



**THE REPUBLIC OF KENYA**

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**THE PENSIONS (INCREASE) ACT**

CHAPTER 190

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**CHAPTER 190**

**PENSIONS (INCREASE) ACT**

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**CHAPTER 190**

**PENSIONS (INCREASE) ACT**

*[Date of assent: 27th June, 1957.]*

*[Date of commencement: 1st July, 1956.]*

**An Act of Parliament to provide for the increase of certain pensions payable in respect of public service**

[Act No. 10 of 1957, Act No. 21 of 1961, Act No. 44 of 1962, Act No. 30 of 1963, Legal Notice 168 of 1964, Act No. 4 of 1979, Act No. 19 of 1985, Act No. 13 of 1986, Act No. 3 of 1990, Act No. 4 of 1996, Act No. 9 of 2007.]

**1. Short title**

This Act may be cited as the Pensions (Increase) Act.

**2. Interpretation**

(1) In this Act, unless the context otherwise requires—

"pension" means any pension or other benefit payable by way of periodical payments, but does not include any gratuity or any sum payable otherwise than by way of periodical payments, and accordingly the provisions of this Act shall not have effect with respect to any pension which has been commuted; and, where a part of any pension has been commuted, those provisions shall not have effect with respect to that part thereof;

"pension authority" means, in relation to any pension, the authority by whom the pension is payable;

"repealed Ordinance" means the Pensions (Increase) Ordinance, 1951 (repealed);

"specified pension" means a pension or retiring allowance specified in the First Schedule.

(2) For the purposes of this Act, a pension payable under the Kenya Defence Forces Act (Cap. 199) or the Parliamentary Pensions Act (Cap. 196) shall be deemed to be a pension payable in respect of public service.

[Act No. 44 of 1951, Act No. 30 of 1963, s. 2, Act No. 4 of 1979, s. 2, Act No. 4 of 1996, s. 2.]

**3. Date and rate of pension increase**

(1) Subject to the provisions of this Act, there shall be paid, with effect from the 1st July, 2005 and on the 1st July every two years thereafter, on every specified pension together with any other increase granted previously, a pension increase at the rate of three per cent of the pension in payment at the date of the increase:

Provided that no increase shall be payable under this section on—

- (a) any specified pension which became payable after the date of the increase where the amount of the pension is calculated by reference to a salary received on or after such date;
- (b) any pension to which the Public Officers' Pensions (Kenya and United Kingdom) Agreement Act (No. 18 of 1977), applies.

(2) In this section "date of the increase" means the 1st July, 2005, or the 1st July every two years thereafter, as the case may be.

[Act No. 30 of 1963, Act No. 4 of 1979, s. 3, Act No. 19 of 1985, Sch., Act No. 13 of 1986, Sch., Act No. 3 of 1990, s. 2, Act No. 4 of 1996, s. 3, Act No. 9 of 2007, s. 32.]

#### **4. Cases where no increase of pension is payable**

Where the amount of the pension of any person is determined by reference to emoluments which have been revised in accordance with any arrangements, in force in Kenya or in any other territory, for the revision of salaries and conditions of service, being arrangements which the Cabinet Secretary for the time being responsible for Finance may, either generally or in any specific case, declare to be applicable for the purposes of this section, no increase of his pension shall be payable to that person under this Act:

Provided that, if in the case of such a person his old pension (that is to say, the pension which would have been payable to him if any such arrangements as aforesaid had not become applicable to him, increased by any sum which would have been payable to him under the terms of this Act apart from the provisions of this section) exceeds his new pension (that is to say, the pension payable to him by virtue of any such revised salary as aforesaid), an increase of pension shall be payable to that person of the amount by which his old pension exceeds his new pension.

#### **5. How increase calculated where person in receipt of more than one pension and what proportion payable under this Act**

Where a person is in receipt of a pension from one or more colonial administrations, or former colonial administrations, the increase payable under this Act shall be calculated on the aggregate of both or all of those pensions, and the increase payable on the specified pension shall be that proportion of the increase payable on both or all of those pensions as the amount of the specified pension bears to the combined total of both or all of those pensions.

[L.N. 168/1964.]

