

Maharashtra Legislature Members' Pension Act, 1976

MAHARASHTRA

India

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Act 1 of 1977

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Maharashtra Legislature Members' Pension Act, 1976 Maharashtra Act No. 1 of 1977 For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1976. Part V, Extraordinary, pages. 612-617. (This Act received the assent of the Governor on 29th December, 1976 assent was first published on 5th January, 1977 in Maharashtra Government Gazette, (Part IV). An Act to provide for payment of pension to persons who have served as members of any State Legislature in Maharashtra. Whereas, it is expedient to provide for payment of pension to persons who have served as members of any State Legislature in Maharashtra and for other matters connected therewith. It is hereby enacted in the twenty-seventh Year of the Republic of India as follows :-

1. Short title and commencement.

(1) This Act may be called the Maharashtra Legislature Members' Pension Act, 1976. (2) It shall come into force on [such date] [1st April 1977 vide G.N.L.A.D., PEN. 1077/152-III, dated 1st April, 1976, published in Maharashtra Government Gazette, 1977, Part IV-B, Extraordinary, page 156.] as the State Government may by notification in the Official Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, -(1) "member of the State Legislature" means a member of the, Maharashtra Legislative Assembly or the Maharashtra Legislative Council, and includes-(a) a member of the Bombay Legislative Assembly, the Madhya Pradesh Legislative Assembly or the Hyderabad Legislative Assembly, elected to any of those Assemblies, on or after the earliest date on which all constituencies of any of those Assemblies were called upon to elect members in 1952 (hereinafter in this clause referred to as "the said date")-(i) if as a sitting member, be continued as a member of the Bombay Legislative Assembly or was deemed to have been elected to that Assembly under the States Reorganisation Act, 1956; or (ii) if as a sitting member, he continued to be a member of the Maharashtra Legislative Assembly or was deemed to be elected to that Assembly under the Bombay Reorganisation Act, 1960; (b) a member of the Bombay Legislative

Assembly, nominated to that Assembly, on or after the said date [* * *] [The words 'if such member was during the period of his membership permanently residing in any area which forms part of the State of Maharashtra' were deleted by Maharashtra 53 of 1977, section 2(a).](c)a member of the Bombay Legislative Council elected to that Council, on or after the said date, -(i)if as a sitting member, he continued as a member of the Bombay Legislative Council or was deemed to have been elected to that Council under the States Reorganisation Act, 1956; or(ii)if as a sitting member, he continued as a member of the Maharashtra Legislative Council or was deemed to have been elected to that Council under the Bombay Reorganisation Act, 1960;(d)a member of the Bombay Legislative Council, nominated to that Council, on or after the said date; [* * *] [The words 'if such member was during the period of his membership permanently residing in any area which forms part of the State of Maharashtra' were deleted by Maharashtra 53 of 1977, section 2(a).] [and shall also include any person who was, on or after the 1st January 1946, an elected or nominated member of any Legislative Assembly or Legislative Council (by whatever name called) constituted for any Province or any State (including an Indian State), the area of which, or any portion thereof, falls in any part of the State of Maharashtra,- [This portion was deemed always to have been added by Maharashtra 29 of 1981, section 2.](A)if he was elected to represent any territorial constituency of any such Assembly or Council, the area of which, or any portion thereof, also falls in any part of the State of Maharashtra;(B)if he was elected to represent any constituency, other than a territorial constituency, or he was a nominated member, the place where he was residing or carrying on his business, at the time of his election or nomination, as the case may be, to any such Assembly or Council, is situated in any part of the State of Maharashtra.](2)"term of office", in relation to a member of the State Legislature, means the period beginning with the date of publication of the notification of his election or nomination as a member and ending with the date on which his seat becomes vacant.Explanation I,- Where a general election to the Assembly is held and election does not take place in any constituency for any reason and a member is elected in that constituency at the election held subsequently, in this case the term of office shall be deemed to have begun on the date on which the results of the general election in other constituencies are published in the Official Gazette.Explanation II.- Where any member of the State legislature had resigned his seat for any cause or causes approved by the State Government in this behalf by notification in the Official Gazette, then for the purpose of calculating his term of office, the period during which he would have continued to be a member, but for his resignation, shall be taken into consideration and he shall be deemed to have served as a member for that period also:Provided that, the maximum period which shall be taken into consideration accordingly shall not exceed six months in the case of any member:[Provided further that, resignation by a member of his seat in support of the agitation for formation of the unilingual State of Maharashtra, shall be deemed to be for a cause approved for the purposes of this Explanation, and notwithstanding anything contained in the first proviso, in the case of a member who has resigned his seat for such cause, the period during which such member would have continued to be a member, but for his resignation, shall be taken into consideration while calculating the term of office of such member and he shall be deemed to have served as a member for that period also.] [This proviso was added and shall be deemed to have been added with effect from 19-7-1987 by Maharashtra 3 of 1989, section 2(a).][Explanation III.- Where any Assembly is dissolved earlier, but not earlier than six months prior to the date on which its duration would have expired under the provisions of clause (1) of article 172 of the Constitution of India, then for the purpose of calculating the term of office of any member thereof, the period during which he

