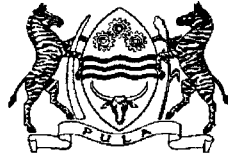


MINISTERS AND NATIONAL ASSEMBLY GRATUITIES AND PENSIONS ACT, 1998

No. 7



of 1998

ARRANGEMENT OF SECTIONS

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An Act to provide for pensions and gratuities payable to Ministers and Members of the National Assembly.

Date of Assent: 5th May, 1998.

Date of Commencement: 14th November, 1994.

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Ministers and National Assembly Gratuities and Pensions Act, 1998, and shall be deemed to have come into operation on the 14th November, 1994.

Short title and
commence-
ment

2. (1) In this Act, unless the context otherwise requires —
“average of constituency allowances” means an amount equal to the average of the aggregate of constituency allowances payable in respect of all the different categories of constituencies specified in paragraph 4 of the Schedule to the National Assembly (Salaries and Allowances) Act;

Interpretation
and
application

“basic salary” in respect of a member of the National Assembly means the salary payable to him as such member, and in the case of the Speaker, Deputy Speaker, a Minister or an Assistant Minister includes any salary payable to him in respect of his service as such Speaker, Deputy Speaker, Minister or Assistant Minister;

Act No. 3 of
1992

“completed month of service” means a completed month of service beginning from the 14th November, 1994;

“member” means a member of the National Assembly, and includes a person deemed to be a member of the National Assembly by virtue of his election as the Speaker thereof, in accordance with the provisions of section 58 of the Constitution.

(2) The provisions of this Act shall apply to all Ministers and Assistant Ministers, and all members, and persons deemed to be members, of the National Assembly in accordance with the provisions of section 58 of the Constitution, other than the President and the Attorney- General.

Charge upon
Consolidated
Fund

3. There shall be charged upon and paid out of the Consolidated Fund of Botswana all such sums of money as may from time to time be granted by way of pensions or gratuities in accordance with the provisions of this Act.

Pensions and
gratuities to be
free of tax

4. All pensions or gratuities granted in accordance with the provisions of this Act shall be payable free of tax.

Gratuities
payable to
members

5. Every member shall, upon the dissolution of Parliament, at the end of every Parliamentary term, be entitled to receive a gratuity equal to 30% of the aggregate basic salary paid to him, and average of constituency allowances payable to him, during such term of Parliament.

Pensions
payable in lieu
of gratuities

6. (1) In place of the gratuity payable in accordance with the provisions of section 5, a member may opt to receive a pension calculated in accordance with one of the following, provided that, with effect from the 14th November, 1994 he serves not less than 10 years in the National Assembly; or he has, immediately before the date of enactment of this Act, served not less than one term in the National Assembly —

(a) a member may opt to receive no gratuity in terms of section 5, in which case, from the date of his leaving Parliament, or from the age of 45 years, whichever comes later, he shall be entitled to receive a pension equal to 1/360th of the basic salary, and average of constituency allowances, of such member current at the time the pension is payable, for each completed month of service as such member:

Provided that his maximum entitlement shall not exceed 240/360th of such current basic salary, and average of constituency allowances;

(b) a member may opt to receive a reduced gratuity of 10% of the aggregate basic salary paid to him, and average of constituency allowances payable to him, during a term of Parliament, in which case, from the date of his leaving Parliament, or from the age of 45 years, whichever comes later, he shall be entitled to receive a pension equal to 1/480th of the basic salary, and average of constituency allowances, of such member current at the time the pension is payable, for each completed month of service as such member:

Provided that his maximum entitlement shall not exceed 240/480th of such current basic salary and average of constituency allowances;

- (c) a member may opt to receive a reduced gratuity of 15% of the aggregate basic salary paid to him, and average of constituency allowances payable to him, during a term of Parliament, in which case, from the date of his leaving Parliament, or from the age of 45 years, whichever comes later, he shall be entitled to receive a pension equal to 1/600th of the basic salary, and average of constituency allowances, of such member current at the time the pension is payable, for each completed month of service as such member:

Provided that his maximum entitlement shall not exceed 240/600th of such current basic salary and average of constituency allowances.

