

The West Bengal Legislature (Members' Pension) Act, 1986

WEST BENGAL

India

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Act 18 of 1986

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The West Bengal Legislature (Members' Pension) Act, 1986 West Bengal Act 18 of 1986 [18th July, 1986.] Assent of the Governor was first published in the Calcutta Gazette, Extraordinary, dated the 18th July, 1986. An Act to provide for the pension of the Members of the West Bengal Legislature. Whereas it is expedient to provide for the pension of the Members of the West Bengal Legislature; It is hereby enacted as follows:-

1. Short title and commencement.

(1) This Act may be called the West Bengal Legislature (Members' Pension) Act, 1986. (2) It shall come into force on the 1st day of April, 1986.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a) "Legislative Assembly" means the Legislative Assembly of the State of West Bengal; (b) "Legislative Council" means the Legislative Council of the State of West Bengal existing immediately before the coming into force of the West Bengal Legislative Council (Abolition) Act, 1969.

3. Pension.

(1) With effect from the date of commencement of this Act, there shall be paid a pension of [one thousand rupees] [Words 'five hundred and fifty' first substituted for the words 'four hundred' by West Bengal Act 11 of 1991, w.e.f. 27.8.1990, then the words 'seven hundred and fifty rupees' substituted for the words 'five hundred and fifty rupees' by West Bengal Act 9 of 1997 w.e.f. 1.4.1997, and finally, the words within third brackets substituted for the words 'seven hundred and fifty rupees' by West Bengal Act 11 of 1998, w.e.f. 1.12.1998.] per mensem to every person who has

served, after the 1st day of January, 1952, for a period of five years, whether continuous or not,-(a)as a Member of the Legislative Assembly, or(b)as a Member of the Legislative Council, or(c)partly as a Member of the Legislative Assembly and partly as a Member of the Legislative Council:Provided that where any person has served as aforesaid for a period exceeding five years, there shall be paid to him an additional pension of [one hundred rupees] [Words substituted for the words 'fifty rupees' by West Bengal Act 11 of 1998, w.e.f. 1.12.1998.] per mensem for every year in excess of five, so, however, that in no case the pension payable to such person shall exceed [two thousand rupees] [Words 'seven hundred and fifty' first substituted for the words 'five hundred' by West Bengal Act 11 of 1991, w.e.f. 27.8.1990, then the words 'one thousand rupees' substituted for the words 'seven hundred and fifty rupees' by West Bengal Act 9 of 1997, w.e.f. 1.4.1997, and finally, the words within third brackets substituted for the words 'one thousand rupees' by West Bengal Act 11 of 1998, w.e.f. 1.12.1998.] per mensem.(1A)[Notwithstanding anything contained in sub-section (1), where a person has served, after the 1st day of January, 1952,-] [[Sub-Section (1A) first inserted by West Bengal Act 11 of 1991, w.e.f. 27.8.1990, then substituted by West Bengal Act 21 of 1994, which was earlier as under:-'(1A) Notwithstanding anything contained in sub-section (1), there shall be paid to every person who has served, after the 1st day of January, 1952,-(a)as a Member of the Legislative Assembly for any part of the term thereof, or(b)as a Member of the Legislative Council for any part of his term as such Member,a pension of two hundred and seventy-five rupees per mensem for the first year of his membership in the Legislative Assembly or the Legislative Council, as the case may be, or for any part of such membership and an additional pension of fifty rupees per mensem for every subsequent year or any part thereof.'.]](a)as a Member of the Legislative Assembly for any part of the term thereof, or(b)as a Member of the Legislative Council for any part of his term as such Member,he shall be deemed to have served for a period of five years as such Member and shall, subject to the proviso to sub-section (1), be paid a pension of-(i)four hundred rupees per mensem with effect from the 1st day of April, 1986 till the 26th day of August, 1990, [* * * *] [Word 'and' omitted by West Bengal Act 9 of 1997, w.e.f. 1.4.1997.](ii)five hundred and fifty rupees per mensem with effect from the 27th day of August, [, 1990, and] [Figures and word substituted for the figures ',1990' by West Bengal Act 9 of 1997, w.e.f. 1.4.1997.](iii)[Seven hundred and fifty rupees per mensem with effect from the 1st day of April, 1997.] [Clause (iii) inserted by West Bengal Act 9 of 1997, w.e.f. 1.4.1997.](2)Where any person entitled to pension under sub-section (1) [or subsection (1A)] [Words, figure, letter and brackets inserted by West Bengal Act 11 of 1991, w.e.f. 27.8.1990.]- (a)is elected to the office of the President or Vice-President or is appointed to the office of the Governor of any State or the Administrator of any Union Territory, or(b)becomes a Member of the Council of States or the House of the people or any Legislative Assembly of a State or Union Territory or any Legislative Council of a State or the Metropolitan Council of Delhi constituted under section 3 of the Delhi Administration Act, 1966, or(c)is employed on a salary under the Central Government or any State Government, or any corporation owned or controlled by the Central Government or any State Government, or any local authority or becomes otherwise entitled to any remuneration from such Government, corporation or local authority,such person shall not be entitled to any pension under sub-section (1) [or sub-section (1A)] [Words, figure, letter and brackets inserted by West Bengal Act 11 of 1991, w.e.f. 27.8.1990.] for the period during which he continues to hold such office or as such Member, or is so employed, or continues to be entitled to such remuneration:Provided that where the salary payable to such person for holding such office or being such Member or so employed, or where the remuneration referred to in clause (c) payable to

