

Supplement No. 4 published with Gazette No. 17 of 23rd August, 2004.

PARLIAMENTARY PENSIONS LAW

(2004 Revision)

Law 9 of 1984 consolidated with Laws 26 of 1984, 27 of 1985, 16 of 1991, 1 of 1994 and 1 of 2002.

Revised under the authority of the Law Revision Law (1999 Revision).

Originally enacted-

Law 9 of 1984-9th May, 1984
Law 26 of 1984-13th December, 1984
Law 27 of 1985-10th September, 1985
Law 16 of 1991-11th September, 1991
Law 1 of 1994-4th March, 1994
Law 1 of 2002-18th March, 2002.

Consolidated and revised this 6th day of July, 2004.

Note (not forming part of the Law): This revision replaces the 1995 Revision which should now be discarded.

PARLIAMENTARY PENSIONS LAW

(2004 Revision)

ARRANGEMENT OF SECTIONS

1. Short title
2. Definitions
3. When pensions payable
4. Rate of pension
5. Cessation of pension
6. Widow's pension
7. Children's pension
8. Cabinet pension
9. Speaker's pension
10. Inflation protection
11. Awards to be paid out of revenues
12. Awards to cease on conviction or bankruptcy
13. Pensions not assignable
14. Total cumulative pension
15. Regulations

PARLIAMENTARY PENSIONS LAW

(2004 Revision)

1. This Law may be cited as the Parliamentary Pensions Law (2004 Revision). Short title

2. (1) In this Law- Definitions

“award” means any amount payable to any person under this Law;

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

“member” means-

- (a) in respect of the period between the 1st day of October, 1959 and the 22nd day of August, 1972, an elected or nominated member of the Legislative Assembly; and
- (b) in respect of any other period, an elected member of the Legislative Assembly; and

“pension” means a pension payable under section 3.

(2) In this Law, any reference to a widow includes a reference to a widower.

3. (1) Subject to this Law, a pension shall be paid to any person who- When pensions payable

- (a) has since the 1st day of October, 1959 served as a member for two full parliamentary terms or for periods equal in the aggregate to not less than six years;
- (b) has ceased to be such a member; and
- (c) either-
 - (i) has attained the age of fifty-five years; or
 - (ii) not having attained the age of fifty-five years, has produced medical evidence to the satisfaction of the Financial Secretary that he is incapable by reason of infirmity of mind or body of discharging the duties of a member and that such infirmity is likely to be permanent.

(2) Subject to this Law, a pension shall be paid to any person-

- (a) who has on or prior to the 22nd day of August, 1972, served as a member;

- (b) who has ceased to be such a member; and
- (c) who has attained the age of fifty-five years.

(3) For the purposes of this section-

- (a) a person does not cease to be a member by reason only of the dissolution of the Legislative Assembly; and
- (b) a person who immediately before the dissolution of the Legislative Assembly was a member shall be deemed to have ceased to be a member from the date of such dissolution if he is not elected as a member at the general election next following the dissolution.

(4) No computation of a pension shall be made after a general election until two months have elapsed after the general election.

(5) Where a person ceases to be a member but is not eligible for a pension because he has not attained the age of fifty-five years, then, notwithstanding subsection (1), the pension for which he would have been eligible at the date when he ceased to be a member shall be paid to him with effect from the date on which he attains the age of fifty-five years, if at that date he is not otherwise disqualified for the payment of a pension.

Rate of pension

4. (1) Subject to sections 8(4),9(7) and 14, the pension payable under section 3(1) shall be-

- (a) for persons qualifying under section 3(1)(a) and (b) prior to the 1st day of January, 1992, at an annual rate of one-two hundred and sixteenth of thirteen thousand, two hundred and sixty dollars for each completed month that has been served as a member;
- (b) for persons qualifying both under section 3(1) and (2) in respect of service as members prior to the 22nd day of August, 1972, at the annual rate specified in section 4(1)(a); and
- (c) for persons qualifying under section 3(1) on or after the 1st day of January, 1992, at an annual rate of one-three hundred and sixtieth of the annual parliamentary salary payable to a member on the date when he ceased to hold office, for each completed month that has been served as a member.

(2) Subject to section 9, the pension payable under section 3(2) shall be at an annual rate of four thousand, four hundred and twenty-eight dollars.

(3) The pension payable to any person under this section-

- (a) shall be paid with effect from the date on which that person becomes entitled thereto under section 3 and, subject to this Law, shall continue to be paid during the lifetime of that person; and
- (b) shall be paid monthly in arrears and, as far as possible, in equal instalments.

5. (1) A pension shall, if the person in receipt thereof again becomes a member, cease to be payable during the period in respect of which that person is such a member. Cessation of pension

(2) At the expiration of the period referred to in subsection (1) the rate of pension shall be re-calculated in accordance with section 4.

(3) A pension re-calculated in accordance with subsection (2) shall be paid at the re-calculated rate with effect from the date of cessation of the period of service as a member which gave rise to the re-calculation.

