ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER L35

LEGISLATORS PENSIONS ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates—

Act 5/2004, in force 8 July 2004
Act 7/2010, in force 1 November 2010
U.K. S.I. 2019 No. 852, in force 14 May 2019

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LEGISLATORS PENSIONS ACT

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LEGISLATORS PENSIONS ACT

Interpretation

1. In this Act—

"basic allowance" means the emoluments provided in the Estimates of Revenue and Expenditure of Anguilla and paid to a legislator by virtue of his being a member of the Legislature, inclusive of duty allowance paid to any Minister and to the Speaker, but exclusive of any other allowance whatever;

"child" includes—

(a) a posthumous child;

(b) a step child; and

(c) an adopted child, adopted in a manner recognised by law;

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"legislator" means—

(a) a person who is or was an elected or nominated member of the House of Assembly or the Legislative Assembly;

(b) a person who was an elected or appointed member of the Anguilla Council; or

(c) the Speaker of the House of Assembly, if he is not an *ex officio* member of the House of Assembly;

"Legislature" means—

(a) the House of Assembly;

(b) the Legislative Assembly established by the Anguilla (Constitution) Order 1976; and

(c) the Anguilla Council established by the Anguilla (Administration) Order 1971;
(R.A. 5/2004, s. 1)

"Premier" means the person appointed in accordance with section 24(1) of the Constitution of Anguilla.
(U.K. S.I. 2019 No. 852, s. 13(a))

Right of Premier to pension

2. (1) This section applies to a person who is a legislator at the time this Act comes into operation or who thereafter becomes a legislator.

(2) Every person who, having held the office of Premier and having served as a legislator for periods amounting in aggregate to not less than 10 years, ceases at any time thereafter to be legislator, shall be paid a pension under this Act and shall continue to be paid during the lifetime of that person.

(3) The Premier's pension shall, if the person to whom it is payable becomes entitled to a basic allowance as a legislator or as Premier, cease to be payable during any period in respect of which that person is in receipt of a basic allowance as a legislator or as Premier, but if the amount of such basic allowance is less than the amount of pension, the higher amount shall be payable.

(4) The Premier's pension shall be payable only under the circumstances set out in section 4.
(R.A. 5/2004, s. 2 and U.K. S.I. 2019 No. 852, s. 13(a))

Rate of Premier's pension

3. (1) The pension payable to the Premier shall be a monthly allowance equal to two-thirds of the highest rate of basic allowance paid to such person at any time as Premier, but such pension shall not be less than the pension payable to a legislator under section 5(1), but where a commuted gratuity has been paid in accordance with the provisions of section 8 the rate of pension payable shall be 60% of the pension payable under this section.

(2) The pension payable to the Premier under this Act shall be paid in arrears in equal monthly instalments with effect from the date on which that person becomes entitled thereto and, subject to the provisions of this Act, shall continue to be paid during the lifetime of the Premier.

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(3) No computation of the Premier's pension under this Act shall be made after a general election until 30 days (or such longer period not exceeding 3 months as may be prescribed) has elapsed after the general election.

(R.A. 5/2004, s. 2 and U.K. S.I. 2019 No. 852, s. 13(a))

Circumstances in which pensions shall be paid

4. (1) Subject to the provisions of this Act, a pension shall be paid to any person who—

(a) has served as a legislator for periods amounting in the aggregate to not less than 10 years;

(b) has ceased to be a legislator; and

(c) either—

(i) has attained the age of 55 years, in the case of a legislator who is or was a legislator at the time this Act comes into operation or 60 years in the case of a person who thereafter becomes a legislator, or

(ii) not having attained the age of 55 years or 60 years, as the case may be, has produced medical evidence to the satisfaction of the Medical Board that he is incapable by reason of infirmity of mind or body of discharging the duties of a legislator or of undertaking any other gainful employment and that such infirmity is likely to be permanent.

(R.A. 5/2004, s. 3)

(2) In determining the length of service of any person as a legislator, no account shall be taken of any legislative service prior to 10 February, 1976, the date of the coming into force of the Anguilla (Constitution) Order 1976.

(3) Where a person ceases to be a legislator but is not eligible for a pension because of the provision of subparagraph (1)(c)(i), the pension for which he would have been eligible at the date when he ceased to be a legislator shall be paid to him with effect from the date on which he attains the age of 55 years or 60 years, as the case may be, notwithstanding the provision in subsection (1), if at that date he is not otherwise disqualified for the payment of a pension under this Act.

