

1980

c 236 Legislative Assembly Retirement Allowances Act

Ontario

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CHAPTER 236

Legislative Assembly Retirement Allowances Act

1. In this Act,

Interpre-
tation

- (a) "allowance" means an allowance under this Act;
- (b) "member" means a member of the Assembly;
- (c) "Speaker" means the Speaker of the Assembly;
- (d) "Treasurer" means the Treasurer of Ontario and Minister of Economics. 1973, c. 152, s. 1; 1975, c. 89, s. 1.

2. This Act shall be administered by the Speaker. 1973, Administration of Act
c. 152, s. 2; 1975, c. 89, s. 2.

PART I

3. In this Part,

Interpre-
tation

- (a) "indemnity" means the indemnity payable to a person as a member under the *Legislative Assembly Act*; R.S.O. 1980, c. 235
- (b) "minister" means a member of the Executive Council, and includes for the purposes of Part I a parliamentary assistant, the Speaker, the Leader of the Opposition and any member who was formerly a member of the Executive Council, a parliamentary assistant, the Speaker or the Leader of the Opposition;
- (c) "salary" means,
 - (i) the annual salary paid to a minister or a parliamentary assistant under the *Executive Council Act*, or R.S.O. 1980, c. 147
 - (ii) the additional indemnity of the Speaker or the Leader of the Opposition under the *Legislative Assembly Act*;

(d) "service" means service as a member or as a minister, as the case may be, for which indemnity or salary was paid. 1973, c. 152, s. 3.

Application
of Part

4. This Part applies to a person who was a member on the 1st day of October, 1973 and a person who was a member before such date, but does not apply to a member who has elected to contribute under Part II. 1973, c. 152, s. 4.

Current con-
tributions,
members

5.—(1) There shall be deducted from the indemnity payable to a member an amount equal to 6 per cent thereof as such member's contribution under this Act.

Maximum
contri-
butions,
members

(2) Notwithstanding anything in subsection (1), contributions under this section shall not be deducted from the indemnity of a member after the total amount contributed by him is sufficient to provide an allowance equal to the amount of his indemnity. 1973, c. 152, s. 5.

Eligibility
for allow-
ance,
members

6.—(1) A member who has contributed in respect of five or more years of service and who has attained the age of fifty-five years is entitled to an annual allowance during his lifetime upon his ceasing to be a member.

Idem

(2) Where a person is otherwise eligible for an allowance under this section but has not attained the age of fifty-five years, he may elect to take an allowance under subsection (3) at age fifty-five or an immediate allowance of a reduced amount under subsection (4).

Calculation
of allowance
at age 55,
members

(3) The amount of a person's annual allowance under this section shall be an amount equal to 75 per cent of the total of his contributions as a member, but the amount of his allowance shall not exceed the amount of his indemnity.

Calculation
of allowance
under age 55,
members

(4) Where a person who is otherwise eligible for an allowance under this section, but has not attained the age of fifty-five years elects to take an immediate allowance of a reduced amount, the amount of his allowance shall be calculated under subsection (3) and then shall be reduced actuarially in accordance with the tables prescribed by the regulations.

Application
of subs. (1)

(5) Subsection (1) applies to persons who are or were members on or after the 23rd day of July, 1968, and, in the case of persons who were members before such date but are or were not members after such date, section 6 of the

Legislative Assembly Retirement Allowances Act as it was in force immediately before such date applies. 1973, c. 152, s. 6. R.S.O. 1980, c. 236

7.—(1) An allowance under section 6 shall be suspended while the person entitled thereto is a member. Suspension of allowance, members

(2) Where a person whose allowance has been suspended under subsection (1) again ceases to be a member, his allowance shall be recalculated under section 6 having regard to any additional service as a member performed while his allowance was suspended. 1973, c. 152, s. 7. Recalculation of allowance, members

8.—(1) There shall be deducted from the salary payable to a minister an amount equal to 6 per cent thereof as such minister's contribution under this Part. Current contributions, ministers

