

M O N T S E R R A T

**EASTERN CARIBBEAN SUPREME COURT (JUDICIAL  
OFFICERS PENSIONS) ACT**

No. 10 of 2020

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**I ASSENT**

(Sgd.) Andrew Pearce  
**Governor**

DATE: 8.12.2020

**M O N T S E R R A T**

No. 10 of 2020

AN ACT TO PROVIDE FOR PENSIONS AND GRATUITIES PAYABLE IN RESPECT OF THE SERVICE OF JUDICIAL OFFICERS OF THE EASTERN CARIBBEAN SUPREME COURT AND TO REPEAL THE EASTERN CARIBBEAN SUPREME COURT (RATE OF PENSION OF JUDGES) ACT (CAP. 6.16).

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Montserrat, and by the Authority of the same as follows:—

**1. Short title and commencement**

- (1) This Act may be cited as the Eastern Caribbean Supreme Court (Judicial Officers Pensions) Act, 2020.
- (2) This Act comes into force on a date appointed by Order of the Governor acting on the advice of Cabinet.

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**2. Interpretation**

In this Act—

“**Chief Justice**” means the Chief Justice of the Court;

“**Commission**” means the Judicial and Legal Services Commission;

“**Court**” means the Eastern Caribbean Supreme Court;

“**full pension**” means a pension computed under section 8(a)(i), (b)(i), (c)(i) or (d)(i);

“**High Court Judge**” means a High Court Judge of the Court;

“**judicial officer**” means the Chief Justice, a Justice of Appeal, a High Court Judge or a Master of the Court;

“**Judge**” means the Chief Justice, a Justice of Appeal or a High Court Judge of the Court;

“**Justice of Appeal**” means a Justice of Appeal of the Court;

“**Master**” means a Master of the Court;

“**pensionable emoluments**”, in respect of service as a judicial officer, means the salary attached to the office of the judicial officer and includes such maximum amount for housing and utilities as may be prescribed;

“**prescribed**” means prescribed by Regulations made under section 16;

“**Puisne Judge**” means a High Court Judge;

“**reduced pension**” means a pension payable under section 9;

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“**retirement age**” in relation to a judicial officer, means the mandatory retirement age of that judicial officer as provided for in the Supreme Court Order;

“**salary**” means the salary attached to the office of a judicial officer as stated in the Supreme Court Order and the Supreme Court (Masters) Order; and

“**Secretary**” means the Secretary to the Commission;

“**spouse**” means husband or wife.

**3. Application**

- (1) Subject to subsection (2), this Act applies to a judicial officer in respect of whom the Secretary has, pursuant to a direction given by the Chief Justice under section 13(1) of the Supreme Court Order, issued an instrument of assignment for pension purposes which assigns the judicial officer to Montserrat.
- (2) A person who was, immediately before the coming into operation of this Act, a judicial officer, may, in writing and within six months of the coming into operation of this Act, opt not to be subject to this Act, but to receive a pension, gratuity or any other eligible allowances in accordance with the Eastern Caribbean Supreme Court (Rate of Pension of Judges) Act (Cap. 6.16) and the Pensions Act (Cap. 6.07).

**4. Act binds the Crown**

This Act binds the Crown.

**PART I—PENSIONS AND GRATUITIES**

**5. Pension to be charged on Consolidated Fund**

There shall be charged on and paid out of the Consolidated Fund of Montserrat all such sums of money as may from time to time be payable by way of pension or gratuity in pursuance of this Act and the Supreme Court Order.

**6. Circumstances in which pension may be granted**

A pension may be granted under this Act to a judicial officer on his or her retirement from judicial service, on or after he or she has served at least five continuous years of service as a judicial officer and in one of the following cases—

- (a) on attaining the retirement age;
- (b) on the abolition of his or her office; or
- (c) if he or she, or a person appointed by the Court to act on his or her behalf, applies to the Commission, in writing, for him or her to retire on the grounds that—
  - (i) he or she is incapable by reason of any infirmity of mind or body of discharging the duties of his or her office, and
  - (ii) the infirmity is likely to be permanent,

and submits with the application, medical evidence to the satisfaction of the Commission.

