
Fifth Session Third Parliament Trinidad and Tobago
25 Elizabeth II



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Am's No. 71969 (131)
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TRINIDAD AND TOBAGO
Act No. 44 of 1976

[L.S.]

AN ACT to provide retiring allowances on a contributory basis, to persons who have served as Ambassadors, High Commissioners and as Principal Representatives of Trinidad and Tobago, to provide allowances for the widow and children of such persons and to provide for matters connected therewith or incidental thereto.

[Assented to 16th June, 1976]

BE IT ENACTED by the Queen's Most Excellent Majesty, **Enactment**
by and with the advice and consent of the Senate and
House of Representatives of Trinidad and Tobago, and by
the authority of the same, as follows:—

Short title

1. This Act may be cited as the Retiring Allowances (Diplomatic Service) Act, 1976.

Interpretation

2. (1) In this Act—

“award” means any amount payable out of the Consolidated Fund to any person pursuant to this Act;

“Constitution” means the Constitution of Trinidad and Tobago set out in the Second Schedule to the Trinidad and Tobago (Constitution) Order-in-Council, 1962;

“contributions” means contributions payable pursuant to section 6;

“Head of Mission” means an Ambassador, High Commissioner or other principal representative of Trinidad and Tobago to another country appointed as such under section 94 of the Constitution;

“legislator” has the same meaning as in section 2 of the Retiring Allowances (Legislative Service) Act, 1969;

“Minister” means the member of the Cabinet to whom responsibility for Finance is assigned;

“salary” means basic salary and for the purposes of this definition “basic salary” means the emoluments provided in the Estimates of Revenue and Expenditure of Trinidad and Tobago exclusive of duty allowance, entertainment allowance or any other allowance whatever.

No. 24 of 1969

No. 2 of 1962

(2) Without prejudice to section 34(1) of the Interpretation Act, 1962, a reference in this Act to “widow” includes a reference to “widower”.

PART I

CIVIL SERVANTS APPOINTED HEADS OF MISSION

Civil servants
appointed Heads
of Mission

3. (1) Nothing in this Act shall apply to a person who at the time of his appointment as a Head of Mission is a civil servant.

Act No. 29
of 1965

(2) In this section “civil servant” has the same meaning as in section 3(2) of the Civil Service Act, 1965.

PART II

HEADS OF MISSION—RETIREMENT BENEFITS

4. Subject to section 3 and to the option under Part III, ^{Application of Part II} this Part applies to a person appointed as a Head of Mission before, on or after the commencement of this Act.

5. A person to whom this Part applies other than a person ^{Contributors} who ceased to be a Head of Mission before the commencement of this Act shall, by virtue of being a Head of Mission become a contributor under this Act.

6. (1) Contributions are payable under this Act by every ^{Contributions} Head of Mission who becomes a contributor and such contributions shall—

- (a) be at the rate of 6 per cent of the salary payable to the contributor;
- (b) be payable in respect of the salary of the contributor from the date of the commencement of this Act, or from any later date on which the person concerned becomes a contributor, until he ceases to be a Head of Mission;
- (c) accrue daily and be deducted monthly from the salary of each contributor and be paid to the Comptroller of Accounts.

(2) Contributions payable by a Head of Mission in respect of the period beginning on 1st January, 1976 and ending on the last day of the last month in respect of which salary was paid to such Head of Mission without deductions of any contributions under subsection (1)(c), may at the option of the Head of Mission, be payable either in a lump sum or by deductions made monthly from his salary over a period not exceeding one year.

(3) All contributions made pursuant to this section shall be paid into the Consolidated Fund.

7. (1) Subject to this Act a retiring allowance shall be paid to every person who—

- (a) has served as a Head of Mission for periods amounting in the aggregate to not less than eight years;
- (b) has ceased to be a Head of Mission; and

^{Circumstances in which retiring allowances shall be paid}

(c) either—

- (i) has attained the age of fifty-five years; or
- (ii) has not attained the age of fifty-five years, but medical evidence has been produced to the satisfaction of the Prime Minister, that he is incapable by reason of infirmity of mind or body of discharging the duties of a Head of Mission and that such infirmity is likely to be permanent.

(2) In determining for the purposes of this Part the length of service of any person as a Head of Mission there shall be taken into account any service as a legislator.

(3) Where a person has ceased to be a Head of Mission but is not eligible for a retiring allowance under this Act by reason only of subsection (1)(c)(i), the retiring allowance for which he would have been eligible at the date when he ceased to be a Head of Mission shall nevertheless be paid to him with effect from the date on which he attains the age specified in subsection (1)(c)(i).

