

**JUDGES' REMUNERATION AND PENSIONS ACT
(EXTENSION TO JUSTICES OF APPEAL) ORDER
(SECTION 16)**

SI 7/1996
SI 94/1997
SI 5/1999
SI 105/2001
SI 119/200
l.c.f.2003

[Commencement 1st January, 1996]

1. This Order may be cited as the Judges' Remuneration and Pensions Act (Extension to Justices of Appeal) Order.

Citation.

2. (1) Subject to subparagraphs (2) and (3) and to paragraph 3, the provisions of the Act shall extend to the office of Justice of Appeal and in that application references in the Act to a Judge or judicial office shall be construed as references to a Justice of Appeal or to the office of Justice of Appeal, as the case may be.

Extension of Act to the office of Justice of Appeal.

(2) The provisions of section 8 of the Act and of the Schedule thereto are not extended to the office of Justice of Appeal.

Schedule.

(3) The provisions of the Act set out in the first column of the Schedule to this Order shall, in their application to the office of Justice of Appeal, be subject to the modifications set out in the second column of the said Schedule.

SI 94/1997

3. The references in section 17 of the Act to a date of commencement shall in relation to the office of Justice of Appeal be construed as references to the date of publication of this Order in the *Gazette*².

Construction of commencement of Act.

² First January 1996.

SI 94/1997
 SI 105/2001
 SI 119/2001
 1 cf 2003

SCHEDULE (Paragraph 2(2))

Provision of Act	Modification in relation to the office of Justice of Appeal
2	<p>Substitute for the definition of “pensionable emoluments” the following definition —</p> <p>““Pensionable emoluments” means —</p> <p>(a) in the case of a Justice of Appeal who is ordinarily resident in The Bahamas, the annual basic salary paid to him in respect of his substantive office; or</p> <p>(b) in the case of a Justice of Appeal who is not ordinarily resident in The Bahamas, the aggregate of the annual retainer fee together with the <i>per diem</i> amount up to a maximum of sixty-five thousand dollars per annum, as specified under paragraph 1(2) of the Schedule.”</p>
6(1)	<p>Replace the subsection by the following —</p> <p>“(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 —</p> <p>(a) on or after attaining the age of sixty-eight years having held judicial office in The Bahamas; or</p> <p>(b) 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 as a Justice of Appeal in The Bahamas and that such infirmity is likely to be permanent.”</p>
7	<p>(i) In subsection (1), substitute for the reference to “Article 96 of the Constitution” a reference to “Article 102 of the Constitution”.</p> <p>(ii) In subsection (2) delete the words “A person who” and substitute therefor the words “A person to whom section 8(1)(b) applies and who”.</p> <p>(iii) Insert immediately after subsection 2 the following —</p> <p>“(3) A person to whom section 8(2) applies or a person who exercises the option to receive the benefits payable under section</p>

SI 94/1997

8 (1)(a), and who in accordance with Article 102 of the Constitution, is removed from the office of Justice of Appeal for any cause, other than inability, arising from infirmity of body or mind, to discharge the functions of his office and who was a Justice of Appeal may be paid a gratuity of fifteen per cent of his pensionable emoluments in respect of each completed month of his service in the office of Justice of Appeal, not exceeding one-half of the gratuity to which he would have been entitled under section 6.”

8

Replace the section by the following —

“Rate of pension or gratuity.

7. (1) Subject to this Act, a person who subsequent to the publication of this Order in the *Gazette* is appointed to the office of Justice of Appeal and whose service in that office was immediately preceded by service in the office of Justice of the Supreme Court, shall exercise an option, in accordance with this section, as to whether he shall be paid upon his retirement —