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**7. Retirement**

- (1) A judicial officer shall retire from office on attaining the retirement age.
- (2) Despite subsection (1) but subject to subsection (3), a judicial officer may retire from office, if he or she gives to the Commission at least twelve months' notice, in writing, of his or her intention to do so.
- (3) The period of notice under subsection (2) does not include a period of vacation leave—
  - (a) which the judicial officer earned before; or
  - (b) to which the judicial officer becomes entitled on or after,  
the date on which he or she gives notice under subsection (2).

**8. Rate of pension**

The pension payable to a judicial officer on his or her retirement in pensionable circumstances is as follows—

- (a) in the case of the Chief Justice—
  - (i) if he or she has had continuous service as a judicial officer for a period of not less than ten years, the pension is equal to the annual pensionable emoluments attached to the office of Chief Justice, or
  - (ii) if he or she has had continuous service as a judicial officer for a period of less than ten years but not less than five years, the pension is computed on a pro-rated basis calculated by dividing the number of years of continuous service by ten years and

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multiplying the result by the annual pensionable emoluments attached to the office of Chief Justice;

- (b) in the case of a Justice of Appeal—
- (i) if he or she has had continuous service as a judicial officer for a period of not less than twelve years, the pension is equal to the annual pensionable emoluments attached to the office of Justice of Appeal, or
  - (ii) if he or she has had continuous service as a judicial officer for a period of less than twelve years but not less than five years, the pension is computed on a pro-rated basis calculated by dividing the number of years of continuous service by twelve years and multiplying the result by the annual pensionable emoluments attached to the office of Justice of Appeal;
- (c) in the case of a High Court Judge—
- (i) if he or she has had continuous service as a judicial officer for a period of not less than fifteen years, the pension is equal to the annual pensionable emoluments attached to the office of High Court Judge,
  - (ii) if he or she has had continuous service as a judicial officer for a period of less than fifteen years but not less than five years, the pension is computed on a pro-rated basis calculated by dividing the number of years of continuous service by fifteen years and multiplying the result by the annual

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pensionable emoluments attached to the  
office of High Court Judge;

- (d) in the case of a Master—
- (i) if he or she has had continuous service as a Master for a period of not less than fifteen years, the pension is equal to the annual pensionable emoluments attached to the office of Master,
  - (ii) if he or she has had continuous service as a Master for a period of less than fifteen years but not less than five years, the pension is computed on a pro-rated basis calculated by dividing the number of years of continuous service by fifteen years and multiplying the result by the annual pensionable emoluments attached to the office of Master.

**9. Reduced pension**

A judicial officer may, on retirement, opt to receive in lieu of a full pension, a reduced pension equal to three-quarters of the full pension plus a gratuity equal to fifteen times one-quarter of the full pension.

**10. Spouse's pension**

If a person who held office as a judicial officer dies while in receipt of a pension under this Act, there must be paid to, and during the lifetime of, his or her spouse a pension equal to two-thirds of the annual pension which would have been payable to that person.



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**11. Payment of pension**

- (1) Subject to subsections (2) and (5), a pension payable under section 8 or 9 must be paid monthly in arrears with effect from the date of retirement in pensionable circumstances and, subject to this Act, continues to be paid during the lifetime of the person entitled to the pension.
- (2) A judicial officer, otherwise qualified for pension under section 8(a)(i), (b)(i), (c)(i) or (d)(i), who resigns from office before attaining the retirement age, shall—
  - (a) receive a pension under section 8 or a reduced pension and gratuity under section 9 on attaining the retirement age; and
  - (b) at the time of resignation specify whether he or she opts to receive a pension in accordance with section 8 or a reduced pension and gratuity under section 9.
- (3) Subject to subsection (4), if a person referred to under subsection (2) dies before attaining the retirement age, there must be paid to his or her spouse—
  - (a) a spouse's pension in accordance with section 10; or
  - (b) if the person opted under subsection (2)(b) to receive a reduced pension and gratuity under section 9—
    - (i) a pension equal to two-thirds of the reduced pension, and
    - (ii) a gratuity equal to two-thirds of the gratuity,

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which that person would have been entitled to receive under subsection (2)(a) if he or she had attained the retirement age.

