
CHAPTER 45
JUDGES' REMUNERATION AND PENSIONS

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SCHEDULE — Salaries of Judges

CHAPTER 45

JUDGES' REMUNERATION AND PENSIONS

An Act to make provision for the salaries, pensions and other conditions of service of Justices of the Supreme Court.

*[Assent 23rd March, 1988]
[Commencement 1st May, 1988]*

*4 of 1988
1 of 1995
S.I. 99/1995
S.I. 92 of 1998
35 of 1998
30 of 2000
S.I. 103/2001
S.I. 19/2007
S.I. 113/2011
3 of 2012
S.I. 77/2013
S.I. 101/2013*

**PART I
PRELIMINARY**

1. This Act may be cited as the Judges' Remuneration and Pensions Act. Short title.

2. In this Act — Interpretation.

“Judge” means the Chief Justice or any Justice of the Supreme Court;

“judicial office” means the office of a Judge;

“other public service” means public service recognised as pensionable service under the Pensions Act, other than service in a judicial office; Ch. 43.

“pensionable emoluments” means the annual basic salary paid to a Judge in respect of his substantive office;

“pensionable service” means service which may be taken into account in computing pension under this Act;

“public service” means service of the Crown in a civil capacity in respect of the Government of The Bahamas.

**PART II
REMUNERATION OF JUDGES**

3. (1) There shall be paid to the respective holders of the judicial offices set out in the Schedule, the respective salaries set out therein. Salaries and allowances of Judges. Schedule.

(2) The Governor-General may by Order —

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- (a) amend the Schedule by increasing any of the salaries specified therein;
 - (b) prescribe any allowances payable to holders of judicial offices.

(3) An Order made under this section may contain such supplementary provisions as the Governor-General may consider necessary or expedient for the purposes of the Order.

Appointment of
Commission.
30 of 2000, s. 2.

4. (1) The Governor-General shall, within six months after the coming into force of this section and thereafter within six months after the 1st day of April in every third year or at such earlier times as may be expedient appoint a Commission to —

- (a) enquire into the adequacy of the salaries, allowances and pensions payable under this Act and the adequacy of Judges' benefits generally;
- (b) make such recommendations as the Commission considers appropriate in relation to the matters specified in paragraph (a).

(2) A Commission referred to in subsection (1) shall be appointed by instrument in writing and shall —

- (a) consist of not less than three or more than five members, one of whom has held judicial office;
- (b) hold office for such period as may be specified in the instrument of appointment;
- (c) within three months of the date of appointment submit to the Prime Minister a report containing the recommendations referred to in subsection (1)(b).

(3) The Prime Minister shall lay before the House of Assembly for its approval the report referred to in subsection (2)(c) for giving effect to such report.

(4) Where the Governor-General is satisfied after consultation with the Commission that it is equitable that any recommendation contained in a report laid under subsection (3) should have retrospective effect in order to confer a benefit upon or remove a disability attaching to any person such recommendation may be given effect for that purpose.

(5) No recommendation under subsection (4) shall have retrospective effect unless it has received the prior approval of the House of Assembly signified by resolution.

PART III PENSIONS OF JUDGES

5. There shall be charged on and paid out of the Consolidated Fund all such sums of money as may from time to time be granted by way of pensions or gratuities in accordance with this Act to persons on their retirement from a judicial office.

Pensions and gratuities charged on Consolidated Fund.

6. (1) Subject to Articles 122 and 123 of the Constitution and to subsection (2), a pension or gratuity shall be paid in accordance with this Act to a person on his retirement from a judicial office —

Entitlement to pension on retirement.

(a) in the case of a person holding judicial office at the coming into operation of this paragraph, on or after attaining the age of sixty years having held judicial office for not less than five years; or

1 of 1995, s. 2.

(b) in the case of any other person, on or after attaining the age of sixty-five years having held judicial office for not less than five years;¹ or

1 of 1995, s. 2.

(c) on medical evidence to the satisfaction of the Governor-General that he is unable by reason of any infirmity of body or mind to discharge the functions of his office and that such infirmity is likely to be permanent.

1 of 1995, s. 2.

(2) Any person who at the date of commencement of this Act or thereafter is the holder of a judicial office and whose service in that office was immediately preceded by other public service shall be entitled to retire from a judicial office in such circumstances as would have rendered him eligible to retire under the provisions of the Pensions Act and, on such retirement, there shall be paid to such person a pension or gratuity computed in accordance with this Act.

