



## ANALYSIS

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1976, No. 19

An Act to provide for retiring allowances for members of the Legislative Assembly (19 November 1976)

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title and commencement - This Act may be cited as the Legislative Assembly Members' Superannuation Act 1976 and shall come into force on the day of assent.

2. Interpretation - (1) In this Part of this Act, unless the context otherwise requires -

"basic salary" means

- (a) in the case of a former Premier, the prescribed salary of a Premier at the date of entitlement;
  - (b) in the case of a former Minister, the prescribed salary of a Minister at the date of entitlement;
  - (c) in the case of a former Speaker, the prescribed salary of the Speaker at the date of entitlement;
- and

- (d) in the case of a qualified member, the prescribed salary of a member at the date of entitlement.

"date of Entitlement" means the day after the date upon which person becomes a qualified member.

"former member" means every person who was or became a member of the Legislative Assembly on or after the fourth day of August 1965 and who is not a member on the date on which this Act comes into force.

"Former Minister" means a qualified member other than a former Premier who has held the office and been paid the salary of any one or more of Premier, Deputy to the Premier, Minister and Assistant to a Minister for a total period of not less than four years (whether continuously or in two or more separate periods and whether partly under one office and partly under another office or other offices).

"Former Premier" means a qualified member who has held the office and has been paid the salary of Premier for a period of not less than four consecutive years.

"Former Speaker" means a qualified member who has held the office of Speaker for not less than four consecutive years or a person who has held the office of Speaker for not less than eight years four of which must be consecutive.

"Fund" means the Legislative Members' Superannuation Account established by this Act.

"Member" means a person who on or after the date on which this Act comes into force is or becomes a member of the Legislative Assembly and includes any person who is for the time being receiving the salary of the Speaker, or of the Premier or of any other Minister of the Crown, or of Deputy to the Premier, or of a member of the Legislative Assembly.

"Minister" means the Minister responsible for Finance.

"prescribed" in relation to salary means prescribed as being payable under the Civil List Act 1968 and any amendment or replacement or substitution of that Act.

"Qualified member" means a person who,

- (a) having been a member of the Legislative Assembly for not less than eight years (whether continuously or in two or more separate periods) has ceased to be a member; or
- (b) not having been a member of the Legislative Assembly has served in the office of Speaker for not less than eight years (whether continuously or in two or more separate periods) and has ceased to hold that office;

"Salary", in relation to a member or Speaker, means the salary payable to him under the Civil List Act 1968.

(2) For the purpose of computing the length of any period of service of any person as a member for the purposes of this Act, -

- (a) Where any period of such service has commenced

or ended before the first day in July in any year it shall be deemed to have commenced or ended, as the case may be, at the beginning of that year;

- (b) Where any period of such service has commenced or ended on or after the first day of July in any year it shall be deemed to have commenced or ended, as the case may be, at the end of that year.
- (c) Every period of service which commenced on or after the fourth day of August 1965 shall be counted.

3. Legislative Assembly Members' Superannuation Account -

(1) There is hereby established within the Cook Islands Government Account an account to be known as the Legislative Assembly Members' Superannuation Account.

(2) There shall be paid into the Legislative Assembly Members' Superannuation Account, without further appropriation than this section, such sum or sums as may in the opinion of the Minister be required to provide a fund sufficient to provide the allowances payable under this Act.

(3) All surplus income arising from the Fund shall be deemed to have been appropriated to and form part of the fund as from the close of business on the last day of each financial year.

(4) Sections 18 and 19 of the Public Moneys Act 1969 shall apply to the Fund subject to there being paid in respect of any balance transferred pursuant to that section interest at a rate not less than the interest being received on the Fund at that date.

(5) The Minister shall make such arrangements for the opening of Bank accounts and the keeping of records as may be found appropriate.

4. Contributions by members - From the salary payable to any member after the first day of April 1977 a superannuation contribution at a rate equal to ten per cent of the member's salary shall be deducted as the salary becomes payable from time to time, and shall be paid into the Fund.

5. Subsidy from Cook Islands Government Account - The Minister shall pay out of the Cook Islands Government Account, without further appropriation than this section, into the Fund a subsidy in respect of each member at a rate equal to the contribution made by the member.