(2) In place of the gratuity payable in accordance with the provisions of section 5, a member may opt to receive a pension calculated in accordance with the following, provided that, with effect from the next Parliamentary term, he serves not less than one term in the National Assembly, and provided further that he contributes 7.5% of his gross salary towards the payment of his gratuity or pension, which 7.5% of gross salary shall be withheld from the said salary and paid into the Consolidated Fund —

- (a) a member may opt to receive no gratuity, in which case, from the date of his leaving Parliament, or from the age of 45 years, whichever comes later, he shall be entitled to receive a pension equal to 1/300th of the basic salary, and average of constituency allowances, of such member current at the time the pension is payable, for each completed month of service as such member:

Provided that his maximum entitlement shall not exceed 240/300th of such current basic salary and average of constituency allowances;

- (b) a member may opt to receive a reduced gratuity of 10% of the aggregate basic salary paid to him, and average of constituency allowances payable to him, during a term of Parliament, in which case, from the date of his leaving Parliament, or from the age of 45 years, whichever comes later, he shall be entitled to receive a pension equal to 1/400th of the basic salary, and average of constituency allowances, of such member current at the time the pension is payable, for each completed month of service as such member:

Provided that his maximum entitlement shall not exceed 240/400th of such current basic salary and average of constituency allowances;

- (c) a member may opt to receive a reduced gratuity of 15% of the aggregate basic salary paid to him, and average of constituency allowances payable to him, during a term of Parliament, in which case, from the date of his leaving Parliament, or from the age of 45 years, whichever comes later, he shall be entitled to receive a pension equal to 1/500th of the basic salary, and average of constituency allowances, of such member current at the time the pension is payable, for each completed month of service as such member:

Provided that his maximum entitlement shall not exceed 240/500th of such current basic salary and average of constituency allowances.

- (3) Notwithstanding the provisions of subsections (1) and (2), a member shall not be entitled to be paid a pension at any time if and when he returns as a member of the National Assembly.

Pensions to be
index-linked

7. (1) Any sums of money paid to a member as pension shall, from the date when such member starts to draw the pension, be index-linked to the current basic salary, and average of constituency allowances, of an ordinary member of the National Assembly.

(2) For the purposes of subsection (1), "ordinary member of the National Assembly" means a member, other than the President, the Speaker, Deputy Speaker, a Minister, an Assistant Minister or the Attorney-General, who receives the minimum basic salary, and average of constituency allowances, payable to members in accordance with the National Assembly (Salaries and Allowances) Act.

Gratuity
payable to
dependants
and estate

8. The dependants or the estate of a member who dies whilst in office, or who dies after having left Parliament but before reaching the age of 45, after having served as such a member —

- (a) for an aggregate period of less than 20 years, shall be paid a lump sum gratuity equal to the basic annual salary, and average of constituency allowances, payable to a member at the time of his death;
- (b) for an aggregate period of 20 years or more, shall be paid a lump sum gratuity equal to three years of the pension that the member would have been entitled to receive had he lived and retired as a member at the age of 45 years, with effect from the date when he died.

Gratuity
payable on
death of retired
member

9. Upon the death of a member who was over the age of 45 years, and who has retired from service in the National Assembly, his dependants or his estate shall be paid a lump sum gratuity calculated as follows —

- (a) where the death occurs within 10 years of the member's retirement, the equivalent of three years' pension at the rate current at the time of his death;

- (b) where the death occurs after 10 years but before 15 years after the member's retirement, the equivalent of two years' pension at the rate current at the time of his death;
- (c) where the death occurs 15 or more years after the member's retirement, the equivalent of one year's pension at the rate current at the time of his death.

10. A pension payable in terms of this Act shall not be capable of being assigned or ceded or otherwise transferred or of being pledged or hypothecated nor shall it be liable to be attached or subjected to any form of execution under a judgment or order of court except for the purpose of satisfying —

Pensions
not to be
assignable

- (a) a debt due to the Government of Botswana; or
- (b) an order of any competent court for the payment of periodical sums of money towards the maintenance of the spouse or former spouse or minor child of the member to whom the pension is payable.

11. Where a member entitled to a pension or other benefit in terms of this Act is adjudicated bankrupt or is declared insolvent by judgment of any competent court, the pension or other benefit, or the value thereof, shall not form part of the assets of the insolvent estate of such member.

Insolvency

PASSED by the National Assembly this 22nd day of April, 1998.

C.T. MOMPEI,
Clerk of the National Assembly.