(2) Notwithstanding anything in subsection (1), contributions under this section shall not be deducted from the salary of a minister after the total amount contributed by him is sufficient to provide an allowance equal to one-half the annual salary of a minister having charge of a ministry. 1973, c. 152, s. 8. Maximum contributions, ministers

9.—(1) A minister who has contributed under section 8 or 25 and who has contributed in respect of five or more years of service as a member and who has attained the age of fifty-five years is entitled to an annual allowance during his lifetime upon his ceasing to be a minister and a member. Eligibility for allowance, ministers

(2) Where a person is otherwise eligible for an allowance under this section but has not attained the age of fifty-five years, he may elect to take an allowance under subsection (3) at age fifty-five or an immediate allowance of a reduced amount under subsection (4). Idem

(3) The amount of a person's annual allowance under this section shall be an amount equal to 75 per cent of the total of his contributions as a minister, but the amount of his allowance shall not exceed one-half of the salary of a minister having charge of a ministry. Calculation of allowance at age 55, ministers

(4) Where a person who is otherwise eligible for an allowance under this section but has not attained the age of fifty-five years elects to take an immediate allowance of a reduced amount, the amount of his allowance shall be calculated under subsection (3) and then shall be reduced actuarially in accordance with the tables prescribed by the regulations. Calculation of allowance under age 55, ministers

Application
of subs. (1)

(5) Subsection (1) applies to persons who are or were ministers on or after the 23rd day of July, 1968, and, in the case of persons who were ministers before such date but are or were not ministers after such date, section 6 of the *Legislative Assembly Retirement Allowances Act* as it was in force immediately before such date applies. 1973, c. 152, s. 9.

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c. 236

Suspension
of allowance,
ministers

10.—(1) An allowance under section 9 shall be suspended while the person entitled thereto is a member.

Recalcula-
tion of
allowance,
ministers

(2) Where a person whose allowance has been suspended under subsection (1) again ceases to be a member, his allowance shall be recalculated under section 9 having regard to any additional contributory service as a minister performed while his allowance was suspended. 1973, c. 152, s. 10.

Spouse's
allowance

11.—(1) The spouse of a person who at the time of his or her death was in receipt of an allowance, or who was entitled to an allowance or whose allowance has been suspended under section 7 or 10, shall be paid during his or her lifetime an allowance equal to 60 per cent of the allowance that the person was receiving at the date of his or her death or to which he or she was entitled or that was suspended and recalculated under section 7 or 10, as the case may be. 1973, c. 152, s. 11 (1); 1977, c. 70, s. 1 (1).

Idem

(2) The spouse of a person,

- (a) who had elected under section 6 or 9 to take a deferred allowance at age fifty-five; or
- (b) who was eligible to make an election under section 6 or 9 but died before making such election; or
- (c) who died before attaining the age of fifty-five years while still contributing and who was otherwise eligible for an allowance,

at any time may elect to take a deferred allowance, in which case, commencing on the day that the person would have attained the age of fifty-five had he or she lived, the spouse shall be paid during his or her lifetime an allowance equal to 60 per cent of the allowance to which the person would have been entitled at that time, or the spouse may elect to take an immediate allowance, in which case the spouse shall be paid during his or her lifetime an allowance equal to 60 per cent of the allowance, reduced actuarially in accordance with the prescribed tables, that the person would have been entitled to receive at the time of the spouse's election. 1973, c. 152, s. 11 (2); 1977, c. 70, s. 1 (2).

(3) Subsections (1) and (2) do not apply to the spouse of ^{Exception} a person,

(a) if the spouse married the person after he or she attained the age of sixty-five years and the person died within one year of the marriage;

(b) if the spouse married the person after he or she was in receipt of the allowance; or

(c) after the spouse remarries. 1973, c. 152, s. 11 (3).

12.—(1) A person who makes contributions under this ^{Refunds} Part and who ceases to be a member before being eligible for an allowance is entitled to a refund of an amount equal to the amount of his contributions with interest thereon at the rate of 6 per cent per annum and, in the event of his death, the same refund shall be paid to his personal representative.