(R.A. 5/2004, s. 3)

Rate of pension

5. (1) The pension payable to any person other than the Premier under this Act shall be a monthly allowance equal to—

(U.K. S.I. 2019 No. 852, s. 13(a))

(a) 50% of the highest rate of basic allowance paid to a person having 10 years service but less than 15 years service in aggregate as a legislator;

(b) 55% of the highest rate of basic allowance paid to a person having 15 years service but less than 20 years service in aggregate as a legislator; or

(c) 60% of the highest rate of basic allowance paid to a person having 20 or more years service in aggregate as a legislator;

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but where a commuted gratuity has been paid in accordance with the provisions of section 8 the rate of pension payable shall be 60% of the pension payable under this section.

(R.A. 5/2004, s. 4)

(2) The pension payable to any person under this Act shall be paid in arrears in equal monthly instalments with effect from the date on which that person becomes entitled thereto and, subject to the provisions of this Act, shall continue to be paid during the lifetime of that person.

(R.A. 5/2004, s. 4)

(3) No computation of a pension under this Act shall be made after a general election until 30 days (or such longer period not exceeding 3 months as may be prescribed) has elapsed after the general election.

Cessation of pension if person in receipt thereof again becomes a legislator

6. (1) A pension payable under this Act shall, if the person in receipt thereof again becomes a legislator, cease to be payable during the period in respect of which that person is in receipt of an allowance as a legislator, but if the amount of such basic allowance is less than the amount of pension, the higher amount shall be payable.

(R.A. 5/2004, s. 5)

(2) At the expiration of the period referred to in subsection (1) during which a person has further service as a legislator, the rate of pension shall be re-calculated in accordance with the provisions of section 3 or 5 as the case maybe.

(Am. in L. R. 15/12/2014)

(3) A pension re-calculated in accordance with subsection (2) shall be paid at the re-calculated rate with effect from the date of cessation of the further period of service as a legislator which gave rise to the re-calculation.

Gratuity to legislators not eligible for pension

7. (1) Notwithstanding anything contained in this Act, any person who not being eligible for a pension has served as a legislator for less than 10 years in aggregate and has ceased to be a legislator and has attained the age of 55 years or 60 years, as the case may be, shall be entitled to a gratuity equal in amount to 25% of the total basic allowance received during the period so served.

(2) A gratuity granted in accordance with paragraph (1) shall be repaid to the Government of Anguilla, should any person become eligible for a pension under this Act.

(R.A. 5/2004, s. 6)

Commuted gratuity

8. (1) This section applies to a person who is a legislator at the time this Act comes into operation or who thereafter becomes a legislator.

(2) A person who has served as a legislator for periods amounting in the aggregate to not less than 10 years and ceases to be a legislator is entitled to receive a commuted gratuity, notwithstanding that he may by reason of the age not be eligible to receive a pension at the time he ceases to be a legislator.

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(3) The rate of commuted gratuity shall be a sum equivalent to 25% of the amount payable to the legislator by way of pension over a period of 10 years following the day he ceases to be a legislator.

(4) No commutation of commuted gratuity shall be made until 3 months have elapsed from the time the person entitled to commuted gratuity ceases to be a legislator.

(5) Where a legislator has received commuted gratuity in respect of a period of service and thereafter again becomes a legislator the commuted gratuity payable shall be re-calculated based on the total aggregate service as a legislator and the legislator shall be entitled to the difference between the commuted gratuity so calculated and the amount earlier received by way of commuted gratuity.

(R.A. 5/2004, s. 7)

Gratuity payable on death

9. Where a legislator dies in office there shall be paid to his legal representative a gratuity in amount equal to either—

(a) the gratuity payable under section 7 or 8 as the case may be; or

(b) one year's basic allowance assessed at the highest level of basic allowance paid during the period of his service;

whichever is higher.

(R.A. 5/2004, s. 7)

Widow's and widower's pension

10. (1) The following provisions of this section shall, *mutatis mutandis,* apply to a female legislator who—

(a) is in receipt of a pension; or

(b) dies having served as a legislator for periods amounting in the aggregate to not less than 10 years.