such person, is, in either case, less than the pension payable to him under sub-section (1), [or sub-section (1A)] [Words, figure, letter and brackets inserted by West Bengal Act 11 of 1991, w.e.f. 27.8.1990.], such person shall be entitled only to receive the balance as pension under that sub-section.(3)[Any person, including a freedom-fighter, entitled to any pension from the Central Government or any State Government, or any corporation owned or controlled by the Central Government, or any State Government, or any local authority, under any law or otherwise, shall also be entitled to pension under sub-section (1) or sub-section (1A), as the case may be.] [[Sub-section (3) substituted by West Bengal Act 11 of 1998, w.e.f. 1.12.1998, which was earlier as under:-(3) Where any person entitled to pension under sub-section (1) or subsection (1A) is also entitled to any pension from the Central Government or any State Government, or any corporation owned or controlled by the Central Government, or any State Government, or any local authority, under any law or otherwise then, -(a) where the amount of pension to which he is entitled under such law or otherwise, is equal to or in excess of that to which he is entitled under sub-section (1) or sub-section (1A) such person shall not be entitled to any pension under that sub-section; and (b) where the amount of pension to which he is entitled under such law or otherwise, is less than that to which he is entitled under subsection (1) or sub-section (1A) such person shall be entitled to pension under that sub-section only of an amount which falls short of the amount of pension to which he is otherwise entitled under that subsection.'.] [* * * * *] [[Sub-Section (4) omitted by West Bengal Act 11 of 1998, w.e.f. 1.12.1998, which was earlier as under:-(4) Notwithstanding anything contained in sub-section (3), where any person entitled to pension under sub-section (1) or sub-section (1A) is also entitled to any pension from the Central Government or any State Government as a freedom-fighter, then, the pension to which such person is entitled as a freedom-fighter shall not be taken into account in calculating the amount of pension to which he is entitled under sub-section (1) or sub-section (1A).'] (5) In computing the number of years, for the purposes of sub-section (1), [or sub-section (1A)] [Words, figure, letter and brackets inserted by West Bengal Act 11 of 1991, w.e.f. 27.8.1990.], the period during which a person has served as a Chief Minister or Minister or Minister-of-State or Deputy Minister or Parliamentary Secretary of the Government of West Bengal or Speaker or Deputy Speaker of the Legislative Assembly or Chairman or Deputy Chairman of the Legislative Council as defined in the West Bengal Salaries and Allowances Act, 1952, or as the Leader of the Opposition as referred to in the second proviso to section 3 of the Bengal Legislative Assembly (Members' Emoluments) Act, 1937, or has served in more than one such capacity by virtue of his membership in the Legislative Assembly or in the Legislative Council, shall also be taken into account.(6) For the avoidance of doubt, it is hereby declared that, for the purpose of pension under this Act, -(a) where a general election is held for the purpose of constituting a new Legislative Assembly on the expiration of the duration of the existing Legislative Assembly or on its dissolution, but no election of any Member from an Assembly constituency can be held simultaneously with such general election for any reasons whatsoever, and a Member is elected from such constituency at an election held after such general election, the period of five years in respect of such Member shall be deemed to have commenced from the date appointed for the first meeting of the Legislative Assembly after the general election; (b) where the Legislative Assembly is dissolved before the expiration of the period of its duration referred to in clause (1) of article 172 of the Constitution of India, the period commencing from the date appointed for the first meeting of the Legislative Assembly after the general election held for the purpose of constituting a new Legislative Assembly and ending on the date of such dissolution shall be deemed to be the period of five years: Provided