#### **6. Provisions applicable to increases**

Subject to this Act, any provision made by or under any enactment shall, in so far as it relates to the apportionment of the cost of a pension between two or more pension authorities or to the manner in which a pension is to be paid, or to the proof of title to sums payable on account of a pension or in so far as it prohibits or restricts the assignment or charging of a pension or its application towards the payment of debts, have effect in relation to any increase payable under this Act as it has effect in relation to the pension in respect of which the increase is payable.

#### **7. Source of payment of increases**

Where any pension is increased under this Act, the cost of the increase shall be defrayed out of moneys provided by Parliament.

[Act No. 21 of 1961, Sch., L.N. 168/1964.]

#### **8. Pensioner deemed in receipt of pension in certain circumstances**

Where under any enactment for the time being in force a pension which is payable to any pensioner is being paid to some other person, the pensioner shall for the purposes of this Act be deemed to be in receipt thereof.

[L.N. 168/1964, Act No. 21 of 1966, 2nd Sch.]

**9. Power to amend First Schedule**

The President may by order amend the First Schedule by making any addition thereto.

**10. Provision for granting of an allowance in certain cases**

Where a pension under the Widows' and Orphans' Pensions Act, the Asian Widows' and Orphans' Pensions Act or the Asian Officers' Family Pensions Act becomes payable to a beneficiary on or after the 1st January, 1946, and that pension is less than the aggregate of—

- (a) the registered pension, if any, in respect of that beneficiary on the 31st December, 1945, together with the increases which would be payable under the Pensions (Increase) Act, 1945 and 1949 (now (repealed), the repealed Act and this Act if the pension had become payable on the 31st December, 1945; or
- (b) the registered pension, if any, in respect of that beneficiary on the 31st December, 1953, together with the increases which would be payable under the repealed Act and this Act if the pension had become payable on the 31st December, 1953; or
- (c) the registered pension, if any, in respect of that beneficiary on the 30th June, 1956, together with the increase which would be payable under this Act if the pension had become payable on the 30th June, 1956; or
- (d) the registered pension, if any, in respect of that beneficiary on the 31st March, 1960, together with the increase which would be payable under this Act if the pension had become payable on the 31st March, 1960,

there shall be granted to that beneficiary an allowance equal to the amount of the difference between that pension and whichever of such aggregates is appropriate.

[Act No. 7 of 1945, Act No. 33 of 1945, Act No. 54 of 1949, Act No. 44 of 1962, Sch., Act No. 30 of 1963, s. 4.]

**11. Regulations**

The President may make regulations generally for better carrying out the provisions of this Act, and any such regulations may, without prejudice to the generality of the foregoing provision, make provision for—

- (a) the manner in which claims for an increase of a pension under this Act shall be made, and the procedure which shall be followed in considering and determining any such claim;
- (b) the evidence which shall be required for determining whether and by what amount a pension may be increased;
- (c) delegating to any person or authority the performance, in relation to any particular class of pensions, of all or any of the functions of any pension authority under this Act;
- (d) prescribing anything required to be prescribed under this Act.

[L.N. 168/1964.]

**12. Penalty for false statement, etc.**

Any person who, for the purpose of obtaining either for himself or any other person any sum payable by virtue of this Act, knowingly makes any false statement or false representation shall be guilty of an offence and liable for a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three months or to both.

[Act No. 9 of 2007, s. 33.]

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**FIRST SCHEDULE**

[s. 2]

**PENSIONS WHICH MAY BE INCREASED UNDER THIS ACT**

[Act No. 30 of 1963, s. 5, L.N. 168/1964, Act No. 4 of 1979, s. 4.]

1. A pension payable to or in respect of the services of an officer in pursuance of a resolution of the National Assembly.
2. A pension payable under any of the following laws—
  - (a) the Pensions Act (Cap. 189);
  - (b) the Special Pensions Act, 1950;
  - (c) section 3 of the Special Pensions Act (No. 37 of 1960);
  - (d) the Widows' and Orphans' Pensions Act (Cap. 192);
  - (e) the Asian Widows' and Orphans' Pensions Act (Cap. 193);
  - (f) the Asian Officers' Family Pensions Act (Cap. 194);
  - (g) the Widows' and Children's Pensions Act (Cap. 195);
  - (h) the Kenya Defence Forces Act (Cap. 199).
3. A retiring allowance payable under the Nursing Sisters (Retiring Allowance) Act (Cap. 195 (1962)).

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**SECOND SCHEDULE*****REPEALED***

*Repealed by Act No. 9 of 2007, s. 34.*

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