

Second Session Fifth Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 20 of 1997

[L.S.]

AN ACT to provide for the preservation and linking of pensionable service in the Public Service, the transfer of values of superannuation benefits between the public service and certain statutory boards, the payment of superannuation benefits to temporary employees and unconfirmed public officers, the abolition of marriage gratuity and matters related thereto.

[Assented to 14th August, 1997]

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| Enactment | ENACTED by the Parliament of Trinidad and Tobago as follows:— |
| Short title | 1. This Act may be cited as The Law Reform (Pensions) Act, 1997. |
| Interpretation | 2. (1) In this Act— |
| Chap. 84:01 | “actuary” has the meaning assigned to it by section 3(1) of the Insurance Act; |
| Chap. 23:53 | “independent statutory board” means a statutory board which is not included in the Schedule to the Pensions Extension Act and which has established a pension fund plan for the benefit of its officers; |
| Schedule 1 | “Minister” means <u>the Minister to whom responsibility for finance is assigned</u> ; |
| Chap. 75:01 | “pension law” means a written law set out in Schedule 1; |
| | “pension fund plan” has the meaning assigned to it by section 28(1) of the Income Tax Act; |
| | “preserved service” means period of service preserved under section 4; |
| | “re-employed” means employed, after a break of service, in the same Service or statutory board that one was employed in immediately before the break of service; |
| | “Service” means an establishment of offices in respect of which superannuation benefits are payable under a pension law; |
| | “service in a temporary capacity” does not include acting service for which a person receives an acting allowance; |
| | “subsequently employed” means employed, after a break of service, in a Service or statutory board other than the one in which one was employed immediately before the break of service; |
| | “superannuation benefit” means pension, gratuity or other allowance provided for under a pension law. |

(2) The Minister may, by Order, amend Schedule 1.

(3) Except where otherwise provided, the provisions of this Act shall be in addition to and not in substitution for or in diminution of the provisions of any other written law.

3. For the purposes of this Act, in determining a person's period of service, any added years to which he is entitled as a consequence of sums paid to the Consolidated Fund on his behalf upon transfer shall be taken into account.

Calculation of period
of service

4. (1) This section applies to a person who holds, on or after 1st December, 1991, a pensionable office in a Service, other than the Defence Force, who completes five years of unbroken service in that Service and who has been confirmed, where applicable, in an office of a Service, other than the Defence Force.

Preservation of
service

(2) Where a person's period of service is broken (including a termination of service) for any reason other than suspension, dismissal or removal in consequence of disciplinary proceedings and he does not receive, or is not eligible to receive, superannuation benefits, his period of service shall be preserved.

(3) Notwithstanding any written law, upon the coming into force of this Act, where a person's period of service in a Service in which he is required to contribute towards his superannuation benefits is broken and that service is preserved under subsection (2), he shall not be eligible for a refund of his contributions towards his superannuation benefits.

(4) Notwithstanding subsection (2), where before the coming into force of this Act, a person's period of service in a Service in which he is required to contribute towards his superannuation benefits is broken and he receives a refund of his contributions towards his superannuation benefits, his period of

service shall be preserved under subsection (2) on the condition that he repays the sum received by him by way of the refund of those contributions in such manner as may be determined by the Minister.

(5) Subject to sections 5 and 7, a person whose service is preserved under subsection (2) or (4) shall be paid, upon attaining the age of fifty-five years, deferred superannuation benefits calculated on the basis of his pensionable emoluments and preserved service and in accordance with the relevant pension law, provided that if he dies—

- (a) before attaining that age, the death benefit under the relevant pension law shall be paid to his legal personal representative; or
- (b) before repaying in full the amount owed under subsection (4), the amount of the unpaid portion shall be deducted from the death benefit payable under paragraph (a).

Linking of service

5. (1) Subject to subsection (2), where a person whose period of service is preserved under section 4 is re-employed, or subsequently employed, in a Service, his preserved service shall count for superannuation benefits together with his period of service in the Service in which he is re-employed or subsequently employed, as the case may be.

(2) Where a person whose period of service is preserved under section 4, is subsequently employed in a Service in which he is required to contribute towards his superannuation benefits, he shall exercise one of the following options:

- (a) to be paid, upon attaining the age of fifty-five years, deferred superannuation benefits calculated on the basis of his preserved service, provided that if he dies before attaining that age, the death benefit under the relevant pension law shall be paid to his legal personal representative; or

(b) to have his preserved service consolidated with his period of service in the Service in which he is subsequently employed on the condition that he pays, subject to subsection (3), arrears of contribution in respect of his preserved service, provided that if he dies before repaying in full those arrears, his preserved service shall count together with his subsequent service and the amount of the unpaid arrears shall be deducted from the death benefit payable to his legal personal representative under the relevant pension law.

