

LAWS OF KENYA

**THE RETIREMENT BENEFITS (DEPUTY PRESIDENT
AND DESIGNATED STATE OFFICERS) ACT**

CHAPTER 197B

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AND DESIGNATED STATE OFFICERS) ACT**

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CHAPTER 197B

**THE RETIREMENT BENEFITS (DEPUTY PRESIDENT
AND DESIGNATED STATE OFFICERS) ACT**

Commencement: 9th July, 2015

An Act of Parliament to provide for the granting of pension and other retirement benefits to persons who hold the office of the Deputy President and persons who have served as Prime Minister, Vice-President, Speaker, Deputy Chief Justice or Chief Justice after the 1st January, 1993, and for connected purposes

[Act No. 8 of 2015, Act No. 11 of 2017, Act No. 18 of 2018,
Act No. 22 of 2022, Act No. 4 of 2023, L.N. 186/2023.]

Short title

1. This Act may be cited as the Retirement Benefits (Deputy President and Designated State Officers) Act.

Interpretation

2. In this Act, unless the context otherwise require—

"benefits" means pension and other retirement benefits conferred by this Act;

"Deputy President" means a person who holds the office of Deputy-President of Kenya in accordance with the Constitution;

"eligible child" means any child of a deceased entitled person who—

- (a) is under eighteen years of age; or
- (b) is under twenty-four years of age and is undergoing a course of full time education; or
- (c) was at the time of the death of the deceased wholly or mainly dependent on the deceased and was at that time and has at all times since been either a person falling within paragraph (a) and (b) or is incapable, and likely to remain permanently incapable, by reason of bodily or mental infirmity, of

earning his own living, and is not for the time being maintained out of moneys provided by the Government in a hospital or similar institution;

"entitled person" means any of the persons specified in section 3;

"retired Chief Justice" means a person who, having held the office of Chief Justice, has ceased to hold the office as such in the manner specified in the Constitution;

"retired Deputy Chief Justice" means a person who, having held the office of Deputy Chief Justice, has ceased to hold office as such in the manner specified in the Constitution;

"retired Deputy President" means a person who, having held the office of Deputy-President, has ceased to hold office as such in the manner specified in the Constitution;

"retired Prime Minister" means a person who, having held the office of Prime Minister, has ceased to hold office as such in the manner specified in the Constitution;

"retired Speaker" means a person who, having held the office of the Speaker of the National Assembly or Speaker of the Senate at any time after the 1st January, 1993, has ceased to hold office as such in the manner specified in the Constitution;

"retired Vice-President" means a person who, having held the office of Vice-President, has ceased to hold office as such in the manner specified in the Constitution and does not include a person who served as Vice-President before the commencement of this Act;

"spouse" means the wife or husband of an entitled person who dies while holding office as such, and includes in the case of an entitled person under whose religion or custom polygamy is lawful, any person to whom the entitled person is lawfully married in accordance with the tenets of that religion or custom;

"term" means a Parliamentary term unless otherwise defined by the instrument of appointment.

[Act No. 11 of 2017, Sch.]

Persons entitled to benefits

3. Subject to sections 5(3) and 15, the persons entitled to the benefits conferred by this Act shall be persons who—

- (a) at any time after the 1st January, 1993, retire as Deputy President, Prime Minister, Vice-President or Speaker; or
- (b) at any time after the 27th August, 2010, retire as Chief Justice or Deputy Chief Justice.

[Act No. 11 of 2017, Sch.]

4. *Repealed by Act No. 4 of 2023, s. 90.*

Entitlements for person holding appointive or elective position in Government

4A. A person who —

- (a) holds an appointive or elective office in the Government; and

- (b) previously held a position to which pension and other benefits accrue under this Act,
shall, upon retirement or ceasing to hold that office entitled under this Act, be paid-
- (i) a monthly pension equal to eighty per cent of the monthly salary of the entitled person's last monthly salary while in office; and
- (ii) a lumpsum payment on retirement as calculated as a sum equal to one year's salary paid for each term served in office.

[Act No. 4 of 2023, s. 91, L.N 186/2023, Sch.]

