



BERMUDA

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

1975 : 78

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[preamble and words of enactment omitted]

PART I

Interpretation

- 1 In this Act, unless the context otherwise requires,—
- “Auditor” means the person appointed to the public office of Auditor established under section 101 of the Constitution [*title 2 item 1*];
- “Board” means the Ministers and Members of the Legislature Salaries Review Board established under section 1A;
- “child” includes adopted child and a stepchild;
- “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 Schedule 2;
- “officer” means the holder of an office;

[Section 1 “child” amended by 2002:36 Sch para 21 effective 19 January 2004; opening words and “office” amended, and “Board” inserted, by 2005:14 s.2 and s.6(a) effective 11 July 2005]

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PART II
SALARIES

Ministers and Members of the Legislature Salaries Review Board

1A (1) For the purposes of this Part, there is hereby established a Board to be known as the “Ministers and Members of the Legislature Salaries Review Board”.

(2) The Board shall consist of not less than six nor more than eight members appointed by the Premier after consultation with the President of the Senate, the Speaker of the House of Assembly and the Opposition Leader.

(3) Fees shall be paid to members of the Board in accordance with the Government Authorities (Fees) Act 1971.

(4) Schedule 1 has effect with respect to the constitution and proceedings of the Board.

[Section 1A inserted by 2005:14 s.3 effective 11 July 2005]

Functions of Board

1B (1) The Board shall, in accordance with this section, review and make recommendations to the House of Assembly concerning the salaries to be paid to—

- (a) members of the Senate and the House of Assembly;
- (b) Ministers of Cabinet and other officers who hold an office specified in Schedule 2.

(2) In the case of salaries for Ministers of Cabinet, the Board’s recommendations shall include salary scales for full-time and part-time Ministers.

(3) The Board’s first review of salaries shall be carried out as soon as practicable after 1 June 2005, but not later than six months thereafter.

(4) The Board’s subsequent salary reviews shall be carried out every two years after the date of its first review.

(5) Pursuant to each review of salaries, the Board shall—

- (a) prepare a report setting out its recommendations relating to salaries and stating the reasons for its recommendations;
- (b) deliver its report to the Speaker of the House of Assembly to be laid in that House; and
- (c) send a copy of the report to the President of the Senate to be laid in the Senate.

(6) Every report of the Board shall be signed by the Chairman and not less than three other members of the Board.

(7) For the purposes of subsection (5), the Board shall deliver —

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- (a) its first report not later than 31 December of the review year;
- (b) subsequent reports not later than 31 October of the review year.

(8) In this section, "review year" means any year when the Board carries out a salary review.

[Section 1B inserted by 2005:14 s.3 effective 11 July 2005; amended by 2008:17 s.2 effective 26 March 2008]

Salary of members

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

(2A) For the purposes of subsections (1) and (2), the House of Assembly shall consider and take into account every report of the Board which is delivered to the Speaker pursuant to section 1B.

(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 Schedule 2 shall take effect, which dates may be prior to the passing of the resolutions.

[Section 2 subsection (2A) inserted by 2005:14 s.4 effective 11 July 2005; section 2 amended by 2008:17 s.3 effective 26 March 2008]

Amendments of Schedule 2

3 The Schedule 2 may be amended from time to time by resolution passed by both the Senate and the House of Assembly.

[Section 3 amended by 2005:14 s.6(b) effective 11 July 2005]

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.

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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.

(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.

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(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.

(3) For the purposes of subsection (2), a period of service shall be counted only if the member has contributed to the Fund throughout that period.

[Section 10 subsection (3) inserted by 2020 : 32 s. 2 effective 27 July 2020]

Deferred pension

10A A member who has contributed to the Fund—

- (a) for a period of eight years or more; or
- (b) for a period of twenty years or more,

and is not entitled to a pension under section 10 shall be entitled to a deferred pension payment of which shall commence—

- (c) where paragraph (a) applies, when he attains the age of sixty years; and
- (d) where paragraph (b) applies, when he attains the age of fifty-five years.

[Section 10A inserted by 1999:34 s.2 effective 9 June 1976]

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

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- (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.

(5) For the purposes of this section, a period of service shall be counted only if the member has contributed to the Fund throughout that period.

[Section 11 subsection (5) inserted by 2020 : 32 s. 3 effective 27 July 2020]

Maximum pension

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

- (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.

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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.

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(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 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.

Voluntary contributions during suspension period

15AA (1) Notwithstanding that both Houses of the Legislature resolved that for the purposes of section 15A the contributions toward the cost of pensions payable under this Part shall be 0% of salary for the period 1 July 2020 to 30 June 2021 ("the suspension period"), a member may elect to make contributions during the suspension period.

(2) A member shall make such an election in writing addressed to the Accountant-General on or before 31 July 2020, specifying whether the member wishes to proceed under paragraph (a) or (b) of subsection (3).

(3) In accordance with a member's election, the Accountant-General shall make provision for the member either—

(a) to continue to contribute to the Fund in monthly instalments at a rate of 12.5% of his salary during the suspension period, and the election shall be sufficient authority for the Accountant-General to deduct that percentage from the member's salary; or

(b) to make one or more lump sum payments to the Fund which equate to 12.5% of his salary during the suspension period, but any such payments may only be made before 30 June 2022.

(4) If a member makes payments in accordance with subsection (3)(a) or (b) for the suspension period, that period shall be counted—

(a) towards his years of service, for the purposes of sections 10(3) (eligibility for pension) and 11(5) (calculation of pension); and

(b) towards his years of contribution, for the purposes of section 10A (deferred pension).