(3) A person referred to in section 4(3) or (4) shall not be required to pay arrears of contribution in respect of his preserved service if he exercises the option in subsection (2)(b).

(4) A person referred to in section 4(1) who is in receipt of, or is eligible to receive, superannuation benefits under the relevant pension law and who is re-employed, or subsequently employed, in a Service may opt to have his period of service in that Service counted for superannuation benefits together with his period of service which would have been preserved under section 4(2) had he not received or been eligible to receive superannuation benefits, except that any amount already received by him by way of gratuity shall be deducted from the amount which is required to be paid to him on the basis of the final computation.

(5) Where the period of service of a person is broken for any reason other than suspension, dismissal or removal in consequence of disciplinary proceedings and—

- (a) he had, before the break, been confirmed in a pensionable office;
- (b) his period of service is not preserved under section 4(2);

- (c) he is not a person referred to in subsection (4); and
- (d) he is re-employed or subsequently employed in a pensionable office in a Service,

his period of service before the break shall count for superannuation benefits together with his period of service in the Service in which he is re-employed or subsequently employed, as the case may be, provided that—

- (i) if he is re-employed or subsequently employed in a Service in which he is required to contribute towards his superannuation benefits, he shall be required to pay arrears of contribution in respect of service before the break; and
- (ii) any amount already received by him by way of gratuity shall be deducted from the amount which is required to be paid to him on the basis of the final computation.

(6) Where a person completes at any time in the public service a period of not less than two years of unbroken service in a pensionable office under a pension law—

- (a) without being confirmed therein; or
- (b) in a temporary capacity in accordance with any written law,

such service shall, if it is not broken by reason of suspension, dismissal or removal in consequence of disciplinary proceedings, count for superannuation benefits together with his period of service in a pensionable office in which he has been confirmed.

(7) This section applies to a person who holds, on or after 2nd June, 1989, a pensionable office in a Service.

6. Where a person is re-employed or subsequently employed in a Service, any pension being paid to him under a pension law at the time of his re-employment or subsequent employment shall cease to be payable. Cessation of pension

7. Where a person whose period of service is preserved under section 4 is, on or after 27th November, 1992 and within six months of the preservation of his service, subsequently employed in an independent statutory board, he shall exercise one of the following options: Options for public officer subsequently employed in independent statutory board

- (a) to be paid, upon attaining the age of fifty-five years, deferred superannuation benefits calculated on the basis of his preserved service, provided that if he dies before attaining that age, the death benefit under the relevant pension law shall be paid to his legal personal representative; or
- (b) if permitted by the trust deed and rules of the pension fund plan, to have a sum equivalent to the value of his accrued benefits, as determined by an actuary, transferred from the Consolidated Fund and paid on his behalf into the pension fund of the independent statutory board.

8. (1) This section applies to a person who holds, on or after 27th November, 1992, an office in an independent statutory board. Transfer of superannuation values to Consolidated Fund

(2) Where a person's period of service is broken for any reason other than suspension, dismissal or removal in consequence of disciplinary proceedings and he is within six months thereof employed in a Service, the trustees of the pension fund plan of the independent statutory board shall, if permitted by the trust deed and rules of the pension fund plan, transfer from the pension fund and pay on his behalf into the Consolidated fund a sum equivalent to the value of his accrued benefits as determined by an actuary.

Unconfirmed public
officers and persons
serving in a temporary
capacity

9. (1) This section applies to persons who, on or after 2nd June, 1989, serve in a pensionable office under a pension law—

- (a) without being confirmed therein; or
- (b) in a temporary capacity in accordance with any pension law.

(2) Notwithstanding the provisions of any pension law, where a person to whom this section applies—

- (a) completes at least ten years of unbroken service at any time in a Service and retires upon or after attaining the age of fifty-five years, he is entitled to a pension, gratuity or other allowance computed in accordance with the relevant pension law as though he were an officer;
- (b) completes at least ten years of unbroken service at any time in a Service and retires before attaining the age of fifty-five years on the grounds of ill-health pursuant to a pension law, he is entitled to a pension, gratuity or other allowance computed in accordance with the relevant pension law as though he were an officer; or
- (c) completes at least two years of unbroken service in a Service and dies while in service, the death benefit applicable to an officer under the relevant pension law shall be paid to his legal personal representative.

(3) In calculating the pension, gratuity, other allowance or death benefit payable under subsection (2), no account shall be taken of periods of less than two years of continuous service.

