

CHAPTER 424
THE JUDGES
(REMUNERATION AND TERMINAL BENEFITS) ACT
[PRINCIPAL LEGISLATION]
ARRANGEMENT OF SECTIONS

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SCHEDULE



CHAPTER 424

THE JUDGES

(REMUNERATION AND TERMINAL BENEFITS) ACT

An Act to provide for remuneration, terminal benefits and survivors benefits to a person holding the Office of Chief Justice, Justice of Appeal, Principal Judge and Judge and to provide for matters related thereto.

[25th April, 2007]

[GN. No. 88 of 2007]

Acts Nos.
3 of 2007
2 of 2018
6 of 2021
12 of 2023

PART I

PRELIMINARY PROVISIONS

- Short title **1.**-(1) This Act may be cited as the Judges (Remuneration and Terminal Benefits) Act.
(2) [Omitted].
- Application **2.** This Act shall apply to a person who holds the office of the Chief Justice, a Justice of Appeal, a Principal Judge or a Judge on or after the 1st March, 2007.
- Interpretation **3.** In this Act, unless the context requires otherwise -
“Chief Justice” means the Chief Justice appointed pursuant to Article 118(2) of the Constitution;
“child” means and includes-
- Cap. 2 (a) a biological child, a step-child, a child born out of wedlock and an adopted child who has not attained the apparent age of eighteen years; or
(b) a child who is attending school or an institution of learning or is physically disabled or mentally infirmed, and who is wholly maintained by the Chief Justice, a Justice of Appeal, a Principal Judge or a Judge;

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“Commission” means the Judicial Service Commission established by Article 112 of Constitution;

“Constitution” means the Constitution of the United Republic;

“Judge” means a Judge of the High Court appointed in terms of Article 109(1) of the Constitution;

“Justice of Appeal” means a Justice of Appeal appointed pursuant to Article 118(1) of the Constitution;

“Minister” means the Minister responsible for legal affairs;

“Principal Judge” means the Judge of the High Court designated “*Jaji Kiongozi*” in *Kiswahili* appointed under article 109(1) of the Constitution.

PART II

SALARIES, ALLOWANCES AND OTHER BENEFITS

Salaries,
allowances and
other benefits

4.–(1) The Chief Justice, a Justice of Appeal, the Principal Judge and a Judge, shall be entitled to salaries, allowances and other benefits as may be determined by the President.

(2) The salaries, allowances, benefits and entitlements of the Chief Justice, a Justice of Appeal, the Principal Judge and a Judge shall be charged on the Consolidated Fund.

(3) An allowance and other entitlements payable to Chief Justice, a Justice of Appeal, the Principal Judge or a Judge pursuant to subsection (2) shall be exempted from payment of income tax.

Review of
salaries,
allowances and
other benefits

5.–(1) Where it is desirable and necessary to review salary, allowances and benefits payable to Chief Justice, Justice of Appeal, the Principal Judge or a Judge, the Commission shall forward proposals to the President together with reasons, if any, for the proposals.

(2) In making proposals, the Commission shall be guided and ensure that, the scales of salary and the amount payable to each scale, allowance and other benefits are broadly kept in line with those applicable to the public service.

(3) Without prejudice to subsection (2), the Commission shall, in determining the types and the amount of benefits in pursuant to the provisions of this section, seek and obtain information from any Government Department or person employed in the public service.

(4) Where the President has received proposals from the Commission, he may accept the proposal for review and announce new salaries, allowances and benefits as he deems appropriate and may seek advice from any authority as he deems appropriate before announcing new salaries, allowances or benefits as the case may be.

Attributes for reviewing salaries, allowances and other benefits

6. In the exercise of powers to review the salaries, allowances and other terminal benefits for the Chief Justice, a Justice of Appeal, the Principal Judge and a Judge, the President shall have regard to national economy and any other consideration necessary for arriving at or making appropriate decision.

Entitlements

7.-(1) In addition to salaries, allowances and benefits payable under this Act, the Chief Justice, a Justice of Appeal, the Principal Judge or a Judge shall be entitled to benefits specified in Part I of the Schedule.

(2) The President may, upon the recommendation of the Commission, add to or modify the benefits specified in the Schedule but the modification shall not have the effect of curtailing or reducing any of the benefits specified in the Schedule.

Funeral expenses

8. The Government shall, in a manner specified in Part II of the Schedule, meet funeral expenses of a Chief Justice, a Justice of Appeal, the Principal Judge or a Judge who dies in office or after retirement from office.

Transportation on retirement

9. On retirement or death, a spouse, dependants or survivors as the case may be, personal effects of the retired or deceased Chief Justice, a Justice of Appeal, the Principal Judge or a Judge shall be transported by the Government to his place of domicile or as determined by him or his survivor by using appropriate means.

PART III
BENEFITS UPON RETIREMENT, RESIGNATION
OR REMOVAL FROM OFFICE

Retirement
 Cap. 371

10. The provisions of this Part shall be without prejudice to the provisions of sections 40 and 41 of the Public Service Social Security Fund Act, with regard to payment of pension and other terminal benefits to a person who held the office of a Chief Justice, Justice of Appeal, Principal Judge or a Judge.

