

**MAHARASHTRA LEGISLATURE MEMBERS PENSION ACT,
1976**

1 of 1977

[5th January, 1977]

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**MAHARASHTRA LEGISLATURE MEMBERS PENSION ACT,
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An Act to provide forpayment of pension to persons who have served as members of any State Legislature in Maharashtra WHEREAS it is expedies to provide for payment of pension to persons who have served as members of any State Legislature in Maharashtra and for other metters connected therewith; It is hereby enacted in Twenty-seventh Year of the Republic of India as follows

1. Short title and commencement :-

(1) This Act may be called the Maharashtra Legislature Members Pension Act, 1976.

(2) It shall come into force on such ¹ date as the State Government may, by notification in the Official Gazette, appoint.

1. 1st April, 1977, vide G.N.. L.A.D. No. PEN.1077/152-III, dated 1st April, 1976, published in the Maharashtra Government Gazette, 1977, Part IV-B, Extra, page 156.

2. Definitions :-

In this Act, unless the context otherwise requires , -

(1) "member of the State Legislature" means a member of the Maharashtra 'Legislative Assembly or the Maharashtra Legislative Council, and includes -

(a) a member of the Bombay Legislative Assembly, the Madhya Pradesh Legislative Assembly or the Hyderabad Legislative Assembly, elected to any of those Assemblies, on or after the earliest date on which all constituencies of any of those Assemblies were called upon to elect members in 1952, (hereinafter in this clause referred to as "the said date")

(i) if as a sitting member, he continued as a member of the Bombay Legislative Assembly or was deemed to have been elected to that Assembly under the States Reorganisation Act, 1956; or

(ii) if as a sitting member, he continued to be a member of the Maharashtra Legislative Assembly or was deemed to be elected to that Assembly under the Bombay Reorganisation Act, 1960;

(b) a member of the Bombay Legislative Assembly, nominated to that Assembly, or after the said date:¹* * * * *.

(c) a member of the Bombay Legislative Council elected to that Council, on or after the said date,-

(i) if as a sitting member, he continued as a member of the Bombay Legislative Council or was deemed to have been elected to that Council under the States Reorganisation Act, 1956; or

(ii) if as a sitting member, he continued to be a member of the Maharashtra Legislative Council or was deemed to be elected to that Council under the Bombay Reorganisation Act, 1960;

(d) a member of the Bombay Legislative Council, nominated to that Council, on or after the said date; ²[and shall also include any person who was, on or after the 1st January, 1946, an elected or nominated member of any Legislative Assembly or Legislative Council (by whatever name called) constituted for any Province or any State (including an Indian State), the area of which, or any portion thereof, falls in any part of the State of Maharashtra,

(e) if he was elected to represent any territorial constituency of any such Assembly or Council, the area of which, or any portion thereof, also falls in any part of the State of Maharashtra:

(f) if he was elected to represent any constituency, other than a territorial constituency, or he was a nominated member, the place where he was residing or carrying on his business, at the time of his election or nomination, as the case may be, to any such Assembly or Council, is situated in any part of the State of Maharashtra]

(2) "term of office", in relation to a member of the State Legislature, means the period beginning with the date of publication of the notification of his election or nomination as a member and ending with the date on which his seat becomes vacant.

Explanation 1:- Where a general election to the Assembly is held and election does not take place in any constituency for any reason and a member is elected in that constituency at the election held subsequently, in his case the term of office shall be deemed to have begun on the date on which the results of the general election in other constituencies are published in the Official Gazette.

Explanation 2.- Where any member of the State Legislature had resigned his seat for any cause or causes approved by the State Government in this behalf by notification in the Official Gazette, then for the purpose of calculating his term of office, the period during which he would have continued to be a member, but for his resignation, shall be taken into consideration and he shall be deemed to have served as a member for that period also:

Provided that, the maximum period which shall be taken into consideration accordingly shall not exceed six months in the case of any member:

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[Provided further that, resignation by a member of his seat in support of the agitation for formation of the unilingual State of Maharashtra, shall be deemed to be for a cause approved for the purposes of this Explanation, and notwithstanding anything contained in the first proviso, in the case of a member who has resigned his seat for such cause, the period during which such member would have continued to be a member, but for his resignation, shall be taken into consideration, while calculating the term of office of such member and he shall be deemed to have served as a member for that period also.

Explanation 3:- Where any Assembly is dissolved earlier, but not earlier than six months prior to the date on which its duration would have expired under the provisions of clause (1) of Article 172 of the Constitution of India, then for the purpose of calculating the term of office of any member thereof, the period during which he would have continued to be a member of the Assembly if it had not been dissolved earlier, shall be taken into consideration, and he shall be deemed to have served as a member for that period also:

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Provided that, notwithstanding anything contained in the Explanation, in the case of a sitting member on the 17th day of February, 1980, being the date on which the Maharashtra Legislative Assembly was dissolved, the period during which such member would have continued to be a member of the Assembly, if it had not been so dissolved, shall be taken into consideration while calculating the term of office of such member, and he shall be deemed to have served as a member for that period also."

Explanation 4:- Where the term of office of any member of the Bombay Legislative Council referred to in paragraphs (c) and (d) of clause (I) was curtailed under Section 156 of the Representation of the People Act, 1951, and he was made to retire before the expiry of his normal term of office, then the period during which he served as such member, shall notwithstanding anything contained in Section 3 of this Act be taken into consideration, and he shall be paid a pension of 9[one hundred rupees per month for every period of one complete year he served as such member.