10. The written laws set out in the First Column of Schedule 2 are amended to the extent shown in the Second Column of that Schedule.

SCHEDULE 1

(Section 2)

PENSION LAWS

1. The Defence Act, Chap. 14:01
2. The Police Service Act, Chap. 15:01
3. The Pensions Act, Chap. 23:52
4. The Pensions Extension Act, Chap. 23:53
5. The Municipal Corporations (Pensions) Act, Chap. 25:05
6. The Fire Service Act, Chap. 35:50
7. The Teachers' Pensions Act, Chap. 39:02
8. The Assisted Secondary School Teachers' Pensions Act, Chap. 39:03

SCHEDULE 2

(Section 10)

FIRST COLUMN

SECOND COLUMN

The Defence (Pensions, Terminal and Other Grants) Regulations, 1968 (G.N. No. 38 of 1968)

The Defence (Pensions, Terminal and other Grants) Regulations, 1968 is amended—

(a) in regulation 2(*dd*), by deleting the words “Her Majesty’s Military Service” and substituting the words “Her Majesty’s Military Forces”;

(b) by deleting regulation 2(*e*) and substituting the following paragraph:

“(e) ‘pensionable service’ means paid colour service in the Force after attaining the age of twenty years and includes—

- (i) paid colour service in Her Majesty’s Military Forces, or in the West India Regiment; and

SCHEDULE 2—CONTINUED

(Section 10)

| FIRST COLUMN | SECOND COLUMN |
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| The Defence (Pay and Superannuation) (Transferred Officers) Regulations, Chap. 14:01 | <p data-bbox="812 280 1140 569">(ii) pensionable service under a pension law as defined in the Law Reform (Pensions) Act, 1997, other than the Defence Act, for which a member has paid arrears of contribution;”;</p> <p data-bbox="680 589 1140 685">(c) in regulation 4, by inserting after subregulation (1), the following subregulation:</p> <p data-bbox="749 705 1140 1265">“ (1A) As arrears of contribution payable under paragraph (b) of section 5(2) of the Law Reform (Pensions) Act, 1997, there shall be deducted from the basic pay of an officer or other rank to which that paragraph applies such amount as the Minister may approve, calculated on the basis of the actual pay received for each year in respect of which the arrears of contribution are payable, and every such sum so deducted shall be paid into the Consolidated Fund.”.</p> <p data-bbox="623 1290 1140 1387">The Defence (Pay and Superannuation) (Transferred Officers) Regulations are amended—</p> <p data-bbox="680 1400 938 1429">(a) in regulation 5—</p> <p data-bbox="737 1449 1140 1613">(i) in subregulation (2), by deleting the full stop and substituting the words “; or” and by inserting thereafter the following paragraph:</p> |

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FIRST COLUMN

SECOND COLUMN

“(c) if he held a pensionable office, or was employed in a temporary capacity for not less than two years, in a Service as defined in the Law Reform (Pensions) Act, 1997, other than the Defence Force, to have his service in that Service (hereinafter referred to as ‘his previous service’) consolidated with his period of service in the Defence Force, on the condition that he pays arrears of contribution in respect of his previous service.”; and

(ii) by inserting after subregulation (2), the following subregulation:

“ (3) Subregulation (2)(c) applies only to a person who held a pensionable office in a Service as defined in the Law Reform (Pensions) Act, 1997 on or after 2nd June, 1989.”.

The Police Service Act,
Chap. 15:01

The Sixth Schedule to the Police
Service Act is amended—

(a) in rule 7, by deleting the words “Subject to rule 8, if ” and substituting the word “If”;

(b) by revoking rule 8 and substituting the following rule:

“Broken
service

8. (1) No pension, gratuity or other allowance shall be granted in respect of a period of service that is broken by suspension, dismissal or removal in consequence of disciplinary proceedings.

SCHEDULE 2—CONTINUED

(Section 10)

| FIRST COLUMN | SECOND COLUMN |
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| | (2) Service is not broken where it is interrupted by one or a combination of the following: (a) one day; (b) weekends; or (c) public holidays.”; |
| | (c) in rule 9(3)(a), by deleting the words “4(8)” and substituting the words “4(9)”; |
| | (d) in rule 10(7)(c), by deleting the words “4(8)” and substituting the words “4(9)”. |
| The Pensions Act, Chap. 23:52 | Section 10(3A) of the Pensions Act is repealed. |
| The Pensions Regulations Chap. 23:52 | The Pensions Regulations are amended— (a) in regulation 4— (i) by renumbering regulation 4 as regulation 4(1); (ii) in subregulation (1) as renumbered, by deleting the word “Where” and substituting the words “Subject to subregulation (2), where”; and (iii) by inserting after subregulation (1) as renumbered, the following subregulation: “ (2) This regulation only applies to a female officer who held a pensionable office immediately before the commencement of the Law Reform (Pensions) Act, 1997.”; |

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(b) by revoking regulation 6 and substituting the following regulation:

“Broken
Service

6. (1) No pension, gratuity or other allowance shall be granted in respect of a period of service that is broken by suspension, dismissal or removal in consequence of disciplinary proceedings.