Rate of
retiring
allowance

8. (1) The retiring allowance payable to a person as a Head of Mission shall be at an annual rate equal to three per cent of the annual salary payable to that person before he last ceased to be a Head of Mission, for each year of service as a Head of Mission and proportionately for any part of one year, but subject however, to a maximum of two-thirds of such annual salary.

(2) Where service as a legislator is taken into account in determining the length of service of a person as a Head of Mission—

- (a) the retiring allowance payable to him under subsection (1) shall not be less than he would have received had the retiring allowance payable to him in respect of his service as a legislator been calculated under the Retiring Allowances (Legislative Service) Act, 1969, but subject nevertheless to the maximum retiring allowance payable under subsection (1);
- (b) any entitlement to a retiring allowance under the Retiring Allowances (Legislative Service) Act, 1969 shall be extinguished.

(3) The retiring allowance payable to a Head of Mission under this section—

- (a) shall be paid with effect from the date on which that person becomes entitled thereto pursuant to section 7, and subject to this Act, shall continue to be paid during the lifetime of that person; and
- (b) shall be paid monthly in arrear in equal instalments.

9. (1) Where a person—

Gratuity

- (a) has ceased to be a Head of Mission but is not eligible for a retiring allowance under this Act by reason only of section 7(1)(c)(i); or
- (b) has ceased to be a Head of Mission but is not eligible for a retiring allowance under this Act, or
- (c) has ceased to be a Head of Mission and is eligible for a retiring allowance under this Act,

he shall be paid a gratuity equal to one-tenth of the total salary received by him during his period of service as a Head of Mission, so however, that in the case of a Head of Mission to whom paragraph (a) or (c) refers, such gratuity shall not exceed three years' salary at the highest annual rate of salary payable at any time to such person as a Head of Mission.

(2) Where a person dies while he is a Head of Mission, any gratuity that would have been payable to him under subsection (1) shall be paid to his legal personal representative.

10. (1) Subject to this Act, where a person who—

Widow's allowance

- (a) is in receipt of a retiring allowance under this Act; or
- (b) has served as a Head of Mission for periods amounting in the aggregate to not less than eight years

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

- (c) in the case of a person mentioned in paragraph (a), was being paid to him;

✓ (d) 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 7 for the award of a retiring allowance calculated in accordance with section 8.

(2) A widow's allowance under this section—

(a) shall be paid monthly in arrear in equal instalments as far as possible;

(b) shall, subject to subsection (3) if the widow is in receipt of a retiring allowance by virtue of having been herself a contributor under this Act or the Retiring Allowances (Legislative Service) Act, 1969, cease to be payable;

(c) shall, subject to subsection (3), if the widow is in receipt of salary as a Head of Mission or a legislator cease to be payable during the period in which the widow is in receipt of such salary.

(3) Where the rate of the widow's allowance exceeds the rate of the retiring allowance or the rate of salary, as the case may be, nothing in subsection (2)(b) shall prevent the payment of the widow's allowance to the extent of such excess.

Children's
allowance

✓ 11. (1) Subject to this Act, where a person who comes within section 10(1)(a) or (b) (hereinafter in this section referred to as "the deceased Head of Mission") dies leaving one or more children, a children's allowance shall be payable in respect of such child or children while under the age of eighteen years.

(2) Only one children's allowance is payable in respect of the service of any one person as a Head of Mission, but—

(a) the rate thereof may vary according to the number of children entitled thereto, so, however, that the aggregate rate of pension payable shall not exceed the rate specified in subsection (3)(a) or subsection (4)(a), as the case may be;

(b) it shall be paid to such person or persons as the Minister 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 without distinction, for the benefit of all the children, for the time being entitled thereto or for the benefit of such of them as the Minister may from time to time direct;
- (d) the allowance shall be paid monthly in arrear in equal instalments as far as possible.

(3) Where the deceased Head of Mission leaves a widow the annual rate of the children's allowance during her lifetime shall be—

- (a) one-third of the rate of the retiring allowance where there are two or more children entitled to the children's allowance; and
- (b) one-sixth of the rate of the retiring allowance where there is only one child entitled to the children's allowance.

(4) Where the deceased Head of Mission leaves no widow or where he leaves a widow then, after her death, or after any allowance payable to her ceases to be paid before her death, the annual rate of the children's allowance shall be—

- (a) one-half of the rate of the retiring allowance where there are two or more children entitled to the children's allowance;
- (b) one-quarter of the rate of the retiring allowance where there is only one child entitled to the children's allowance.