Ch. 43.

(3) Notwithstanding anything contained in this section, any holder of a judicial office under this section may retire at any time after attaining the age of fifty-five years or having held judicial office for five years;

3 of 2012, s. 2.

¹ **NOTE:** Act 11 of 2007 (coming into operation on 2nd April 2007 by S.I. 28/2007) provided that notwithstanding anything to the contrary in section 6(1)(b), Mr. Justice Jeffrey Thompson shall be paid a pension or gratuity on the same formula as under this Act.

Provided that a pension shall only be paid to a former holder of a judicial office who has attained the age of fifty-five years or older.

Entitlement to retain title on retirement.
3 of 2012, s. 3.

6A. Every person who is the holder of a judicial office, upon retirement after a period of five (5) years continuous service, shall retain the courtesy title of “The Honourable” for life to be used in conjunction with the designation “Justice (Ret.)”.

Removal from office in certain circumstances deemed retirement.

7. (1) A person who, in accordance with Article 96 of the Constitution, is removed from a judicial office for inability, arising from infirmity of body or mind, to discharge the functions of his office is deemed to have retired from that office under section 6.

(2) A person who, in accordance with Article 96 of the Constitution, is removed from a judicial office for any cause, other than inability, arising from infirmity of body or mind, to discharge the functions of his office may be granted such pension and gratuity as the Governor-General may decide, not exceeding one-half of the pension and gratuity to which he would have been entitled had he retired from such office under section 6.

Rate of pension.
1 of 1995, s. 3.

8. Subject to this Act there shall be paid to a person who retires from —

- (a) the office of Chief Justice a pension equivalent to his pensionable emoluments;
- (b) judicial office (other than the office of Chief Justice) a pension at the annual rate of two-fifths of his pensionable emoluments plus one-three hundredths of his pensionable emoluments in respect of each completed month save that the pension payable to that person pursuant to this paragraph shall not exceed those pensionable emoluments.

Determination of length of pensionable service.

9. In determining, for the purposes of section 8, the length of pensionable service of a person who retires from a judicial office, account shall be taken of —

- (a) the full period during which such person was the substantive holder of a judicial office; and
- (b) any other period of public service which immediately preceded the period of service referred to in paragraph (a) and was pensionable service under the Pensions Act.

10. (1) A person to whom a pension is payable under this Act shall, at his option exercisable in accordance with this section, be paid instead of such pension, a pension at the rate of three-fourths of such pension together with a gratuity equal to eleven and one-half times the amount of the annual reduction so made in the pension.

Gratuity and reduced pension.

(2) The option referred to in subsection (1) shall be exercisable and if it is exercised, may be revoked, not later than the day immediately preceding the date of such person's retirement, but the Governor-General may, if it appears equitable so to do, allow such person to exercise the option or revoke an option previously exercised at any time between that day and the actual date on which the first payment of any pension is made under this Act.

(3) Except as provided in subsection (2), if any such person exercises the option referred to in subsection (1), his decision shall be irrevocable so far as it concerns any pension paid to him under this Act.

(4) The date of the exercise by any such person of an option under this section shall be the date of the receipt of his written notification addressed to the Governor-General.

11. A pension, gratuity or other allowance granted under this Act shall not be assignable or transferable except for the purpose of satisfying —

Pensions, etc., not assignable.

- (a) a debt due to the Crown;
- (b) an order of any court for the periodical payment of money towards the maintenance of the wife or former wife or minor child of the person 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 claims whatever except a debt due to the Crown.

12. Where a Judge dies while holding office there shall be granted to his legal personal representative a gratuity of an amount equal to his pensionable emoluments.

Gratuity on death of Judge.

13. (1) Where a person dies while he is entitled to a pension in respect of his service as a Judge and he leaves a widow, the widow shall be paid a pension at an annual rate equivalent to three fourths of the pension that would have been or was payable to him at the date of his death.

Widow of Judge.

1 of 1995, s. 4.

1 of 1995, s. 4.

(2) Where a person dies while holding judicial office and leaves a widow, the widow shall be paid —

- (a) a gratuity of an amount equivalent to his pensionable emoluments; and
- (b) an annual pension equivalent to three fourths of the amount which that person would have been entitled to as pension pursuant to section 8 had the date of his death been the date upon which he would have been entitled to retire in receipt of a pension and he had so retired.