Entitlement to parliamentary pension

4B. A person, who holds an appointive or elective position for which benefits under this Act apply and is entitled to pension under the Parliamentary Pensions Act, shall in addition to the benefits and pension payable under this Act, be paid pension under section 8 of the Parliamentary Pensions Act.

Pension and other benefits of an entitled person

5. (1) A retired Speaker of the National Assembly or the Senate shall, during his or her lifetime, be entitled to—

- (a) a monthly pension equal to eighty per cent of the monthly salary of the entitled person's last monthly salary while in office;
- (b) a lump sum payment on retirement, calculated as a sum equal to one year's salary paid for each term served in office;
- (c) one saloon vehicle of an engine capacity not exceeding 2000 cc which shall be replaceable once every four years;
- (d) one four-wheel drive vehicle of an engine capacity not exceeding 3000 cc which shall be replaceable once every four years;
- (e) a fuel allowance equal to fifteen per cent of current monthly salary of the office holder;
- (f) full medical and hospital cover, providing for local and overseas treatment, with a reputable insurance company for the entitled person, the entitled person's spouse, the entitled person's child who is below eighteen years or is under twenty-five years of age and is undergoing a course of full time education, and in the case of a female child is not married or is not cohabiting with any person;
- (g) the additional benefits set out in the First Schedule.

(2) *Deleted by Act No. 4 of 2023, s. 92(b).*

(3) Where an entitled person dies in service after the commencement of this Act, a lumpsum payment on death calculated as a sum equal to five times his annual salary shall become payable to his legal personal representatives.

[Act No. 4 of 2023, s. 92.]

Pension and other benefits of retired Chief Justice

5A. A retired Chief Justice shall, during his or her lifetime, be entitled to—

- (a) a monthly pension equal to eighty per cent of the monthly salary of the entitled person's last monthly salary while in office;
- (b) a lump sum payment on retirement, calculated as a sum equal to one year's salary paid for each term served in office;
- (c) one saloon vehicle of an engine capacity not exceeding 2000 cc which shall be replaceable once every four years;
- (d) one four-wheel drive vehicle of an engine capacity not exceeding 3000 cc which shall be replaceable once every four years;
- (e) a fuel allowance equal to fifteen per cent of current monthly salary of the office holder;
- (f) full medical and hospital cover, providing for local and overseas treatment, with a reputable insurance company for the entitled person, the entitled person's spouse and the entitled person's child who is below eighteen years or is under twenty-five years of age and is undergoing a course of full time education, and in the case of a female child is not married or is not cohabiting with any person
- (g) the additional benefits set out in the First Schedule.

[Act No. 11 of 2017, Sch., Act No. 4 of 2023, s. 93.]

Pension and other benefits of retired Deputy Chief Justice

5B. A retired Deputy Chief Justice shall, during his or her lifetime, be entitled to—

- (a) a monthly pension equal to eighty per cent of the monthly salary of the entitled person's last monthly salary while in office;
- (b) a lump sum payment on retirement calculated as a sum equal to one year's salary paid for each term served in office;
- (c) one salon vehicle of an engine capacity not exceeding 2000 cc which shall be replaceable once every four years;
- (d) one four-wheel drive vehicle of an engine capacity not exceeding 3000 cc which shall be replaceable once every four years;
- (e) a fuel allowance equal to fifteen per cent of the current monthly salary of the office holder;
- (f) full medical and hospital cover, providing for local and overseas treatment, with a reputable insurance company for the entitled person, the entitled person's spouse and the entitled person's child who is below eighteen years or is under twenty-five years of age and is undergoing a course of full time education, and in the case of a female child is not married or is not cohabiting with any person;

- (g) the additional benefits set out in the First Schedule.

[Act No. 11 of 2017, Sch., Act No. 4 of 2023, s. 94.]