(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 allowance.

(6) For the purposes of this section the expression "child" includes—

- (a) a posthumous child;
- (b) an adopted child, adopted in a manner recognised by law, and in the case of a person referred to in section 10(1)(a), before such person last ceased to be a Head of Mission.

PART III

SPECIAL PROVISIONS FOR CERTAIN HEADS OF MISSION

Application of Part III

12. Subject to section 3 this Part applies to a person appointed as a Head of Mission before the commencement of this Act.

Right to elect gratuity and retiring allowance under this Part

13. Notwithstanding anything in Part II, a Head of Mission or a former Head of Mission may by notice in writing to the Minister within twelve months after the enactment of this Act or such longer period as the Minister may in any case allow, elect to receive a gratuity and a retiring allowance in accordance with the provisions of this Part instead of under Part II.

Deemed election

14. (1) Where a Head of Mission or a former Head of Mission omits to make an election within the time specified in section 13, he shall be deemed to have elected not to receive a gratuity and a retiring allowance in accordance with the provisions of this Part.

(2) Where a Head of Mission or a former Head of Mission makes an election under section 13 the provisions of this Part shall apply in respect of such Head of Mission or former Head of Mission as if he were a Head of Mission to whom Part II did not apply.

(3) In this section and in section 13 "former Head of Mission" means a person who ceased to be a Head of Mission before the commencement of this Act.

Gratuity

15. (1) Where a person has ceased to be a Head of Mission he shall be paid a gratuity equal to twenty-five per cent of the total salary received by him during his period of service as a Head of Mission.

(2) Where a person dies while he is a Head of Mission, any gratuity that would have been payable to him under subsection (1) shall be paid to his legal personal representative.

Retiring allowance

16. (1) Where a person has ceased to be a Head of Mission and the period of his service as a Head of Mission is four years or more, he shall, in addition to the gratuity

payable under section 15, be paid a retiring allowance at an annual rate equal to twenty per cent of his annual salary before he ceased to be a Head of Mission.

(2) The retiring allowance payable under subsection (1)—

(a) shall be paid with effect from the date on which that person ceased to be a Head of Mission, and shall continue to be paid during the lifetime of that person; and

(b) shall be paid monthly in arrear in equal instalments.

PART IV

GENERAL PROVISIONS

17. All awards payable under this Act shall be charged on and paid out of the Consolidated Fund.

Awards to be
paid out of
Consolidated
Fund

18. An award payable under this Act shall not be assignable or transferable except for the purpose of satisfying—

Awards not to
be assignable

(a) a debt to the Crown; or

(b) an order of any court for the payment of periodical sums of money towards maintenance of the spouse, former spouse or child being a minor 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.

19. (1) The Minister may make regulations—

Power to make
regulations

(a) prescribing in the case of an allowance payable under this Act, the days on which the payments of allowance shall be made;

(b) prescribing where a recipient of an allowance under this Act is incapable of managing his affairs, that the allowance may be paid to another person on his behalf;

(c) prescribing anything which may be required by this Act to be prescribed including any forms he considers necessary for the administration of this Act;

- (d) prescribing the manner in which, and the person by whom, accounts of contribution and awards under this Act shall be kept and recorded; and
- (e) for any other purposes, whether similar to the above or not, deemed necessary to give effect to this Act.

(2) Regulations made under this section shall be subject to affirmative resolution of the Senate and the House of Representatives.

Cessation of retiring allowance of person in receipt thereof again becomes a Head of Mission

20. (1) A retiring allowance payable under this Act shall, if the person in receipt thereof becomes a legislator or again becomes a Head of Mission, cease to be payable during the period in which that person is in receipt of salary as a legislator or a Head of Mission but where the rate of such retiring allowance exceeds the rate of such salary, nothing in this subsection shall prevent the payment of retiring allowance to the extent of such excess.

(2) At the expiration of the period referred to in subsection (1)—

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- (a) during which a person has service as a legislator, the rate of retiring allowance shall be recalculated in accordance with section 6 of the Retiring Allowances (Legislative Service) Act, 1969; and
- (b) during which a person has further service as a Head of Mission the rate of retiring allowance shall be recalculated in accordance with section 8, but so however that, in the case of a person whose retiring allowance under section 16 had ceased to be payable by virtue of subsection (1) he shall receive a retiring allowance that is not less than he would have received if his retiring allowance under section 16 had not been recalculated under section 8.

