



GUYANA

ACT No. 19 of 1988

PENSIONS (HOLDERS OF OFFICES IN LOCAL DEMOCRATIC ORGANS) ACT 1988

I assent.

H. D. HOYTE.
President.

1988—09—30.

ARRANGEMENT OF SECTIONS

SECTION

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AN ACT to make provision for the payment of superannuation benefits in respect of service in the offices of chairman and vice-chairman of a regional democratic council.

A.D. 1988

Enacted by the Parliament of Guyana:—

Short title,
commence-
ment and
application.

1. (1) This Act may be cited as the Pensions (Holders of Offices in Local Democratic Organs) Act 1988 and shall be deemed to have come into operation on 1st January, 1981.

(2) This Act applies to —

- (a) a chairman or vice-chairman of a regional democratic council; or
- (b) if the Minister so directs by order, which shall be subject to affirmative resolution of the national Assembly, —
 - (i) any other member or employee of a regional democratic council; or
 - (ii) any member or employee of any other local democratic organ.

Interpreta-
tion.

2. In this Act —

(a) "child" includes —

- (a) a posthumous child;
- (b) a step-child;
- (c) a child born out of wedlock who immediately before the death of the deceased person, was wholly or partially dependent on him for support; and

- (d) an adopted child, adopted in the manner recognised by law;
- (b) "qualified person" means —
 - (i) a chairman or a vice-chairman of a regional democratic council; and
 - (ii) any person to whom this Act is made applicable by order under section 1 (2) (b);
- (c) "remuneration" means any payment whether called salary or allowance, received by a qualified person from a local democratic organ for services rendered by him as such qualified person, but shall not include —
 - (i) any entertainment allowance;
 - (ii) any housing allowance;
 - (iii) any travelling or subsistence allowance; or
 - (iv) any other allowance which may be specified by the Minister by order.

3. (1) Every qualified person shall pay a contribution under this Act which shall — Contributions.

- (a) be at the rate of six per cent of the remuneration payable to that person; and
- (b) accrue daily and be deducted monthly from his remuneration and be paid to the Accountant General.

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

4. (1) Subject to this Act, a pension shall be paid under this Act to any qualified person if —

- (a) he has been a qualified person for a period of not less than four years either continuously or in the aggregate; and
- (b) has ceased to be a qualified person; and

Circumstances in which pensions are payable.

(c) either —

- (i) has attained the age of forty years; or
- (ii) not having attained the age of forty years, has produced medical evidence to the satisfaction of the minister, that he is incapable by reason of infirmity of mind or body of discharging the duties of a qualified person and that such infirmity is likely to be permanent.

(2) No pension shall be paid to any person under this Act if he is in receipt of or is entitled to receive a President's pension or a Prime Minister's pension under the Pensions (President, Parliamentary and Special Offices) Act.

(c.p. 27:03)

(3) Where a person ceases to be a qualified person but is not eligible for a pension under this Act because of subsection (1) (c) (i), then, notwithstanding subsection (1), the pension for which he would have been eligible at the date when he ceased to be a qualified person shall be paid to him with effect from the date on which he attains the age specified in subsection (1) (c) (i), if at that date —

- (a) he has not received a gratuity under section 9 in respect of that period of his service as a qualified person to which the pension relates; and
- (b) he is not otherwise disqualified for the payment of a pension.

[(4) For the purposes of this Act, a person shall be deemed to have served as a qualified person for periods amounting in the aggregate to twelve years if, having become a qualified person under this Act and irrespective of his age, he fulfils the requirements of subsection (1) (c) (ii) and if, in the opinion of the Minister, his incapacity to discharge the duties of a qualified person is attributable to infirmity of mind or body sustained in the course of his service as a qualified person.

