

## CHAPTER 383

### STATUTORY BOARDS CASUAL EMPLOYEES (PENSIONS) 1969-33

This Act came into operation on 1st September, 1969.

#### Amended by:

<i>1971-17</i>	<i>1978-41</i>	<i>1990-33</i>
<i>1973-18</i>	<i>1979-16</i>	<i>1993-1</i>
<i>1974-46</i>	<i>1987-1</i>	<i>1996-23</i>
<i>1975-36</i>	<i>1989-9</i>	<i>1998-29</i>

#### Law Revision Orders

*The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:*

1989	1997
1991	1998

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#### Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument



**CHAPTER 383**

**STATUTORY BOARDS CASUAL EMPLOYEES (PENSIONS)  
1969-33**

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**BARBADOS**

## STATUTORY BOARDS CASUAL EMPLOYEES (PENSIONS)

1969-33

*An Act to provide for the grant and payment of pensions and gratuities to persons employed on a casual basis in the service of Statutory Boards.*

[Commencement: 1st September, 1969]

## PART I

## PRELIMINARY

**Short title**

1. This Act may be cited as the *Statutory Boards Casual Employees (Pensions) Act*.

**Interpretation**

2.(1) For the purposes of this Act

“casual employee” or “employee” means a person who is employed on a casual basis in the service of a Board and is not holding or acting in any office specified in the Second Schedule to the *Statutory Boards (Pensions) Act*, Cap. 384;

“Minister” means the Minister responsible for Establishments;

“pensionable emoluments” means the regular wages paid to a casual employee in respect of his service and any interim payment made pending a revision of wages, but does not include any wages paid in respect of overtime or by way of a bonus or any compensation paid, in respect of the termination of a period of temporary service, out of moneys voted for the purpose by Parliament;

[1973-18; 1978-41]

“pensionable service” means service which may be taken into account in computing pensions under this Act, but does not include temporary service in respect of which compensation is, on the termination of that service, paid out of moneys voted for the purpose by Parliament;

[1978-41]

“scheduled authority or body” means an authority or body specified in the *First Schedule*;

[1971-17]

“service of a Board” includes service as an employee of a scheduled authority or body, or service under a body specified in the Ninth Schedule to the *Local Government Act*.\*

\*[Act 1958-55: The Ninth Schedule is not reprinted in these Laws. Act 1958-55 has been repealed, but reference retained for pension purposes.]

[1958-55]

(2) The Minister may from time to time, by order published in the *Official Gazette*, amend the *First Schedule* by deleting therefrom any scheduled authority or body or including therein any other authority or body.

PART II  
GENERAL

**Grant of pensions and gratuities**

3.(1) Pensions and gratuities may, in accordance with this Act, be granted by a Board to casual employees who have been in the service of that Board.

(2) Any pension or gratuity granted under this Act shall be computed in accordance with the provisions in force at the actual date of the employee's retirement.

**Pensions and gratuities to be charged on and paid out of moneys voted by Parliament**

4. There shall be charged on and paid out of moneys voted for that purpose by Parliament such sums of moneys as may from time to time be granted by way of pension or gratuity pursuant to this Act.

**Payment of pensions**

5.(1) A Board in whose service an employee was employed immediately before the date of his retirement or death shall be responsible for the payment of any pension or gratuity granted to or in respect of that employee.

(2) Any

(a) pension granted to the dependants of an employee pursuant to section 17; and

(b) gratuity granted pursuant to section 10 to an employee on his retirement in consequence of injuries received in the actual discharge of his duties,

shall be paid by the Board in whose service the employee was employed at the date of his death or injury as the case may be.

**Pension and gratuities not of right**

**6.** An employee shall not have an absolute right to compensation for past services or to any pension or gratuity, nor shall anything in this Act prevent an employee from being dismissed from the service of a Board at any time without compensation.

**Compensation and effect of payment**

**6A.(1)** Where the temporary employment of a person is terminated after not less than 2 years of service, the Minister may, in any case he considers appropriate, authorise the payment of compensation to that person.

(2) Compensation referred to in subsection (1) is payable out of moneys voted for the purpose by Parliament.

(3) Where a period of temporary service in respect of which compensation is paid under this section is followed by a period of pensionable service, that temporary service shall not be taken into account as pensionable or qualifying service.

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[1978-41]

**Pensions, gratuities not assignable**

**7.(1)** A pension or gratuity granted under this Act shall not be assignable or transferable except for the purpose of satisfying

(a) a debt due to a Board or to the Crown; or

(b) an order of any court for the periodical payment of sums of money towards the maintenance of the wife or former wife or minor child of the employee to whom the pension or gratuity has been granted.

