



LEGISLATIVE ASSEMBLY RETIREMENT BENEFITS SCHEME ACT

Arrangement of Sections

Section

PART I - PRELIMINARY	5
1 Short title.....	5
2 Interpretation.....	5
PART II - LEGISLATIVE ASSEMBLY RETIREMENT BENEFITS BOARD	7
3 Establishment of the Board.....	7
4 Responsibilities of the Board.....	7
5 Powers of the Board.....	8
6 Composition of the Board.....	8
7 Term of appointment.....	8
8 Remuneration of the Board.....	8
9 Procedures of the Board.....	8
PART III - FINANCIAL PROVISIONS	9
10 Establishment of the Legislative Assembly Retirement Fund.....	9
11 Purposes of the Fund.....	9
12 Bank accounts established by the Organisation.....	9
13 Exemption from tax.....	10
14 Declaration of interest rates.....	10
15 End of year reports.....	10
16 Review of the Scheme.....	10

PART IV - CONTRIBUTIONS TO THE SCHEME		11
17	Election to the Scheme	11
18	Transfer of entitlements	11
19	Contributions of members and officers	11
20	Contributions of the Legislative Assembly	12
PART V - ENTITLEMENTS OF CONTRIBUTING PERSONS		12
21	Benefits upon discontinuance.....	12
22	Death benefit	12
22A	Financial hardship payout	12
22B	Officer’s Retirement Age	12
PART VI - REVIEW OF DECISION		13
23	Reconsideration of decisions of the Board.....	13
24	Appeal to the Legislative Assembly.....	13
THE SCHEDULE		13
TABLE FOR MONTHLY COMPULSORY CONTRIBUTIONS BY THE LEGISLATIVE ASSEMBLY TO THE FUND		13
ENDNOTES		14



LEGISLATIVE ASSEMBLY RETIREMENT BENEFITS SCHEME ACT

AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND ADMINISTRATION OF THE LEGISLATIVE ASSEMBLY RETIREMENT BENEFITS SCHEME AND RELATED MATTERS¹

Commencement [1st July, 2005]

PART I - PRELIMINARY

1 Short title

This Act may be cited as the Legislative Assembly Retirement Benefits Scheme Act.

2 Interpretation

In this Act unless the contrary intention appears —

“**basic salary**” means the lump sum amount received annually by members and officers from the Legislative Assembly;

“**Board**” means the Legislative Assembly Retirement Benefits Board established under section 3;

“**contributing person**” means —

- (a) a member of the Legislative Assembly who elects to and does contribute to the Fund; and

- (b) an officer employed by the Legislative Assembly who elects to and does contribute to the Fund;

“discontinuance” —

- (a) in relation to a member, occurs when that member’s term in office ends, whether by death, resignation, retirement on medical grounds, disqualification or expulsion or by dissolution of the Legislative Assembly, or where he fails to secure a seat in an electoral district; and
- (b) in relation to an officer, occurs when that officer’s term of employment ends whether by death, resignation, retirement on medical grounds, disqualification or dismissal;²

“Director” means any Board member;

“financial hardship” means an immediate financial need of a contributing person or his family that includes —

- (a) medical costs;
- (b) tuition fees;
- (c) funeral expenses; or
- (d) unforeseen accidents;³

“financial year” means the period from 1st July in any year to 30th June in the following year;

“Fund” means the Fund established under section 10;

“medical grounds” means retirement on medical grounds —

- (a) that 2 registered medical practitioners certify; and
- (b) that the Board determines;

“member” means any member of the Legislative Assembly on the day that this Act comes into effect or subsequent days thereafter;

“officer” means any person employed by the Legislative Assembly on the day that this Act comes into effect or subsequent days thereafter;

“old scheme” means entitlements that members and officers would receive as gratuities or pension or both, under section 10 and 11 (1) and (3) of the Legislative Assembly Act;⁴

“Organisation” means the Organisation in Tonga nominated by the Board with the consent of the Legislative Assembly to manage, administer and invest the Fund;

“prescribed beneficiary” means the person who was nominated by the contributing person before his death to receive upon his death his total benefits under this Act, or if no such person, then to —

- (a) his widow, if none;
- (b) his legitimate child or children, if none;

- (c) his father or mother, or if none;
 - (d) his estate which the Supreme Court shall have discretion over;
- “total benefits” means the accumulated total of —
- (a) all contributions paid by a contributing person to the Fund and any interest accrued;
 - (b) all contributions paid by the Legislative Assembly to the Fund for a particular contributing person and any interest accrued; and
 - (c) less any deductions by the Organisation from the Fund for services rendered.

