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THE JUDGES' CONDITIONS OF SERVICE ACT, 1983
(No. 12 of 1983)

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SIGNED this 12th day of December, 1983.

SIÁKA STEVENS,
President

LS

No. 12



1983

Sierra Leone

The Judges' Conditions of Service Act, 1983

Short title.

Being an Act to make provision for the salaries, pensions and other conditions of service of Judges of the Superior Court of Judicature

[14th June, 1978] Date of commencement.

WHEREAS sections 116 and 131 of the Constitution provide *inter alia*, that the salaries, allowances and gratuities and pensions of Judges of the Superior Court of Judicature shall be prescribed or determined by Parliament or by the President acting in consultation with the Cabinet:

NOW THEREFORE, BE IT ENACTED by the President and the Members of Parliament in this present Parliament assembled, as follows:—

PART I—GENERAL

Commence-
ment.

1. This Act shall be deemed to have come into force on the 14th day of June, 1978.

Applica-
tion.

2. This Act applies to the office of Judge.

Interpre-
tation.

3. (1) In this Act unless the contrary intention appears—

“Constitution” means the Constitution of Sierra Leone, 1978 (Act No. 12 of 1978);

“Judge” means a Judge of the High Court of Justice, a Justice of the Court of Appeal or a Justice of the Supreme Court of Sierra Leone, and includes the Chief Justice;

“maximum pension” means pension equivalent to the last drawn salary of the Judge in question, as a Judge;

“pensionable service” means service which is pensionable under the Pensions Act (Cap. 173) and this Act;

“salary” means annual salary;

(2) Where a Judge has pensionable service under the Pensions Act (Cap. 173) his period of service as a Judge shall, for the purposes of the said Act, be deemed to be other public service within the meaning of that Act.

Judges' salaries etc. charged on Consolidated Fund.

4. The salaries, allowances, gratuities and pensions of Judges shall be a charge upon the Consolidated Fund.

Judges' salaries etc. not to be varied to their disadvantage.

5. (1) The salary, allowances, privileges, right in respect of leave of absence, gratuity or pension of a Judge shall not be varied to his disadvantage.

(2) For the purposes of subsection (1) of this section, so far as any terms of service of a Judge depend on the exercise of an option by him, the terms for which he opts shall be taken to be more advantageous to him than any other terms for which he might have opted.

PART II—SALARIES AND ALLOWANCES ETC.
OF JUDGES

6. There shall be paid to each Judge such salary as Parliament may prescribe or as may be specified in regulations made under section 24 of this Act and with effect from such date as may be specified in such regulations.

Salaries of
Judges.

7. There shall be paid or accorded to each Judge such allowances, or other privileges, rights and benefits as may be specified in regulations made by the President under section 24 of this Act and with effect from such date as may be specified in such regulations.

Allowances
etc. of
Judges.

PART III — PENSIONS

8. (1) A Judge shall, on retirement, be entitled to pension and gratuity as determined in accordance with the provisions of this Act.

General
entitlement
to pension
and gratuity.

(2) For the purpose of this Act a Judge—

(a) who vacates his office at the age of sixty-five years under paragraph (c) of subsection (1) of section 115 of the Constitution, or

(b) who is removed from office under subsection (3) of section 115 of the Constitution for inability to perform the functions of his office, whether arising from infirmity of body or mind,

shall be deemed to have retired.

9. Any pension or gratuity granted under this Act shall be computed in accordance with the law or rules in force at the actual date of a Judge's retirement.

Law or rules
governing
computation
of pension
or gratuity.

10. (1) Where a Judge—

(a) retires from his office on attaining the age of sixty-two years; or

(b) retires from his office on attaining the age of sixty-five years; or

(c) retires from his office before attaining the age of sixty-five years on the ground of inability to perform the functions of his office arising from infirmity of body or mind, or

Pension
and gratuity
in case of
retirement
etc.

(d) is required by the President under paragraph (a) of subsection (1) of section 115 of the Constitution to retire from such office at any time after attaining the age of fifty-five years,

he shall be entitled to pension, gratuity or both under this Act according to his case and computed in accordance with the provisions of this Act.

(2) A Judge who is removed from office for stated misconduct may be granted such pension, gratuity or both, equivalent to such part of the pension, gratuity or both, to which he would have been entitled had he retired from such office on the date of his removal, as the President may determine.

Qualifying period for pension.

11. Every person who has been a Judge for a period of not less than five years may, on his retirement, be granted a pension and gratuity under this Act appropriate to his case.

Pension to continue for life.

12. Subject to sections 20, 21 and 22 of this Act, the pension payable under this Act shall continue for the life of the person to whom it is granted.

Computation of pension.

13. A Judge's pension shall be at the annual rate of one one hundred and eightieth of his last drawn salary in respect of each completed month of service as a Judge:

Provided that in no case shall pension so computed exceed such last drawn salary, in this Act referred to as "maximum pension".

Qualifying period for maximum pension.

14. For the purpose of computing a Judge's pension the period of service for him to qualify for maximum pension shall be fifteen years service as a Judge.

Rate of pension of Chief Justice.

15. Notwithstanding anything in this Act, but subject to the provisions of section 10 of this Act, a person holding office as Chief Justice shall be entitled to maximum pension if—

(a) he had held that office for a period in the aggregate of not less than three years; and

(b) he has held the office of a Judge in the aggregate of not less than ten years prior to his retirement including the period he has held office as Chief Justice, as the case may be.

16. The pension of a Judge who before his appointment as a Judge has served in the public service of Sierra Leone and who has not less than five years service in the aggregate, including his period of service as a Judge shall be at the annual rate of one one hundred and eightieth of his last drawn salary as a Judge for each completed month of his service as a Judge together with—

Computation of pension in cases of Judges with other public service.