6. (1) Subject to this Law, where a person who- Widow's pension

- (a) (i) is in receipt of a pension; or
- (ii) has served as a member for two full parliamentary terms or for periods equal in the aggregate to not less than six years, dies leaving a widow; or
- (b) has on or prior to the 22nd day of August, 1972, served as a member and has died before the 1st day of January, 1985 or dies after the 1st day of January, 1985, leaving a widow,

there shall be paid to her during her lifetime and while unmarried, a widow's pension at an annual rate equivalent to one half of the pension, which-

- (A) in the case of a person mentioned in paragraph (a), was being paid to him; or
- (B) in the case of a person mentioned in paragraph (b), 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 3 for the award of a pension and had been awarded a pension computed in accordance with section 4.

(2) A widow's pension under this section-

- (a) shall be paid monthly in arrears and, as far as possible, in equal instalments;
- (b) shall, subject to subsection (3), not be payable if the widow is in receipt of a pension by virtue of having been herself a member; and

- (c) shall, if the widow is a member, cease to be payable during the period in respect of which she is a member.

(3) Where a person who is a member dies before he has served the required minimum period to permit his widow to qualify for a widow's pension under subsection (1), there shall be paid to the widow a gratuity equal in amount to one year's parliamentary salary at the time of his death.

Children's pension

7. (1) Subject to this Law, where a person who comes within paragraph (a) or (b) of section 6(1) dies leaving one or more children, a children's pension shall be payable in respect of such child or children while under the age of eighteen years.

(2) Only one children's pension is payable in respect of the service of any one person as a member, but-

- (a) the rate thereof may vary according to the number of children entitled thereto;
- (b) it shall be paid to such person or persons as the Financial Secretary may from time to time direct, and different parts thereof may be directed to be paid to different persons;
- (c) the person to whom all or any part thereof is paid shall apply the sum paid to him for the benefit of all the children for the time being entitled thereto or for the benefit of such of them as the Financial Secretary may from time to time direct; and
- (d) the allowance shall be paid monthly in arrears and, as far as possible, in equal instalments.

(3) Where the person dies leaving a widow, the annual rate of the children's pension during her lifetime shall be-

- (a) one-third of the rate of the widow's pension payable under section 6 where there are two or more children entitled to the children's pension; and
- (b) one-half of the rate payable under paragraph (a) where there is only one child entitled to the children's pension.

(4) Where the person dies leaving no widow, or where he leaves a widow, then, after her death or after any pension payable to her ceases to be paid before her death, the annual rate of the children's pension shall be-

- (a) the same as that which would have been payable to a widow under section 6 where there are two or more children entitled to the children's pension; and
- (b) one-half of the rate payable under paragraph (a) where there is only one child entitled to the children's pension.

(5) Notwithstanding subsection (1), a female child who marries while under the age of eighteen years shall cease to be entitled to a children's pension.

(6) In this section-

"child" includes-

- (a) a posthumous child;
- (b) a step-child;
- (c) an illegitimate child who immediately before the death of the person was wholly or mainly dependent on him for support; and
- (d) an adopted child in a manner recognised by law, and, in the case of a person referred to in paragraph (a) of section 6(1), before the person last ceased to be a member.

8. (1) Subject to this Law, a Cabinet pension shall be paid to any person who- Cabinet pension

- (a) has since the 22nd day of August, 1972 served as an elected member of the Executive Council or Cabinet for a continuous period of at least three years;
- (b) has ceased to be a member of the Legislative Assembly; and
- (c) is entitled to a pension under section 3.

(2) Subject to section 14, the Cabinet pension shall be-

- (a) for those persons who qualified under subsection (1) at the 1st day of January, 1992, in addition to any other award under this Law and payable at an annual rate of one-two hundred and sixteenth of twenty-one thousand, six hundred and ninety six dollars for each completed month that has been served as an elected Member of the Executive Council or Cabinet; and
- (b) for persons qualifying under subsection (1) after that date in substitution for the member's pension under section 3 and at the rate of one-three hundred and sixtieth of the annual salary payable to an Executive Council or Cabinet Member when he ceased to hold office as an elected Member of Executive Council or Cabinet for each completed month that has been served as such a Member.

(3) The provisions of this Law relating to pensions shall, *mutatis mutandis*, apply to Cabinet pensions.

(4) Any period taken into account in calculating the amount of a pension under section 8(2)(b) shall not be taken into account in, and shall be excluded

from, the calculation of the amount of an award of a member's pension under section 4(1)(c).

Speaker's pension

9. (1) Subject to this Law, a Speaker's pension shall be paid to any person who -

- (a) has since the 1st day of January, 1991 held the office of Speaker of the Legislative Assembly for any period;
- (b) has ceased to hold that office; and
- (c) either-
 - (i) has attained the age of fifty-five years; or
 - (ii) not having attained the age of fifty-five years, has produced medical evidence to the satisfaction of the Financial Secretary that he is incapable by reason of infirmity of mind or body of discharging the duties of Speaker of the Legislative Assembly and that such infirmity is likely to be permanent.

