

THE RETIRING ALLOWANCES (LEGISLATIVE
SERVICE) ACT

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SCHEDULES

THE RETIRING ALLOWANCES (LEGISLATIVE SERVICE) ACT

[28th December, 1961.]

Law
51 of 1961,
Acts
34 of 1966,
50 of 1974,
24 of 1980,
38 of 1995,
16 of 2008,
2 of 2013.

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

2.—(1) In this Act—

Interpreta-
tion.

“appropriate Minister” means the Minister responsible for the public service;

L.N.
149B/79.

Provided that, in respect of any matter relating to an award to the person for the time being holding the office of Minister responsible for the public service, the appropriate Minister shall be the Prime Minister;

L.N.
149B/79.

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

“contributions” includes special contributions paid pursuant to this Act as in force prior to the 12th December, 1974;

50/1974
S. 2(a).

“contributor” means any legislator who by virtue of section 3 becomes a contributor under this Act, and includes any person who paid a special contribution under the provisions of this Act as in force prior to the 12th December, 1974;

50/1974
S. 2(a).

“Council of Ministers” and “Executive Council” refer to the bodies which under either of those names were constituted pursuant to provisions in the Jamaica (Constitution) Orders in Council, 1944 to 1957;

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“elected member” means a member of the House of Representatives;

34/1966
S. 2(a).

“former legislative service” means service prior to the 28th December, 1961, but subsequent to the 14th day of December, 1944, as—

(a) a member of the House of Representatives;
or

(b) a Minister or a member (other than an official member) of the Executive Council or Council of Ministers;

34/1966
S. 2(b).

“full parliamentary term” means the period commencing on the date of the first sitting of the Legislature after a general election and expiring at the date of the next ensuing dissolution of the Legislature;

38/1995
S. 2(a).

“house allowance” means—

(a) the house allowance paid to a legislator by virtue of his office; or

(b) in the case of a legislator who is provided with quarters, the amount referred to in paragraph (a);

34/1966
S. 2(c).

“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 70 of the Constitution of Jamaica;

“one year’s salary” for the purposes of an award under section 10 or 11 refers to the highest annual salary paid to the legislator in respect of whom the award is payable;

“retiring allowance” means a retiring allowance payable pursuant to section 6;

“salary” means—

(a) in respect of former legislative service—

34/1966
S. 2 (d).

(i) the basic salary paid to a person by virtue of his being a member of the House of Representatives during the period of such service or where during that period any such member held a specified 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 subparagraph (i), by virtue of his being a Minister or a member (other than an official member) of the Executive Council or Council of Ministers 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 “basic salary” means the emoluments, including house allowance, provided in the Estimates of Revenue and Expenditure of the Island, but does not include duty allowance, entertainment allowance or any other allowance or emoluments whatever or any amount provided as a contribution to office or any other expenses;

38/1995
S. 2 (b).

“specified legislative office” means any of the offices specified in the First Schedule or any office pre-

First
Schedule.

L.N.
149B/79.

scribed as such by the Minister responsible for the public service by notice in the *Gazette*.

50/1974
S. 2 (c).

(2) Any reference in this Act to a widow shall be construed to include a reference to a widower.

Contri-
butors.
50/1974
S. 3 (a).

3. Every person who, on the 28th December, 1961, is a legislator, and every person who, after the 28th December, 1961, becomes a legislator, shall, by virtue of being a legislator, become a contributor under this Act.

Contri-
butions.

4. Every contributor shall, subject to such terms and conditions as may be prescribed, contribute to the Consolidated Fund a prescribed percentage of the salary payable to him.

Service prior
to 28th
December,
1961.
50/1974
S. 4.

5.—(1) Subject to the provisions of section 9, the former legislative service of any contributor, whether he is a contributor in respect of such service or not, shall be deemed to be service as a legislator for the purpose of determining whether or not an award is payable pursuant to this Act in respect of the service of that contributor as a legislator.

(2) Any person who has in respect of former legislative service paid a special contribution under this Act as in force prior to the 12th December, 1974, shall be deemed to have been a legislator during the period of such former legislative service.