(2) Service is not broken where it is interrupted by one or a combination of the following:

- (a) one day;
- (b) weekends; or
- (c) public holidays.”;

(c) in regulation 7, by deleting the words “Notwithstanding regulation 6, an” and substituting the word “An”;

(d) in regulation 8, by deleting the words “Notwithstanding regulation 6, married” and substituting the word “Married”;

(e) in regulation 10—

(i) by deleting the marginal note and substituting the following marginal note:

“Service in a temporary capacity”;

(ii) by deleting the words “acting service” and substituting the words “service in a temporary capacity”; and

(iii) by deleting paragraph (a).

SCHEDULE 2—CONTINUED

(Section 10)

FIRST COLUMN

The Pensions
Extension Act,
Chap. 23:53

SECOND COLUMN

The Pensions Extension Act is amended—

(a) in section 9, by inserting after subsection (2), the following subsections:

“ (3) Notwithstanding any other written law, the terms and conditions of service, and any variation thereof, of a person appointed to an office mentioned in the Schedule, shall be subject to the prior approval of the Chief Personnel Officer.

(4) Notwithstanding any other written law, the size of the staff establishment of a Statutory Board, authority, committee or other body mentioned in the Schedule shall not be varied without the prior approval of the Chief Personnel Officer.”;

(b) by inserting after section 9, the following section:

“Avoidance
of double
payment

10. (1) Notwithstanding the provisions of this Act or any other written law, where, after the coming into force of the Law Reform (Pensions) Act, 1997, a Statutory Board, authority, committee or other body is included in the Schedule, a person who is—

(a) appointed to an office mentioned in the Schedule on the establishment of that statutory board, authority, committee or other body; and

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FIRST COLUMN

SECOND COLUMN

Act No. 46
of 1985

The Municipal
Corporations
(Pensions) Act,
Chap: 25:05

(b) entitled to terminal benefits in respect of resignation, retirement, retrenchment or death under a collective agreement, or any other agreement, entered into with that statutory board, authority, committee or other body or in accordance with the Retrenchment and Severance Benefits Act, 1985,

shall not be entitled to any benefits under the Pensions Act unless he waives, in writing, his entitlement to all of those terminal benefits.

(2) In subsection (1), "retirement" includes retirement on the grounds of ill-health."

The Municipal Corporations (Pensions) Act is amended—

(a) by renumbering section 3 as section 3(1) and inserting thereafter the following subsection:

" (2) For the purposes of this Act, service is not broken where it is interrupted by one or a combination of the following:

- (a) one day;
- (b) weekends;
- (c) public holidays.";

(b) by repealing section 5(4);

(c) in section 11—

- (i) in subsection (1), by deleting from the words "Such service" to the end; and

SCHEDULE 2—CONTINUED

(Section 10)

FIRST COLUMN

SECOND COLUMN

- (ii) by repealing subsections (2) and (3) and substituting the following subsection:

“(2) No pension, gratuity or other allowance shall be granted in respect of a period of service that is broken by suspension, dismissal or removal in consequence of disciplinary proceedings.”;

(d) in section 13—

- (i) by deleting the marginal note and substituting the following marginal note:

“Service in a temporary capacity”;

- (ii) by deleting the words “acting service” and substituting the words “service in a temporary capacity”;

- (iii) by deleting the words “except that” and substituting the words “provided that”; and

- (iv) by deleting paragraph (a);

(e) in section 19—

- (i) in subsection (2), by deleting the word “Where” and substituting the words “Subject to subsection (3), where”; and

- (ii) by inserting after subsection (2), the following subsection:

“(3) This section only applies to a person who was a female officer immediately before the commencement of the Law Reform (Pensions) Act, 1997.”;

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SECOND COLUMN

The Fire Service
Act, Chap. 35:50

- (f) in section 22, by inserting after subsection (7), the following subsection:

“ (8) Notwithstanding subsections (1) to (7), a temporary employee shall not be granted a gratuity or pension under this section if he is entitled to superannuation benefits by virtue of the provisions of the Law Reform (Pensions) Act, 1997.” .

