
**Third Session Third Parliament Republic of Trinidad
and Tobago**



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 19 of 1989

[L.S.]

AN ACT to provide for the early termination of their service by certain persons employed in offices of a public nature, for the benefits to which those persons thereupon become entitled and for related purposes

[Assented to 2nd June, 1989]

ENACTED by the Parliament of Trinidad and Tobago as Enactment follows:—

1. This Act may be cited as the Voluntary Termination short title of Employment Act, 1989.

Interpretation

2. (1) In this Act—

Chap 23:01

“Civil Service” means the Civil Service of Trinidad and Tobago established by section 3 of the Civil Service Act;

“deferred pension” means a pension payable in accordance with section 9(1);

“eligible person” means a person who, in accordance with section 3(1) or (2), is eligible to make an application under this Act;

“Minister” means the Minister responsible for the subject of Finance;

Chap 25:05

“municipal corporation” means a corporation referred to in section 2 of the Municipal Corporations (Pensions) Act;

“non-pensionable temporary employee” means a person who—

(a) holds an appointment to a temporary post that is not pensionable under a pension Act;

(b) holds a temporary appointment to a post that is pensionable under a pension Act, but has not satisfied all the requirements for appointment to the post; or

(c) is temporarily appointed to act in a post that is pensionable under a pension Act but that is substantively held by another person;

First Schedule

“pension Act” means an Act referred to in the First Schedule and includes any regulation or other statutory instrument made thereunder;

“relevant pension Act” in relation to an eligible person means—

(a) the pension Act by reference to which that person is an eligible person; or

(b) in the case of an eligible person who holds an appointment to a temporary post that is not pensionable, the pension Act under which the post could most appropriately be made pensionable if it were a permanent post;

“service” means service that is taken into account for the purpose of determining whether a person may be granted a pension or gratuity under a pension Act or determining the amount of any such pension or gratuity;

“statutory board” has the meaning given to that expression by section 2(2) of the Pensions Extension Act;

Chap. 23:53

“the Teaching Service” is comprised of the Teaching Service within the meaning of the Education Act, teaching service within the meaning of the Teachers’ Pensions Act, and the teaching service within the meaning of the Assisted Secondary School Teachers’ Pensions Act;

Chap. 39:01

Chap. 39:02

Chap. 39:03

“Tobago House of Assembly” means the Tobago House of Assembly established by section 3 of the Tobago House of Assembly Act.

Chap. 25:03

(2) Expressions not otherwise defined that are used in the pension Act that is relevant in the case concerned have, in this Act, the same meanings as they have in that pension Act.

3. (1) Subject to subsection (3), a person who, if this Act were not in force—

(a) could be granted a pension or gratuity, or

(b) could, but for his age or his length of service, be granted a pension or gratuity,

under a pension Act if he were to voluntarily terminate his service is eligible to make an application under this Act.

(2) Subject to subsection (3), a non-pensionable temporary employee who has at least one year’s unbroken service is eligible to make an application under this Act.

(3) A person is not eligible to make an application under this Act unless he is an officer or employee in the Civil Service or the Teaching Service (irrespective of whether he is in the service of the Government of Trinidad and Tobago or of the Tobago House of Assembly) or he is a monthly-paid officer or employee in the service of a municipal corporation or a statutory board.

Application to
terminate service

4. (1) An eligible person may apply, in accordance with subsection (2), to voluntarily terminate his service and receive the benefits provided for by this Act in respect of that termination.

(2) An application is in accordance with this subsection if it is made to the Minister, in the prescribed form and otherwise in accordance with the regulations, within three years from the commencement of this Act, and specifies the time from which the termination is sought to be effective.

Approval

5. (1) Subject to subsection (4), the Minister may, upon application being made to him in accordance with section 4(2), approve of the applicant voluntarily terminating his service in accordance with the application.

(2) In deciding whether to approve an application under this Act, the Minister shall have regard to—

- (a) the operational requirements of the service, organization, department, Ministry, corporation or statutory board which, or in which, the applicant serves;
- (b) the needs of the public;
- (c) the availability of the skill or expertise of the applicant, or of any related skill or expertise; and
- (d) the effect that the termination of the service of the applicant might have on the efficiency, economy or overall productivity of the service, organization, department, Ministry, corporation or statutory board which, or in which, the applicant serves.

(3) Where the Minister declines to approve an application, he may, with the consent of the applicant, subsequently approve of the applicant voluntarily terminating his service, with effect from the time sought in the application or any other time acceptable to the applicant, without any further application being required under this Act and notwithstanding that the time within which such an application could be made has passed.

