

BERMUDA
1975 : 78

MINISTERS AND MEMBERS OF THE LEGISLATURE
(SALARIES AND PENSIONS) ACT 1975

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**MINISTERS AND MEMBERS OF THE
LEGISLATURE (SALARIES AND PENSIONS) ACT 1975**

[30 December 1975]

[preamble and words of enactment omitted]

PART I

Interpretation

1 In this Act —

"Auditor" means the person appointed to the public office of Auditor established under section 101 of the Constitution [*title 2 item 1*];

"child" includes adopted child, stepchild and a child born out of wedlock;

"Fund" means the Ministers and Members of the Legislature Pensions Fund established by section 8;

"member" means a member of the Senate or a member of the House of Assembly;

"office" means an office set out in the First Schedule;

"officer" means the holder of an office;

PART II

SALARIES

Salary of members

2 (1) A member shall be paid a salary at a rate fixed by resolution passed by both the Senate and the House of Assembly.

(2) Officers shall be paid salaries in respect of their offices in addition to their salaries as members at rates to be fixed by resolution passed by both the Senate and the House of Assembly.

(3) Resolutions passed under subsections (1) and (2) of this section and under section 3 shall state the date from which the salaries shall be paid and amendments to the First Schedule shall take effect, which dates may be prior to the passing of the resolutions.

Amendments of First Schedule

3 The First Schedule may be amended from time to time by resolution passed by both the Senate and the House of Assembly.

Computation of salaries of members

4 For the purpose of computing salaries payable under section 2, a member shall be deemed to be a member from the polling day on which he was elected, or, in the case of a member of the Senate, from the date of his appointment under section 27 of the Constitution [*title 2 item 1*], and to remain a member until the day preceding the polling day in the general election that followed the dissolution of the Legislature of which he was a member, or the date of his death, or the date on which his seat otherwise becomes vacant pursuant to section 31 of the Constitution [*title 2 item 1*], whichever first occurs.

Payment

5 (1) Salaries payable under this Part shall be paid monthly in arrear and pro rata in respect of periods of less than one month.

(2) Salaries payable under this Part shall be charged on the Consolidated Fund.

Saving

6 Nothing in this Part shall derogate from the Legislature (Appointment, Election and Membership Controversies) Act 1968 [*title 2 item 3*].

Repeal

7 [*omitted*]

PART III

PENSIONS

Pensions Fund

8 (1) There is hereby established a Fund to be and known as the Ministers and Members of the Legislature Pensions Fund which, subject to subsection (5), is hereby charged with the payment of pensions under this Part, in respect of service as a member or officer on and after the 1st April, 1988.

(2) The Fund shall be managed and controlled by the Minister and all the costs incurred in administering the Fund shall be a charge on the Fund.

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(3) The Accountant-General shall keep proper records showing the amount of contributions to the Fund by each contributor and all the payments into and out of the Fund.

(4) The moneys paid into the Fund shall be invested in accordance with the Public Funds Act 1954 [*title 15 item 1*] and the income from such investments shall be paid into the Fund.

(5) If at any time the Fund has insufficient moneys to meet any payment chargeable against it, the payment shall be made from the Consolidated Fund.

(6) The financial year of the Fund shall be from the 1st April in one year to the 31st March in the following year and the accounts of the Fund shall be submitted to the Auditor for audit not later than the 30th June next following the end of the financial year.

(7) The accounts of the Fund shall be audited by the Auditor, and he shall make an annual report in respect of the preceding financial year to the Minister who shall then lay the report before the Legislature if it is in session or, if it is not then in session, at the next ensuing session.

Actuarial review

- 9 (1) The Minister of Finance shall arrange for an actuary —
- (a) to review the operation of the Fund within one year from the 1st April, 1988 and thereafter every third year; and
 - (b) on each such review to make a report to him on the financial condition of the Fund and on the adequacy of the rates of contributions.
- (2) The Minister shall cause to be laid before both Houses of the Legislature a copy of any report made to him under this section within six months of its submission to him and shall report to the said Houses any action he proposes to take as a result of the actuary's report.

Eligibility for pension

- 10 (1) A member who ceases to be a member on or after the operative date and who satisfies the relevant qualifying conditions shall be entitled to receive a pension during his lifetime.
- (2) The qualifying conditions referred to in subsection (1), are—

- (a) attainment of the age of fifty-five years and service as a member (including service as an officer) for a period of twenty years or more; or
- (b) attainment of the age of sixty years or although not having attained the age of sixty years is totally disabled and service as a member (including service as an officer) for a period of eight years or more.

Calculation of pension

11 (1) The rate of pension shall be three one thousandths of the salary for each month or part thereof of service calculated —

- (a) in the case of a member, at the rate of salary payable to a member on the date on which the member becomes entitled to receive a pension; or
- (b) in the case of a member who has held an office or offices—
 - (i) at the rate of salary payable to the holder of each office held by the member in respect of his service as an officer; and in addition
 - (ii) at the rate of salary payable to a member in respect of his service (if any) as a member,

on the date on which the member becomes entitled to receive a pension.

(2) Where any office or other position equivalent to an office has ceased to exist at the time when the pension of any member who was the holder thereof falls to be calculated under subsection (1), his pension in respect of that service shall be calculated by reference to the salary of the equivalent office then in being or, in the event of there being no equivalent office, by reference to a salary of such amount as the Premier may determine.