would have continued to be a member of the Assembly if it had not been dissolved earlier, shall be taken into consideration, and he shall be deemed to have served as a member for that period also.[Provided that, notwithstanding anything contained in this Explanation, in the case of a sitting member on the 17th day of February 1980, being the date on which the Maharashtra Legislative Assembly was dissolved, the period during which such member would have continued to be a member of the Assembly, if it had not been so dissolved, shall be taken into consideration while calculating the term of office of such member, and shall be deemed to have served as a member for that period also.] [This Explanations III and IV were added by Maharashtra 53 of 1977, section 2(b).][Provided further that, notwithstanding anything contained in this Explanation, in the case of a sitting member on the 15th day of July 1999, being the date on which the Maharashtra Legislative Assembly was dissolved, the period during which such member would have continued to be a member of the Assembly, if it was not so dissolved, shall be taken into consideration while calculating the term of office of such member, and he shall be deemed to have served as a member for that period also.] [Proviso added by Maharashtra 15 of 2000, section 2, (w.e.f. 11.1.2000).]Explanation IV.- Where the term of office of any member of the Bombay Legislative Council referred to in paragraphs (c) and (d) of clause (1) was curtailed under section 156 of the Representation of the People Act, 1951, and he was made to retire before the expiry of his normal term of office, then the period during which he served as such member shall, notwithstanding anything contained in section 3 of this Act be taken into consideration, and he shall be paid a pension of For the words 'one hundred' the words 'two hundred' were substituted with effect from 1st June 1990, and [three hundred rupees] [for the words 'two hundred' as so substituted, these words were substituted with effect from 1st August 1993, by Maharashtra 22 of 1996, section 2.] per month for every period of one complete year he served as such member].

3. Pension payable to members.

- [(1)] [Sub-section (1) substituted by Maharashtra 47 of 2000, section 2., (w.e.f. 1.9.2000).] There shall be paid a pension of [fourty thousand rupees] [These words were substituted for the words 'twenty-five thousand rupees' by Maharashtra 24 of 2013, section 2(a), (w.e.f. 21.8.2013).] per month to every person who on his election of nomination as a member of the State Legislature has taken or takes oath as such member of either House of State Legislature:[Provided that, where any person has served as a member for a period exceeding five years, there shall be paid to him an additional pension of [two thousand rupees] [Provisos substituted by Maharashtra 1 of 2007, section 2 (w.e.f. 5.1.2007).] per month for every year in excess of five years:Provided further that, if any such person becomes [disqualified for being a member of the State Legislature under clause (1) of Article 191 of the Constitution of India] [Substituted by Maharashtra 46 of 2006, section 2, (w.e.f. 1.9.2000).] he shall not be entitled to receive such pension.](2)In computing the number of years for the purposes of sub-section (1), the period during which a person has served as Chairman or Deputy Chairman of Legislative Council or Speaker or Deputy Speaker of a Legislative Assembly or as Minister, Minister of State, Deputy Minister or Parliamentary Secretary or in more than one of those capacities by virtue of his membership in the Council or in the Assembly, shall also be taken into account.

4. Pension to be held in abeyance or to be reduced in certain circumstances.

(1) Where any person entitled to pension under section 3: (a) is elected to the office of the President or Vice-President of India 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 Houses of the People or any Legislative Assembly of a State or Union Territory or any Legislative Council of a State; 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 otherwise receive any remuneration from such Government corporation or local authority; such person shall not be entitled to any pension under section 3 for the period during which he continues to hold office, or continues as such member, or is so employed or continues to receive such remuneration: [* * * *] [[Proviso was deleted by Maharashtra 20 of 2008, section 3, (w.e.f. 9.5.2008). Deleted proviso reads as follows- 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) paid to such person, is in either case, less than the pension payable to him under section 3, such person shall be entitled only to receive the balance pension under that section]] [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) paid to such person, is in either case, less than the pension payable to him under section 3, such person shall be entitled only to receive the balance of pension under that section.] [This proviso was inserted and deemed to always have been Inserted by Maharashtra 23 of 2011, section 3.] (2) [* * *] [Sub-section (2) was deleted by Maharashtra 34 of 1989, section 3(a).] (3) [Nothing in this Act shall affect the right of any member of the State Legislature to receive any pension from the Central Government or any State Government or any Corporation owned or controlled by the Central Government or the State Government or any laws local authority, under any or otherwise, or any pension from the Central Government or any State Government as freedom-fighter.] [Sub-section (3) was substituted by Maharashtra 34 of 1989, section 3(b).]

4A. [Pension payable to widow, widower or minor child of member. - (1) With effect from the 1st day of the August 1988, there shall, subject to the provisions of sub-section (3), be paid a pension of one thousand rupees per month to the [widow] [Section 4A was inserted by Maharashtra 5 of 1991, section 3.], if any, of any member who dies during his term of office as such member, for a period of five years from the date of his death.