PART II - LEGISLATIVE ASSEMBLY RETIREMENT BENEFITS BOARD

3 Establishment of the Board

There shall be a Legislative Assembly Retirement Benefits Board.

4 Responsibilities of the Board

- (1) The Board shall be responsible for the administration of this Act.
- (2) Without limiting the generality of subsection (1), the Board shall be responsible for —
 - (a) managing the Fund as Trustee;
 - (b) nominating an Organisation with the consent of the Legislative Assembly to manage, administer and invest the Fund;
 - (c) ensuring that all investments undertaken by the Organisation are screened by the Legislative Assembly and that the Legislative Assembly confirms that such investments are secure and low risk;⁵
 - (d) requiring the Organisation to report monthly on the progress of all investments undertaken under this Act;
 - (e) reviewing the investment strategies of the Organisation every year and if necessary making recommendations to the Legislative Assembly that the Organisation needs to be changed;
 - (f) determining entitlement in accordance with this Act; and
 - (g) determining application for discontinuance on medical grounds.
- (3) Pursuant to subsection (2)(b), the Board may withhold or delay its nomination of the Organisation, if the Legislative Assembly is satisfied that the Board can carry out the responsibilities and other legal requirements of the Organisation, as hereinafter stated in the Act.⁶

5 Powers of the Board

- (1) The Board has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) The Board may make any regulations with the consent of the Legislative Assembly for the administration of this Act.
- (3) Subject to this Act and any regulations made under it, the Board may regulate its own proceedings and shall have the power to make any rules for the conduct of its own proceedings.

6 Composition of the Board

- (1) The Directors of the Board shall be appointed by a resolution of the Legislative Assembly and shall consist of —
 - (a) the Speaker of the Legislative Assembly as Chairman of the Board and to represent the officers of the Legislative Assembly;
 - (b) a Minister of the Crown and a replacement elected by the Ministers of the Crown;
 - (c) a Representative of the Nobles and a replacement elected by the Representatives of the Nobles;
 - (d) a Representative of the People and a replacement elected by the Representatives of the People; and
 - (e) an officer who is qualified and experienced to act as the Secretary and Financial Officer to the Board but he shall not have any voting rights.
- (2) The Chairman with the consent of the Board shall upon the discontinuance of any Director or replacement appointed under subsection (1) appoint a successor for the remainder of the term.

7 Term of appointment

Directors of the Board shall be appointed for a term of 4 years and they may be re-appointed upon a resolution by the Legislative Assembly.⁷

8 Remuneration of the Board

Directors of the Board shall be paid such remuneration at the same rate as the committees of the Legislative Assembly from its vote.⁸

9 Procedures of the Board

- (1) The Chairman shall convene a meeting of the Board whenever the Chairman considers necessary for the efficient performance of its functions or at the end of every month whichever comes first.

- (2) Three Directors present at a meeting shall constitute a quorum.⁹
- (3) Resolutions of the Board shall be carried by majority voting and in the case of an equal number of votes the Chairman shall also have a casting vote.
- (4) The Board shall keep minutes of its own meetings.

PART III - FINANCIAL PROVISIONS

10 Establishment of the Legislative Assembly Retirement Fund

For the purposes of this Act, there shall be established the Legislative Assembly Retirement Fund into which shall be paid —

- (a) all contributions paid into the Fund;
- (b) monies earned or arising from any investment, property or other transactions; and
- (c) any other monies payable under this Act.