Circum-
stances in
which
retiring
allowances
shall be paid.
34/1966
S. 4 (a).

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

(a) either—

- (i) has served as a legislator for two full parliamentary terms; or
- (ii) has served as a legislator for periods equal in the aggregate to not less than nine years; or
- (iii) has served as a legislator for periods which, together with that person's Federal service, amount in the aggregate to not less than nine years; or

- (iv) has served as a legislator and as a senator (not being the holder of a specified legislative office) for periods which when added together total not less than nine years, so, however, that the aggregate period of service as a legislator shall not be less than five years; or 38/1995
S. 3(b).

2/2013
S. 2(a)(i).
 - (v) has served as a legislator for periods which together with that person's service as a councillor, amount in the aggregate to not less than eleven years; and 2/2013
S. 2(a)(ii).
- (b) either—
- (i) has attained the age of fifty-five years; or 50/1974
S. 5(a), (b).
 - (ii) having attained the age of fifty 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; and
- (c) has ceased to be a legislator.
- (2) For the purposes of this section—
- (a) a person does not cease to be a legislator by reason only of the dissolution of the House of Representatives;
 - (b) a person who immediately before the dissolution of the House of Representatives was a member of that House shall cease to be a member of that House if he is not elected as a member of that House at the general election next following the dissolution, and if he so ceases shall be deemed to have ceased to be a legislator upon the dissolution aforesaid;
 - (c) "Federal service" means service as an elected member in the Federal Legislature of the West Indies consequent on an election from a constituency in Jamaica; 34/1966
S. 4(b).

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- (d) where a person was not in Federal service throughout the whole or any prescribed portion of the period from the 18th day of April, 1958, to the 1st day of June, 1962, that period of service shall be regarded as service as a legislator for a full parliamentary term;
- (e) "councillor" has the meaning assigned to it by section 2 (1) of the *Retiring Allowances (Parish Councillors) Act*.

2/2013
S. 2(b)(i).

2/2013
S. 2(b)(ii).

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

Rate of
allowance.
50/1974
S. 6(a), (b).
24/1980
S. 2(a).

7.—(1) The retiring allowance payable to any person—

- (a) shall subject to subsection (2) be at an annual rate equivalent to two-thirds of the highest annual rate of salary payable to that person at any time as a legislator or as the holder of a specified legislative office;
- (b) shall be paid with effect from the date on which that person becomes entitled thereto pursuant to section 6 and, subject to the provisions of this Act, shall continue to be paid during the lifetime of that person; and
- (c) shall be paid monthly in arrears in equal instalments as far as possible.

24/1980
S. 2(b).

(2) Any person to whom a retiring allowance is payable under paragraph (a) of subsection (1) (hereinafter referred to as the normal retiring allowance) may, at his election exercisable at the time when the award is being determined, be paid in lieu of the normal retiring allowance a reduced retiring allowance at an annual rate equivalent to three-fourths of the normal retiring allowance together with a gratuity equal to twelve and one-half times the amount of the reduction so made in the normal retiring allowance:

Provided that nothing in this subsection shall affect the maximum rate of the normal retiring allowance payable pursuant to subsection (1).

(3) An election pursuant to subsection (2) shall be made by memorandum in writing to the appropriate Minister and shall be irrevocable unless the appropriate Minister, on such terms as he considers reasonable, otherwise permits.

24/1980
S. 2(b).

(4) Subsection (2) shall apply only to a person who becomes eligible for a retiring allowance after the 9th day of October, 1980.

24/1980
S. 2(b).

8.—(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:

Cessation of retiring allowance if person in receipt thereof again becomes a legislator.

Provided that 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.

(2) Upon 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 subject to subsection (4) be recalculated in accordance with, and subject to, the principles set out in paragraph (a) of subsection (1) of section 7 as applicable in relation to that person at the expiration of such period.

50/1974
S. 7 (a),(b).
24/1980
S. 3(a).

(3) A retiring allowance recalculated in accordance with subsection (2) shall be paid at the recalculated rate with effect from the date of cessation of the period of service as a legislator giving rise to the recalculation.