(2) A pension or gratuity granted under this Act shall not be liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever except a debt or claim due to a Board or to the Crown.

**Compulsory retirement**

**8.(1)** Retirement from employment in the service of a Board shall be compulsory for every employee on attaining the age of 65 years.

(2) Notwithstanding subsection (1), any person who, after the 6th December 1990, is appointed in the service of a Board to the office of general manager, by whatever name called shall retire on attaining the age of 60 years.

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[1990-33]

**Entitlement to existing pensions benefits**

**8A.(1)** No officer other than an officer who on or before the appointed day is an employee is, subject to section 9, entitled to the grant of a pension, and no such pension may be granted under section 14.

(2) For the purposes of this section and sections 10 and 16, “appointed day” means such day as the Minister by order appoints.

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[1975-36]

**PART III****CIRCUMSTANCES IN WHICH PENSIONS AND GRATUITIES MAY BE GRANTED****Conditions for grant of pensions**

**9.(1)** Subject to subsection (2), a pension shall not be granted under this Act to any employee unless such employee

- (a) has been employed in the service of a Board for 10 years or more; and
- (b) has retired on or after attaining the age of 60 years.

(2) Notwithstanding paragraph (b) of subsection (1), an employee who at the date of his retirement has not attained the age of 60 years, but is otherwise

qualified for a pension, may be granted a pension if, on medical evidence, a Board is satisfied that such employee is by reason of infirmity of mind or body unfit for further employment, such unfitness not being attributable to the employee's own misconduct or negligence.

(3) Notwithstanding subsection (2), a pension may be granted to an employee who retires from the service of a Board before attaining the age of 60 years but payment thereof shall be suspended until

(a) he has attained the age of 60 years or sooner dies; or

(b) he satisfies the Board that he is disabled and his condition is likely to be permanent.

[1987-1]

(4) Subsection (3) applies only to those persons who

(a) left the service of a Board before attaining the age of 60 years, and

(i) on or after the 30th November, 1966, and

(ii) before the 23rd February, 1987, or

(b) retire from the service of a Board after the 23rd February, 1987.

(5) Where an employee has qualified for the payment of a pension under subsection (3) he may, at the time when payment is granted under that subsection, be paid at the date of his qualification for pension, that pension together with any additional benefits that he would have received had he qualified under subsection (2); and any such additional benefits are payable out of moneys voted by Parliament for the purpose.

### **Conditions for grant of gratuity**

**10.(1)** Where a person who on or before the appointed day is an employee and is otherwise qualified for a pension but

(a) has been employed in the service of a Board for less than 10 years but for 5 years or more; and

- (b) retires because of ill-health, or injuries received in the actual discharge of his duties and such injuries are not attributable to the employee's own misconduct or negligence,

a Board may grant to such employee, on retirement, a gratuity not exceeding 5 times the annual amount of pension which, if there has been no qualifying period, might have been granted to him under section 14.

(2) Where a person becomes an employee after the appointed day, a Board may grant to such employee, on retirement after the age of 60 years or on retirement at any age because of ill-health, or injuries received in the actual discharge of his duties, such injuries not being attributable to the employee's own misconduct or negligence

- (a) in the case of a person employed in the service of a Board for less than 10 years but for 5 years or more, a gratuity equivalent to 5 times the annual amount of pension which, if there has been no qualifying period and but for section 8A might have been granted to him under section 14; and

- (b) in the case of a person employed in the service of a Board for 10 years or more, a gratuity equivalent to the average pensionable emoluments of such employee for a period of 3 years immediately preceding retirement or his attaining the age of 60 years, whichever is earlier.

(3) Where a person who becomes an employee after the appointed day retires from the service of a Board before attaining the age of 60 years the Board may grant to that person a gratuity calculated in accordance with paragraph (a) or (b) of subsection (2), whichever is applicable, but payment thereof shall be suspended until the person attains the age of 60 years or is disabled through ill-health or injury or dies.

[1987-1]

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[1975-36]

**Right to pensions etc.**

**10A.(1)** Sections 8A and 10(2) and (3) shall not apply to a casual employee who is appointed as an officer whether or not that employee is confirmed in the office and sections 9 and 10(1) shall be deemed to have always applied for the purposes of computing the pensions, gratuity and other allowances of the employee.

(2) Subsection (1) shall apply for the purposes of computing the pensions, gratuity and other allowances of an employee who retired after 31st December, 1997 and before the appointed day and that person shall be entitled to receive the difference between any sum paid to him and any greater sum to which he may be entitled by virtue of subsection (1).