that the provisions of this clause shall not apply for the purpose of additional pension under this Act;(c)where the Legislative Assembly remains suspended under article 356 of the Constitution of India, the period during which the Legislative Assembly remains so suspended shall be taken into account.(d)[where a Member of the Legislative Council would have continued as such Member but for the coming into force of the West Bengal Legislative Council (Abolition) Act, 1969, the period up to which the Member would have so continued in accordance with the provisions of clause (2) of article 172 of the Constitution of India shall be taken into account.] [Clause (d) inserted by West Bengal Act 9 of 1987, w.e.f. 1.4.1986.](7)[Where any person entitled to or drawing pension under this Act dies, the spouse of such person shall] [Sub-Section (7) inserted by West Bengal Act 9 of 1997, w.e.f. 1.4.1997.] [, whether or not such spouse draws any pension from any other source,] [Words inserted by West Bengal Act 11 of 1998, w.e.f. 1.12.1998.] be entitled to draw pension at the rate of fifty per cent of the pension admissible to such person on the date of his death [or five hundred rupees per mensem, whichever is higher] [Words inserted by West Bengal Act 27 of 2000, w.e.f. 1.4.2000.].(8)[Where any person entitled to or drawing pension under this Act died in between the 1st day of April, 1977 and the 1st day of April, 1986, the spouse of such person shall be entitled to pension at the rate of fifty per cent of the pension that would have been admissible to such person on the 1st day of April, 1986 or five hundred rupees, whichever is higher.] [Sub-Section (8) inserted by West Bengal Act 27 of 2000, w.e.f. 1.4.2000.]

3A. [Other amenities] [Section 3A inserted by West Bengal Act 9 of 1997, w.e.f. 1.4.1997.]. - Any person who has served as a Member of the Legislative Assembly or Legislative Council and [the spouse of such person] [Words substituted for the words 'his spouse' by West Bengal Act 11 of 1998, w.e.f. 1.12.1998.] only shall be entitled to such medical facilities as are admissible to the Group A employees of the State Government.

3B. [Entitlement of medical allowance] [[Section 3B first inserted by West Bengal Act 10 of 2001, w.e.f. 1.4.2001, then substituted by West Bengal Act 4 of 2002, w.e.f. 1.4.2001. Previous Section 3B was as under:-

'3B. Additional medical facilities to ex-Members. - Any person who has served as a Member of the Legislative Assembly or Legislative Council shall also be entitled to reimbursement of medical expenditures, which he may incur, on the advice of a registered Medical Practitioner or a Government Medical Officer, subject to a maximum amount of rupees twelve thousand per annum.']. - Any person who has served as a Member of the Legislative Assembly or Legislative Council shall be entitled to a medical allowance at the rate of rupees one thousand per month and such medical allowance shall be paid to such Member at the time of drawing his pension.

4. Power to make rules.

(1)The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power,

such rules may provide for all or any of the following matters:-(a)the form in which and the authority to whom an application for pension shall be made;(b)the form in which certificates, if any, shall be furnished along with the application for pension;(c)the declarations to be made at the time of drawing the pension;(d)any other matter necessary for proper implementation and enforcement of this Act.

5. Power to decide in the case of doubt or dispute.

- If any doubt or dispute arises as to whether a person is entitled to any pension or as to the amount of pension or as to the period for which he shall be entitled to pension under this Act, the matter shall be referred to the State Government, and the decision of the State Government thereon shall be final.