(4) A person to whom a retiring allowance recalculated in accordance with subsection (2) is payable (hereinafter referred to as the recalculated retiring allowance) may, at his election exercisable at the time when the award is being recalculated and in the manner and subject to such terms and conditions as are specified in subsection (3) of section 7, be paid in lieu of the recalculated retiring allowance, a reduced retiring allowance

24/1980
S. 3(b).

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at an annual rate equivalent to three-fourths of the recalculated retiring allowance together with a gratuity equal to twelve and one-half times the amount of the reduction so made in the recalculated retiring allowance:

Provided that—

- (a) where a person entitled to a recalculated retiring allowance had elected under subsection (2) of section 7 to receive a reduced retiring allowance in respect of his period of service as a legislator prior to the period of service giving rise to the recalculation that person shall, for the purpose of an award under this section, be deemed to have so elected under this subsection;
- (b) there shall be deducted from the amount of any gratuity payable to any person in accordance with this subsection, the amount of any gratuity previously paid to that person under subsection (2) of section 7.

(5) Subsection (4) shall apply only to a person who becomes eligible for recalculated retiring allowance after the 9th day of October, 1980.

24/1980
S. 3 (b).

Refund of
contribu-
tions.

9.—(1) Where any person who has made contributions pursuant to this Act ceases to be a legislator and is not eligible for a 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.

(2) Where the appropriate Minister is satisfied that—

- (a) a contributor has ceased to be qualified to be a legislator; and
- (b) at the date of the disqualification that contributor was not entitled pursuant to section 6 to retiring allowance,

he may direct that the total amount of the contributions paid by that contributor be refunded to him and upon such direction the refund shall be made accordingly.

(3) Subject to subsection 4 and section 15 where a refund has been made to any person under this section, no other award shall be made under this Act to, or in respect of, that person in relation to the service of that person as a legislator prior to the date of the refund. 16/2008 S. 2 (a).

(4) Subsection (3) shall not apply where— 16/2008 S. 2 (b).

- (a) a refund has been made to any person under this section;
- (b) subsequently, the person has served again as a legislator; and
- (c) the person repays to the Accountant-General the amount refunded within twelve months next after the date of commencement of the subsequent service as a legislator or such longer period as the appropriate Minister may, in any case, allow.

(5) Any amount repaid under subsection (4) shall be paid into the Consolidated Fund. 16/2008 S. 2 (b).

10.—(1) Subject to the provisions of this Act, where a person who— Awards to widows.

- (a) is in receipt of a retiring allowance; or
- (b) has served as a legislator for two full parliamentary terms or for periods equal in the aggregate to not less than nine years; or
- (c) being a legislator, and having served as a legislator for periods equal in the aggregate to not less than four years,

dies leaving a widow, there shall be paid to the widow during her lifetime a widow's allowance at an annual rate equivalent to— 24/1980 S. 4.

- (d) in the case of a person mentioned in paragraph (a), two-thirds of the retiring allowance being paid to him, so, however, that if, pursuant to an election under section 7(2) or 8(4), as the case may be, he is being paid a reduced retiring allowance, the widow's allowance shall be two-thirds of the retiring allowance which would have been payable if there had been no such election; or

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(e) in the case of a person mentioned in paragraph (b) or (c), two-thirds of the retiring allowance which 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 6 for the award of a retiring allowance and had been awarded a retiring allowance computed in accordance with paragraph (a) of subsection (1) of section 7.

(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 this 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) or (c) of subsection (2) shall prevent the payment of the widow's allowance to the extent of such excess.

(4) Where a person who is serving as a legislator dies before he has served the required minimum period as a legislator to permit his widow to qualify for a widow's allowance under subsection (1) there shall be paid to the widow a gratuity equal in amount to the total contributions paid by that person plus one year's salary of that person.

(5) Where a widow entitled to an award under this section dies before she has received by way of widow's allowance an amount equal to the gratuity payable pursuant to subsection (4) there shall be paid to her legal personal representative the amount of such gratuity aforesaid less—

- (a) the amount of widow's allowance paid to her and for the purposes of this subsection she shall be deemed to have been in receipt of the full amount of such widow's allowance notwithstanding any cessation or reduction thereof pursuant to subsection (2);
- (b) the amount of any retiring allowance paid to the person in respect of whose service as a legislator the widow's allowance is payable.