(a) one three hundred and sixtieth of his last drawn salary as a Judge in respect of each completed month of any part of his pensionable service in any office in the public service the appointment to which requires the person to be appointed to be a barrister or solicitor or both; and

(b) one six hundredth of his last drawn salary as a Judge in respect of each month of his pensionable service in the public service other than in the office of Judge or an office referred to in paragraph (a) of this section:

Provided that the total amount of pension awarded under this section shall, in any case, not exceed the maximum pension.

17. A Judge who before his retirement is permanently appointed to any other office approved by the President shall be entitled to have his pension computed at the same rate and on the same basis as if he had continued to be a Judge:

Pension of Judge appointed to other office.

Provided that the President may direct that this section shall apply to any Judge who at the commencement of this Act was holding any office approved by the President and to which he had been permanently appointed notwithstanding that such Judge had retired as a judge before the commencement of this Act.

18. In addition to any pension paid or payable to a Judge under this Act, there shall be paid to a Judge on retirement, a gratuity equal to twelve and a half times of eight twenty fifths of his pension.

Gratuity.

19. Where a Judge retires who has not been in the public service of Sierra Leone for ten years or has not held office as Judge for five years, he may be granted a gratuity not exceeding five times the annual amount of the pension which if there had been no qualifying period might have been paid to him under this Act together with the gratuity that might have been paid to him if there had been no qualifying period.

Gratuity for Judges who have not satisfied qualifying period.

Gratuity and pension on death of Judge in service.

20. (1) Where a Judge dies in service, the gratuity and pension (if any) that would have been payable to him if he had retired on the date of his death shall be paid—

(a) to such of the persons described in subsection (2) of this section, and

(b) in such proportions and in such manner, as the President may, acting in accordance with the advice of the Cabinet, determine.

(2) The persons referred to in subsection (1) of this section are the following, that is to say,—any widow, child, relative or dependant of the deceased Judge.

(3) The gratuity to be paid under subsection (1) of this section shall not, in aggregate, be less than the last drawn salary of the deceased Judge.

(4) Any such gratuity shall not be subject to the payment of estate duty.

(5) Where a pension is granted under this section, it shall be paid for a period not exceeding twelve and a half years from the date of death of the Judge.

(6) In this section, "widow" includes a widower.

Pension to widow etc. of Judge.

21. (1) Where a Judge dies within twelve and a half years after the date on which his pension under this Act was paid or became payable, his widow, or if he had dependent children or dependent relatives or both, his widow and dependent children or dependent relatives or both, as the case may be, or if he had no widow, his dependent children or dependent relatives or both, shall be entitled to a pension of the same amount which was paid or payable to him for the remainder of the said period of twelve and a half years.

(2) Where any gratuity payable to a Judge under this Act had not been paid prior to his death it shall be paid to the said persons under subsection (1) of this section.

(3) Any such gratuity shall not be subject to estate duty.

(4) A widow shall not be entitled to receive and shall not be paid a pension under this section in respect of any period after her re-marriage.

(5) In this section "widow" includes a widower.

Pension not assignable or attachable.

22. No pension or gratuity under this Act shall be assignable or transferable or liable to be attached, sequestered or levied upon, for or in respect of any debt or claim whatsoever other than a debt due to the Government.

PART IV — MISCELLANEOUS

23. A Judge to whom has been granted maximum pension under this Act shall not act as counsel in private legal practice, and shall be subject to such limitations on his practice as a solicitor as may be prescribed by regulations made under section 24 of this Act.

Judge leaving service on maximum pension not to act as private counsel.

24. (1) The President may make regulations generally for giving full effect to the provisions of this Act.

Regulations.

(2) Without prejudice to the generality of sub-section (1) of this section, but subject to the provisions of the Constitution, regulations may be made under this section relating to the salaries, allowances or privileges, rights and benefits and other conditions of service to be paid or accorded to, or otherwise to be enjoyed by Judges.

(3) Where the President is satisfied that it is equitable that any matter to be provided for under regulations made under subsection (1) of this section should have retrospective effect in order to confer a benefit upon or remove a disability attached to any person, he may give retrospective effect to such matter in the said regulations.

25. Until new salaries and allowances, privileges, rights and benefits are provided for under sections 6 and 7 of this Act, a Judge shall continue to receive or enjoy the salary, allowances, privileges, rights and benefits that he received or enjoyed immediately before the date of publication of this Act in the *Gazette*.

Salaries and allowances etc. of Judges pending determination under sections 6 and 7.

26. Subject to section 16 of this Act, any such provision of the Pensions Act (Cap. 173) or of any order or rule made thereunder as may be applicable to the office of Judge shall, upon the commencement of this Act, cease so to apply.

Disapplication of Pensions Act (Cap. 173) to Judges.

27. (1) Nothing in this Act shall be deemed to affect any pension or gratuity granted before the commencement of this Act and any pension or gratuity so granted may continue to be paid under such laws as may be applicable.

Saving of accrued pension rights.

(2) Nothing in this Act shall have the effect of reducing the amount of pension or gratuity of any Judge below that to which he would have been eligible if this Act had not been passed.

(3) Nothing in this Act shall render the Government liable to pay any sum in excess of the amount payable to a Judge as pension or gratuity by way of interest whether the pension or gratuity became payable before or after the commencement of this Act.

Passed in Parliament this *13th* day of *October* in the year of our Lord one thousand nine hundred and eighty-three.

C. B. FOFANA,
Acting Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correctly printed copy of the said Bill.

C. B. FOFANA,
Acting Clerk of Parliament.