(5) A person who has made payments under this section and who has ceased to be a member before being eligible for a pension is entitled to a refund of an amount equal to the total amount of those payments together with compound interest thereon at the rate of six per centum per annum.

(6) For the avoidance of doubt, section 15C(1) (Government's contribution) does not apply where payments are made under this section.

[Section 15AA inserted by 2020 : 32 s. 4 deemed effective 30 June 2020]

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

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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 a refund of contributions has been made to a contributor under section 15A(4), the Government's contributions in respect of that contributor shall remain in the Fund.

[Section 15C amended by 2008:43 s.2 effective 23 January 2009]

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.

PART IV

CAPITAL SUM PAYABLE ON DEATH

Application of Part

15E (1) This Part applies to any member who—

- (a) dies while still a member; and
- (b) at the date of his death, has been a member for a continuous period of not less than one year.

(2) In this Part, "nomination" means such a nomination as is referred to in section 15F(1), and "nominate", "nominator" and "nominee" shall be construed accordingly.

[Section 15E inserted by 2020 : 32 s. 5 effective 27 July 2020]

Nomination by member

15F (1) Subject to this Part, a member may, at any time before he ceases to be a member, nominate a person or persons to whom or for whose benefit a payment may be made under this Part after the member's death.

(2) A nomination shall be in writing addressed to the Accountant-General, and may at any time be revoked by the member by notice in writing given to the Accountant-General.

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(3) A nomination shall, in relation to a nominee, become void on the death of that nominee during the lifetime of the nominator while the nominator is still a member.

[Section 15F inserted by 2020 : 32 s. 5 effective 27 July 2020]

Capital sum in case of death while a member

15G (1) In the case of the death of a member to whom this Part applies, the Accountant-General shall, notwithstanding any other provision of this Act, make payment out of the Fund—

- (a) to or for the benefit of the nominee or nominees, if the nomination is still in force; or
- (b) to the duly appointed estate representative of the member if the nomination is no longer in force, or if the member dies without having made a nomination.

(2) The payment shall be a sum or sums not exceeding in the aggregate one year's basic salary of the member at the date of his death.

(3) In subsection (2), "basic salary" means his salary as a Senator or member of the House of Assembly.

[Section 15G inserted by 2020 : 32 s. 5 effective 27 July 2020]

Capital sum in addition to other benefits etc

15H Any payment made pursuant to this Part shall be in addition to—

- (a) any other benefits that may be payable under this Act;
- (b) any refund of contributions made under this Act; and
- (c) any pension payable to the widow or children of the deceased contributor under this Act.

[Section 15H inserted by 2020 : 32 s. 5 effective 27 July 2020]

Transitional provisions

16 *[omitted]*

Amendment

17 *[omitted]*

Commencement

18 *[omitted]*

SCHEDULE 1

(Section 1A(4))

MEMBERSHIP OF THE BOARD

- 1 The membership of the Board shall be as follows:
 - (a) one member who is entitled to practise as an accountant under the Chartered Professional Accountants of Bermuda Act 1973;
 - (b) one member who is admitted to practise as a barrister and attorney under section 51 of the Supreme Court Act 1951, or a retired puisne judge;
 - (c) two members who shall be nominated for appointment by the Opposition Leader;
 - (d) a retired member of the Legislature; and
 - (e) not more than three members who are suitable for appointment to the Board due to their professional experience or qualifications.
- 2 The Premier shall appoint one of the members to be the Chairman of the Board.
- 3 Subject to this Act, a member shall hold office for a period of four years and may be reappointed.
- 4 A member may at any time resign his appointment by notice in writing addressed to the Premier.
- 5 The Board may act notwithstanding any vacancy in its membership, and no act of the Board shall be deemed to be invalid only by reason of a defect in the appointment of a member thereof.
- 6 Where the office of a member has become vacant by virtue of paragraph 5, the Premier may appoint another person to the vacant office for the unexpired part of the term of the office.

Board Meetings

- 7 The Chairman shall convene meetings of the Board as often as may be necessary and shall, subject to the provisions of this Schedule, preside at all meetings of the Board.
- 8 In the event of the absence of the Chairman from a meeting:
 - (a) another member of the Board nominated by the Chairman for that purpose shall preside; or

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- (b) if another member of the Board has not been so nominated by the Chairman, another member selected by the members present for that purpose shall preside.

9 At a meeting of the Board:

- (a) the procedure shall be as determined by the Board;
- (b) 4 members constitute a quorum;
- (c) all questions shall be decided by a majority of the votes of the members present and voting; and
- (d) in any matter before the Board, the Chairman or any other person presiding, as the case may be, shall have a casting vote.

10 In the performance of its functions, the Board may inform itself in such manner as it thinks fit, but shall have regard to:

- (a) the level of remuneration for legislators in other jurisdictions;
- (b) the rates of remuneration for senior civil servants;
- (c) economic considerations; and
- (d) any other factors which the Board considers appropriate.

[Schedule 1 inserted by 2005:14 s.5(a) effective 11 July 2005; amended by 2014 : 8 s. 16 effective 11 April 2014]

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SCHEDULE 2

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

[First Schedule renumbered as Schedule 2 by 2005:14 s.5(b) effective 11 July 2005]

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

SCHEDULE 3
TRANSITIONAL PROVISIONS

[omitted]

[Second Schedule renumbered as Schedule 3 by 2005:14 s.5(c) effective 11 July 2005]

[Assent Date: 30 December 1975]

[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]

[Amended by:

1979 : 8

1988 : 8

1989 : 45

1999 : 34

2002 : 36

2005 : 14

2008 : 17

2008 : 43

2014 : 8

2020 : 32]