

Zambia

Judges (Conditions of Service) Act, 1996

Chapter 277

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Judges (Conditions of Service) Act, 1996

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Judges (Conditions of Service) Act, 1996

Chapter 277

Published

Commenced on 17 March 1997 by Judges (Conditions of Service) (Commencement) Order, 1997

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[Act No. 14 of 1996]

An Act to provide for the emoluments, pensions and other conditions of service for Judges and to provide for matters connected with or incidental to the foregoing.

Part I – Preliminary

1. Short title, and application

- (1) This Act may be cited as the Judges (Conditions of Service) Act.
- (2) This Act shall—
 - (a) apply to a judge; and
 - (b) for the purposes of entitlement to any pension and gratuity, shall apply to any judge who has retired or died after the 1st June, 1995.

2. Interpretation

In this Act, unless the context otherwise requires—

"**appropriate authority**" means the Judicial Service Commission;

"**dependant**" in relation to the deceased means a person whose livelihood solely depended on the deceased immediately prior to death;

"**emoluments**" means salary and allowances;

"**Judge**" means a Judge of the Supreme Court, a puisne Judge, and the Chairman and Deputy Chairman of the Industrial Relations Court;

"**pensionable emoluments**" means salary and any special addition to salary granted without any condition that it shall not count for the purpose of calculating pension.

Part II – Emoluments and benefits on resignation, retirement or dismissal

3. Emoluments

There shall be paid to a Judge such emoluments as the President may, by statutory instrument, prescribe.

4. Benefits on retirement, resignation and dismissal of Judge

- (1) A Judge shall retire in accordance with the provisions of the Constitution.

- (2) Upon retirement, a Judge shall—
- (a) be entitled to a gratuity comprising sixty months of the basic salary last received while in office; and
 - (b) until his death, continue to receive eighty *per centum* of the basic salary payable to a person holding the same or equivalent office as that held upon retirement.
- (3) Where a Judge resigns after serving for a period of not less than ten years, he shall be entitled to—
- (a) a gratuity comprising thirty months of the basic salary last received while in office; and
 - (b) a lump sum calculated as follows:

$$SC + (SC \times I \times Y);$$
 Where SC = the sum of his contributions;
 I = interest at current Central Bank deposit rate;
 Y = the number of completed years in respect of
 Y = which he has contributed.
- (4) Where a Judge resigns after serving for a period of less than ten years, he shall be entitled to—
- (a) a gratuity comprising fifteen months of the basic salary last received while in office; and
 - (b) a lump sum calculated in accordance with paragraph (b) of subsection (3).
- (5) A Judge who vacates his office on disciplinary grounds shall be entitled to a refund of his contributions plus interest at the current Central Bank deposit rate.

5. Retirement on grounds of ill health

- (1) Where, after serving for a period of not less than ten years, a Judge retires on medical evidence to the satisfaction of the appropriate authority that he is incapable by reason of infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent, he shall, with effect from the date of his retirement, be entitled—
- (a) if his infirmity is, in the opinion of the appropriate authority, due to or occasioned by his own default—
 - (i) to a gratuity comprising thirty months of the basic salary last received while in office; and
 - (ii) to a pension calculated as follows:

$$\frac{KA \times B}{C}$$
 Where KA = pensionable emoluments;
 B = the number of completed months of
 B = pensionable service;
 C = the age at which he retires, expressed
 C = in complete months;
 - (b) if his infirmity is not, in the opinion of the appropriate authority, due to or occasioned by his own default, to the benefits under subsection (2) of section four.

- (2) Where a Judge retires on the grounds described in subsection (1) after serving for a period of less than ten years, he shall, with effect from the date of his retirement, be entitled—
- (a) if his infirmity is, in the opinion of the appropriate authority, due to or occasioned by his own default—
 - (i) to a gratuity comprising fifteen months of the basic salary last received while in office; and
 - (ii) to a pension calculated in accordance with sub-paragraph (ii) of paragraph (a) of subsection (1);
 - (b) if his infirmity is not, in the opinion of the appropriate authority, due to or occasioned by his own default—
 - (i) to a gratuity comprising thirty months of the basic salary last received while in office; and
 - (ii) to a pension calculated in accordance with sub-paragraph (ii) of paragraph (a) of subsection (1).

