purposes of this Act, the expression

Interpretation.

"appropriate Minister" means the Minister responsible for Finance; but in respect of any matter relating to an award to the person for the time being holding the office of Minister responsible for Finance, the appropriate Minister shall be such other Minister as the Prime Minister may designate;

"award" means any amount payable out of the Consolidated Fund to any person pursuant to this Act;

"contributions" means contributions payable pursuant to section 4;

"contributor" means any legislator who by virtue of section 3 becomes a contributor under this Act;

"elected member" means a member of the House of Assembly;

"Executive Committee" refers to the committee which under that name was constituted pursuant to the provisions of the *Executive Committee Act 1891*¹;

¹Act 1891-22, repealed by Act 1964-12.

"former legislative service" means service as a legislator between the 1st January, 1948, and 1st March, 1969;

1999-19. "full parliamentary term" means the period that commences on the date on which the writs for a general election are returned to the Governor-General pursuant to section 62(1) of the *Constitution* and expires

(a) on the nomination day immediately preceding the next general election; or

(b) where a member of either House is a candidate in the next general election, on the date of that election,

as the case may be.

"legislator" means a person who

(a) is an elected member; or

(b) not being an elected member, is the holder of a specified legislative office;

"Minister", when not preceded by the word "appropriate", means a legislator appointed a Minister pursuant to section 65 of the *Constitution* and, in relation to any period between 1st January, 1948, and 1st March, 1969, means a legislator duly appointed a Minister during that period;

"retiring allowance" means a retiring allowance payable pursuant to section 5;

"salary" means

(a) in respect of former legislative service,

(i) the basic salary paid to a person by virtue of his being a member of the House of Assembly during the period of such service or, where during that period any such member held a specific legislative office, the basic salary paid in respect of the office so held;

(ii) the basic salary paid to a person, not being a person referred to in sub-paragraph (i), by virtue of his being a Minister or a member (other than an official member) of the Executive Committee during the period of such service; and

(b) as respects a legislator, the basic salary payable to him as such but, in relation to a legislator holding any specified legislative office, means the basic salary payable to him in respect of the office so held; and

for the purposes of this definition, the expression "basic salary" means the salary provided in the *Senate and House of Assembly (Remuneration of Members) Act*, or in the *Ministers and Parliamentary Secretaries (Remuneration and Allowances) Act*, as the case may be, exclusive of duty allowance, entertainment

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allowance or any other allowance or emoluments whatever or any amount provided as a contribution to office or any other expenses;

"specified legislative office" means any of the offices specified in the *Schedule* or any office prescribed as such by the Minister responsible for Finance. Schedule.

3. (1) Subject to subsection (2) every person who at 1st March, 1969 is a legislator, and every person who after that date becomes a legislator, shall, by virtue of being a legislator, become a contributor under this Act. Contributors.

(2) Subsection (1) does not apply to any legislator while he holds the office of Prime Minister by virtue of an appointment under subsection (1) of section 65 of the *Constitution*.

4. (1) Contributions are payable under this Act by every person who becomes a contributor and such contributions shall Contributions.

(a) be at the rate of 5 per cent of the basic salary payable to the contributor;

(b) be payable in respect of the basic salary of the contributor from 1st March, 1969, or from the date on which the person concerned becomes a contributor, if later, until he ceases to be a legislator;

(c) accrue daily and be deducted monthly from the salary of each contributor and be paid to the Accountant General. 1979-42.

(1A) Where a person who ceases to be a member of the House of Assembly subsequently becomes a member of the Senate, he may, while he remains a Senator and for the purpose of receiving a retiring allowance based on the highest salary received by him in any office held by him while he was a member of the House of Assembly, make contributions at the rate applicable to a member of the House of Assembly who is not the holder of an office. 1985-10.

s.5

1989-28. (1B) Where a person who has served as a member of the Senate other than in a specified legislative office subsequently becomes a legislator, he may

- (a) while he remains a legislator or within such further period as the Minister of Finance approves in writing;
- (b) for the purpose of receiving a retiring allowance in respect of the period of time during which he served as a member of the Senate; and
- (c) at his option exercisable in accordance with subsection (1D),

become a contributor in respect of the period during which he served as a member of the Senate.

(1C) Where a person to whom subsection (1B) refers becomes a contributor under that subsection, he shall make contributions in respect of the period of time during which he served as a member of the Senate at the rate applicable to a member of the House of Assembly who is not the holder of an office, and may commence the making of the contributions on the date on which he exercised his option in accordance with subsection (1D).

1989-28. (1D) The option referred to in subsection (1B) shall be exercised by the legislator giving notice of his intention to exercise the option in writing, addressed to the appropriate Minister.

(2) All contributions made pursuant to this section shall be paid into the Consolidated Fund.