6. Commencement and Termination of Retiring Allowance -

(1) Every qualified member shall be paid the retiring allowance provided by this Act on and from the date of entitlement.

(2) The retiring allowance provided by this Act shall cease to be paid -

- (a) on the fourteenth day after the date upon which the qualified member dies; or
- (b) on the day prior to the date upon which the qualified member commences to receive a salary as a member of the Legislative Assembly.

(3) In any case to which subsection 2(b) of this section applies a person shall again become entitled to be paid the retiring allowances provided by this Act when he again becomes a qualified member

7. Payment of Retiring Allowance - Retiring Allowance

shall be paid in such manner and at such intervals as the Minister may direct from time to time:

Provided that not more than three months shall elapse between payments.

8. Calculation of Retiring Allowance - The retiring allowance payable under this Act shall be calculated in accordance with the Schedule.

9. Adjustment of retiring allowances - Where, after the date of entitlement of any former Premier, former Minister, former Speaker or qualified member, the prescribed salary of the Premier, Ministers, Speaker or Members is amended, the allowance payable under this Act shall, from the date upon which the statute or other instrument amending those salaries comes into force, be calculated upon the basis of appropriate amended salary.

10. Withdrawal of Contributions - (1) Where any person has ceased to be a member of the Legislative Assembly after having served as a member for less than eight years he may at any time elect to withdraw the total amount of contributions made by him under this Act:

Provided that no such election to withdraw contributions may be exercised while a person is a member of the Legislative Assembly nor after he has become a qualified member.

(2) Where any person dies after having served as a member of the Legislative Assembly for less than eight years, there shall be paid to the personal representative of the deceased person the total amount of contributions made by him under this Act:

Provided that no payment shall be made under this subsection where contributions have been withdrawn from the Fund prior to the death of the person.

(3) Where any person whose contributions have been withdrawn under subsection (1) of this section subsequently becomes a member, the period of his service as a member for the purposes of this Act shall be deemed to include the period in respect of which those contributions were paid, if that person pays the amount so withdrawn into the Fund within three months of his again becoming a member or within such time and in such manner as the Minister may allow in that behalf.

11. Election to receive lump sum payment - (1) Every member who is about to become entitled to a retiring allowance under this Act may apply to receive as a lump sum an amount not exceeding the first four years of retiring allowances. Every such application shall be in writing made to the Minister not less than three months before the first installment of retiring allowance is paid.

(2) On receipt of any application the Minister shall have regard to the ability of the fund to meet the lump sum payment sought in the circumstances prevailing at the date of receipt of the application. Where the Minister is satisfied as to the fund's capacity to meet the amount applied for he shall make payment of the lump sum to the applicant not later than six months after the date of entitlement of that person.

(3) No other allowance under this Act shall be payable to or receivable by any person to whom a lump sum payment has been paid until the number of years used in arriving

at the lump sum have elapsed, nor shall any adjustment accrue by reason of the operation of section 9 of this Act.

(4) On the day following the date on which the number of years used in arriving at the lump sum expires, every person who has received a lump sum payment shall be entitled to a retiring allowance as if the application had not been made and the lump sum not received and section 9 and subsection (2) (b) and (3) of Section 6 of this Act shall apply accordingly.

(5) Where before the number of years used in calculating the lump sum has elapsed any person to whom a lump sum payment has been made again becomes a member of the Legislative Assembly, he shall pay into the Fund within such time and in such manner as the Minister may direct in that behalf an amount equal to the retiring allowance he would have received during the unexpired portion of the number of years used in calculating the lump sum.

12. Death of Members - (1) In the event of the death of any qualified member who is a male, the widow of that qualified member shall be paid during her lifetime or until she remarries, an amount equal to 50% of the retiring allowance which was being paid to the qualified member at the date of his death.

(2) In the event of the death of a member after he has served not less than 8 years as a member, the widow of the member shall receive during her lifetime or until she remarries an amount equal to 50% of the retiring allowance that the member would have been entitled to had he ceased to be a member prior to his death.

(3) Subsections (2) (b) and (3) of section 6 shall with necessary modifications apply to every allowance payable under this section.