- (4) If a person referred to under subsection (2) dies before attaining the retirement age and without leaving a spouse, a gratuity must be paid to his or her estate and the gratuity must be computed in the same manner as if he or she had opted under subsection (2)(b) to receive a reduced pension and gratuity under section 9.
- (5) A pension under section 8 or a reduced pension and gratuity under section 9 shall be paid if the Chief Justice certifies, in writing, to the Commission that the person entitled to receive it has completed all outstanding judgments and other judicial assignments to the satisfaction of the Chief Justice.

**12. Increases in pension**

If the pensionable emoluments attached to the office of a judicial officer are increased, a person who is in receipt of a pension under this Act or any other enactment with respect to service as a judicial officer is, with effect from the date of the increase, entitled to a corresponding proportionate increase in the pension to which that officer was in receipt.

**13. Gratuities if length of service does not qualify for pension**

- (1) A judicial officer, not qualified for a pension under section 8, who has not had continuous service as a judicial officer for at least five years may, on his or her retirement or resignation from judicial office after he or she has served in such office for a period of three or more continuous years, be granted a gratuity not exceeding

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twenty- five per cent of his or her annual salary, including allowances for housing and utilities.

- (2) A gratuity payable to a judicial officer under subsection (1) shall be paid by the Member State or Territory to which the judicial officer has been assigned for the purposes of pension on the judicial officer attaining the retirement age.

**14. Gratuity on death in office**

- (1) Subject to subsection (3), if a person dies while holding office as a judicial officer and is not, at the date of death, eligible for a pension or gratuity, there shall, on the recommendation of the Chief Justice to the Commission, be paid to his or her spouse a gratuity equal to one year's pensionable emoluments.
- (2) Subject to subsection (3), if a person dies while holding office as a judicial officer and is, at the date of death, eligible for a pension, there shall, on certification by the Chief Justice, be paid to his or her spouse a gratuity of an amount equal to fifteen times one-quarter of the pension and two-thirds of the reduced pension in accordance with section 10 to which the judicial officer would have been entitled if he or she had retired at the date of death.
- (3) If a person referred to under subsection (1) or (2) dies without leaving a spouse, the gratuity payable under subsection (1) or (2), as the case may be, must be paid to his or her estate.
- (4) For the purposes of this section, a person is eligible for a pension at the date of his or her death if he or she would have qualified for a pension if he or she had retired on the date of death.

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**15. Pension not to be assignable**

A pension or gratuity under this Act is not assignable or transferable.

**PART II—MISCELLANEOUS**

**16. Regulations**

- (1) The Commission may make Regulations prescribing anything which is necessary or expedient to carry this Act into effect.
- (2) Without prejudice to the generality of subsection (1), the Commission may make Regulations in relation to—
  - (a) pensionable emoluments;
  - (b) qualifying service; and
  - (c) pensionable service.

**17. Repeal**

Subject to section 18, the Eastern Caribbean Supreme Court (Rate of Pension of Judges) Act (Cap. 6.16) is repealed.

**18. Savings**

Despite section 17, the Eastern Caribbean Supreme Court (Rate of Pension of Judges) Act (Cap. 6.16) and the Pensions Act (Cap. 6.07) shall continue to apply to a person who was, immediately before the coming into operation of this Act—

- (a) receiving a pension under the Eastern Caribbean Supreme Court (Rate of Pension of Judges) Act (Cap. 6.16) and the Pensions Act (Cap. 6.07); or

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(b) a judicial officer who opts not to be subject to this Act under section 3.

(Sgd.) Teresena Bodkin  
**SPEAKER**

Passed by the Legislative Assembly this 27<sup>th</sup> day of October, 2020.

(Sgd.) Shivonne White  
CLERK OF THE LEGISLATIVE ASSEMBLY