Circumstances in which retiring allowances are payable. 1979-42. 1999-19.

5. (1) Subject to the provisions of this Act, a retiring allowance shall be paid to any person who

- (a) has served as a legislator for a period of 2 full parliamentary terms or for a period of at least 8 years, whichever is more;
- (b) has ceased to be a legislator; and

- (c) either
 - (i) has attained the age of 50 years; or
 - (ii) not having attained the age of 50 years, has produced medical evidence to the satisfaction of the appropriate Minister that he is incapable by reason of infirmity of mind or body of discharging the duties of a legislator and that such infirmity is likely to be permanent.

- (2) In determining for the purposes of this Act the length of service of any person as a legislator, account shall be taken of former legislative service notwithstanding that contributions in respect thereof are not payable under this Act.

- (3) For the purposes of this section
 - (a) a person does not cease to be a legislator by reason only of the dissolution of Parliament;

 - (b) a person who immediately before the dissolution of Parliament was a member of the House of Assembly shall cease to be a member of that House if he is not elected as a member thereof at the general election next following the dissolution, and if he so ceases shall be deemed to

have ceased to be a legislator from the date of the election; 1999-19.

(c) a person who is not an elected member shall cease to be a legislator from the date of the first sitting of Parliament after the dissolution. 1999-19.

(4) No computation of a retiring allowance under this Act shall be made after a general election until 30 days (or such longer period not exceeding 3 months as may be prescribed) has elapsed after the general election.

(5) No retiring allowance may be paid under this Act to any person who is in receipt of or is entitled to receive a Prime Minister's Pension under the *Pensions (Prime Minister) Act*. Cap. 11.

(5A) Notwithstanding subsection (5), a person who is entitled to a Prime Minister's Pension but would, except for subsection (5), have been entitled to a pension that is greater than such Prime Minister's Pension, may elect to accept the greater pension; and where he fails to so elect, shall be deemed to have elected to accept the greater pension. 1979-42.

(6)¹ Where a person ceases to be a legislator but is not eligible for a retiring allowance under this Act by virtue of the provisions of subparagraph (i) of paragraph (c) of subsection (1), then, notwithstanding that subsection, the retiring allowance for which he would have been eligible at the date when he ceased to be a legislator, together with any additional benefits that he would have received after that date, shall be paid to him with effect from the date on which he attains the age specified in that sub-paragraph, if at that date 1985-10.

(a) he had not applied for or received a refund of contributions under section 9; and

(b) he is not otherwise disqualified for the payment of a retiring allowance under this Act.

(7) Where a legislator would have become eligible for the payment of a retiring allowance at a date earlier than that on which he did become so eligible, had he satisfied the requirement specified in section 5(1)(b), on becoming eligible for the payment of that allowance, he is entitled to receive in addition to the

¹This subsection has effect from 1st March, 1969.

retiring allowance for which he is eligible any benefits he would have received had he satisfied the requirement specified in section 5(1)(b) on that earlier date.

Death of
legislator in
office.
1979-42.

5A. (1) Where a person dies while he is a legislator and would, but for his death, have been eligible for a gratuity and retiring allowance under this Act, there shall be paid to his legal personal representatives an amount not exceeding the annual salary of his substantive office or his commuted gratuity, whichever is greater.

(2) Where a person dies while he is a legislator without having served for the required minimum period in order to be eligible for payment of an allowance under this Act, there shall be paid to his legal personal representatives a gratuity equal to the total contributions paid by that person together with an amount equal to the highest annual basic salary payable at any time to that person in his substantive office as a legislator.

(3) If a legislator, where he is making payment of contributions, dies during his term as a legislator, he shall be deemed, for the purposes of this Act, to have served for the entire duration of the term during which he dies.

Qualifying
period for
office
holders.

5B. (1) Notwithstanding section 5, a person who has held a legislative office is not entitled to a retiring allowance based on the remuneration he received by virtue of having held such office unless he served in such office for not less than one continuous period of 90 days.

(2) Subsection (1) does not apply where the substantive holder of a legislative office dies in office before the expiration of the period specified therein.

Rate of
retiring
allowance.
1979-42.
1999-19.

6. (1) A retiring allowance payable to a person must

(a) in the case of a person who has served as a legislator for a period of 2 full parliamentary terms or for a period of at least 8 years, whichever is more, be at an annual rate equal to one-half of the highest annual salary to that person in any office held by him as a member of Parliament; and

(b) in the case of a person who has served as a legislator for a period of 3 full parliamentary terms or for a period of at least 12 years, whichever is more, be at an annual rate equal to two-thirds of the highest annual salary of that person in any office held by him as a member of Parliament. 1999-19.

(2) For the purpose of subsection (1), the expression "highest annual salary" means the highest annual rate of basic salary payable at any time to any person as a legislator. 1992-20.