(4) Section 9 of this Act shall apply to every allowance payable under this section.

(5) The allowance payable under this section shall be payable on and from the day following the date of death of the qualified member or the member.

13. Taxation - (1) For the purposes of the Income Tax Act 1972 no contribution made under this Act shall be deemed to be a contribution to a superannuation scheme and all contributions shall form part of the income of members for the purposes of that Act accordingly.

(2) Every allowance payable to any person under this Act shall be exempt income within the meaning of the Income Tax Act 1972.

(3) No part of any sum paid into the Fund by the Minister pursuant to subsection (2) of section 3 of this Act or pursuant to section 5 of this Act shall be deemed to be income in the hands of any member.

14. Transitional Scheme for Former Members - (1) The Minister shall, with the consent of Cabinet, and after consultation with the Speaker, arrange and give effect to a scheme for the payment of retirement allowances to former members who are living at the date on which this Act comes into force and to the widows of former members who are deemed at the date on which this Act comes into force.

(2) The factors applying with regard to the retirement allowances payable under this Act shall apply to the scheme referred to in subsection (1) of this section but only so far as those factors are suitable.

(3) No benefit under a scheme arranged in accordance

with subsection (1) of this section shall accrue to any former member while he is in receipt of a salary as a public servant employed under the Public Service Act 1975.

(4) Every allowance paid under a scheme arranged in accordance with subsection (1) of this section shall be exempt from income tax.

(5) The Minister may, from time to time, after consultation with the Speaker and with the consent of Cabinet, revoke or vary or replace any scheme arranged pursuant to subsection (1) of this section:

Provided however that no such revocation, variation or replacement shall have effect to reduce any allowance then paid to any former member or to any widow of any former member nor to disqualify any person then in receipt of an allowance from the benefit under the scheme.

15. Former members re-elected to the Legislative Assembly - (1) Where after the commencement of this Act any former member becomes a member of the Legislative Assembly he shall thereupon cease to be entitled to any benefit under any scheme arranged pursuant to section 14 of this Act.

(2) On any person to which subsection (1) of this section applies ceasing to be a member of the Legislative Assembly, his service as a former member shall be taken into account in determining whether or not he is qualified for a retiring allowance under this Act.

(3) Where any person to which subsection (1) of this section applies has served as a member of the Legislative Assembly for a total of not less than eight years over the period commencing on the fourth day of August 1965 and concluding on the date on which he again ceases to be a member of the Legislative Assembly he shall no longer be a former member within the meaning of this Act and shall be entitled to the retiring allowances of a qualified member.

16. Provision for payment - (1) All allowances and other money payable under this Act shall be paid out of the Legislative Assembly Members Superannuation Account without further appropriation than this Act.

(2) Where in any year the money in the Legislative Assembly Members Superannuation Account is insufficient to meet all payments required to be made, the Minister may, without further appropriation than this section, make an advance from the Cook Islands Government Account sufficient to meet the deficiency.

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This Act is administered in the Treasury.

Section 8.

SCHEDULE

COMPUTATION OF RETIRING ALLOWANCES  
OF A QUALIFIED MEMBER, FORMER SPEAKER  
FORMER MINISTER AND FORMER PREMIER

<u>Length of Service</u>		<u>Retiring allowance</u>								
More than 8 years	but less than 9 years	50 per centum of basic salary								
"	" 9 years	"	"	" 10 years	52	"	"	"	"	"
"	" 10 years	"	"	" 11 years	54	"	"	"	"	"
"	" 11 years	"	"	" 12 years	56	"	"	"	"	"
"	" 12 years	"	"	" 13 years	58	"	"	"	"	"
"	" 13 years	"	"	" 14 years	60	"	"	"	"	"
"	" 14 years	"	"	" 15 years	62	"	"	"	"	"
"	" 15 years	"	"	" 16 years	64	"	"	"	"	"
"	" 16 years	"	"	" 17 years	66	"	"	"	"	"
"	" 17 years	"	"	" 18 years	68	"	"	"	"	"
"	" 18 years	"	"	" 19 years	70	"	"	"	"	"
"	" 19 years	"	"	" 20 years	72	"	"	"	"	"
20 years or more					75	"	"	"	"	"