

No. 70 of 1986.

Constitutional Office-Holders Retirement Benefits Act 1986.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Constitutional Office-Holders Retirement Benefits Act 1986,

Being an Act to establish a scheme to provide an adequate and suitable retirement benefit for constitutional office-holders as envisaged in the *Organic Law on the Guarantee of the Rights and Independence of Constitutional Office-Holders*.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**constitutional office**” means the office held by a constitutional office-holder;

“**constitutional office-holder**” has the same meaning as in Section 221 (*definitions*) of the *Constitution*;

“**the Organic Law**” means the *Organic Law on the Guarantee of the Rights and Independence of Constitutional Office-Holders*;

“**pensioner**” means a person in receipt of a pension under Section 4.

2. APPLICATION.

This Act applies to constitutional office-holders who, on or after the date of coming into operation of this Act, become eligible for the payment of an adequate and suitable pension or other retirement benefit under Section 10 of the Organic Law.

3. CONTRIBUTORS TO OTHER FUNDS.

Where, immediately before his appointment to the constitutional office, a person was required to contribute to—

- (a) the Public Officers Superannuation Fund established under the *Public Officers Superannuation Act 1990*; or

- (b) the Retirement Benefits Fund established under the *Retirement Benefits Act 1960*; or
- (c) the Defence Force Retirement Benefits Fund established under the *Defence Force Retirement Benefits Act 1974*,

under the provisions of the respective Acts establishing these Funds, he shall, during his tenure of the constitutional office, continue to contribute to the Fund concerned and all the provisions of the relevant Act, including payment of pensions and benefits, shall apply without any break in his status as a contributor.

4. RETIREMENT BENEFITS FOR PERSONS WHO ARE NOT CONTRIBUTORS TO OTHER FUNDS.

(1) Subject to this section, a constitutional office-holder to whom Section 3 does not apply, is entitled to a pension equivalent to 75% of the salary payable from time to time to the occupant of the constitutional office that he occupied immediately before the expiration of his period of office.

(2) Subject to Subsection (3), a pension under Subsection (1) is payable annually from the date of expiration of the term of office for the period specified in column 2 below related to the number of years of tenure of the constitutional office-holder in the constitutional office set out in column 1 below—

Column 1	Column 2
Years of tenure	No. of years from the date of operation of the term of office.
(a) not exceeding 3 years	3 years
(b) exceeding 3 years but not exceeding 6 years	7 years
(c) exceeding 6 years but not exceeding 9 years	10 years
(d) exceeding 9 years	12 years

(3) Where the term of office in the constitutional office of a constitutional office-holder to whom this section applies—

- (a) expired on his reaching the age of 50 years or above; and
- (b) exceeded six years,

he shall be eligible for a pension as specified in Subsection (1) for his life time.

5. BENEFITS ON DEATH OF PENSIONER.

(1) Subject to this section, where a pensioner—

- (a) under Section 4(2)—dies before the expiration of the period of pension specified in that subsection; or

- (b) under Section 4(3)—dies before the expiration of a period of 12 years from the date of commencement of payment of pension,

there shall be paid—

- (c) to the surviving spouse—a pension at the rate of five eighths of the pension that the pensioner was receiving, or was entitled to receive at the time of his death; and
- (d) to each surviving child of the pensioner and his spouse who is under the age of 16 years—a pension at the rate of K130.00 per annum.

(2) Subject to this section, a pension payable under Subsection (1)(c) or (d) shall be payable—

- (a) in a case to which Subsection (1)(a) applies—for the balance of the period during which the pensioner would have been entitled to a pension under Section 4(2); and
- (b) in a case to which Subsection (1)(b) applies—for the balance of the period up to the expiration of 12 years from the date of commencement of payment of the pension.

(3) A pension payable to a surviving spouse under Subsection (1) ceases on the remarriage of the spouse.

(4) On the death or remarriage of a surviving spouse who was in receipt of a pension under Subsection (1), a pension of K140.00 per annum is payable in respect of each child of that spouse (other than a child of the remarriage) or of the pensioner who is under the age of 16 years.

(5) Notwithstanding the previous provisions of this section, the maximum total annual pension payable under this section to and in respect of the surviving spouse and children, or to orphan children, of a deceased pensioner shall not exceed the amount of pension that he was receiving at the time of his death.

(6) Where a deceased pensioner is survived by more than one spouse the amount of pension payable under this section to a single spouse shall be paid in equal proportions to each spouse.

6. BENEFIT ON DEATH IN CERTAIN OTHER CASES.

(1) Where a pensioner (other than a pensioner to whom Section 5 applies) dies leaving children of himself and his spouse who are under the age of 16 years, a pension at the rate of K130.00 per annum is payable in respect of each such child who is under the age of 16 years.

(2) Notwithstanding Subsection (1), the maximum total pension payable under that subsection to children of a deceased pensioner shall not exceed the amount of pension that he was receiving at the time of his death.

7. BENEFIT ON DEATH OF CONSTITUTIONAL OFFICE-HOLDER.

(1) Subject to this section, where a constitutional office-holder to whom Section 3 does not apply, dies during his tenure of the constitutional office, there shall be paid—

- (a) to the surviving spouse—a pension at the rate of five eighths of the pension to which the constitutional office-holder would otherwise have been entitled under Section 4 if his tenure of the constitutional office had expired immediately before the date of his death; and
- (b) to each surviving child of the pensioner and his spouse who is under the age of 16 years a pension at the rate K130.00 per annum.

(2) Subject to this section, a pension payable under Subsection (1)(a) or (b) shall be payable—

- (a) where the constitutional office-holder would have been entitled to a pension for a period of years calculated in accordance with Section 4(2)—for that period; and
- (b) where the constitutional office-holder would have been entitled to a pension for his lifetime under Section 4(3)—for a period up to the expiration of 12 years from the date of commencement of the pension.

(3) A pension payable to a surviving spouse under Subsection (1) ceases on the remarriage of the spouse.

(4) On the death or remarriage of a surviving spouse who was in receipt of a pension under Subsection (1), a pension of K140.00 per annum is payable in respect of each child of that spouse (other than a child of the remarriage) or of the deceased constitutional office-holder who is under the age of 16 years.

(5) Notwithstanding the previous provisions of this section, the maximum total annual pension payable under this section to and in respect of the surviving spouse and children, or to orphan children, of a deceased constitutional office-holder shall not exceed the amount that the constitutional office-holder would have been entitled to receive if his tenure of the constitutional office had expired immediately before the date of his death.

(6) Where a deceased constitutional office-holder is survived by more than one spouse, the amount of pension payable under this section to a single spouse shall be paid in equal proportions to each spouse.

8. PENSION TO BE PAID OUT OF CONSOLIDATED REVENUE FUND.

¹A pension payable under Sections 4, 5, 6 or 7 of this Act shall be paid out of the Consolidated Revenue Fund.

¹ Section 8 repealed and replaced by *Appropriation (Administrative Arrangements) Act 1996* (No. 37 of 1996), s2.

Office of Legislative Counsel, PNG