(3) The retiring allowance payable to any person under this section

(a) shall be paid with effect from the date on which that person becomes entitled thereto pursuant to section 5 and, subject to the provisions of this Act, shall continue to be paid during the lifetime of that person; and

(b) shall be paid monthly in arrears in equal instalments as far as possible.

7. (1) A retiring allowance payable under this Act shall, if the person in receipt thereof again becomes a legislator, cease to be payable during the period in respect of which that person is in receipt of salary as a legislator; but where the rate of such retiring allowance exceeds the rate of such salary, nothing in this subsection shall prevent the payment of retiring allowance to the extent of such excess. Cessation of retiring allowance if person in receipt thereof again becomes a legislator.

(2) At the expiration of the period referred to in subsection (1) during which a person has further service as a legislator, the rate of retiring allowance shall be re-calculated in accordance with the provisions of section 6.

(3) Where a retiring allowance is re-calculated pursuant to subsection (2) and the person entitled thereto opts to receive such allowance by way of a gratuity and a reduced allowance, then, in calculating the amount of such gratuity, there shall be deducted therefrom any amount already paid to such person by way of gratuity in respect of the retiring allowance payment of which was suspended under subsection (1).

(4) A retiring allowance re-calculated in accordance with subsection (2) shall be paid at the re-calculated rate with effect from the date of cessation of the period of service as a legislator which gave rise to the re-calculation.

Gratuity and reduced allowance.

8. (1) Any person who is entitled to a retiring allowance under this Act may, at his option exercisable in accordance with subsection (2), be paid, instead of a retiring allowance at the rate provided for in section 6, a retiring allowance at the rate of three-fourths of such allowance together with a gratuity equal to twelve and one-half times the amount of the reduction so made in the allowance.

(2) The option referred to in subsection (1) shall be exercised by notice in writing to the appropriate Minister within 30 days of the date on which the person concerned ceases to be a legislator, or within such further period as the appropriate Minister may allow.

1979-16.

(3) Notwithstanding subsection (1), the Minister may, where a person referred to in that subsection fails to exercise his option in accordance with subsection (2), grant a gratuity and a reduced retiring allowance as provided in subsection (1) as if the person had exercised his option.

Refund of contributions.

9. (1) Where any person who has made contributions pursuant to this Act ceases to be a legislator and is not eligible for retiring allowance, he may, if he so desires, apply to the appropriate Minister for a refund of his contributions and, on such application, he shall be refunded an amount equal to the total amount of the contributions paid by him pursuant to this Act with interest thereon at 4 per cent per annum.

(2) Where a person who would, on application pursuant to subsection (1), be entitled to a refund of contributions dies without making such application, or, having made such an application, dies before the refund of contributions has been made, and in the case of a male, leaves no widow or children entitled to an award under this Act, there shall be paid to the legal personal representatives of such person a gratuity equal to the amount which, pursuant to subsection (1), could have been refunded to such person if he had not died.

(3) Subject to section 9B, where a refund has been made to any person or a gratuity paid under this section, no other award may be made under this Act to or in respect of that person in relation to the service of that person as a legislator before the date of the refund. 1992-20.

9A. (1) Where a person who made contributions under this Act was subsequently appointed to the office of Prime Minister and is in receipt of or is entitled to receive a Prime Minister's Pension under the *Pensions (Prime Minister) Act*, he may apply to the appropriate Minister for a refund of the contributions made by him; and any refund to which he is entitled shall be paid as soon as possible after the application has been received. Refund of contributions by a person who becomes Prime Minister. 1985-10. Cap. 11.

(2) Notwithstanding section 5, where

(a) a person who made contributions under this Act and who held the office of Prime Minister has ceased to be Prime Minister but has remained in Parliament as a legislator; and

(b) the pension of the person to whom paragraph (a) refers as Prime Minister is greater than any retiring allowance he would have received had he remained as a legislator, not holding the office of Prime Minister,

he shall, if he has not already done so under subsection (1), on application therefor, be refunded the contributions paid by him as a contributor.

9B. (1) A person who has received a refund of his contributions under subsection (1) of section 9 and who again becomes eligible to contribute under this Act may pay to the Accountant General the amount of the refund with interest at the rate of 6 per cent per annum, and thereupon his previous service as a legislator shall be taken into account for the purpose of computing his retiring allowance having regard to the amount so paid. Reinstatement after refund. 1992-20.

(2) Where a person to whom subsection (1) applies wishes to comply with that subsection he shall, if he received the refund

(a) before 9th July, 1992, pay the amount of the refund with interest at the rate of 6 per cent per annum in accordance with subsection (1) within 6 months after that date; and

(b) after 9th July, 1992, pay the amount of the refund with interest at the rate of 6 per cent per annum in accordance with subsection (1) within 6 months of his again becoming eligible to contribute under this Act.