(2) Where a person who is in receipt of an allowance ^{Idem} dies and no person becomes entitled to an allowance under section 11, a refund shall be paid to his personal representative equal to the amount of the difference between the amount of his contributions with interest thereon at the rate of 6 per cent per annum up to the time he commenced to receive the allowance and the amount of the allowance paid to him up to the time of his death. 1973, c. 152, s. 12 (1, 2).

(3) A refund under subsection (1) to a former contributor shall be made only after the Speaker receives an ^{Application} application therefor in writing from the former contributor. 1973, c. 152, s. 12 (3); 1975, c. 89, s. 3.

13. A person who has received a refund under subsection ^{Reinstatement after refund} 12 (1) and who again becomes eligible to contribute under this Act may pay to the Treasurer the amount of the refund with interest at the rate of 6 per cent per annum and thereupon he is entitled to credit for the amount so paid. 1973, c. 152, s. 13.

PART II

14. In this Part,

^{Interpretation}

(a) “average annual remuneration” means,

(i) in respect of a person who was in receipt of an allowance immediately before the 1st day of October, 1977, the average annual re-

muneration of the person during any five fiscal years of his service, which years need not be consecutive, during which his remuneration was the highest, or

- (ii) in respect of a person who became entitled or who becomes entitled to an allowance on or after the 1st day of October, 1977, the average annual remuneration of the person during any three fiscal years of his service, which years need not be consecutive, during which his remuneration was highest;

R.S.O. 1980,
cc. 235, 147

- (b) "remuneration" means the indemnity paid to a person as a member under the *Legislative Assembly Act* together with all other indemnities and salaries paid to such person under that Act and the *Executive Council Act*;

- (c) "service" means service in respect of which contributions have been made,

(i) under this Part, and

- (ii) under Part I in the case of a member who has made an election under section 16. 1973, c. 152, s. 14; 1977, c. 70, s. 2.

Application
of Part

15. This Part applies to a member who becomes a member after the 1st day of October, 1973 and to any member who was a member on that day and who elects to contribute under this Part. 1973, c. 152, s. 15.

Option of
present
members,
guaranteee

16.—(1) A member who was a member on the 1st day of October, 1973 may elect to contribute under this Part by giving notice in writing to the Speaker within one year after such day, and, upon the effective date of such election, Part I ceases to apply to him and his contributions thereafter shall be in accordance with this Part, provided that when a member or his or her spouse becomes entitled to an allowance, the allowance shall be computed, subject to subsections (2), (3), (4) and (5), under Part I and Part II and the member or his or her spouse is entitled to the highest allowance so computed. 1973, c. 152, s. 16 (1); 1975, c. 89, s. 4.

Calculation
under
Part I

(2) A person who becomes entitled to an allowance under Part II may elect to have the calculation of his annual allowance under Part I based on,

(a) the contributions the member would have made if he had continued to contribute under Part I; or

(b) the amount calculated under clause (a) plus the annual amount of an annuity that would be provided, in accordance with the regulations, by the amount of the difference between the member's contributions under Part I and Part II in relation to his indemnity and salary as defined in Part I.

(3) When a person becomes entitled to an allowance under Part II and the member's age at the time of his retirement or death, as the case may be, is less than fifty-five years, the allowance under Part I shall be calculated as an immediate allowance of a reduced amount in accordance with such age. Allowance where member under 55 years

(4) Where a member has elected to contribute under Part II and the person entitled to an allowance elects to receive an allowance under Part I as calculated under clause (2) (a), the person shall receive a refund of the amount of the difference between the member's contributions under Part I and Part II in relation to his indemnity and salary as defined in Part I. Refund of certain contributions

(5) Where a member has elected to contribute under Part II and the person entitled to an allowance elects to receive an allowance under Part I, the person shall receive a refund of any contributions made under Part II in relation to any part of the member's remuneration that is not included in the member's indemnity and salary as defined in Part I. 1973, c. 152, s. 16 (2-5). Idem

17. There shall be deducted from the remuneration payable to a member an amount equal to 8½ per cent thereof as such member's contribution under this Part. 1973, c. 152, s. 17; 1977, c. 70, s. 3. Contributions

18.—(1) A person who has contributed in respect of at least five years of service and who has credit in the Legislative Assembly Retirement Allowances Account for a number of years of service that, when added to his age on the date he ceases to be a member totals, Eligibility for allowance, member

(a) in the case of a person who ceased to be a member before the 1st day of October, 1977, at least sixty years; or

- (b) in the case of a person who ceased or who ceases to be a member on or after the 1st day of October, 1977, at least fifty-five years,

is entitled to an annual allowance during his lifetime upon his ceasing to be a member.