Pension and other benefits of a retired Prime Minister

6. A retired Prime Minister shall, during his or her lifetime, be entitled to—

- (a) a monthly pension equal to eighty per cent of the monthly salary of the entitled person's last monthly salary while in office;
- (b) a lump sum payment on retirement, calculated as a sum equal to one year's salary paid for each termed served in office;
- (c) two saloon vehicles of an engine capacity not exceeding 2000 cc which shall be replaceable once every four years;
- (d) one four-wheel drive vehicle of an engine capacity not exceeding 3000 cc which shall be replaceable once every four years;
- (e) a fuel allowance equal to fifteen per cent of current monthly salary of the office holder;
- (f) full medical and hospital cover, providing for local and overseas treatment, with a reputable insurance company for the entitled person, the entitled person's spouse and the entitled person's child who is below eighteen years or is under twenty-five years of age and is undergoing a course of full time education, and in the case of a female child is not married or is not cohabiting with any person;
- (g) the additional benefits set out in the Second Schedule.

[Act No. 4 of 2023, s. 95.]

Pension and other benefits of a retired Deputy President or retired Vice-President

7. A retired Deputy President or retired Vice-President shall, during his or her lifetime, be entitled to—

- (a) a monthly pension equal to eighty per cent of the monthly salary of the entitled person's last monthly salary while in office;
- (b) a lump sum payment on retirement, calculated as a sum equal to one year's salary paid for each termed served in office;
- (c) two saloon vehicles of an engine capacity not exceeding 2000 cc which shall be replaceable once every four years;
- (d) one four-wheel drive vehicle of an engine capacity not exceeding 3000cc which shall be replaceable once every four years;
- (e) a fuel allowance equal to fifteen per cent of current monthly salary of the office holder;
- (f) full medical and hospital cover, providing for local and overseas treatment, with a reputable insurance company for the entitled person, the entitled person's spouse and the entitled person's child who is below eighteen years or is under twenty-five years of age and is undergoing a course of full

time education, and in the case of a female child is not married or is not cohabiting with any person;

- (g) the additional benefits set out in the Third Schedule.

[Act No. 4 of 2023, s. 96.]

Role of entitled person

8. (1) An entitled person shall be expected to play a consultative and advisory role to the Government and the people of Kenya.

(2) An entitled person may be requested by the Government to perform, subject to his or her concurrence, specific official functions and shall be paid a reasonable allowance in respect of such official functions.

Spouse benefits

9. (1) Upon the death of an entitled person who is in receipt of, or who is entitled to a pension under this Act, the surviving spouse of the entitled person shall be entitled to fifty per cent of the pension which was payable to an entitled person.

(2) In any case where there is more than one spouse entitled to benefits under subsection (1), the benefits shall be divided equally among all such spouses.

Children's benefits

10. A children's pension shall be payable for the benefit of an eligible child where an entitled person dies and—

- (a) if there is only one child, pension at the rate of twenty-five percent of the pension entitlement of the entitled person;
- (b) if there are two or more children, a pension at the rate of fifty percent of the pension entitlement of the deceased entitled person to be divided equally for the benefit of each child.

Entitled person not be covered under any other Act

11. (1) For the avoidance of doubt, an entitled person under this Act shall not, for the purposes of payment of a pension or provision of any other benefits, be covered under any other Act for the same period covered under this Act.

(2) Despite subsection (1), where an entitled person was a contributor under any other pension scheme, his or her contribution shall be returned to him or her with the applicable rate of interest.

Staff

12. The professional and other staff required to be provided for an entitled person under the First Schedule shall be public officers, but no person shall be appointed or posted to serve on such staff except with the concurrence of the entitled person and such staff shall, in the performance of their duties, be responsible only to the entitled person.

Funds for expenses

13. (1) The benefits granted to an entitled person, or his or her surviving spouse, as the case may be, under this Act, shall be administered—

- (a) in the case of a retired Deputy President, retired Prime Minister or retired Vice-President, by the Office of the President, and shall be provided for in the estimates of the national government referred to in Article 221(1) of the Constitution;
- (b) in the case of a retired Speaker of the National Assembly or the Senate, by the Parliamentary Service Commission, and shall be provided for in the estimates of the parliamentary service prepared pursuant to Article 127(6) (c) of the Constitution; and
- (c) in the case of a retired Chief Justice or retired Deputy Chief Justice, by the Judicial Service Commission, and shall be provided for in the estimates of the Judiciary prepared pursuant to Article 173(3) of the Constitution.

