

CHAPTER 115A

JUDGES REMUNERATION AND PENSIONS 1969-39

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SCHEDULE

**BARBADOS****JUDGES REMUNERATION AND PENSIONS
1969-39**

An Act to provide for the salaries, pensions and other conditions of service of Judges of the Supreme Court of Judicature.

[Commencement: 30th November, 1966]

**PART I
PRELIMINARY****Short title**

1. This Act may be cited as the *Judges Remuneration and Pensions Act*.

Interpretation

2.(1) For the purposes of this Act,

“entitled child” means a child of a judicial officer who, being a male, has not attained the age of 18 years or, being a female, has neither married nor attained the age of 18 years, and includes an adopted child;

[1979-47]

“judicial office” means the office of a Judge;

“pensionable emoluments” means the salary paid to a Judge in respect of his substantive office, and such other emoluments as are pensionable emoluments under the *Pensions Act*, Cap. 25;

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

“public service” has the same meaning as in section 2 of the *Pensions Act*, Cap. 25.

(2) For the purposes of the *Pensions Act*, Cap. 25, the office of Judge shall be deemed to be a pensionable office, and for the purposes of this Act and of the *Pensions Act* service of Judge shall be treated as if it were service in the public service.

PART II

SALARIES OF JUDGES OF THE SUPREME COURT OF JUDICATURE

Salaries of Judges

3.(1) There shall be paid to the holder of any judicial office specified in the first column of the *Schedule* a salary at the annual rate specified in relation to that office in the second column of that *Schedule*.

(2) The Governor-General may by order amend the *Schedule* by increasing any of the salaries specified therein.

(3) An order made under this section may have retrospective effect and shall be subject to negative resolution.

[1987-36]

(4) 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.

[1984-19]

PART III
PENSIONS

Entitlement to pension on retirement

4. Subject to this Act and to sections 103 and 104 of the *Constitution*, a pension and gratuity shall be paid in accordance with this Act to a person on his retirement from a judicial office

- (a) on or after attaining the age of 55 years, or, in special cases with the approval of the Governor-General, 50 years; or
- (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 perform the functions of his office and that such infirmity is likely to be permanent.

[1986-22]

Removal from office in certain circumstances deemed retirement

5.(1) A person who, in accordance with section 84 of the *Constitution*, is removed from a judicial office for inability, arising from infirmity of body or mind, to perform the functions of his office is deemed to have retired from that office under section 4 of this Act.

(2) A person who, in accordance with section 84 of the *Constitution*, is removed from a judicial office for any cause, other than inability, arising from infirmity of body or mind, to perform the functions of his office may be granted such pension and gratuity as the Governor-General may decide, not exceeding 1/2 of the pension and gratuity to which he would have been entitled had he retired from such office under section 4 of this Act.

Rate of Pension

6.(1) Where a person appointed to a judicial office had public service together with which his service in the judicial office constitutes continuous service and he retires

- (a) on attaining the age of 55 years or, not having attained that age, on the ground of ill health, he is entitled to a pension payable at an annual rate equivalent to $\frac{2}{3}$ of his pensionable emoluments at the date of his retirement;
- (b) on or after attaining the age of 65 years or, having attained the age of 55 years, on the ground of ill health, he is entitled to a pension payable at an annual rate equivalent to his pensionable emoluments at the date of his retirement;
- (c) after attaining the age of 55 years, but before attaining the age of 65 years, and his rate of pension does not fall to be determined under paragraph (b), he is entitled to a pension payable at an annual rate equivalent to the sum of $\frac{2}{3}$ of his pensionable emoluments at the date of his retirement and $\frac{1}{360}$ of such pensionable emoluments in respect of each month of service as a Judge after attaining the age of 55 years.

(2) Where a person appointed to a judicial office retires at any age

- (a) from the office of Chief Justice; or
- (b) from the office of Justice of Appeal or Judge of the High Court having served in that office for not less than 20 years,

he is entitled to a pension payable at an annual rate equivalent to his pensionable emoluments at the date of his retirement.

(3) Where a person appointed to a judicial office retires in circumstances under which the rate of pension does not fall to be determined under paragraphs (a), (b) or (c) of subsection (1) or under subsection (2), he is entitled to a pension payable at an annual rate equivalent to the sum of $\frac{1}{3}$ of his pensionable

emoluments at the date of his retirement and $\frac{1}{360}$ of such pensionable emoluments in respect of each month of service as a Judge, but the rate of pension shall not exceed the annual rate of such pensionable emoluments.

(4) For the purposes of this section, a person who is appointed to a judicial office and is eligible for a pension under any other enactment by virtue of his having been previously employed in other public service, then,

- (a) the pension to which he is entitled under that enactment shall be deemed to have accrued under this Act; and
- (b) 3 years in that other public service is to be taken as being equivalent to 2 years in a judicial office.

[1986-22]

(5) Nothing in this section is to be construed as entitling a person who has held a judicial office to receive a pension in excess of the highest pensionable emolument that was paid to him during his tenure of that office.

[1986-22]

[1986-22]

Maximum pensions

7.(1) The amount of pension granted under this Act to a person who retires from a judicial office shall not exceed his annual pensionable emoluments at the date of his retirement.

(2) Where a person who retires from a judicial office is granted a pension in respect of other public service, the amount of pension granted to him under this Act shall not, when added to the amount of any pension or pensions granted to him in respect of other public service, exceed the highest pensionable emoluments received by him at any time in the course of his public service.

[1986-22]

(3) For the purposes of this section, where a person receives both a gratuity and a pension in respect of the same period of public service, whether in a judicial

office or otherwise, the amount of that pension shall be deemed to be $\frac{4}{3}$ of its actual amount.