(3) For the purposes of subsection (2), “appointed day” means such day as the Minister may by order appoint.

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[1998-29]

**Restrictions on grant of pensions and gratuities**

**11.** Where an employee is dismissed from the service of a Board a pension or gratuity shall not be granted to him in respect of his service before his dismissal.

**PART IV****DETERMINATION OF LENGTH OF SERVICE OF EMPLOYEES****Determination of length of service**

**12.(1)** The following provisions of this section shall have effect for the purpose of determining the length of an employee’s service

- (a) employment for 220 days or more in any year including public holidays and days on leave with pay but excluding Sundays shall be deemed to be a complete year or 12 months of pensionable service;

- (b) where an employee has been employed for less than 220 days in any year or years, then, for the purpose of this section, account shall be taken of such employment and the total number of days for which the employee has been so employed shall be ascertained and the equivalent number of complete years and months, if any, of pensionable service shall be determined in accordance with paragraph (a);
  - (c) in determining length of service under paragraph (b), 19 days shall be deemed to be one month and any fractional part of a month shall be disregarded;
  - (d) an employee's service shall, subject to section 13, be deemed to have commenced on the day on which he was first employed in the service of a Board.
- (2) In determining the length of the employee's service for the purposes of this Act, service after the age of 65 years shall not be taken into account.

### **Continuity of service**

**13.(1)** For the purpose of determining an employee's length of service, only continuous service shall, subject to the following provisions of this section, be taken into account as pensionable service.

(2) Any break in the service of an employee caused by ill-health or by his temporary suspension because of shortage of work shall, subject to subsection (3), be disregarded.

(3) A break in the service of an employee caused by temporary suspension arising from shortage of work shall be disregarded only if the employee returns to work as soon as requested to do so by the Secretary to the Board by which he was employed before the suspension or by someone acting on behalf of the Board; but failure of an employee to return to work when so requested shall not constitute a break in his service where

- (a) the Board is satisfied on medical evidence that the failure was caused by ill-health; or

(b) the employee is employed in another Board.

(4) Where an employee has been temporarily suspended because of a shortage of work in a Board and the services of that employee are subsequently required in that Board, the Secretary of the Board shall, at least 7 clear days before the day on which the services of the employee are required, send or cause a letter to be sent by registered post to the employee summoning him to return to work on the required day.

(5) Notwithstanding subsections (1) to (4), an employee who leaves the service of a Board before attaining the age of 60 years, whether or not he has completed 10 years pensionable service, is entitled to have his service treated as continuous if he is reemployed in the service for a period of not less than 5 consecutive years and it is immaterial that his leaving the service of the Board or the re-employment occurred before the 23rd February, 1987.

[1987-1]

(6) For the purposes of this section, the expression “continuous service” means service in each period of 12 calendar months commencing from the day on which the employee was first employed in the service of a Board.

## PART V

### COMPUTATION OF PENSIONS AND GRATUITIES

#### **Rate of pension**

**14.(1)** The amount of pension which may be granted to an employee who, on retirement, is qualified for the grant of a pension under this Act shall be determined in accordance with the following provisions of this section.

(2) Where an employee has served 10 years or more but under 11 years in the service of a Board, an annual pension of ten-sixtieths of his pensionable emoluments may be granted.

(3) Where an employee has served 11 years or more but under 12 years in the service of a Board, an annual pension of eleven-sixtieths of his pensionable emoluments may be granted.

(4) Where an employee has served 12 years or more but under 40 years in the service of a Board, to the annual pension as determined under subsection (3), an addition of one-sixtieth of the employee's pensionable emoluments may be made in respect of each additional year after the eleventh year of service.

(5) Where an employee has served 40 years or more in the service of a Board, an annual pension of forty-sixtieths of his pensionable emoluments may be granted.

### **Emoluments to be taken for computation of pensions and gratuities**

**15.(1)** For the purpose of computing the amount of the pension or gratuity which may be granted under this Act to or in respect of any employee who has had a period of not less than 3 years' pensionable service immediately preceding the date of his retirement or death, as the case may be, subsections (2) to (6) shall have effect.

(2) In the case of an employee who during the period of 3 years immediately preceding the date of his retirement or death

- (a) has been employed for not less than 220 days in each year;
- (b) has held the same form of employment; or
- (c) has been transferred from one form of employment to another without any change in emoluments other than the grant of any increment,

the emoluments to be taken shall be the emoluments enjoyed by such employee in respect of his employment for 220 days in the year immediately preceding the date of his retirement or death.