- (a)(i) from the office of Justice of the Supreme Court, any pension and gratuity for which he is eligible in respect of his service as Justice of the Supreme Court; and
- (ii) from the office of Justice of Appeal, a gratuity of fifteen per cent of his pensionable emoluments in respect of each completed month of his service in the office of Justice of Appeal; or
- (b)(i) from the office of Justice of the Supreme Court, no pension or gratuity in respect of his service as Justice of the Supreme Court; and
- (ii) upon his retirement from the office of Justice of Appeal, 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 of his service in the office of Justice of Appeal, save that the pension payable to him pursuant to this subparagraph shall not exceed those pensionable emoluments; and

such pension shall be computed as if the periods of his service in the office of Justice of the Supreme Court, and Justice of Appeal had been continuous, and such pension shall be calculated and granted to him in respect of his total service in the office of Justice of the Supreme Court, and in the office of Justice of Appeal taken together, and such total service shall be reckoned as continuous service for pension purposes.

(2) Subject to this Act, there shall be paid to a person who retires from the office of Justice of Appeal and to whose service in that office subsection (1) of this section does not relate —

1 cf 2003

(a) an annual pension equivalent to one-fifth of his pensionable emoluments plus one-three hundredth of the pensionable emoluments paid to him over the last year immediately preceding the year of his retirement times each completed period of thirty days, save that the pension payable under this section shall not exceed the pensionable emoluments; and

(b) a gratuity of fifteen per cent of his pensionable emoluments in respect of each completed period of thirty days of his service in the office of Justice of Appeal.

(3) The option referred to in subsection (1) shall be exercisable not later than the day immediately following the date on which the person exercising the option receives written notification of his appointment to the office of Justice of Appeal.”

12

Replace the section by the following —

“Gratuity on death of Justice of Appeal.

11. (1) Where a Justice of Appeal in respect of whom subsections (1)(a) and (2) of section 8 apply, dies while holding office and leaves no widow, there shall be granted to his legal personal representative a gratuity of fifteen per cent of his pensionable emoluments in respect of each completed month of his service in the office of Justice of Appeal.

(2) Where a Justice of Appeal in respect of whom subsection (1)(b) of section 8 applies, dies while holding office and leaves no widow, there shall be granted to his legal personal representative a gratuity of an amount equal to his pensionable emoluments.”

13

Replace the section by the following —

“Widow of Justice of Appeal.

13. (1) Where a Justice of Appeal dies while he is entitled to a pension in respect of his service as a Justice of Appeal, and 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.

(2) Where a Justice of Appeal dies while he is entitled to a gratuity in respect of his service as a Justice of Appeal, and leaves a widow, the widow shall be paid a gratuity of fifteen per cent of the pensionable emoluments in respect of each completed month of his service in the office of Justice of Appeal.

(3) Where a Justice of Appeal, in respect of whom subsection (1)(b) of section 8 applies, dies while holding 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.

(4) Where a Justice of Appeal in respect of whom subsection (1)(a) and (2) of section 8 apply, dies while holding office and leaves a widow, the widow shall be paid a gratuity of fifteen per cent of his pensionable emoluments in respect of each completed month of his service in the office of Justice of Appeal.

(5) Notwithstanding anything to the contrary in subsection (3), 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 prorated accordingly.

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

18

Replace the section by the following —

“Application of Act.

18. (1) 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.

SI 94/1997

Ch. 43.