[1986-22]

[Sections 9 to 17 have been re-numbered to read as sections 7 to 18.]

Restrictions on payment of pensions

8. Where a person who

- (a) is in receipt of; or
- (b) is entitled to, but has not yet received payment of,

a pension under this Act, is appointed Governor-General, then the pension shall cease to be payable or, as the case may be, shall not be payable during such period as that person holds the office of Governor-General.

Gratuity and reduced pension

9.(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 $\frac{3}{4}$ of such pension together with a gratuity equal to $12\frac{1}{2}$ times the amount of the annual reduction so made in the 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) Notwithstanding subsection (1), the Minister may, where a person referred to in that subsection fails to exercise his option in accordance with subsection (2),

grant a gratuity and a reduced pension as provided in subsection (1) as if the person had exercised his option.

(5) 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.

Gratuity where Judge dies in judicial office

10. Where the holder of a judicial office dies while he is in office the Governor-General may grant to his legal personal representative a gratuity of an amount equal to his annual pensionable emoluments or the gratuity referred to in section 9 (1) whichever is the greater.

[1990-37]

[This section has effect from 20th December, 1990.]

Widow's pension

11.(1) Where the holder of a judicial office dies while he is in office or while he is entitled to a pension under this Act, then,

- (a) if he leaves,
 - (i) a widow but no entitled child, or
 - (ii) a widow and entitled children by such widow only, the widow is, subject to subsections (2) and (3), entitled to a pension at an annual rate of $\frac{2}{3}$ of the highest rate of pension paid to such person under section 6 or which would have become payable to such person under section 6 had he retired at a date immediately before his death; and

[1986-22; 1987-10]

[1979-47]

- (b) if he leaves a widow and any entitled child by a previous marriage only, the widow is, subject to subsections (2) and (3), entitled to a pension

at 1/2 the annual rate specified in paragraph (a) until there is no such entitled child and thereafter to a pension at the full rate so specified.

(2) A widow mentioned in subsection (1) is not entitled to and is not to be paid pension under this section

(a) in respect of any period after her re-marriage; or

(b) in respect of any period after she accepts full time employment in the public service.

(3) Where the Governor-General, acting on the advice of the Judicial and Legal Service Commission is satisfied that the widow of a person who has held a judicial office has, while receiving a pension under this section, abandoned or failed to maintain or to assist in maintaining so far as her means allow, an entitled child

(a) of her marriage with that former judicial officer; and

(b) whom she is bound by law to maintain,

the Governor-General so acting may cause to be paid to that child, until he dies or ceases to be an entitled child, such portion of the pension payable to the widow under this section as he thinks fit and such action by the Governor-General is a bar to any claim by that widow in respect of the portion of pension so paid.

Children's pension

12. Where the holder of a judicial office dies while he is in office or while he is entitled to receive a pension under this Act, and leaves entitled children, each of those children (except those referred to in paragraph (a) (ii) of section 11 (1), if a pension is being paid under that section to their mother) is entitled, until he dies or ceases to be an entitled child, to such pension at such rate as the Governor-General acting on the advice of the Judicial and Legal Service Commission determines so, however, that the aggregate rate of pension payable to such children does not exceed

(a) subject to paragraph (b) the annual rate specified in paragraph (a) of section 9 (1) in respect of a widow; and

- (b) if, and as so long as, the widow of the holder of that office is entitled to a pension under that section, 1/2 of the rate so specified.

Widows and Children Pensions Act

13.(1) As from 27th December, 1979, holders of judicial offices are exempt from payment of contributions under the *Widows and Children Pensions Act*, Cap. 37.

(2) Nothing in subsection (1) deprives the widow or children of a former holder of a judicial office of any benefit to which they would normally be entitled by reason of contributions made by the holder of that office under the *Widows and Children Pensions Act* before 27th December, 1979.

Pensions etc., not assignable

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

- (a) a debt due to the Crown; or
- (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 claim whatever except due to the Crown.

PART IV

MISCELLANEOUS

Application of Pensions Act

15. Subject to this Act, the *Pensions Act*, Cap. 25 and any regulations made thereunder 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 they apply for the purpose of computing the pension and gratuity payable to a public officer who retires from a pensionable office under that Act.

Regulations

16.(1) The Governor-General may make regulations

(a) relating to the conditions of service of, and the allowances payable to, the holders of judicial offices; and

[1989-15]

(b) generally for carrying out the provisions of this Act.

(2) Whenever the Governor-General is satisfied that it is equitable that any regulation made under this section should have retrospective effect in order to confer a benefit on or remove a disability attaching to any holder of a judicial office, that regulation may be given retrospective effect for that purpose.

[1989-15]

(3) Any regulation made pursuant to subsection (2) is subject to affirmative resolution.

Exercise of Governor-General's powers

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

Exemption from income tax

18. Notwithstanding anything contained in the *Income Tax Act, Cap. 73*, allowances paid in accordance with regulations made under this Act shall be exempt from income tax.

SCHEDULE*(Section 3)*

<i>Judicial Office</i>	<i>Annual Salary</i>
Chief Justice	\$182,607.84 - with effect from 1st April, 2008 \$190,825.32 - with effect from 1st April, 2009.
Justice of Appeal	\$159,958.80 - with effect from 1st April, 2008 \$167,157.00 - with effect from 1st April, 2009.
Judge of the High Court	\$147,218.76 - with effect from 1st April, 2008 \$153,843.60 - with effect from 1st April, 2009.

[2008/118]