Deferred
or
reduced
allowance

(2) Where a person has contributed in respect of at least five years of service but has not satisfied the sixty year rule or the fifty-five year rule, as the case requires, in subsection (1) on the date he ceased or ceases to be a member, he may elect to take a deferred annual allowance under subsection (3) at the age when he does satisfy such rule or an immediate annual allowance of a reduced amount under subsection (4). 1977, c. 70, s. 4.

Calculation
of allowance

(3) The amount of a person's annual allowance under this section shall be an amount equal to the sum of,

- (a) 4 per cent of the average annual remuneration of the person multiplied by the years of service, including part of a year, to his credit up to and including the first ten years of such service; and

- (b) 3.5 per cent of the average annual remuneration of the person multiplied by the years of service, including part of a year, to his credit over ten years and up to and including twenty years of such service,

but the amount of his allowance shall not exceed 75 per cent of his average annual remuneration. 1973, c. 152, s. 18 (3); 1977, c. 27, s. 1.

Computation
of reduced
allowance

(4) Where a person who has contributed in respect of at least five years of service but has not satisfied the sixty year rule elects to take an immediate annual allowance of a reduced amount, the amount of his allowance shall be calculated under subsection (3) and then shall be reduced actuarially in accordance with the tables prescribed by the regulations.

Where
service less
than five
fiscal years

(5) Where a person who is entitled to an allowance has been a contributor for less than five fiscal years, the allowance shall be based upon his average annual remuneration during the fiscal years that he was a contributor.

Part of
a year

(6) Where a calculation under this section involves part of a year, the calculation in respect of that part shall be made on a monthly basis, and,

(a) any part of a month less than fifteen days shall be disregarded; and

(b) any part of a month not less than fifteen days shall be deemed to be a month. 1973, c. 152, s. 18 (4-6).

19.—(1) Where a former member who is receiving an allowance dies leaving a spouse, the spouse shall be paid during his or her lifetime an allowance equal to, Spouse's allowance

(a) 60 per cent of the allowance that the former member was receiving at the date of his or her death; and

(b) in respect of each child under the age of eighteen years, to a maximum of three children of the former member, 10 per cent of the allowance that the former member was receiving at the date of his or her death.

(2) Where a member dies, Computation of allowance

(a) leaving a spouse, the spouse shall be paid during his or her lifetime an allowance equal to the greater of,

(i) an amount equal to 25 per cent of the annual indemnity of the member in effect immediately before his or her death, or

(ii) an amount equal to,

A. 60 per cent of the allowance that the member had earned to the date of his or her death, and

B. in respect of each of not more than three children of the member under the age of eighteen years, 10 per cent of the allowance that the member had earned to the date of his or her death,

computed in the manner provided in section 18, but based on the member's service to the time of his or her death, and where the spouse dies leaving a child or children of the former member who at the date of the death of the spouse is or are under the age of eighteen years, an allowance equal to that paid or that would be paid to the spouse shall be paid to the child or children until such age is attained; or

- (b) leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the allowance that would have been paid to the spouse of the member under clause (a) if the spouse had survived the member shall be paid to the child or children until such age is attained.