(2) With effect from the [1st July 2009] [These figures, letters and words were substituted for the figures, letters and words '1st day of May 2008' by Maharashtra 18 of 2009, section 8(a).] where a member who is drawing pension or is entitled to draw any pension as such member under this Act dies, then the [widow or widower] [These words were substituted for the word 'widow' by Maharashtra 15 of 2006 section 2(a)(ii) (w.e.f. 4.5.2006).] if any of such member shall, subject to the provisions of sub-section (3), be paid pension per month at the rate of fifty per cent. of the amount of pension payable to such member on the date of his death [rupees seven thousand five hundred] [These words were substituted of the words 'rupees five thousand' by Maharashtra 18 of

2009, section 8(a)(ii) (w.e.f. 1.7.2009).] is more.](2A)[With effect from the [1st July 2009] [Sub-section (2A) was inserted by Maharashtra 19 of 1993, section 2(b).] there shall, subject to the provisions of sub-section (3), be paid to the [widow or widower] [These words were substituted for the word 'widow' by Maharashtra 15 of 2006, section 2(b)(ii) (w.e.f. 4.5.2006).] of a member who was drawing pension or was entitled to draw pension as such member under this Act and who died before the 1st day of June 1990, a pension per month at the rate of fifty per cent, of the amount of pension payable to such member on the date of his death [rupees seven thousand five hundred] [These words were substituted for the word 'rupees five Thousand' by Maharashtra 18 of 2009 section 8(b)(ii), (w.e.f. 1.7.2009).] whichever is more.](2B)[Notwithstanding anything contained in sub-sections (1), (2) or (2A), but subject to the provisions of sub-section (3), there shall be paid a pension to the widow or widower of the member of the State Legislature, who was not entitled to pension under the Act, [with effect from the 1st July, 2009 at the rate of rupees seven thousand five hundred per month] [Sub-sections (2b) and (2C) inserted by Maharashtra 15 of 2006, (w.e.f. 4.5.2006).](2C)With effect from the 1st January, 2006, where the widow or the widower of the deceased member is survived by a minor child or children of such member, there shall be paid a pension per month to such minor child or children at the same rate at which the pension was payable to the widow or widower, and such pension shall be paid in such manner as may be prescribed by rules.](2D)[Notwithstanding anything contained in sub-sections (1), (2), (2A), (2B) and (2C), but subject to the provisions of sub-section (3), there shall be paid a pension, to the widow or widower of the member of the State Legislature or where the widow or widower of such deceased member is survived by minor child or children, to such minor child or children, [with effect from the 1st August 2013, at the rate of rupees fourty thousand] [Sub-section (2D) was inserted by Maharashtra 23 of 2011, section 4, (w.e.f. 30.4.2011).] per month.](3)[When such widow or widower has re-married then she or he shall not be entitled to the pension under this section from the date of such re-marriage.] [Sub-section (3) was substituted by Maharashtra 15 of 2006, section 2(a), (w.e.f. 4-5-2006).]

5. [Power to make rules and orders. - (1) (a) For the purpose of making rules or orders under this section, there shall be constituted-a Joint Committee of both Houses of the State Legislature consisting of five members from the Maharashtra Legislative Council nominated by the Chairman of the Council and ten members from the Maharashtra Legislative Assembly nominated by the Speaker [of the Assembly and the Finance Minister shall be its ex-officio member and Chairman.] [Section 5 was substituted for the original by Maharashtra 15 of 1977, section 2.]

(b)The joint Committee constituted under clause (a) [* * *] [The words 'shall elect its Chairman' were deleted by Maharashtra 72 of 1981, section 9(b).] and shall have power to regulate its procedure.(c)A member of the Joint Committee [other than the Finance Minister] [These words were inserted, by Maharashtra 72 of 1981, section 9(c).], shall hold office as such member for one year from the date of his nomination and any casual vacancy in the Joint Committee may be filled by nomination by the Chairman or the Speaker, as the case may be.(2)(a)The Joint Committee constituted under sub-section (1) may, in consultation with the State Government, make rules or

orders for carrying out the purposes of this Act.(b)In particular and without prejudice to the generality of the foregoing power, such rules or orders may provide for all or any of the following matters, namely:-(i)the form in which and the authority to which an application for pension; shall be made;(ii)the certificates to be furnished along with an application for pension;(iii)the declaration to be made at the time of drawing pension;(iv)any other matter necessary for proper implementation and enforcement of this Act.(3)All rules or orders made under sub-section (2) shall not take effect until they are approved and confirmed by the Chairman of the Council and the Speaker of the Assembly and are published in the Official Gazette. Such publication of the rules or orders shall be conclusive proof that they have been duly made.(4)Any rules or orders under this section may be made so as to be retrospective to any date not earlier than the date of commencement of this Act.(5)All rules or orders made under this section shall have effect as if enacted in this Act.]

6. Decisions on questions relating to pension.

- If there is any doubt or dispute as to whether a person is entitled to 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 Chairman of the Maharashtra Legislative Council and the Speaker of the Maharashtra Legislative Assembly, who shall, in consultation with the State Government decide the question. The decision of the Chairman and the Speaker shall be final.] [These words were substituted for the words 'the State Government and its decision shall be Final' by Maharashtra 15 of 1977, section 3.]