11 Purposes of the Fund

- (1) The Fund may be expended for the purposes of —
 - (a) meeting all payments required to be made under this Act;
 - (b) investments under this Act including the expenses incurred in undertaking the investments, provided that such investments have been screened to the satisfaction of the Board; and
 - (c) meeting all expenses properly incurred in the implementation of this Act and the administration costs incurred by the Organisation.¹⁰
- (2) Without limiting the generality of subsection (1), the primary purpose of the Fund is to provide for the total benefits of contributing persons upon their discontinuance.

12 Bank accounts established by the Organisation

- (1) The Organisation shall establish and maintain such bank account or accounts, as recommended by the Board, for the purposes of the financial management of this Scheme and its general revenue.
- (2) The bank account or accounts established under subsection (1) may either be maintained —
 - (a) at the National Reserve Bank of Tonga; or
 - (b) any other bank recommended by the Board.

- (3) The signatories to the account or accounts established under subsection (1) shall be the Chairman of the Board and 2 other Directors authorised by the Board.

13 Exemption from tax

No tax, duty, levy or any other government impost shall be payable by the Organisation on Fund monies, including investment earnings.

14 Declaration of interest rates

- (1) Subject to this Act, at or before the end of each financial year, the Board shall declare a rate of interest in respect of that year, that shall be credited at such rates to the total amounts recorded as in each contributing persons' account, including voluntary account, at the commencement of each financial year.
- (2) Notwithstanding subsection (1) where total benefit entitlement arising under the provisions of this Act is to be calculated, interest shall be first credited to the account or accounts in respect of the period from the beginning of the financial year to the end of the month preceding the date of entitlement in accordance with the rate of interest declared by the Board for the preceding financial year regardless of the fact that the rate of interest subsequently declared by the Board for the preceding financial year may be greater or less than this rate.

15 End of year reports

- (1) The Organisation shall prepare within 3 months all financial reports of the Board as may be required by the regulations at the end of every financial year and shall forward such reports to the Board.¹¹
- (2) The financial reports prepared under subsection (1) shall be submitted by the Board to the Auditor General or another approved auditor for an audit to be completed within 3 months after the financial reports have been submitted.¹²
- (3) The Board shall within 10 working days of completion of the audit under subsection (2) submit such reports to the Legislative Assembly during its session on the first available sitting day.

16 Review of the Scheme

The Board shall by the end of the third year of each parliamentary term review the contribution rates and operation of the Scheme and shall forward the results of this review to the Legislative Assembly with the recommendations of the Board.¹³

PART IV - CONTRIBUTIONS TO THE SCHEME

17 Election to the Scheme

- (1) A member or an officer may elect to either become a contributing person under this Act or remain affiliated to the old scheme and the Board shall not have the right to deny any member or officer from electing to become a contributing person.
- (2) A member or an officer elects to become a contributing person in any of the following days —
 - (a) as from the day of commencement of this Act;
 - (b) as from the day on which his term of office began, provided that day is not before the commencement of this Act; or
 - (c) as from any other day he so elects.
- (3) Where a member or an officer elects to become a contributing person under this Act, he shall, from that day forward, cease to receive any further entitlement under section 10 and 11(1) and (3) of the Legislative Assembly Act.

18 Transfer of entitlements

- (1) A member or an officer upon electing to become a contributing person under this Act shall either —
 - (a) transfer his entitlement from the old scheme to the Fund; or
 - (b) withdraw his entitlement under the old scheme either by instalments or lump sum payments.
- (2) A member or an officer shall within 10 working days before exercising his right pursuant to subsection (1) inform the Board in writing that he elects to become a contributing person under this Act.

19 Contributions of members and officers¹⁴

- (1) A member or an officer shall, contribute monthly to the Fund at the rate of 10 per cent of his basic salary and such contribution shall be credited to his compulsory contribution account.
- (2) Apart from the compulsory contribution under subsection (1) a member or an officer may contribute monthly to the Fund any extra monies and such contribution shall be credited to his voluntary contribution account.
- (3) The Legislative Assembly shall be entitled to directly deduct a contributing person's contribution from his basic salary for payment of monthly

contributions to the Fund and notice of such deductions shall be furnished to the contributing person in writing.