6. Benefits following death

- (1) Where a Judge who was entitled to benefits under subsection (2) of section four dies or where a Judge dies after serving for a period of not less than ten years—
- (i) the gratuity payable under subparagraphs (ii) to (v) of paragraph (a) of subsection (2) of section four shall, unless it was received by the deceased, be paid into his estate and shall be administered in accordance with his will, if any, or in accordance with the Intestate Succession Act, as the case may be; and
[Cap. 59]
 - (ii) his spouse, if any, shall, until death or remarriage, receive fifty *per centum* of the benefits to which the deceased was or would have been entitled if he had retired under the said provisions, and, in the absence of such spouse or in the event of death or remarriage, such benefits shall be payable to the unmarried children or dependants of the deceased until they attain the age of eighteen years.
- (2) Where a Judge who was entitled to benefits under paragraph (b) of subsection (2) of section five dies or where a Judge dies after serving for a period of less than ten years—
- (i) the gratuity payable under paragraphs (a) and (b) of subsection (2) of section five shall, unless it was received by the deceased, be paid into his estate and shall be administered in accordance with his will, if any, or in accordance with the Intestate Succession Act, as the case may be; and
[Cap. 59]
 - (ii) his spouse, if any, shall, until death or remarriage, receive fifty *per centum* of the benefits to which the deceased was or would have been entitled if he had retired under the said provisions, and, in the absence of such spouse or, in the event of death or remarriage, such benefit shall be payable to the unmarried children or dependants of the deceased, until they attain the age of eighteen years.

- (3) Where a Judge who was entitled to benefits under paragraph (a) of subsection (1) or (2) of section five dies—
- (i) the gratuity payable under subsections (1) and (2) of section five shall, unless it was received by the deceased be paid into his estate and shall be administered in accordance with his will if any, or in accordance with the Intestate Succession Act, as the case may be; and
[Cap. 59]
 - (ii) his spouse, if any, shall, until death or remarriage receive fifty *per centum* of the benefits to which the deceased was entitled under the said provisions, and, in the absence of such spouse or, in the event of death or remarriage, such benefits shall be payable to the unmarried children or dependants of the deceased until they attain the age of eighteen years.

Part III – Miscellaneous

7. Appointment of Judge from Public Service

- (1) Where any person is appointed as Judge from the Public Service, he shall upon such appointment retire from his post in the Public Service and shall have the option either to receive his terminal benefits at the time of such retirement or to have the same deferred until ceasing to hold the office of Judge.
- (2) Any person serving as Judge who before the commencement of this Act was appointed from the Public Service and who has not received his terminal benefits in respect of his service in the Public Service before his appointment as a Judge, shall be entitled to receive the terminal benefits he would have received if he had retired from that service on the date of his appointment as a Judge, and shall be entitled to exercise the option described in subsection (1).
- (3) After the commencement of this Act, a person to whom subsection (2) applies, shall be entitled to the terminal benefits as provided for under this Act calculated from the date of his appointment as a Judge.
- (4) The terminal benefits deferred under subsection (1) shall be administered in accordance with the law relating to the pensions of public officers.

8. Existing arrangements

For the avoidance of doubt, the provisions of this Act shall override any contractual or other official arrangement relating to the retirement or other conditions of service of a serving Judge subsisting at the commencement of this Act.

9. Administration

The institution responsible for the administration of the pensions of public officers shall also be responsible for the administration of the scheme described in this Act in accordance with this Act and the prudential management provisions of the law relating to the pensions of public officers.

10. Contributions

A Judge shall contribute towards the cost of the pension scheme described in this Act at the rate of seven and one quarter *per centum* of his pensionable emoluments or at such other rate as the Minister may fix by statutory order in consultation with the institution designated by section nine.

11. Payment from General Revenues

There shall be paid in the institution designated by section nine from the general revenues of the Republic such amount calculated with regard to the pensions and other benefits payable under the pension scheme

described in this Act as may be fixed by the Minister in consultation with that institution following the advice of an actuary appointed by the institution.

12. Regulations

- (1) The President may, by statutory instrument, make Regulations for the better carrying out of the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1), the President may, by statutory instrument, make Regulations prescribing the perquisites of office and other conditions of service of a Judge, including but not limited to the following—
 - (a) car loans;
 - (b) housing allowance;
 - (c) non-private practice allowance;
 - (d) funeral assistance;
 - (e) travelling on duty.

13. Repeal of certain provisions in Act No. 43 of 1993

From the commencement date, the Constitutional Offices (Emoluments) Act, 1993, shall stand repealed in so far as it applies to the salary of the Chief Justice, Deputy Chief Justice, Judges of the Supreme Court and Judges of the High Court.