(2) Subject to the provisions of this Act, where a person who—

(a) is in receipt of a pension; or

(b) has served as a legislator for periods amounting in the aggregate to not less than 10 years;

dies leaving a widow, there shall be paid to the widow during her lifetime and while unmarried, a widow's pension—

(c) at the rate equivalent to ⅔ of the pension, which was being paid to him in the case of a person mentioned in paragraph (a);

(d) in the case of a person mentioned in paragraph (b) at the rate equivalent to ⅔ of the pension which would have been payable to him if he had not died but had satisfied the requirements of section 4 to the award of a pension and had been awarded such pension in accordance with sections 3 or 5.

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(3) A widow's pension under this section shall—

(a) be paid monthly in arrears in equal instalments;

(b) subject to subsection (5), if the widow is in receipt of a pension by virtue of having been herself a legislator, cease to be payable; and

(c) subject to subsection (5), if the widow is in receipt of an allowance as a legislator, cease to be payable during the period in respect of which the widow is in receipt of that allowance.

(4) Where the rate of widow's pension exceeds the rate of pension or the allowance, as the case may be, nothing in subsection (3)(b) or (c) shall prevent the payment of a widow's pension.

(5) Where a person who is serving as a legislator dies before he has served the required minimum period as a legislator to enable his widow to qualify for a widow's pension under subsection (3), there shall be paid to the widow a gratuity equal in amount to 25% of the total basic allowance payable for the period he served as a legislator.

(R.A. 5/2004, s. 7)

Children's pension

11. (1) The following provisions of this section shall, *mutatis mutandis,* apply to a female legislator.

(2) Subject to this Act, where a person who comes within section 10(3)(a) or (b) (hereinafter in this section referred to as the "deceased legislator") dies leaving one or more children, a children's pension shall be payable in respect of such child or children while under the age of 18 years.

(3) Only one children's pension is payable in respect of the service of any one person as a legislator, but—

(a) the rate may vary according to the number of children;

(b) it shall be paid to such person or persons as the Governor may direct from time to time, 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 Governor may direct from time to time; and

(d) the pension shall be paid monthly in arrears in equal instalments.

(4) Where the deceased legislator leaves no widow or where he leaves a widow, then after her death or remarriage, the rate of the children's pension shall be—

(a) the same as that which would have been payable to a widow under section 10 where there are 2 or more children entitled to the children's pension; and

(b) ½ of the rate payable under paragraph (a) where there is only one child entitled to the children's pension.

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(5) Notwithstanding subsection (3), a child who marries while under the age of 18 years shall cease to be entitled to a children's pension.

(R.A. 5/2004, s. 7)

Pension not assignable

12. A pension payable under this Act shall not be assignable except for the purpose of satisfying—

(a) a debt to the Crown or to the Government of Anguilla; or

(b) an order of any court for the payment of periodical sums of money towards the maintenance of the wife, former wife or any minor child, legitimate or illegitimate, of the person to whom the pension is payable;

and shall not be liable to be attached, sequestered or levied upon, for or in respect of any debt or claim, except a debt due to the Crown or to the Government of Anguilla or any sum recoverable pursuant to any such order of a court as aforesaid.

Awards to be paid out of Consolidated Fund

13. All awards payable under this Act shall be charged on and paid out of the Consolidated Fund.

(Act 7/2010, s. 26)

Disqualification from receiving gratuity or pension

14. Notwithstanding any other provisions of this Act a legislator shall be disqualified from continuing to receive or receiving pension or gratuity under this Act where such person has been, at any time, convicted by a court of competent jurisdiction in Anguilla of any offence in connection with his public duties committed at such time as he served as a legislator.

(R.A. 5/2004, s. 8)

Power to make regulations

15. (1) The Minister responsible for finance may make regulations—

(a) prescribing in the case of payments of pensions the days on which such payments shall be made;

(b) prescribing, where a recipient of any award under this Act is incapable of managing his affairs, that the award may be paid to some other person on his behalf;

(c) prescribing anything which may be required by this Act to be prescribed, including any forms he may consider necessary for the administration of this Act;

(d) prescribing the manner in which, and the persons by whom, accounts and awards under this Act shall be kept and recorded; and

(e) for any other purposes deemed necessary to give effect to this Act.

(2) All regulations made under this section shall be approved by a Resolution of the House of Assembly before having effect.

(R.A. 5/2004, s. 9)

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Social Security Act not applicable to awards under this Act

16. The provisions of the Social Security Act shall not apply to or in respect of any pension or other award payable under this Act.

Citation

17. This Act may be cited as the Legislators Pensions Act, Revised Statutes of Anguilla, Chapter L35.

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