Option

(3) The spouse,

- (a) of a person who had elected under section 18 to take a deferred allowance at the age when he or she would satisfy the sixty year rule but who died before satisfying the rule; or
- (b) of a person who was eligible to make an election to take a deferred or an immediate allowance under section 18 but died before making the election,

at any time may elect to take a deferred allowance, in which case, commencing on the day that the person would have satisfied the sixty year rule had he or she lived, the spouse shall be paid during his or her lifetime an allowance equal to,

- (c) 60 per cent of the allowance to which the person would have been entitled at that time; and
- (d) in respect of each child under the age of eighteen years, to a maximum of three children of the person, 10 per cent of the allowance to which the person would have been entitled at that time,

or may elect to take an immediate allowance, in which case the spouse shall be paid during his or her lifetime an allowance equal to the amount calculated in accordance with clauses (c) and (d) reduced actuarially in accordance with the tables prescribed by the regulations, which the person would have been entitled to receive at the time of the spouse's election.

Idem

- (4) Where a person referred to in clause (3) (a) or (b) dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the immediate allowance provided for in subsection (3), reduced actuarially in accordance with the tables prescribed by the regulations for the purposes of subsection (3), shall be paid to the child or children until such age is attained.

Exception
for higher
education

- (5) For the purposes of this section, a person who has attained the age of eighteen years but has not attained the

age of twenty-five years and who is in full-time attendance at a school, college, university or other institution that is recognized by the Board of Internal Economy for the purposes of this section as a place of higher education shall be deemed not to have attained the age of eighteen years. 1977, c. 27, s. 2.

20.—(1) An allowance under section 18 shall be suspended while the person entitled thereto is a member. Suspension of allowance

(2) Where a person whose allowance has been suspended under subsection (1) again ceases to be a member, his allowance shall be recalculated under section 18 having regard to any additional contributory service as a member performed while his allowance was suspended. 1973, c. 152, s. 20. Recalculation of allowance

21.—(1) A person who makes contributions under this Part and who ceases to be a member before being eligible for an allowance is entitled to a refund of an amount equal to the amount of his contributions with interest thereon at the rate of 6 per cent per annum and, in the event of his death, the same refund shall be paid to his personal representative. Refunds

(2) Where a person who is in receipt of an allowance dies and no person becomes entitled to an allowance under section 19, his personal representative is entitled to a refund equal to the amount of the difference between the amount of his contributions with interest thereon at the rate of 6 per cent per annum up to the time he commenced to receive the allowance and the amount of the allowance paid to him up to the time of his death. 1973, c. 152, s. 21 (1, 2). Idem

(3) A refund under subsection (1) to a former contributor shall be made only after the Speaker receives an application therefor in writing from the former contributor. 1973, c. 152, s. 21 (3); 1975, c. 89, s. 5. Application

22. A person who has received a refund under subsection 21 (1) and who again becomes eligible to contribute under this Act may pay to the Treasurer the amount of the refund with interest at the rate of 6 per cent per annum and thereupon he is entitled to credit for the amount so paid. 1973, c. 152, s. 22. Reinstatement after refund

PART III

23.—(1) Where a former member of the House of Commons of Canada is a contributor under this Act and Service as member of House of Commons

provided he is not entitled to or receiving an allowance in respect of his service as a member of the House of Commons of Canada, he may count such service for the purposes of this Act if he pays into the Legislative Assembly Retirement Allowances Account an amount equal to the amount he received as a refund of his contributions to the account maintained to provide superannuation benefits for members of the House of Commons of Canada, with interest at the rate of 6 per cent per annum.

Credit under
Part I or II

(2) Where an amount is paid into the Account under subsection (1), a contributor under Part I is entitled to have such amount, exclusive of interest, credited to his contributions under Part I, and a contributor under Part II is entitled to count, for the purposes of Part II, the period of service represented by the amount paid into the Account. 1973, c. 152, s. 23.

Previous
service,
members'
election

24.—(1) A member who was not a member on the 1st day of April, 1960, may, within ninety days from the day upon which the Assembly first is in session after he becomes a member, elect in writing to contribute under this Act in respect of any part of any period of service as a member previous to the 1st day of April, 1960, but the period or periods shall be chosen retrogressively from the date of such election.