(4) Approval shall not be given under this Act—

- (a) for the service of a person to terminate with effect from a time that is before the person has exhausted any entitlement to paid leave, other than sick leave, that he is eligible to take;

- (b) unless the person has made arrangements satisfactory to the State for the discharge of any outstanding debts, liabilities, or obligations to the State (including an obligation under an agreement entered into under any written law, to serve for a particular period).

(5) Where the Minister approves under this section of the termination of a person's service, the service of that person terminates under this Act, notwithstanding any other law, with effect from the time approved, unless by death or otherwise the service of that person terminates before the time approved for the termination of service under this Act.

6. Without otherwise affecting the application of the Interpretation Act, sections 52 and 53 of that Act shall apply in relation to the delegation by the Minister of his functions under this Act as if references in those sections to "public officer" included a reference to any officer of a municipal corporation or a statutory board.

Delegation
Chap. 3:01

7. (1) Where the service of a person terminates under this Act, the relevant pension Act shall be taken to provide for the entitlements prescribed in the Second Schedule to this Act and the relevant pension Act shall apply accordingly to the entitlements so arising under that Act but, except as provided by subsection (2), the rights of a person under the relevant pension Act are not otherwise affected.

Benefits
Second Schedule

(2) Where the service of a person terminates under this Act and that person or another person could have been granted any pension or gratuity under the relevant pension Act if the service had been voluntarily terminated other than under this Act with effect from the same time, the entitlements prescribed in the Second Schedule are in lieu of any pension or gratuity under the relevant pension Act that is correspondingly referred to in the Second Schedule.

Second Schedule

8. (1) Payment of any pension or gratuity to which a person is entitled by reason of this Act shall be made in cash.

a Payment of
benefits

(2) A gratuity to which a person becomes entitled by reason of this Act is payable upon the service of that person terminating but where the amount of the gratuity remaining after deducting the income tax, if any, payable under

section 5(6) of the Income Tax Act exceeds twenty thousand dollars, the amount shall be satisfied by paying—

- (a) within three months after the service of that person terminating—
 - (i) an amount equal to forty per cent of the amount of the gratuity remaining after the deduction of income tax, if any or
 - (ii) an amount of twenty thousand dollars,
 whichever is greater; and
- (b) on the anniversary date of the termination of that service in each year thereafter until the amount has been fully satisfied—
 - (i) an amount equal to one-third of the balance remaining after the payment of the amount referred to in paragraph (a); or
 - (ii) where the balance remaining after the payment of the amount referred to in paragraph (a) and any payment made under this paragraph is not more than one thousand dollars, the whole of the balance so remaining or an amount that is less than the balance so remaining but is equal to or greater than the amount referred to in subparagraph (i).

Deferred pensions

9. (1) Where by reason of this Act a person is entitled to a deferred pension, the pension is payable to him upon his attaining the age of fifty-five years.

(2) A person terminating his service who becomes entitled to a deferred pension may, notwithstanding that the pension is not payable until his attaining the age of fifty-five years, exercise his option to receive a gratuity and a reduced pension as if the pension to which he were entitled were not a deferred pension, but the reduced pension to which he thereby becomes entitled is payable as a deferred pension.

Extended meaning of "service"

10. (1) Where the service of a person terminates under this Act and that person had, in addition to service that is taken into account for the purposes of the relevant pension

Act, given service (in this section referred to as "other service") that would be taken into account for pension purposes if he were retiring from a post that was pensionable under any other pension Act, the Police Service Act, or the Fire Service Act (in this section referred to as "the other Act"), that other service shall, subject to subsection (5), be included as service for the purposes of the relevant pension Act.

Chap. 15:01

Chap. 35:50

(2) In ascertaining the total period of service of an eligible person, any break between periods of service—

(a) that could, if the service were continuous, be taken into account, and

(b) neither of which periods of service was as a non-pensionable temporary employee,

shall be disregarded unless the break occurs by reason of dismissal or removal in consequence of disciplinary proceedings.

(3) Where the service of a person terminates under this Act and that person had, in addition to service that is taken into account for the purposes of the relevant pension Act, given not less than one year's service as a non-pensionable temporary employee, there shall be included in the entitlement of the person under the relevant pension Act an amount of gratuity equal to the gratuity that would be applicable if the Police Service Act and the Fire Service Act were included in the First Schedule and upon the service of that person terminating under this Act his only service were that service as a non-pensionable temporary employee.