1. The words "if such member was during the period of his membership permanently residing in any area which forms part of the State of Maharashtra" were deleted by Mah. 53 of 1977, S. 2(a)
2. Added by Mah. 29 of 1981, S.2
3. Added by Mah. 3 of 1989. S. 2(a).
4. These Explanations were added by Mah. 53 of 1977. S. 2(b)
5. Added by Mah. 3 of 1989. S. 2(b)

3. Pension payable to members :-

(1)¹With effect from the date of commencement of the Maharashtra Legislature Member's Pension (Amendment) Act, 1986. there shall be paid a pension of ² [four thousand rupees] per

month] to every person who has served as a member of the State Legislature for a term of five years, [Whether before or after such commencement], whether continuous or not and whether as a member of the same House or of different House of the State Legislature:

Provided that, where any person has served as aforesaid for a period exceeding five years, there shall be paid to him an additional pension of [fifty rupees] per month for every year in excess of five [* * * *].

(2) In computing the number of years for the purposes of subsection (1), the period during which a person has served as Chairman or Deputy Chairman of a Legislative Council or Speaker or Deputy Speaker of a Legislative Assembly or as Minister. Minister of State, Deputy Minister or Parliamentary Secretary or in more than one of those capacities by virtue of his membership in the council or in the Assembly, shall also be taken into account.

1. Substituted by Mah. 41 of 1986, Section 3 (a).
2. Substituted by Mah. 32 of 1999. Section 13.

4. Pension to be held in abeyance or to be reduced in certain circumstances :-

(1) Where any person entitled to pension under Section 3.-

(a) is elected to the office of the President or Vice-President of India or is appointed to the Office of the Governor of any State or the Administrator of any Union Territory; or

(b) becomes a member of the Council of States or the House of the People or any Legislative Assembly of a State or Union Territory or any Legislative Council of a State; or

(c) is employed on a salary under the Central Government or any State Government, or any corporation owned or controlled by the Central Government, or any State Government, or any local authority or otherwise receives any remuneration from such Government, corporation or local authority; such person shall not be entitled to any pension under Section 3 for the period during which he continues to hold such office, or continues as such member, or is so employed, or continues to receive such remuneration:

Provided that, where the salary payable to such person for holding

such office or being such member or so employed, or where the remuneration referred to in clause (c) paid to such person, is in either case, less than the pension payable to him under Section 3, such person shall be entitled only to receive the balance as pension under that section.

¹(2) Deleted

² (3) Nothing in this Act shall affect the right of any member of the State Legislature to receive any pension from the Central Government or any State Government or any Corporation owned or controlled by the Central Government or the State Government or any local authority under any law or otherwise, or any pension from the Central Government or any State Government as a freedom-fighter.

1. Deleted by Mah. 34 of 1989, Section 3 (a).

2. Subs, ibid. Section 3 (b).

5. Power to make rules and orders :-

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(1)

(a) For the purpose of making rules or orders under this section, there will be constituted a Joint Committee of both Houses of the State Legislature consisting of five members from the Maharashtra Legislative Council nominated by the Chairman of the Council and ten members from the Maharashtra Legislative Assembly nominated by the Speaker ²[of the Assembly] and the Finance Minister shall be its ex-officio member and Chairman.

(b) The Joint Committee constituted under clause (a) ³[of the Assembly and the Finance Minister shall be its ex-officio member and Chairman] shall have power to regulate its procedure.

(c) A member of the Joint Committee ⁴ [other than the Finance Minister,] shall hold office as such member for one year from the date of his nomination and any casual vacancy in the Joint Committee may be filled by nomination by the Chairman or the Speaker, as the case may be.

(2)

(a) The Joint Committee constituted under sub-section (1) may, in consultation with the State Government, make rules or orders for

carrying out the purposes of this Act.

(b) In particular and without prejudice to the generality of the foregoing power, such rules or orders may provide for all or any of the following matters, namely

(i) the form in which and the authority to which an application for pension shall be made;

(ii) the certificate to be furnished along with an application for pension;

(iii) the declarations to be made at the time of drawing pension;

(iv) any other matters necessary for proper implementation and enforcement of this Act.

(3) All rules or orders made under sub-section (2) shall not take effect until they are approved and confirmed by the Chairman of the Council and the Speaker of the Assembly and are published in the Official Gazette. Such publication of the rules or orders shall be conclusive proof that they have been duly made.

(4) Any rules or orders under this section may be made so as to be retrospective to any date not earlier than the date of commencement of this Act.

(5) All rules or orders made under this section shall have effect as if enacted in this Act.

1. Substituted by Mah. 15 of 1977. Section 2.

2. Substituted by Mah. 72 of 1981, Section 9 (b).

3. Deleted *ibid.* Section 9 (b).

4. Inserted *ibid.* Section 9 (c).

6. Decision on question relating to pension :-

If there is any doubt or dispute as to whether a person is entitled to pension or as to the amount of pension or as to the period for which he shall be entitled to pension under this Act, the matter shall be referred to ¹ [the Chairman of the Maharashtra Legislative Council and the Speaker of the Maharashtra Legislative Assembly, who shall, in consultation with the State Government, decide the question. The decision of the Chairman and the Speaker shall be final].

1. These words were substituted for the words "the State Government and its decision shall be final", by Mah. 15 of 1977. Section 3.