The Fifth Schedule to the Fire Service Act is amended—

- (a) by deleting paragraph 7 and substituting the following paragraph:

“Broken
service

7. (1) No pension, gratuity or other allowance shall be granted in respect of a period of service that is broken by suspension, dismissal or removal in consequence of disciplinary proceedings.

(2) Service is not broken where it is interrupted by one or a combination of the following:

- (a) one day;
(b) weekends; or
(c) public holidays.”;

- (b) in paragraph 8(3)(a), by deleting the words “3(8)” and substituting the words “3(9)”;
- (c) in paragraph 9(9), by deleting the words “3(8)” and substituting the words “3(9)”.

SCHEDULE 2—CONTINUED

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FIRST COLUMN

The Teachers' Pensions
Act Chap. 39:02

The Teachers'
Pensions
Regulations
Chap. 39:02

SECOND COLUMN

Section 9 of the Teachers' Pensions
Act is repealed.

The Teachers' Pensions Regulations
are amended—

(a) in regulation 12—

(i) by revoking subregulation (1)
and substituting the fol-
lowing subregulation:

“ (1) This regulation only
applies to a person who
was a female teacher
immediately before the
commencement of the Law
Reform (Pensions) Act,
1997.”;

(ii) in subregulation (2), by
deleting the words “this Act”
and substituting the words
“the Act”;

(b) by revoking regulation 15 and
substituting the following
regulation:

“Broken
service

15. (1) No pension,
gratuity or other
allowance shall be
granted in respect of a
period of service that is
broken by suspension,
dismissal or removal in
consequence of
disciplinary
proceedings.

(2) Service is not
broken where it is
interrupted by one or a
combination of the
following:

- (a) one day;
- (b) weekends; or
- (c) public holidays.

(3) Where a teacher
with the consent of the
President serves in time of
war for any period or periods

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with the Armed Forces of a Commonwealth territory or in any other capacity connected with the state of war, any such period or periods may, with the approval of the President, be counted for pension, gratuity or allowance.

(4) Where a teacher is seconded or temporarily transferred for duty in the service of the State, the period during which he shall serve in the office or employment to which he has been seconded or temporarily transferred as aforesaid shall be counted for pension, gratuity or allowance, unless the President shall in any case otherwise decide, as if the teacher had not been seconded or temporarily transferred.

(5) Any period during which a teacher has been absent from duty on leave either on partial pay or without salary, granted on grounds of public policy with the approval of the President and during which he has not qualified for pension, gratuity or allowance in respect of other teaching service or other public service, shall count for pension, gratuity or allowance.

(6) Subregulations (3) to (5) shall be deemed to have been in force from 3rd September, 1939.”;

(c) by revoking regulation 16;

SCHEDULE 2—CONTINUED

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- The Assisted Secondary School Teachers' Pensions Act, Chap. 39:03
The Assisted Secondary School Teachers' Pensions Regulations, Chap. 39:03
- (d) in regulation 18—
- (i) by deleting the marginal note and substituting the following marginal note:

“Service in a temporary capacity”;
 - (ii) by deleting the words “acting service” and substituting the words “service in a temporary capacity”; and
 - (iii) by deleting paragraph (a).
- The Assisted Secondary School Teachers' Pensions Act is amended by repealing section 8.
- The Assisted Secondary School Teachers' Pensions Regulations are amended—
- (a) in regulation 5, by revoking subregulation (1) and substituting the following subregulation:

“ (1) This regulation only applies to a person who was a female teacher immediately before the commencement of the Law Reform (Pensions) Act, 1997.”;
 - (b) by revoking regulation 7 and substituting the following regulation:

7. (1) No pension, gratuity or other allowance shall be granted in respect of a period of service that is broken by suspension, dismissal or removal in consequence of disciplinary proceedings.

(2) Service is not broken
- “Broken service

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where it is interrupted by one or a combination of the following:

- (a) one day;
- (b) weekends; or
- (c) public holidays.”;
- (c) by revoking regulation 8;
- (d) in regulation 10—
 - (i) by deleting the marginal note and substituting the following marginal note:
 - “Service in a temporary capacity”;
 - (ii) by deleting the words “acting service” and substituting the words “service in a temporary capacity”; and
 - (iii) by deleting paragraph (a).

Passed in the Senate this 20th day of May, 1997.

N. COX

Clerk of the Senate

Passed in the House of Representatives this 25th day of July, 1997.

J. SAMPSON

Clerk of the House

House of Representatives amendment agreed to by the Senate this 29th day of July, 1997.

N. COX

Clerk of the Senate