

GOVERNMENT NOTICE No. 70

TRINIDAD AND TOBAGO

P
No. A 1972 (242)

THE INDUSTRIAL RELATIONS ACT, 1972

REGULATIONS

MADE BY THE GOVERNOR-GENERAL UNDER SECTIONS 5(4) AND 79 OF THE INDUSTRIAL RELATIONS ACT, 1972

THE INDUSTRIAL COURT (PENSIONS AND GRATUITIES OF MEMBERS) REGULATIONS, 1976

1. These Regulations may be cited as the Industrial Court (Pensions and Gratuities of Members) Regulations, 1976.

2. In these Regulations—

Definitions

“the Act” means the Industrial Relations Act, 1972;

No. 23 of 1972

“member” means a member of the court, other than a member appointed under section 4(3)(a)(i) of the Act;

“pensionable emoluments” means the salary paid to a member in respect of his service on the court;

“pensionable service” means service that is pensionable under the Pensions Ordinance of a member who has been moved from such service in consequence of his appointment as a member;

Ch. 9. No. 6

“service on the court” means service as a member under the Act and includes service under the Industrial Stabilisation Act, 1965.

No. 8 of 1965

3. Subject to these Regulations, there shall be paid to a member on his retirement under these Regulations a pension or a gratuity or both calculated in accordance with these Regulations.

Entitlement of member to pension or gratuity

4. Subject to these Regulations, a member without pensionable service who—

Retirement

(a) in accordance with section 76 of the Constitution is removed from office for inability to perform the functions of his office (whether arising from infirmity of mind or body or any other cause);

(b) after having served the term of office specified in his instrument of appointment is not re-appointed to such office,

shall be deemed to have retired from that office.

5. (1) A member shall be required to retire from service on the court on his attaining the age of sixty-five years but may, with the approval of the Governor-General, be permitted to retire on his attaining the age of fifty-five years.

Age of retirement for members

(2) A member without pensionable service shall be granted a pension under these Regulations if he has attained the age of fifty-five years on the date of his retirement and has held his office for a period of not less than ten years.

Rate of pension

6. Subject to these Regulations, the pension that shall be granted to a member without pensionable service shall be an amount not less than one-six hundredths of his annual pensionable emoluments drawn by him at the date of his retirement for each completed month of service on the court; the amount of pension granted shall not however exceed two-thirds of such emoluments.

Gratuity and reduced pension Exercise of option

7. (1) A member without pensionable service shall, if he has exercised his option as herein provided, but not otherwise, be paid in lieu of such pension at the rate of three-quarters of such pension together with a gratuity equal to twelve and a half times the amount of the reduction so made in the pension.

(2) The option referred to in paragraph (1) shall be exercisable, and if it has been exercised, may be revoked not later than the day immediately preceding the date of such member's retirement; but the Governor-General may, if it appears equitable so to do, allow him to exercise the option or revoke an option previously exercised at any time between that date and the actual date of the first payment of any pension under these Regulations.

(3) Subject to paragraph (2), where a member has exercised the option referred to in paragraph (1), his decision shall be irrevocable so far as concerns any pension paid to him under these Regulations.

(4) Where a member who has not exercised the option dies after he has retired but before a pension has been paid to him under these Regulations, there shall be granted to his legal personal representative such gratuity and a reduced pension as is provided for in paragraph (1) as if such member before his death had exercised the option therein referred to; such pension shall not however be paid in respect of any period later than the date of the death of such member and shall not exceed in the aggregate the total amount due and payable to him on the said date.

(5) The date of the exercise of the option by a member referred to in paragraph (1) shall be deemed to be the date of the receipt of a written notification addressed to the Governor-General.

Amount of gratuity payable on death in service

8. Where a member without pensionable service dies before he has retired or is deemed to have retired under these Regulations there shall be paid to his legal personal representatives—

- (a) an amount equal to the gratuity, if any, which would have been payable to him under regulation 7(1) if he had retired at the date of his death and had exercised the option referred to in the said regulation 7(1); or
- (b) where no such gratuity would have been payable on account of his not having held office for the period specified in regulation 5(2) at the date of his death, an amount equal to the gratuity which would have been payable to him if he had been deemed to have retired from service on the court under regulation 4 at that date or one year's pensionable emoluments whichever is the greater.

Amount of gratuity payable in respect of non-pensionable service

9. There shall be paid to a member in respect of any service on the court, which is not pensionable under these Regulations, a gratuity equal to twenty per cent of the total emoluments he received for such service or an amount not exceeding five times the annual amount of the pension calculated in accordance with the provisions of regulation 6.

10. (1) Where whether before or after the making of these Regulations, a member without pensionable service is in receipt of a pension under the Pensions Ordinance, the amount of pensions granted under these Regulations shall not when added to the amount of pension to which he is entitled under these Regulations, exceed two-thirds of his annual pensionable emoluments at the date of his retirement on pension under these Regulations.

Restriction on amount of pension payable to a member in receipt of a pension under the Pensions Ordinance, Ch. 9. No. 6

(2) For the purposes of this regulation, where a person received both a gratuity and a pension under the Pensions Ordinance in respect of the same period of service, the amount of such pension shall be deemed to be four-thirds of its actual amount.

11. No pension, gratuity or other allowance granted under these Regulations shall be assignable or transferable or liable to be attached, sequestered or levied upon, for or in respect of any debt or claim whatsoever other than a debt due and owing to the Government of Trinidad and Tobago.

Pension, gratuity not assignable or attachable

12. (1) A member with pensionable service shall be entitled on his retirement from service on the court to be paid a gratuity or pension, or both, equal to the amount to which he would have been entitled on retirement under the Pensions Ordinance if his service were pensionable service under that Ordinance.

Retirement of members with pensionable service

(2) Where prior to the making of these Regulations a member was entitled to retire from the service on the court and would have been entitled to be paid a gratuity or a pension or both in accordance with paragraph (1), such a member is entitled, after the making of these Regulations, to retire and to be paid such pension or gratuity, or both, with retrospective effect from the date on which he was entitled to retire and may exercise from that date any option which gave rise to such an entitlement.

13. (1) Where prior to the making of these Regulations a member with pensionable service receives a pension or a gratuity, or both, granted under the provisions of the Pensions Ordinance, or a gratuity in respect of service on the court, nothing in these Regulations shall apply to such member unless, within thirty days of the making of these Regulations, he agrees—

Transitional provisions

(a) to the cessation of the payment of the pension or gratuity, or both; and

(b) to refund to the Government of Trinidad and Tobago the full amount of such pension or gratuity or both.

(2) For the purposes of paragraph (1) a refund of any pension or gratuity, or both, shall become due and payable on the retirement on pension under these Regulations of a member and shall be paid out of any pension or gratuity, or both, payable to such member under these Regulations.

Member not
precluded
from com-
pleting term
of contract

14. Nothing in these Regulations shall preclude a member who has attained the compulsory age of retirement from completing the term of his current appointment or from being re-appointed for a further term on its expiration; and all references to retirement from service on the court shall be read and construed as including a reference to such retirement for the purposes only of pension under these Regulations. All such further service shall however, be excluded in calculating the members' pension.

Commence-
ment

15. These Regulations shall be deemed to have come into operation on the 20th day of March, 1965.

Made by the Governor-General this 21st day of May, 1976.

K. BOSWELL INNISS
Secretary to the Cabinet

Laid before the House of Representatives this 21st day of May, 1976.

J. E. CARTER
Clerk of the House

Laid before the Senate this 25th day of May, 1976.

R. L. GRIFFITH
Clerk of the Senate