20 Contributions of the Legislative Assembly

The Legislative Assembly shall, contribute monthly to the Fund in accordance with the rates provided by the Schedule in respect to that contributing person.¹⁵

PART V - ENTITLEMENTS OF CONTRIBUTING PERSONS

21 Benefits upon discontinuance

- (1) Any contributing person under this Act is eligible upon his discontinuance to receive total benefits from the Fund in respect of that period during which he was a contributing person.
- (2) Notwithstanding subsection (1), any contributing person who is not a Member of the Legislative Assembly may, when the Legislative Assembly dissolves in accordance with clause 77(1) of the Constitution, upon application to and with the approval of the Board, receive total benefits from the Fund, in respect of that period during which he has been a contributing person.¹⁶

22 Death benefit

- (1) Where a contributing person under this Act dies before receiving his total benefits, his total benefits shall be paid to his prescribed beneficiary.
- (2) Subject to section 17(3) nothing in this Act shall release the Legislative Assembly from their obligations under the Legislative Assembly Act.

22A Financial hardship payout¹⁷

The Board may permit a contributing person under this Act to draw out part or all of the contributions paid by that contributing person, if the Board determines that he is in financial hardship.

22B Officer's Retirement Age¹⁸

- (1) Subject to subsection (2), all officers of the Legislative Assembly shall cease to hold their appointments upon reaching the age of 60
- (2) The Clerk in conjunction with the Speaker and the approval of the Assembly may re-engage on the basis of exigency, on short-term contracts, the services of a person to which subsection (1) applies provided that —

- (a) the prospects of the current staff are not prejudiced;
- (b) the post is an essential one which cannot otherwise be readily filled;
and
- (c) the person is in all respects suitable.

PART VI - REVIEW OF DECISION

23 Reconsideration of decisions of the Board

Any contributing person affected by a decision of the Board may within 30 days after the day on which the decision comes to the notice of that contributing person, or within such further period as the Board allows, request the Board to reconsider the decision.

24 Appeal to the Legislative Assembly

- (1) Where any contributing person remains discontent with the reconsideration of the Board pursuant to section 23, that person may lodge a request with the Speaker of the House, to have the matter referred to the Legislative Assembly.
- (2) The decision of the Legislative Assembly shall be final and shall override any decisions of the Board made under section 23.

THE SCHEDULE

(Section 20)

**TABLE FOR MONTHLY COMPULSORY CONTRIBUTIONS BY THE
LEGISLATIVE ASSEMBLY TO THE FUND¹⁹**

Years of service	% to be contributed by the Legislative Assembly on the basic salary of members and officers.
1-3 Years	20% each year
4-6 Years	22.5% each year
7-9 Years	25% each year
10-12 Years	27.5% each year
13 Years and over	30% each year

ENDNOTES

¹ **Act 14 of 2004**, commencement 1 July 2005

Amending Acts

Amending Acts	Commencement
Act 17 of 2005	10 January 2006
Act 24 of 2009	18 December 2009
Act 14 of 2013	4 September 2013
Act 20 of 2014	27 October 2014
Act 11 of 2015	4 December 2015

² Substituted by Act 20 of 2014

³ Inserted by Act 24 of 2009

⁴ Cap. 04.16

⁵ Amended by Act 17 of 2005

⁶ Inserted by Act 17 of 2005

⁷ Amended by Act 14 of 2013

⁸ Amended by Act 17 of 2005

⁹ Amended by Act 17 of 2005

¹⁰ Amended by Act 17 of 2005

¹¹ Amended by Act 14 of 2013

¹² Amended by Act 14 of 2013

¹³ Amended by Act 14 of 2013

¹⁴ Amended by Act 14 of 2013

¹⁵ Amended by Act 14 of 2013

¹⁶ Inserted by Act 20 of 2014

¹⁷ Inserted by Act 24 of 2009 and Amended by Act 14 of 2013

¹⁸ Inserted by Act 11 of 2015

¹⁹ Amended by Act 14 of 2013