

**NATIONAL ASSEMBLY (RETIRING ALLOWANCES) ACT**

Act 43 of 1976 – 18 September 1976

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**NATIONAL ASSEMBLY (RETIRING ALLOWANCES) ACT**

**1. Short title**

This Act may be cited as the National Assembly (Retiring Allowances) Act.

**2. Interpretation**

In this Act—

“annual pensionable emoluments” means—

- the annual salary payable to a member immediately before he ceases to be a member or the current annual salary payable to a member, whichever is the higher; or
- in the case of a member who also held an office while he was a member, the annual salary which was payable in respect of that office or the current annual salary payable in respect of such office, whichever is the higher;

“legislative service” —

- means service as a member of the Legislature;
- includes service before 12 March 1968;
- does not include any break in any such service;

“member” means a member of the Assembly and includes the Speaker, notwithstanding that he is not an elected member of the Assembly;

“Minister” means the Minister to whom responsibility for the subject of finance is assigned;

“qualifying service” means service as a member in each of 2 terms, whether consecutive or not;

“retiring allowance” means the allowance payable under section 3;

“retiring member” means a person who ceases or has ceased to be a member;

“salary” means an allowance payable to a member under the National Assembly Allowances Act and includes any cost of living allowance, by whatever name called;

“term” means a period beginning with the first sitting of the Assembly following a dissolution of Parliament and ending with the next dissolution of Parliament or part of such period.

[S. 2 amended by Act 16 of 1988; Act 48 of 1991; Act 1 of 1996; Act 7 of 1996; Act 18 of 1999.]

### **3. Entitlement to retiring allowance**

(1) (a) Subject to subsection (2), there shall be deducted from the salary payable to every member a contribution of 6 per cent of his salary.

(b) Any contribution deducted under subsection (1) shall be paid into the Consolidated Fund.

(2) Subsection (1) shall not apply to a member who has notified the Minister in writing of his intention not to pay the contribution.

(3) Subject to this Act, every retiring member who has rendered qualifying service, and has, throughout his legislative service, paid the appropriate contribution shall be entitled to a retiring allowance at the annual rate of one-third hundred and sixtieth of his annual pensionable emoluments in respect of each complete month of his legislative service.

(3A) Notwithstanding subsection (3), the annual rate applicable to a retiring member who served as a member of the Assembly for any period prior to the general election held after 1 July 2008, shall be one-two hundred and seventieth of his annual pensionable emoluments in respect of each complete month of his legislative service during such period.

(4) Notwithstanding this Act, any retiring member who served as a member of the Assembly for the period or any part of the period commencing on the date of the first sitting of the Assembly held after the general election of 7 August 1967 and ending on 30 July 1971 and for the period or any part of the period commencing on 31 July 1971 and ending with the dissolution of Parliament which next followed, shall be deemed to have served 2 terms and this Act shall apply to him.

[S. 3 amended by Act 33 of 1982; Act 7 of 1985; Act 16 of 1988; Act 7 of 1996; s. 22 of Act 15 of 2006 w.e.f. 1 July 2006; s. 21 of Act 18 of 2008 w.e.f. 1 July 2008.]

### **4. Determination of retiring allowance**

For the purpose of determining the retiring allowance—

- (a) the maximum retiring allowance payable to a retiring member shall be two thirds of his pensionable emoluments;
- (b) any member who has served as Prime Minister in a substantive capacity shall be entitled to the maximum amount of the retiring allowance;

- (c) subject to paragraph (d), a person shall not be deemed to have ceased to be a member by reason only of the dissolution of Parliament;
- (d) a person who immediately before the dissolution of Parliament was a member and is not returned at the election next following the dissolution shall be deemed to have ceased to be a member from the date of the dissolution;
- (e) where a retiring member in receipt of a retiring allowance again becomes a member, his retiring allowance shall be re-determined on the aggregate of his qualifying service and on the basis of the highest annual salary drawn by him during any period of qualifying service.

[S. 4 amended by Act 16 of 1988.]

#### **5. Gratuity and reduced pension**

(1) Any retiring member may at his option exercisable in accordance with subsection (2), instead of a retiring allowance at the rate provided for in section 3, be paid a reduced pension at the rate of three fourths of the retiring allowance together with a gratuity equal to  $12\frac{1}{2}$  times the amount of the annual reduction so made in the retiring allowance.

(2) Subject to subsections (3) and (4), the option referred to in subsection (1) shall be exercised by written notice to the Minister not later than 30 days following the date on which the retiring member becomes eligible to a retiring allowance.

(3) Where after the dissolution of Parliament a person who was a member immediately before the dissolution seeks to be re-elected and is not re-elected, he may exercise the option referred to in subsection (2) not later than 30 days following polling day.

(4) The Minister may allow any retiring member who has failed to exercise an option under subsection (2) to exercise the option within such further period as he may approve.

#### **6. Gratuity where member dies**

Where a member dies in office, there shall be paid to his legal personal representatives a gratuity of an amount equal to—

- (a) his annual pensionable emoluments; or
- (b) the gratuity for which he would have been eligible to opt under section 5 (1) had he ceased to be a member,

whichever is the higher.

#### **7. Cessation of payment of retiring allowance**

(1) Subject to subsection (2), a retiring allowance shall, where the person to whom it is payable again becomes a member, cease to be paid in respect of the period during which that person is in receipt of a salary.

(2) Where the rate of the retiring allowance exceeds the rate of the salary, the member shall be paid the difference between the retiring allowance and the salary.

**8.** —

**9. Protection of retiring allowance**

A retiring allowance shall not be assignable or transferable or liable to be assigned, sequestered or levied upon except for the purpose of satisfying—

- (a) a debt due to the State;
- (b) any sum recoverable under an order of a Court for the payment of periodical sums of money towards the maintenance of the wife, former wife or minor child of the person to whom the allowance is payable.

[S. 9 amended by Act 48 of 1991.]

**9A. Abolition of office**

Where an office established by the Constitution is subsequently abolished, the annual pensionable emoluments in respect of that office shall be computed in the prescribed manner.

[S. 9A added by Act 33 of 1982.]

**10. Regulations**

The Minister may make such regulations as he thinks fit for the purposes of this Act.

**11. Saving**

No person shall for the purposes of the Constitution be considered as holding a public office by reason only that he is in receipt of a retiring allowance under this Act.

**12. Transitional provision**

For the purposes of computing the retiring allowance of a member, any contribution payable under section 3 by that member in respect of his legislative service before 14 June 1982 shall be deemed to have been paid.

[S. 12 added by Act 33 of 1982.]

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