5. (1) The pension payable to any person shall —

- (a) in the case of a person who has served as a qualified person for periods amounting in the aggregate to not less than four years, be at an annual rate equal to one-quarter of one year's remuneration of that person;
- (b) in the case of a person who has served as a qualified person for periods amounting in the

Rate of
pension.

aggregate to more than four years but not less than six years, be at an annual rate equal to one-third of one year's remuneration of that person; and

- (c) in the case of a person who has served as a qualified person for periods amounting in the aggregate to more than six years but not less than eight years, be at an annual rate equal to one-half of one year's remuneration of that person;
- (d) in the case of a person who has served as a qualified person for periods amounting in the aggregate to more than eight years but not less than ten years, be at an annual rate equal to two-thirds of one year's remuneration of that person; and
- (e) in the case of a person who has served as a qualified person for periods amounting in the aggregate to more than ten years but not less than twelve years, be at an annual rate equal to three-quarters of one year's remuneration of that person.

(2) For the purposes of subsection (1), "one year's remuneration" means the highest annual rate of remuneration payable at any time to a qualified person.

(3) The pension payable to any person under this Act shall be paid with effect from the date on which that person becomes entitled thereto pursuant to section 4 and, subject to this Act, shall continue to be paid during the lifetime of that person.

6. (1) Where a qualified person had not, during any period of his service as a qualified person, become eligible to receive any remuneration in respect of his service as a qualified person, and has completed not less than ten years of service as a qualified person he may be paid, on his ceasing to be a qualified person, such pension as may be determined by the Minister by order.

Pension in certain special cases.

(2) An Order under subsection (1) shall be subject to negative resolution of the National Assembly.

7. (1) A pension under this Act shall cease to be payable during any period in respect of which a person to whom it is payable is in receipt of salary as a qualified person but where the rate of such pension exceeds the rate of such salary, nothing in this subsection shall prevent the payment of a pension to the extent of such excess.

Cessation of pension if person in receipt thereof again becomes a qualified person.

(2) At the expiration of the period referred to in subsection (1) during which a person is in receipt of salary as a qualified person, the rate of pension shall be recalculated in accordance with section 5.

(3) Where a pension is recalculated pursuant to subsection (2) and the person entitled thereto opts to receive such pension by way of a gratuity and a reduced pension, 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 pension payment of which was suspended under subsection (1).

(4) A pension recalculated in accordance with subsection (2) shall be paid at the recalculated rate with effect from the date of cessation of the period or service as a qualified person which gave rise to the recalculation.

Gratuity
and
reduced
pension.

8. (1) Any person who is entitled to a pension under this Act may, at his option exercisable in accordance with subsection (2), be paid instead of a pension at the rate provided for in section 5, a pension at the rate of three-fourths of such pension together with a gratuity equal to twelve and one-half times the amount of the reduction so made in the pension.

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

Gratuity.

9. (1) Where a person having become a qualified person under this Act ceases to be a qualified person but is not eligible for a pension he shall be paid a gratuity equal to one-tenth of the total salary received during his period of service as a qualified person so, however, that such gratuity shall not in any event exceed three years' salary at the highest annual rate of salary payable at any time to such person as a qualified person.

(2) Where a person who would be entitled to such a gratuity dies before such gratuity has been paid to him, and in the case of a male, leaves, no widow or children entitled to an award, there shall be paid to the legal personal representative of such person a gratuity equal to the amount which, pursuant to subsection (1) would have been paid to such person if he had not died.

Widow's
pension.