Widow's allowance. 1979-42.

10. (1) Subject to this Act, where a person who

(a) is in receipt of a retiring allowance; or

1999-19.

(b) has served as a legislator for a period of 2 full parliamentary terms or a period of at least 8 years, whichever is more,

dies leaving a widow, there shall be paid to the widow during her lifetime and while unmarried, a widow's allowance at an annual rate equivalent to one-half of the retiring allowance which

(i) in the case of a person mentioned in paragraph (a), was being paid to him; or

(ii) in the case of a person mentioned in paragraph (b), would have been payable to him with effect from the date of his death if he had not died but had satisfied the requirements of section 5 for the award of a retiring allowance and had been awarded a retiring allowance computed in accordance with section 6.

(2) A widow's allowance under this section

(a) shall be paid monthly in arrears in equal instalments as far as possible;

(b) shall, subject to subsection (3), if the widow is in receipt of a retiring allowance by virtue of having been herself a contributor under the Act, cease to be payable;

(c) shall, subject to subsection (3), if the widow is in receipt of salary as a legislator, cease to be payable during the period in respect of which the widow is in receipt of such salary.

(3) Where the rate of widow's allowance exceeds the rate of retiring allowance or the rate of salary, as the case may be, nothing in paragraph (b) of subsection (3) shall prevent the payment of the widow's allowance to the extent of such excess.

11. (1) Subject to this Act, where a person who comes within paragraph (a) or (b) of subsection (1) of section 10 (hereafter in this section referred to as the "deceased legislator") dies leaving one or more children, a children's allowance shall be payable in respect of such child or children while under the age of 18 years.

(2) Only one children's allowance is payable in respect of the service of any one person as a legislator, but

- (a) the rate thereof may vary according to the number of children entitled thereto;
- (b) it shall be paid to such person or persons as the appropriate Minister may from time to time direct, and different parts thereof may be directed to be paid to different persons;
- (c) the person to whom all or any part thereof is paid shall apply the sum paid to him without distinction, for the benefit of all the children for the time being entitled thereto or for the benefit of such of them as the appropriate Minister may from time to time direct;
- (d) the allowance shall be paid monthly in arrears in equal instalments as far as possible.

(3) Where the deceased legislator leaves a widow, the annual rate of the children's allowance during her lifetime shall be

- (a) one-third of the rate of the widow's allowance payable under section 10 where there are two or more children entitled to the children's allowance; and
- (b) one-half of the rate payable under paragraph (a) where there is only one child entitled to the children's allowance.

(4) Where the deceased legislator leaves no widow, or where he leaves a widow, then, after her death, or after any allowance payable to her ceases to be paid before her death, the annual rate of the children's allowance shall be

- (a) the same as that which would have been payable to a widow under section 10 where there are two or more children entitled to the children's allowance; and
- (b) one-half of the rate payable under paragraph (a) where there is only one child entitled to the children's allowance.

(5) Notwithstanding subsection (1), a female child who marries while under the age of eighteen years shall cease to be entitled to a children's allowance.

(6) For the purposes of this section, the expression "child" includes

- (a) a posthumous child and
- (b) a step-child.

1979-32.

Awards to be paid out of Consolidated Fund. **12.** All awards payable under this Act shall be charged on and paid out of the Consolidated Fund.

Awards not to be assignable. **13.** Any award payable under this Act shall not be assignable or transferable except for the purpose of satisfying

- (a) a debt to the Crown; or
- (b) an order of any court for the payment of periodical sums of money towards the maintenance of the wife, former wife or child being a minor, of the person to whom the award is payable,

and shall not be liable to be attached, sequestered or levied upon, for or in respect of any debt or claim whatever except a debt due to the Crown or any sum recoverable pursuant to any such order of a court as aforesaid.

Power to make regulations. **14.** (1) The Minister responsible for Finance may make regulations

- (a) prescribing in the case of an allowance payable under this Act the days on which the payments of allowance shall be made;
- (b) prescribing, where a recipient of an allowance under this Act is incapable of managing his affairs, that the allowance may be paid to another person on his behalf;
- (c) prescribing anything which may be required by this Act to be prescribed, including any forms he considers necessary for the administration of this Act;
- (d) prescribing the manner in which, and the person by whom, accounts of contributions and awards under this Act shall be kept and recorded; and
- (e) for any other purposes, whether similar to the above or not, deemed necessary to give effect to this Act.

(2) All regulations made under this section shall be subject to affirmative resolution.

SCHEDULE*(Section 2)***SPECIFIED LEGISLATIVE OFFICES****Minister****Parliamentary Secretary**

1985-10.

Speaker**Deputy Speaker**

1979-42.

Chairman of Committees**Leader of the Opposition****President of the Senate**

1992-20.