1 of 1995, s. 4.

(3) Notwithstanding anything to the contrary in subsection (2)(b) the annual pension payable to a widow under that subsection shall, in respect of any period after her remarriage, be reduced by fifty per cent and for that purpose in any year be pro-rated accordingly.

(4) In this section a reference to “widow” includes a reference to “widower”.

PART IV MISCELLANEOUS

Application of
Ch. 43.

14. Subject to this Act, the Pensions Act shall apply for the purpose of computing pension and gratuity payable under this Act to a person who retires from a judicial office in the same manner as it applies for the purpose of computing the pension and gratuity payable to a public officer who retires from a pensionable office under that Act.

Regulations.

15. The Governor-General may make regulations generally for carrying out the provisions of this Act.

Governor-General's
powers.

16. In the exercising of his powers under Part III, the Governor-General shall act on the recommendation of the Judicial and Legal Service Commission.

Extension of Act
to the holders of
the offices of
Justice of
Appeal.

17. (1) The Governor-General may, on the recommendation of the Judicial and Legal Service Commission, by Order extend the provisions of this Act to the office of Justice of Appeal.

(2) An Order made under this section may contain such supplementary provisions and such modifications of this Act as the Governor-General acting on such recommendations sees fit.

Application of
Act.

18. (1) Any person who at the date of commencement of this Act is the holder of a judicial office shall be entitled to exercise, within forty-five days of that date, an

option as to whether the provisions of the Pensions Act or the provisions of this Act shall apply in his case. Ch. 43.

(2) Any person who after the date of commencement of this Act is appointed to a judicial office and immediately before the date of his appointment was in the public service shall be entitled to exercise, within forty-five days of the date of his appointment, an option as to whether the provisions of the Pensions Act or the provisions of this Act shall apply in his case.

(3) Any person who was the holder of a judicial office on 1st January 1988 and ceases to hold such office before the commencement of this Act shall be entitled to exercise a like option as mentioned in subsection (1).

(4) Where the holder of a judicial office referred to in subsection (1), (2) or (3) fails to specify within the said forty-five days which law shall apply in his case, the provisions of the law applicable to the grant and payment of pensions and gratuities in force on the date on which the holder was appointed to such office shall continue to apply in his case.

(5) Notwithstanding the foregoing provisions of this section or any provisions of the Pensions Act, the provisions of this Act shall apply to any person appointed to a judicial office after the date of commencement of this Act who, immediately before the date of his appointment, was not in the public service.

(6) For the purposes of subsections (1), (2) and (3), the holder of a judicial office shall exercise his option as to which law shall apply in his case by written notification of his decision addressed to the Registrar of the Supreme Court.

19. (1) Where a person who holds a judicial office takes a leave of absence with the approval of the Judicial and Legal Service Commission, the provisions of Part III of this Act shall continue to apply to that person during the period of the leave of absence as if that person was performing the functions of the office that he held prior to the leave of absence.

Retention of pension benefits during leave of absence.
35 of 1998, s. 2.

(2) A leave of absence granted pursuant to subsection (1) shall not exceed a period of five years.

(3) Notwithstanding subsection (1), the holder of the judicial office who takes a leave of absence under this section shall not be entitled to any salary or allowance as a

holder of a judicial office during the period of the leave of absence.

(4) Where a person who holds a judicial office takes a leave of absence pursuant to subsection (1) and he obtains employment, his employer shall pay to the Treasurer monthly during the said period of absence a contribution towards the prospective pension entitlements of that person concerned calculated at the rate of twenty-five per centum of the pensionable emoluments of the holder of that office concerned immediately before the date of the leave of absence.

*S.I. 101/2013, s.
2.*

SCHEDULE (Section 3)

SALARIES OF JUDGES

- (a) There shall be paid with effect from the 1st day of July, 2012 to —
 - (i) the Chief Justice, a salary of \$115,000 per annum;
 - (ii) any Senior Justice, a salary of \$107,692 per annum;
 - (iii) every other Judge, a salary of \$101,500 per annum;
- (b) There shall be paid with effect from the 1st day of July, 2014 to —
 - (i) the Chief Justice, a salary of \$116,725 per annum;
 - (ii) any Senior Justice, a salary of \$109,307 per annum;
 - (iii) every other Judge, a salary of \$103,023 per annum.