(2) Subject to section 14, the Speaker's pension for a person qualifying under subsection (1), shall be in substitution for the member's pension under section 3 and shall be payable at an annual rate of one-three hundred and sixtieth of the annual parliamentary salary payable to that person on the date when he ceased to hold office as Speaker of the Legislative Assembly, for each completed month that has been served as Speaker.

(3) For the purposes of this section -

- (a) a person does not cease to be Speaker of the Legislative Assembly by reason only of the dissolution of the Legislative Assembly; and
- (b) a person who immediately before the dissolution of the Legislative Assembly was Speaker of the Legislative Assembly shall be deemed to have ceased to be Speaker from the date of such dissolution if he is not elected as the Speaker of the Legislative Assembly at the first sitting of the Legislative Assembly after the general election next following the dissolution.

(4) Where a person ceases to hold the office of Speaker of the Legislative Assembly, but is not eligible for a Speaker's pension because he has not attained the age of fifty-five years then, notwithstanding subsection (1), the Speaker's pension for which he would have been eligible at the date when he ceased to hold the office shall be paid to him with effect from the date on which he attains the age of fifty-five years, if at that date he is not otherwise disqualified for the payment of a Speaker's pension.

(5) Separate periods of service as Speaker of the Legislative Assembly shall be aggregated when counting the number of months for the purpose of calculating the rate of Speaker's pension under subsection (2).

(6) The Speaker's pension payable to any person under this section -

- (a) shall be paid with effect from the date on which that person becomes entitled thereto under this section and, subject to this Law, shall continue to be paid during the lifetime of that person; and
- (b) shall be paid monthly in arrears and, as far as possible, in equal instalments.

(7) Any period taken into account in calculating the amount of a Speaker's pension under subsection (2) shall not be taken into account in, and shall be excluded from, the calculation of the amount of an award of a member's pension under section 4.

(8) The provisions of this Law relating to pensions shall apply, with any necessary modifications, to Speaker's pensions.

10. (1) Notwithstanding any other provision of this Law, pensions in payment shall be adjusted for inflation on an annual basis as of the first day of each calendar year in accordance with the following paragraphs - Inflation protection

- (a) when the increase in CPI is less than or equal to five per cent, pension benefits shall be increased at a rate equal to one hundred per cent of the CPI, providing a maximum increase of five per cent;
- (b) when the increase in CPI is greater than five per cent but less than or equal to eight per cent, pension benefits shall be increased at a rate equal to the sum of five per cent plus four-fifths of the difference between five per cent and the CPI, providing a maximum increase of seven point four per cent;
- (c) when the increase in CPI is greater than eight per cent but less or equal to twelve per cent, pension benefits shall be increased at a rate equal to the sum of seven point four per cent plus six-tenths of the difference between eight per cent and the CPI, providing a maximum increase of nine point eight per cent; or
- (d) when the increase in CPI is greater than twelve per cent, pension benefits shall be increased at a minimum rate of nine point eight per cent and the Governor in Cabinet shall approve any increases in pension benefits in excess of nine point eight per cent.

(2) In subsection (1)-

“CPI” means the consumer price index of the Islands as prepared by the Government.

Awards to be paid out of revenues

11. All awards payable under this Law shall be charged upon and paid out of the revenues of the Islands.

Awards to cease on conviction or bankruptcy

12. Where any person to whom an award is payable -

- (a) is sentenced by a court in the Islands or in any part of the Commonwealth to death or to a term of imprisonment (by what ever name called) exceeding twelve months; or
- (b) is adjudicated bankrupt,

then such award shall forthwith cease and not become payable:

Provided that where a person whose award has so ceased or not been so paid has completed his sentence of imprisonment or obtains his discharge from bankruptcy (as the case may be) it shall be lawful for the Governor in Cabinet to direct that the award be restored or paid as from the date of such completion or discharge or any later date, and the award shall be restored and paid accordingly.

Pensions not assignable

13. Any pension shall not be assignable or transferable, except for the purpose of satisfying-

- (a) a debt to the Crown; or
- (b) an order of any court for the payment of periodical sums of money towards the maintenance of the spouse, former spouse or child (as defined in section 7(6)) 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 Crown or any sum recoverable pursuant to any such order of a court as aforesaid.

Total cumulative pension

14. In no case shall the total cumulative pension drawn by any person at any time exceed two-thirds of the highest salary earned by him as Speaker of the Legislative Assembly or when a member of the Legislative Assembly or the Cabinet as applicable.

Regulations

15. The Governor in Cabinet may make regulations-

- (a) prescribing, where a recipient of any award is incapable of managing his affairs, that it may be paid to another person on his behalf;

- (b) prescribing anything which may be required to be prescribed, including any forms he considers necessary for the administration of this Law;
- (c) prescribing the manner in which, and the person by whom, accounts of awards shall be kept and recorded; and
- (d) for any other purposes, whether similar to the above or not, deemed necessary to give effect to this Law.

Publication in consolidated and revised form authorised by the Governor in Cabinet this 6th day of July, 2004.

Carmena Watler
Clerk of Cabinet

(Price \$3.20)