10. (1) Subject to this Act, where a person who dies leaving a widow —

- (a) was in receipt of a pension at the date of his death; or
 - (b) had at the date of his death, satisfied the requirements of section 4 (1) (a); or
 - (c) having become a contributor under this Act, died, in the opinion of the Minister, in the course of service as a qualified person, there shall be paid to the widow, during her life-time and while unmarried, a widow's pension at an annual rate equivalent to one-half of the pension, which —
 - (d) in the case of a person mentioned in paragraph (a), was being paid to him; or
 - (e) in the case of a person mentioned in paragraph (b), not being a person mentioned in paragraph (c), would have been payable to him with effect from the date of his death if he had not died but had satisfied all the requirements of section 4 for the award of a pension computed in accordance with section 5; or
 - (f) in the case of a person mentioned in paragraph (c), would have been payable to him with effect from the date of his death if he had not died but had satisfied all the requirements of section 4 for the award of a pension computed in accordance with section 5 as if he had served as a qualified person for periods amounting in the aggregate to twelve years.
- (2) A widow's pension under this section —
- (a) shall, subject to subsection (3), if the widow is in receipt of a pension by virtue of having been herself a contributor under the Act, cease to be payable; and
 - (b) shall subject to subsection (3), if the widow is in receipt of salary as a qualified person 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 pension exceeds the rate of pension or the rate of salary, as the case may be, nothing in subsection (2) shall prevent the payment of the widow's pension to the extent of such excess.

(4) Where a person who is serving as a qualified person dies before he has served the required minimum period as a qualified person to permit his widow to qualify for a widow's pension under subsection (1) there shall be paid to the widow a gratuity equal in amount to the total contributions paid by that person plus a sum equal to the highest amount salary payable at any time to that person as a qualified person.

(5) Notwithstanding anything in this Act, but subject to this section, where a person mentioned in subsection (1) (a), (b) or (c) dies leaving a dependant to whom he has bequeathed an annuity not exceeding one-third of any widow's pension payable under this section consequent on the death of a deceased person or which would have been payable had the deceased person died leaving a widow, and has directed that such annuity be payable under this Act, such annuity shall be paid to such dependant, and where a widow's pension is payable under this section consequent on the death of the deceased person, the amount of any annuity so paid shall be deducted from such pension:

Provided that where the dependant, being an unmarried person at the date of the deceased's death, marries, the said annuity shall forthwith cease to be payable.

(6) For the purposes of this section —

- (a) "dependant" means any person, other than a widow or a child, who immediately before the death of the deceased person was wholly or partially dependant on him for support;
- (b) where an annuity is payable under subsection

(5) —

- (i) subsections (2) and (3) shall also apply, **mutatis mutandis**, to such annuity and to the dependant to whom it is payable; and
- (ii) the reference in subsection (3) to the widow's pension shall, in relation to the widow, be construed as a reference to the pension payable to the widow under this section less the amount deducted therefrom under subsection (5).

Children's
allowance.

11. (1) Subject to this Act, where a person who comes within section 10 (1) (a), (b) or (c) (hereinafter in this section referred to as the "deceased qualified person") 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 twenty-one years.

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

- (a) the rate thereof may vary according to the number of children entitled thereto, so however, that the aggregate rate of allowance payable shall not exceed the rate specified in subsection (3) (a) or subsection (4) (a), as the case may be;
- (b) it shall be paid to such person or persons as the 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 Minister may from time to time direct.

(3) Where the deceased qualified person leaves a widow, the annual rate of the children's allowance during her life time shall be —

- (a) one-third of the rate of the pension, not being the widow's pension, specified in section 10 (1) where there are two or more children entitled to the children's allowance; and
- (b) one-sixth of the rate of such pension where there is only one child entitled to the children's allowance.

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

- (a) one-half of the rate of the pension, not being the widow's pension, specified in section 10 (1) where there are two or more children entitled to the children's allowance;
- (b) one-quarter of the rate of such pension 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 twenty-one years shall cease to be entitled to a children's allowance.

Source and
method of
payments.

12. Any pension, annuity, allowance or gratuity of whatever kind payable under this Act is hereby charged on and shall be paid out of the Consolidated Fund, and all pensions and allowances payable shall be paid monthly in arrears in equal instalments as far as possible.

Awards not
to be
assignable

13. Any award payable shall not be assignable or transferable except for the purpose of satisfying —

- (a) a debt to the State; 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 State or any sum recoverable pursuant to any such order of a court as aforesaid.

Power to
make
regulations.

14. (1) The Minister may make regulations —

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

Passed by The National Assembly on 1988—02—19