(3) In calculating a pension under subsection (1) not more than twenty-five years of service may be counted, and where a member has more than twenty-five years of service his service in the higher offices shall be counted first.

(4) For the purposes of subsection (1)(b) a separate calculation shall be done for each office held by a member and for his service as a member and the aggregate of the sum thereof shall, subject to section 12, be the pension payable.

Maximum pension

12 (1) A pension under this Part shall not exceed two-thirds —

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- (a) of the salary of a member; or
- (b) in the case of a member who has held an office, of the salary of the highest office held by such member for a period of three years or more,

calculated by reference to the rates of salary payable on the date on which the member becomes entitled to receive a pension.

(2) Without prejudice to subsection (1), where a member has held a number of offices but did not hold the highest of those offices for a period of three years or more his pension under this Part shall not exceed two-thirds of the salary of the lower office which when the period of service in that lower office is added to the periods of service in the higher offices amounts to a minimum of three years service, calculated by reference to the rates of salary payable on the date on which the member becomes entitled to receive a pension.

Suspension of pension

13 (1) A pension under this Part shall be suspended for any period during which the person in receipt thereof is a member.

(2) Where a person whose pension has been suspended under subsection (1) again ceases to be a member, his pension shall be recalculated under section 11, having regard to the additional service as a member or, as the case may be, as an officer, performed while his pension was suspended.

Widows' pensions

14 (1) The following widows shall be entitled to receive during their lifetime a pension equal to one-half of the pension their husbands were receiving or might have received on their death —

- (a) widows of persons in receipt of a pension under this Part;
- (b) widows of a serving member who at the time of his death had served as a member for eight years or more (including, if any, any period of service as an officer) as if he had been sixty years old on his death; and
- (c) widows of a former member not in receipt of a pension who had served as a member for eight years or more (including, if any, any period of service as an officer) as

if he had been sixty years old on ceasing to be a member.

(2) This section shall apply *mutatis mutandis* to a widower as it applies to a widow.

(3) This section shall only apply in respect of —

(a) persons in receipt of pensions immediately before the commencement of this Act; and

(b) persons becoming widows after the commencement of this Act.

Allowance to children

15 Where a member or officer dies—

(a) after he has been granted a pension; or

(b) before becoming entitled to a pension,

in addition to any pension payable under section 14, ten per centum of any pension he was receiving or might have received on his death shall be paid to each child of the member or officer concerned, up to a maximum of four children, who has not attained the age of eighteen years or twenty-five years in the case of a child who is attending on a full-time basis an educational institution recognized as such by the Minister of Finance, and who annually submits evidence of such attendance in a form satisfactory to the Minister and until he attains that age, provided that if the member or officer leaves no widow or widower, as the case may be, surviving, or his widow or widower dies, fifty per centum of the pension he would be entitled to shall be paid in respect of the said children in substitution for the ten per centum in respect of each child.

Contributions

15A (1) Members and officers shall pay contributions toward the cost of pensions payable under this Part of such percentage of their salaries as may from time to time be specified in a resolution passed by both Houses of the Legislature.

(2) A resolution under subsection (1) shall be sufficient authority for the Accountant-General to deduct from the salaries of members and officers such percentage of their salaries as may be specified in the resolution as from such date as may be so specified.

(3) Contributions under this section shall be paid into the Fund.

(4) A person who has made contributions under this section and who has ceased to be a member before being eligible for a pension is

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entitled to refund of an amount equal to the total amount of his contributions together with compound interest thereon at the rate of six per centum per annum.

Reinstatement after refund

15B A person who has received a refund under section 15A(4) and who within the period of five years from the date he ceased to be a member again becomes eligible to contribute under this Act may within the period of two years after becoming so eligible pay into the Fund the amount of the refund together with compound interest thereon at the rate of six per centum per annum and he shall thereupon be entitled to be credited with the service for the amount so paid.

Government's contribution

15C (1) Where an amount deducted under section 15A(2) is credited to the Fund the Accountant-General shall in each case pay out of the Consolidated Fund into the Fund an equivalent amount as Government's contribution to the Fund.

(2) Where an amount is refunded under section 15A(4) the Accountant-General shall in each case pay an equivalent amount into the Consolidated Fund.

(3) Where an amount repaid under section 15B is credited to the Fund the Accountant-General shall in each case pay out of the Consolidated Fund into the Fund an equivalent amount as Government's contribution to the Fund.

Certain pensions charged on Consolidated Fund and others on the Pension Fund

15D Where a member or officer retires on or after 1st April, 1988 having had service prior to and after that date his pension payable pursuant to this Part shall be pro rated according to the length of service before and after the 1st April, 1988 and that portion of his pension payable in respect of his service before the 1st April, 1988 shall be charged on the Consolidated Fund and that portion of his pension payable in respect of his service on and after the 1st April, 1988 shall be charged on the Fund.

Transitional provisions

16 [omitted]

Amendment

17 [omitted]

Commencement

18 [omitted]

[this Act came into operation on 9 June 1976 being the date of commencement of the Session of the Legislature next following dissolution of the previous Legislature]

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FIRST SCHEDULE

OFFICE

Premier
Ministers of Cabinet
Opposition Leader
President of the Senate
Speaker of the House of Assembly
Vice-President of the Senate
Deputy Speaker of the House of Assembly
Parliamentary Secretaries
Government Whip
Opposition Whip

SECOND SCHEDULE

TRANSITIONAL PROVISIONS

[*omitted*]

[*Amended by*

1979 : 8

1988 : 8

1989 : 45]