(3) A retiring allowance recalculated in accordance with subsection (2)(b) shall be paid at the recalculated rate with effect from the date of cessation of the period of service as a Head of Mission which gave rise to the recalculation.

21. Any sums paid to a person who ceased to be a Head of Mission before the enactment of this Act, by way of gratuity or retiring allowance shall be set-off against the sums to which he is entitled under this Act. Set-off
against sums
already paid

22. The enactments mentioned in the first column of the Schedule shall have effect subject to the amendments specified in the second column of the Schedule. Enactments
amended

23. This Act shall be deemed to have come into operation on the 1st day of January, 1976. Commencement

SCHEDULE

FIRST COLUMN	SECOND COLUMN
<i>Act</i>	<i>Extent of Amendments</i>
<p>The Retiring Allowances (Legislative Service) Act, 1969</p>	<p>A. Section 2 is amended by inserting in its appropriate alphabetical order the following definition:—</p> <p style="padding-left: 40px;">““Head of Mission” has the same meaning as in section 2 of the Retiring Allowances (Diplomatic Service) Act, 1976;”.</p> <p>B. Section 5 is amended by repealing and replacing subsection (2) thereof as follows—</p> <p style="padding-left: 40px;">“(2) In determining for the purposes of this Act the length of Service of any person as a legislator there shall be taken into account—</p> <p style="padding-left: 80px;">(a) any former legislative service although no contributions in respect thereof is payable under this Act; and</p> <p style="padding-left: 80px;">(b) any service as a Head of Mission”.</p> <p>C. Section 6 is amended—</p> <p style="padding-left: 40px;">(a) by renumbering subsection (3) as subsection (4); and</p> <p style="padding-left: 40px;">(b) by inserting immediately after subsection (2) thereof the following subsection—</p> <p style="padding-left: 80px;">“(3) Where service as a Head of Mission is taken into account in determining the length of service of a person as a legislator—</p>

- (a) the retiring allowance payable to him under subsection (1) shall not be less than he would have received had the retiring allowance payable to him in respect of his service as a Head of Mission been calculated under the Retiring Allowances (Diplomatic Service) Act, 1976, but subject nevertheless to the maximum retiring allowances payable under subsection (1)(d);
- (b) any entitlement to a retiring allowance under the Retiring Allowances (Diplomatic Service) Act, 1976 shall be extinguished.”.

D. Section 7 is amended—

- (a) in subsection (1) thereof by inserting the words “becomes a Head of Mission or” immediately after the word “thereof” occurring in line two and the words “Head of Mission or a” immediately after the words “salary as a” occurring in line four; and
- (b) by substituting for subsection (2) thereof the following—
 - “(2) At the expiration of the period referred to in subsection (1)—
 - (a) during which a person has service as a Head of Mission, the rate of retiring allowance shall be recalculated in accordance with section 8 of the Retiring Allowances (Diplomatic Service) Act, 1976; and
 - (b) during which a person has further service as a legislator the rate of retiring allowance shall be recalculated in accordance with section 6.”;

(c) by substituting the words "subsection (2) (b)" for the words "subsection (2)" occurring in line two of subsection (3) thereof.

E. Section 9 is amended in subsection (2)—

- (a) by inserting the words "or the Retiring Allowances (Diplomatic Service) Act, 1976", immediately after the words "the Act", occurring in the last line of paragraph (b) thereof;
- (b) by substituting the words "a legislator or Head of Mission," for the words "a legislator," occurring in line two of paragraph (c) thereof.

The Pensions Ordinance, Ch. 9. No. 6.

A. Insert immediately after section 2A the following sections—

"Public Officers not eligible for pension

2B. Nothing in this Ordinance shall apply to a public officer to whom the Retiring Allowances (Diplomatic Service) Act, 1976 applies.

Pensionable service of civil servant who has service as Head of Mission

2c. (1) Where a civil servant has service as a Head of Mission, that service shall be taken into account in computing his pensionable service upon his retirement.

(2) In this section—

"civil servant" has the same meaning as in section 3(2) of the Civil Service Act, 1965;

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"Head of Mission" has the same meaning as in section 2 of the Retiring Allowances (Diplomatic Service) Act, 1976."

Passed in House of Representatives this 14th day of June, 1976.

J. E. CARTER
Clerk of the House

Passed in the Senate this 15th day of June, 1976.

R. L. GRIFFITH
Clerk of the Senate

S.L.

Sec 19 - 104/46(27D)

AMENDED VERSION 1976
20/11/76