(3) In the case of an employee who during the period of 3 years immediately preceding the date of his retirement or death

- (a) has held the same form of employment; but

- (b) has been employed for less than 220 days in any year or years during such period,

such employee shall be deemed to have been employed for 220 days in each year during such period and the emoluments to be taken shall be the emoluments which such employee would have enjoyed in respect of employment for 220 days in the year immediately preceding his retirement or death.

- (4) In the case of an employee who during the period of 3 years immediately preceding the date of his retirement or death

- (a) has been employed for not less than 220 days in each year of such period; but

- (b) has been transferred from one form of employment to another with a change in emoluments,

the emoluments to be taken shall be the emoluments which the employee would have enjoyed in respect of employment for 220 days at the average rate of pay actually received by him during such period of 3 years.

- (5) In the case of an employee who during the period of 3 years immediately preceding the date of his retirement or death

- (a) has been transferred from one form of employment to another with a change of emoluments; and

- (b) has been employed for less than 220 days in any year or years during such period,

such employee shall be deemed to have been employed for 220 days in each year during such period and the emoluments to be taken shall be one-third of the total emoluments which the employee would have enjoyed if he had been so employed at the average rate of pay actually received by him during such period of 3 years.

- (6) Notwithstanding subsections (2) to (5), in the case of any employee mentioned in the Second Schedule the emoluments to be taken shall be the emoluments enjoyed by such employee in respect of his employment for the

number of days for which he was actually employed in the year immediately preceding the date of his retirement or death; but in no case shall such emoluments be less than the emoluments which, but for this subsection, would otherwise be taken under subsection (2), (3), (4) or (5), as the case may be.

(7) Where an employee has had a period of less than 3 years pensionable service immediately preceding the date of his retirement or death, then, for the purpose of computing the amount of any pension or gratuity which may be granted to or in respect of any such employee

- (a) the employee shall be deemed to have been employed for 220 days in each year during the period of 3 years immediately preceding his retirement or death; and
- (b) the emoluments to be taken shall be one-third of the total emoluments which the employee would have enjoyed if he had been so employed at the average rate of pay received by him in respect of his actual employment during such period of 3 years.

(8) The Minister may by order amend the Second Schedule by inserting therein or deleting therefrom any employee in the service of a scheduled authority or body.

[1971-17]

### **Gratuity where an employee dies in service or after retirement**

**16.(1)** Where an employee who has been in the service of a Board for 5 years or more, dies, that Board may grant to his legal personal representative

- (a) in respect of a person who is an employee on or before the appointed day, a gratuity of an amount not exceeding that employee's annual pensionable emoluments at the date of his death; and
- (b) in respect of a person who becomes an employee after the appointed day a gratuity of an amount not exceeding the amount that employee would have been granted under section 10(2)(a) or (b) as if he had retired at the date of his death.

(2) Where an employee to whom a pension or gratuity has been granted under this Act dies after retirement from the service of a Board and the sums paid or payable to him at his death on account of any pension or gratuity in respect of such service are less than the pensionable emoluments enjoyed by such employee at the date of his retirement, the Board may grant to his legal personal representative a gratuity equal to the deficiency.

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[1975-36]

### **Pensions to dependants of employee killed on duty**

**17.(1)** Where an employee dies while in the service of a Board as a result of injuries received

- (a) in the actual discharge of his duty; and
- (b) without his own default; and
- (c) on account of circumstances specifically attributable to the nature of his duty,

then, in addition to the grant, if any, made under section 16 to the legal personal representative of such employee, the Board may, subject to this section, grant

- (i) if the deceased employee leaves a widow, a pension to her, while unmarried and of good character, at a rate not exceeding ten-sixtieths of his pensionable emoluments at the date of the injury or \$100 a year, whichever is the greater;
- (ii) if the deceased employee leaves a widow to whom a pension is granted under paragraph (i) and a child or children, a pension in respect of each child, until such child attains the age of 18 years, of an amount not exceeding one-eighth of the pension prescribed under paragraph (i);
- (iii) if the deceased employee leaves a child or children but does not leave a widow or no pension is granted to the widow, a pension in respect of each child, until such child attains the age of 18 years, of double the amount prescribed by paragraph (ii);