(1A) For purposes of this section, “benefits” means the benefits granted to an entitled person under the First Schedule, Second Schedule or the Third Schedule to this Act.

(1B) For the avoidance of doubt, subsection (1) shall not apply to the pension, lump sum payment upon retirement, and gratuity provided for in this Act.

(1C) The respective entities under subsection (1), shall formulate administrative guidelines for the administration of this section including on matters relating to the computation of benefits due to an entitled person under this section.

(1D) The Clerk of the National Assembly in the case of a retired Speaker of the National Assembly and the Clerk of the Senate in the case of a retired Speaker of the Senate, shall prepare and submit the estimates under subsection (1)(b) to the Parliamentary Service Commission.

(2) Upon approval of the estimates submitted under subsection (1), all monies, from time to time, required in respect of the benefits conferred on an entitled person or his surviving spouse by this Act shall be charged on and issued out of the Consolidated Fund without further appropriation than this Act.

(3) All other expenses incurred in the administration of the provisions of this Act shall be met out of monies appropriated by the National Assembly for that purpose.

[Act No. 22 of 2022, s. 64, Act No. 4 of 2023, s. 98.]

Accounts and audit

14. The accounts relating to the expenditure incurred under the provisions of this Act shall be audited and reported upon by the Auditor-General.

Official funeral

15. Upon his death, an entitled person shall be accorded an official funeral.

16. *Repealed by Act No. 4 of 2023, s. 99.*

FIRST SCHEDULE**ADDITIONAL RETIREMENT BENEFITS FOR A RETIRED
SPEAKER OF THE NATIONAL ASSEMBLY OR THE SENATE,
THE DEPUTY CHIEF JUSTICE OR THE CHIEF JUSTICE**

(s. 5 (1)(g), 5A(g), 5B(g))

[Act No. 11 of 2017, Sch., Act No. 18 of 2018, Sch., Act No. 4 of 2023, s. 97.]

- (a) Two drivers;
- (b) one personal assistant or one chief liaison officer;
- (c) one secretary or one assistant liaison officer;
- (d) one house keeper;
- (e) one senior support staff;
- (f) one gardener;
- (g) one cleaner;
- (h) two armed security guards who shall be provided on request by the entitled person;
- (i) diplomatic passports for the entitled person and his spouse;
- (j) maintenance expenses for the vehicles provided pursuant to this Act;
- (k) access to the V.I.P. lounge at all airports within Kenya;
- (l) office and office equipment.

SECOND SCHEDULE**ADDITIONAL RETIREMENT BENEFITS FOR A RETIRED PRIME MINISTER**

(s. 6(g))

- (a) Three drivers;
- (b) one personal assistant;
- (c) one accountant;
- (d) two secretaries;
- (e) two house keepers;
- (f) two senior support staff;
- (g) two gardeners;
- (h) two cooks;
- (i) two cleaners;
- (j) armed security guards who shall be provided on request by the entitled person;
- (k) diplomatic passports for the entitled person and his or her spouse;

- (l) office and office equipment;
- (m) maintenance expenses for the vehicles provided pursuant to this Act;
- (n) access to the V.I.P. lounge II at all airports within Kenya.

THIRD SCHEDULE

ADDITIONAL RETIREMENT BENEFITS FOR A RETIRED DEPUTY PRESIDENT OR RETIRED VICE-PRESIDENT

(s. 7(g))

- (a) Two drivers;
 - (b) one personal assistant;
 - (c) one accountant;
 - (d) one secretary;
 - (e) two house keepers;
 - (f) two senior support staff;
 - (g) two cooks;
 - (h) two gardeners;
 - (i) two cleaners;
 - (j) armed security guards who shall be provided on request by the entitled person;
 - (k) diplomatic passports for the entitled person and his or her spouse;
 - (l) office and office equipment;
 - (m) maintenance expenses for the vehicles provided pursuant to this Act;
 - (n) access to the V.I.P. lounge II at all airports within Kenya.
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