

LAWS OF TRINIDAD AND TOBAGO

**RETIRING ALLOWANCES (DIPLOMATIC SERVICE)
ACT**

CHAPTER 17:04

**Act
44 of 1976**

Current Authorised Pages

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**Note
on
Adaptation**

Under paragraph 6 of the Second Schedule to the Law Revision Act (Ch. 3:03) the Commission amended certain references to public officers in this Chapter. The Minister's approval of the amendments was signified by L.N. 52/1980, but no marginal reference is made to this Notice where any such amendment is made in the text.

CHAPTER 17:04

RETIRING ALLOWANCES (DIPLOMATIC SERVICE)
ACT

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CHAPTER 17:04

**RETIRING ALLOWANCES (DIPLOMATIC SERVICE)
ACT**

44 of 1976.

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.

Commence-
ment.

[1ST JANUARY 1976]

Short title.

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

Interpretation.

2. (1) In this Act—

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

“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 135 of the Constitution;

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

“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.

(2) A reference in this Act to “widow” includes a reference to “widower”.

PART I

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.

Civil servants appointed Heads of Mission.

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

Ch. 23:01.

PART II

HEADS OF MISSION — RETIREMENT BENEFITS

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

Application of Part II.

5. A person to whom this Part applies other than a person 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.

Contributors.

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

Contributions.

(a) be at the rate of six 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.

Circumstances
in which retiring
allowances shall
be paid.

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

(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 the 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 the 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, but subject nevertheless to the maximum retiring allowance payable under subsection (1);

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(b) any entitlement to a retiring allowance under the Retiring Allowances (Legislative Service) Act 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);

(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, the 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.

Widow's
allowance.

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

- (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, 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.

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(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.

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.

Retiring allowance.

(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 charged on 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 State; 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 State 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 Parliament.

Cessation of retiring allowance if person again becomes a legislator or 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 the 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)—

- (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; 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 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.

Ch. 2:03.

Set-off against sums already paid.

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

SUBSIDIARY LEGISLATION

**RETIRING ALLOWANCES (DIPLOMATIC SERVICE)
REGULATIONS**

104/1976.
103/1976.

made under section 19

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation.
2. Interpretation.
3. Contributions.
4. Keeping and recording of accounts.
5. Awards.
6. Date of payment.
7. Allowance may be collected by nominee.
8. Life Certificate.

SCHEDULE.

1. These Regulations may be cited as the Retiring Allowances (Diplomatic Service) Regulations. Citation.

PRELIMINARY

2. In these Regulations, "allowance" means retiring allowance awarded under section 7 of the Act and includes a widow's allowance and a children's allowance under sections 10 and 11 of the Act respectively. Interpretation.

3. Separate ledger accounts shall be kept in the name of each contributor for recording contributions and special contributions. Contributions.

4. The Minister may designate a person or persons to be responsible for the keeping and recording of accounts of contributions, special contributions and awards. Keeping and recording of accounts.

5. A record of awards made to each Head of Mission shall be kept and allowances paid monthly to the recipient. Awards.

Date of payment.

6. Payment of allowances shall be made on the last full working day of the month.

Allowance may be collected by nominee.
Form 1.
Schedule.

7. The recipient of an allowance may, if incapacitated, authorise another person in writing in the form set out as Form 1 in the Schedule to receive the allowance on his behalf.

Life Certificate.

8. The Life Certificate in respect of—

- (a) retiring allowance and children's allowance; and
- (b) widow's allowance,

Form 2.
Form 3.
Schedule.

of a former Head of Mission shall be in the form set out as Forms 2 and 3, respectively, in the Schedule.

SCHEDULE

Regulation 7.

FORM 1

FORM OF AUTHORISATION

For use by persons other than Civil Servants

50c. Stamp to be affixed here

The Treasury,
Trinidad

..... 19

The

You are hereby notified that, until further notice Mr. whose signature is affixed hereto, is authorised to receive all moneys due and owing to me or my firm and to give effectual receipts for same.

.....
*Name (in Block Letters) of
Person Authorising Agent*

.....
*Signature of
Person Authorising Agent*

.....
*Name, Occupation, Address of
Witness (in Block Letters)**

.....
Signature of Witness

.....
*Name (in Block Letters) of
Authorised Agent*

.....
*Signature of
Authorised Agent*

.....
Name, Occupation, Address of
Witness (in Block Letters)*

.....
Signature of Witness

*To be witnessed by a Justice of the Peace, Notary Public, Commissioner of Oaths, Minister of Religion, Medical Practitioner, Superintendent of Police, Non-Commissioned Officer, Head or Deputy Head of Department or Clerk of the Peace, a Manager of a Bank or Branch Bank.

Persons resident in a Foreign Country to be attested by a Consular Officer of Trinidad and Tobago.

FORM 2

Regulation 8.

LIFE CERTIFICATE

Date

RETIRING ALLOWANCE/CHILDREN'S ALLOWANCE PAYABLE TO
FORMER HEAD OF MISSION OR THEIR CHILDREN

Claim in respect of retiring allowance as:

* (a) a former Head of Mission; or	Full sum	This form must be left one day for examination if presented through a Bank.
	\$	
* (b) children's allowance in respect of former Head of Mission	\$	This allowance cannot be assigned as a security for a loan of money.
for the period ended	\$	
.....19	\$	
Net Sum Payable	\$	

.....
Signature of former Head of Mission

.....
Signature of Child of former Head of Mission

CERTIFICATE

I hereby certify that M, whose signature is affixed above, is living, and to the best of my knowledge and belief is the person entitled to the payment.

[Subsidiary]

Retiring Allowances (Diplomatic Service) Regulations

Pensioners resident in a Commonwealth territory.

To be signed by a Justice of the Peace, Notary Public, Commissioner for Oaths, Minister of Religion, Medical Practitioner or by a Superintendent of Police, Non-Commissioned Officer, Head or Deputy Head of Department, or Clerk of the Peace, before being presented for payment or by a Manager of a Bank or Branch Bank when presenting for payment.

.....
Signature of Justice of the Peace, Notary Public, etc.

Pensioners resident in a foreign country.

To be attested by a Consular Officer of Trinidad and Tobago.

.....
Signature of Consular Officer

Address

Qualification

Date

*Delete where not applicable.

Regulation 8.

FORM 3

LIFE CERTIFICATE

Date

WIDOW'S ALLOWANCE PAYABLE TO THE WIDOW OF A
FORMER HEAD OF MISSION

This form must be left one hour for examination if presented in person and one day if presented through a Bank.

Claim in respect of widow's Full sum \$
allowance payable to me as widow
of the late
..... for
the period ended

Net sum payable \$

Examined \$

This allowance cannot be assigned as a security for a loan of money.

I solemnly declare that during this period I have not remarried.

Accountant

Signature and date (across a five cents stamp when the payment amounts to \$5.00 and upwards)

If presented in person this form must be signed in the presence of the Paying Cashier.

CERTIFICATE

I hereby certify that Mwhose signature is affixed above, is living, and to the best of my knowledge and belief is the person entitled to the payment.

To be signed by a Justice of the Peace, Notary Public, Commissioner for Oaths, Minister of Religion, Medical Practitioner or by a Superintendent of Police, Non-Commissioned Officer, Clerk of the Peace before being passed for payment or by a Manager of a Bank or Branch Bank when passing on for payment.

Widow resident in a Commonwealth territory.

.....
Signature of Justice of the Peace, Notary Public, etc.

To be attested by a Consular Officer of Trinidad and Tobago.

Widow resident in a foreign country.

.....
Signature of Consular Officer

Address

Qualification

Date