- (iv) if the deceased employee leaves a child or children and a widow to whom a pension is granted under paragraph (i) and the widow subsequently dies, a pension in respect of each child as from the date of the death of the widow until such child attains the age of 18 years, of double the amount prescribed in paragraph (ii);
  - (v) if the deceased employee does not leave a widow, or if no pension is granted to his widow, and if his mother was wholly or mainly dependent on him for her support, a pension to the mother while of good character and without adequate means of support, of an amount not exceeding the pension which might have been granted to his widow;
  - (vi) if the deceased employee does not leave a widow or mother, or if no pension is granted to his widow or mother, and if his father was wholly or mainly dependent on him for his support, a pension to the father while of good character and without adequate means of support, of an amount not exceeding the pension which might have been granted to his widow;
  - (vii) if the deceased employee does not leave a child or children eligible for a pension under this subsection, and if his brother or sister was wholly or mainly dependent on him for support, a pension to any brother or sister while of good character and without adequate means of support, of an amount not exceeding the pension which might have been granted under paragraphs (ii) and (iii).
- (2) A pension shall not be payable under subsection (1) at any time in respect of more than 6 children.
- (3) Where a pension is granted under paragraph (v) of subsection (1), then
- (a) if the mother is a widow at the time of such grant and subsequently remarries;
  - (b) if the mother is at any time in the opinion of a Board adequately provided with other means of support,

such pension shall cease in the former case from the date of remarriage and, in the latter case, from such date as the Board may determine.

(4) A pension granted to a female child under subsection (1) shall cease upon the marriage of such child under the age of 18 years.

(5) For the purposes of this section, the expression “child” includes a step-child and a posthumous child.

(6) This section shall not apply in the case of the death of any employee if his dependants as defined in the *Workmen’s Compensation Act, 1963*,\* or any Act amending or replacing that Act are entitled to compensation under that Act.

*\*[Act 1964-3 to be replaced by the National Insurance and Social Security Act, Cap. 47, and not reprinted in these Laws.]*

## PART VI

### MISCELLANEOUS

#### **Gratuity and reduced pension**

**18.(1)** Any employee to whom a pension is granted under this Act may, at his option exercisable as in this section provided, be paid in lieu of such a pension a pension at the rate of three-fourths of such pension together with a gratuity equal to 12½ times the amount of the reduction so made in the pension.

(2) The option referred to in subsection (1) shall be exercisable not later than the day immediately preceding the date of such employee’s retirement; but if the employee does not exercise the option before such day, a Board may, if it appears to the Board in all the circumstances equitable so to do, allow him to exercise the option at any time between the date of his retirement and the actual date of award of pension under this Act.

(3) Where an employee has exercised the option, his decision shall be irrevocable as far as concerns any pension to be granted to him under this Act.

(4) Notwithstanding subsection (1), the Minister may, where an employee 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 employee had exercised his option.

[1979-16]

19. [Repealed by 1989-9.]

### **Records to be kept of service of employee**

20. It shall be the duty of the Secretary of a Board to keep or cause to be kept in such form as the Auditor-General may from time to time direct, records of the service of every casual employee employed in the Board.

### **Application of Act**

21.(1) This Act shall apply

(a) to every employee who is first employed in the service of a Board after the 1st September, 1969\*;

*\*[Being the date of commencement of this Act.]*

(b) to every employee who is employed in the service of a Board at the 1st September, 1969\*;

*\*[Being the date of commencement of this Act.]*

(2) This Act shall not apply to any person to whom the *Statutory Boards (Pensions) Act*, Cap. 384 applies.

### **Allowances paid to certain former employees deemed to be pensions under this Act**

22. Notwithstanding anything to the contrary contained in this Act, any person who

(a) retired from the service of a Board before the 1st September, 1969; and

(b) at the 1st September, 1969 is receiving in respect of such service any allowance whatsoever paid out of the funds of a Board, shall, unless such Board otherwise directs, continue to receive such allowance during the term of his natural life as if it were a pension granted under this Act.

**FIRST SCHEDULE**

(s.2(2))

*SCHEDULED AUTHORITIES OR BODIES*

The Child Care Board (established by the *Child Care Board Act*, Cap. 381).

The Sanitation Service Authority (established by the *Sanitation Service Authority Act*, Cap. 382).

The Barbados Tourism Authority (established by the *Barbados Tourism Authority Act*, Cap. 342).

The National Conservation Commission (established by the *National Conservation Commission Act*, Cap. 393).

The National Assistance Board (established by the *National Assistance Act*, Cap. 48).

The National Sports Council (established by the *National Sports Council Act*, Cap. 48A).

[1974-46; 1990-33; 1996-23]

**SECOND SCHEDULE***(s.15)**PENSIONABLE EMPLOYEES*

Lorry Loader

Street Cleaner

Labourer

Grave digger/Gardener

Grave digger

Labourer