11.—(1) Subject to the provisions of subsection (2) where a legislator dies, and leaves no widow, there shall be paid to the legal personal representative of such legislator—

Award to legal personal representatives.
50/1974
S. 9.

- (a) in the case of a person who has served as a legislator for periods equal in the aggregate to less than four years, a gratuity equal to the amount of contributions paid by that person;
- (b) in the case of a person who has served as a legislator for periods equal in the aggregate to four years or more, a gratuity equal to the contributions paid by that person plus one year's salary of that person.

(2) There shall be deducted from any gratuity payable pursuant to subsection (1) the amount of any retiring allowance paid to the person in respect of whose service as a legislator the gratuity is payable.

(3) Where a person who would, on application pursuant to subsection (1) of section 9, be entitled to a refund of contributions dies without making such application as aforesaid (or, having made such an application, dies before the refund of contributions has been made), and leaves no widow entitled to an award under this Act, there shall be paid to the legal personal representative of such person a gratuity equal to the amount of contributions paid by that person.

34/1966
S. 6.

50/1974
S. 9 (b).

Awards to be paid out of Consolidated Fund.

12. Any retiring allowance, widow's allowance or gratuity payable under this Act shall be charged on and paid out of the Consolidated Fund.

Award not to be assignable.

13. Any retiring allowance, widow's allowance or gratuity payable under this Act shall not be assignable or transferable except for the purpose of satisfying—

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

Power to make regulations.
L.N.
149B/79.

14.—(1) The Minister responsible for the public service 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 persons 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) Until varied or revoked by regulations made by the Minister responsible for the public service pursuant to this Act, the regulations contained in the Second Schedule shall be in force.

L.N.
149B/79.
Second
Schedule.

(3) All regulations made by the Minister responsible for the public service pursuant to this Act shall be subject to affirmative resolution of the House of Representatives and shall have the same force and effect as if they were contained in the Second Schedule.

L.N.
179B/79.

Second
Schedule.

15.—(1) If any amount has been refunded to a person under subsection (1) of section 9 before the 12th December, 1974, that person may, if he so desires, repay such amount to the Accountant-General—

Special
provisions
relating to
refunded
contribu-
tions.
50/1974
S. 10.

- (a) within the period of twelve months next after the date of such enactment; or
- (b) in the event of his serving as a legislator after that date, within the period of twelve months commencing with the first day of his service as a legislator after the said date,

and nothing in subsection (3) of section 9 shall apply in relation to the refund of any amount which has been repaid under this section.

(2) Any amount repaid pursuant to subsection (1) shall be paid into the Consolidated Fund.

RETIRING ALLOWANCES (LEGISLATIVE SERVICE)

FIRST SCHEDULE

(Section 2)

Minister
 Member of the Council of Ministers
 Member of the Executive Council
 President of the Senate
 Parliamentary Secretary
 Speaker
 Deputy Speaker
 Leader of the Opposition

34/1966
 S. 8 (1).

SECOND SCHEDULE

(Section 14 (2))

The Retiring Allowances (Legislative Service) Regulations, 1961

Short title.

1. These Regulations may be cited as the Retiring Allowances (Legislative Service) Regulations, 1961.

Contributions.

2.—(1) Contributions payable by a contributor pursuant to section 4 of this Act shall be at the rate of 6 per centum of the salary payable to the contributor and such contributions shall accrue daily and shall be deducted from the salary of each contributor on the occasion of each payment of such salary and shall be paid to the Accountant-General.

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

Recovery of
 contribu-
 tions
 from
 awards.
 50/1974
 S. 11 (c).

3. Where a person becomes entitled to an award other than a refund of contributions under this Act and any part of the contributions payable by the person to, or in relation to, whom the award is made remains unpaid, the balance of such contributions shall be recovered by deduction from the amount of the award and when necessary the full amount of the award may be withheld until the whole amount due as contributions is paid.