(4) In and for the purposes of subsections (2)(b) and (3), "pension Act" and "service" shall be construed as if the Police Service Act and the Fire Service Act were included in the First Schedule.

(5) Where—

(a) the entitlement of a person under the relevant pension Act is calculated on the basis of a period of service that, under subsection (1) includes other service, as defined in that subsection, and

(b) the rate at which benefit accrues under the other Act is different from the rate at which benefit accrues under the relevant pension Act,

the amount of entitlement in respect of the total period of service shall be adjusted to take account of the difference.

(6) Where by reason of this section the entitlement of a person terminating his service under this Act is based on a total period of service that includes service in respect of which a benefit has previously been paid under a pension Act, the Police Service Act, or the Fire Service Act, any amount previously paid shall be deducted from the amount of that entitlement and that entitlement shall be in lieu of any other payment which he could otherwise be paid under any such Act in respect of any such service.

Re-employment

11. Where the service of a person terminates under this Act, any period of service in respect of which any benefit has been paid or is payable under the relevant pension Act by reason of that termination shall be disregarded for the purposes of determining whether that person may, in respect of any subsequent service, be granted any further pension, gratuity, or other allowance (whether under a pension Act, the Police Service Act, or the Fire Service Act) or determining the amount of any such pension, gratuity or other allowance.

Amendment of
First Schedule

12. The Minister may, by Order, amend the First Schedule.

Regulations

13. The Minister may make regulations prescribing all matters that are required or permitted to be prescribed and generally for carrying this Act into effect.

FIRST SCHEDULE

[Sections 2(1), 12]

1. Pensions Act, Chap. 23:52
2. Pensions Extension Act, Chap. 23:53
3. Teachers' Pensions Act, Chap. 39:02
4. Assisted Secondary School Teachers' Pensions Act, Chap. 39:03
5. Municipal Corporations (Pensions) Act, Chap. 25:05

SECOND SCHEDULE

(Section 7)

BENEFITS UPON TERMINATION OF SERVICE

A. Eligible persons other than non-pensionable temporary employees

1. If the person has attained the age of fifty years and has completed at least ten years' service, then, in lieu of the pension, based on his period of service, which he could otherwise be granted under the relevant pension Act, he is entitled to—

- (a) the pension which he could be granted under the relevant pension Act if his period of service had been for a period equal to his actual period of service increased by one month for each five months of service completed, or by the period remaining before he attains the age of sixty years, whichever is less, or

- (b) the reduced pension to which he would be entitled under the relevant pension Act if he were granted a pension and opted to receive a reduced pension and a gratuity equal to ten per cent more than the gratuity to which he would then have been entitled,

at his option, but nothing in this paragraph shall be taken to remove his option to be paid, in lieu of the pension referred to in paragraph (a), a reduced pension and a gratuity.

2. If the person has attained the age of fifty years but has not completed at least ten years' service, then, in lieu of the gratuity which he could otherwise be granted under the relevant pension Act, he is entitled to a gratuity of an amount that is ten per cent more than the gratuity which he could otherwise be granted under that Act.
3. If the person has not attained the age of fifty years and has completed at least ten years' service, then he is entitled to a deferred pension of an amount equal to the amount of the pension which he could be granted if the age he has attained were the age at which, under the relevant pension Act, pension may be granted to him.
4. If the person has not attained the age of fifty years and has not completed at least ten years' service, then he is entitled to a gratuity of an amount equal to the gratuity to which he could become entitled, in accordance with section 9(2), if paragraph 3 did not require ten years' service to have been completed, but he is not entitled to any pension.

B. Eligible persons who are non-pensionable temporary employees

1. The person is entitled to—

- (a) where the person has not completed at least five years' service, a gratuity calculated on the basis of one twenty-fourth of his monthly rate of pay in respect of each completed month of service; and
- (b) where the person has completed at least five years' service, a gratuity calculated on the basis of—
 - (i) one half of his monthly rate of pay in respect of each of the first four years of service; and
 - (ii) one sixteenth of his monthly rate of pay in respect of each completed month of service thereafter.

2. In paragraph 1, the "monthly rate of pay" of a person refers to an amount equal to one-twelfth of his annual pensionable emoluments that would be used for the calculation of his pension under the relevant pension Act had he been entitled to a pension.

Passed in the House of Representatives this 21st day of April, 1989.

N. COX
Acting Clerk of the House

Passed in the Senate this 16th day of May, 1989.

R. CUMBERBATCH
Acting Clerk of the Senate

Senate amendments were agreed to in the House of Representatives on the 17th May, 1989.

N. COX
Acting Clerk of the House