Establish-
ment of
credit,
members

(2) A member who elects to contribute in respect of a period of previous service as a member shall at the time of such election pay to the Treasurer an amount equal to the amount that he would have been required to contribute as a member had the Act been in force and applicable to him during such period, and thereupon he is entitled to credit for the payment so made.

Instalment
payments,
members

(3) Notwithstanding subsection (2), any amount required to be paid under that subsection may be paid in equal instalments over a period not exceeding three years commencing at the time of his election under that subsection.

Idem

(4) Where a member who is contributing under subsection (3) ceases to be a member or dies before completing his payments thereunder, he or his legal representative, as the case may be, may pay forthwith the balance outstanding. 1973, c. 152, s. 24.

Previous
service,
minister's
election

25.—(1) A minister who was not a minister on the 1st day of April, 1960, may, within ninety days from the

day upon which he becomes a minister, elect in writing to contribute under this Act in respect of any part of any period of service as a minister previous to the 1st day of April, 1960, but the period or periods shall be chosen retrogressively from the date of such election.

(2) A minister who elects to contribute in respect of a period of previous service as a minister shall at the time of such election pay to the Treasurer an amount equal to the amount that he would have been required to contribute as a minister had the Act been in force and applicable to him during such period, and thereupon he is entitled to credit for the payment so made. Establishment of credit, ministers

(3) Notwithstanding subsection (2), any amount required to be paid under that subsection may be paid in equal instalments over a period not exceeding three years commencing at the time of his election under that subsection. Instalment payments, ministers

(4) Where a minister who is contributing under subsection (3) ceases to be a member or dies before completing his payments thereunder, he or his legal representative, as the case may be, may pay forthwith the balance outstanding. 1973, c. 152, s. 25. Idem

26. The Speaker, for the purpose of augmenting from time to time allowances being paid under this Act may, by order, with the approval of the Board of Internal Economy, provide for the payment of supplementary benefits to persons receiving allowances under this Act and prescribe the amounts of such benefits, the times at which they shall be paid and the classes of persons entitled thereto. 1975, c. 89, s. 6. Augmentation of allowances

27. All contributions and interest received under this Act shall be credited to the Consolidated Revenue Fund and all payments of allowances and refunds and interest are a charge against the Consolidated Revenue Fund. 1973, c. 152, s. 26. Payments into and out of Consolidated Revenue Fund

28.—(1) The Treasurer shall establish in the Consolidated Revenue Fund an account to be known as the Legislative Assembly Retirement Allowances Account in which shall be entered all receipts and disbursements under this Act. 1973, c. 152, s. 27 (1). Special account

(2) The Treasurer shall pay annually from the Consolidated Revenue Fund into the Legislative Assembly Annual payments into special account

Retirement Allowances Account such sum as the Lieutenant Governor in Council may direct to assist in defraying the cost of allowances and supplementary benefits under this Act. 1973, c. 152, s. 27 (2); 1975, c. 89, s. 7.

Application of
R.S.O. 1980,
c. 419

29. Section 34 of the *Public Service Superannuation Act* applies with necessary modifications to any moneys payable to any person under this Act. 1973, c. 152, s. 28.

Recipients
of allowances,
etc., not dis-
qualified
R.S.O. 1980,
c. 235

30. Notwithstanding anything in the *Legislative Assembly Act* or any other Act, the application of this Act to a person does not render him ineligible as a member of the Assembly or disqualify him from sitting and voting therein. 1973, c. 152, s. 29.

Teachers'
rights not
affected
R.S.O. 1980,
c. 494

31. Notwithstanding subclause 1 (1) (d) (xvi) of the *Teachers' Superannuation Act*, this Act does not affect the rights of a member under the *Teachers' Superannuation Act*. 1973, c. 152, s. 30.

Regulations

32. The Lieutenant Governor in Council may make regulations,

- (a) respecting the manner and times of payment of instalments under subsection 24 (3) and subsection 25 (3);
- (b) prescribing tables for the purposes of subsection 6 (4), subsection 9 (4), subsection 18 (4) and subsection 19 (3);
- (c) respecting annuities under clause 16 (2) (b). 1973, c. 152, s. 31.