		(2) Notwithstanding the foregoing provisions of this section or of any other law, 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.”
<i>SI 94/1997</i>	Schedule	Replace the Schedule by the following —
<i>SI 5/1999</i>		“SCHEDULE
<i>SI 105/2001</i>		TERMS AND CONDITIONS RELATING
<i>SI 119/2001</i>		TO SERVICE OF JUSTICES OF APPEAL
<i>SI 7/2007</i>		
<i>SI 42/2007</i>		
<i>SI 5/1999;</i>	1.	Salaries of Judges.
<i>SI 105/2001;</i>		(1) There shall be paid —
<i>SI 42/2007</i>		(a) with effect from 1st July, 2006 to —
		(i) the President, a salary of \$100,000 per annum;
		(ii) a resident Judge, a salary of \$98,000 per annum;
		(b) with effect from 1st July, 2008 to —
		(i) the President, a salary of \$106,000 per annum;
		(ii) a resident Judge, a salary of \$104,000 per annum.
<i>SI 5/1999;</i>		(2) A non-resident Judge shall be entitled to be paid —
<i>SI 42/2007</i>		(a) a retainer fee of \$10,000 per annum; and
<i>SI 94/1997;</i>	(b) \$340 for each day that he is engaged in the work of the Court of Appeal inclusive of the days while traveling to and from The Bahamas, up to a maximum of \$65,000 per annum.	
<i>SI 42/2007</i>		
	2.	Accommodation and utilities.
		(1) The President and every resident Justice of Appeal shall be entitled to free Government or rental furnished quarters or, in lieu thereof, a monthly allowance of fifteen per centum of the monthly salary or with effect from 1 st July, 2007 an allowance of \$18,000 per annum and in respect of the President the payment of any utility bills connected thereto.
		(2) A non-resident Judge shall be provided with suitable accommodation for each day on which he is engaged in the work of the Court of Appeal while in The Bahamas.
		(3) In paragraph (1), “utility bills” means expenses incurred for the payment of water services, electricity services, unlimited internet access, gas and telephone services (other than bills in respect of personal overseas telephone calls).
		(4) Every resident Justice of Appeal, other than the President, shall with effect from 1 st July 2007 be entitled to expenses incurred monthly for unlimited internet access.

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- 2A. Personal staff to the President *SI 42/2007*
The President shall be entitled to the provision of a personal staff or at his option with effect from 1st July, 2007 in lieu thereof an allowance equal to the combined earnings of a gardener and a maid.
3. Transportation. *SI 42/2007*
(1) The President and every resident Judge shall be entitled to the provision of a Government owned and maintained motor vehicle.
(2) Every non-resident Judge shall have the use of a Government owned motor vehicle on each day on which he is engaged in the work of the Court of Appeal while in The Bahamas.
4. Provision of regalia.
Every Judge shall be entitled to the provision upon appointment of the requisite judicial regalia.
5. Responsibility allowance. *SI 105/2001*
An annual responsibility allowance shall be paid to —
(a) the President in the sum of \$12,500; and
(b) every resident Judge in the sum of \$10,000.
- 5A. Medical and hospitalization insurance. *SI 105/2001*
The President and every resident Judge, their spouse and dependent children shall be entitled to coverage under a non-contributory medical and hospitalization insurance scheme.
- 5B. Vacation, sick and casual leave. *SI 7/2007*
The President and every Justice of Appeal shall be entitled to —
(a) five weeks vacation leave; and
(b) ten days casual leave,
per annum.
6. Passage payment.
A non-resident Judge shall be entitled to the provision, from time to time, of a first class ticket entitling him to travel by air, from the country where he is ordinarily resident, to The Bahamas, for the purpose of the work of the Court of Appeal and to return to the country where he is ordinarily resident.
7. Subsistence allowance.
A non-resident Judge shall be entitled to be paid a subsistence allowance at the rate of \$120 a day while he is engaged in the work of the Court of Appeal and he is in The Bahamas.

- SI 119/2001* 7A. *Per diem* allowance.
Every resident judge who sits at any place outside New Providence shall be paid a *per diem* allowance of one hundred and fifty dollars.
- SI 42/2007* 7B. Education allowance.
The President and every resident Justice of Appeal shall be entitled to an allowance for a dependent child, not exceeding two, equal to the tuition fee prevailing at the College of The Bahamas with respect to the dependant's attendance at college, university or any professional school for a period not exceeding four years.
8. Interpretation.
In this Schedule —
“Judge’ means a Justice of Appeal;
‘non-resident Judge’ means a person appointed to the office of Justice of Appeal and who is not ordinarily resident in The Bahamas;
‘President’ means the President of the Court of Appeal;
‘resident Judge’ means a person appointed to the office of Justice of Appeal and who is ordinarily resident in The Bahamas.”