Farewell
 ceremony
 Act No.
 12 of 2023 s. 27

11.—(1) The Judiciary shall, where the Chief Justice, Justice of Appeal, Principal Judge or Judge retires, hold a farewell ceremony to such retiree:

Provided that, such ceremony shall be held once in calendar year.

(2) The expenses of the farewell ceremony under this section shall be borne by the Judiciary Fund.

(3) The Chief Justice shall make rules prescribing the manner and procedure for conducting the farewell ceremony under this section.

[s.10A]

Benefits upon
 appointment

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12.—(1) Notwithstanding the provisions of the Public Service Social Security Fund Act, where a person, being a public officer, is appointed as a Chief Justice, a Justice of Appeal, the Principal Judge, or a Judge, that person may, upon appointment, opt to retire from service in the public office and be entitled to receive terminal benefits in accordance with the Public Service Social Security Fund Act.

(2) A person appointed to the office of a Chief Justice, a Justice of Appeal, the Principal Judge or a Judge who, before the commencement of this Act, was serving in the public office and who does not opt to retire under the provision of subsection (1), the period of service in the public service shall be taken into account when computing his terminal benefits upon retirement.

(3) A Judge who is appointed a Chief Justice or a Justice of Appeal, upon attaining the age of sixty shall have an option to receive terminal benefits payable to a Judge.

(4) A Judge who does not exercise the option under subsection (3), his service in the office of a Judge shall be taken into account when computing his benefits upon retirement.

[s. 11]

Survivor's
benefits following
death

13.—(1) Where the Justice of Appeal, the Principal Judge or a Judge dies in office before attaining the age of sixty-five or sixty years, as the case may be, which is the respective age of retirement for the Justices of Appeal and Judges, the grant by appropriate authority equal to the pension which would have been paid in accordance with subsection (3) of section 40 of the Public Service Social Security Fund Act, shall be paid into the estate of that Justice of Appeal, the Principal Judge or a Judge and shall be administered in accordance with his will, if any, or in accordance with the relevant law governing administration of estates of the deceased persons.

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(2) Where a Judge who was entitled to pension payable under subsection (3) of section 40 of the Public Service Social Security Fund Act, upon attaining the age of sixty years and who is appointed a Justice of Appeal dies before attaining the age of sixty-five years, the pension and other relevant benefits that would be payable upon attaining the age of sixty years shall, unless it was received by the deceased Justice of Appeal, be paid into the estate of that Justice of Appeal, and shall be administered in accordance with the relevant law governing the administration of estates of the deceased persons.

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(3) For purposes of the provisions of subsections (1) and (2), payment of benefits shall not affect other payments which the deceased Justice of Appeal was or would be entitled to under subsection (3) of section 40 of the Public Service Social Security Fund Act, by virtue of holding the office of a Justice of Appeal.

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[s. 12]

Pension for widow or widower of Chief Justice

14. Where the Chief Justice dies in office or a former Chief Justice dies, his widow or her widower shall be entitled to payment by an appropriate authority-

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(a) an annual pension granted monthly at the rate of sixty-percent of annual pension payable to the former Chief Justice in terms of paragraph (a) of subsection (1) of section 41 of the Public Service Social Security Fund Act; and

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(b) other benefits as stipulated under subsection (2) of section 41 of the Public Service Social Security Fund Act.

[s. 13]

Benefits earned prior to removal

15. The Chief Justice, a Justice of Appeal, a Principal Judge or a Judge who, before attaining the age of retirement is removed from office in terms of Article 110A of the Constitution, in addition to any terminal benefits already earned under this Act but not paid, shall be entitled to benefits as the President may, upon advice by the Commission, determine.

[s. 14]

Recommendation for review of terminal benefits

16. Where the Judicial Service Commission considers it necessary, desirable or in the national interest and is minded that, any terminal benefits payable under the provisions of this Act, be increased or otherwise varied or modified in any manner or to any extent, the Commission may recommend to the President for determination or directions.

[s. 15]

Transmission of benefits Act No. 6 of 2021 s. 10 Cap. 371 Cap. 348

17. Without prejudice to the powers of the Paymaster-General under the Public Service Social Security Fund Act and the Public Finance Act, the benefits prescribed under this Act and the Public Service Social Security Fund Act to which a retired Chief Justice, Justice of Appeal, Principal Judge or Judge and their respective spouses are entitled, shall be paid through the Office of the Chief Court Administrator.

[s. 15A]

PART IV

CONSEQUENTIAL AMENDMENTS

Omitted

18–19. [Omitted.]

[ss. 16–17]

SCHEDULE

(Made under sections 7 and 8)

PART I

ALLOWANCES AND BENEFITS

Act No.
2 of 2018
12 of 2023
Act No. s. 92
12 of 2023

1. Residence:

- (a) a rent-free fully furnished grade A residence;
- (b) one house attendant at a place of residence;
- (c) two house attendants at a place of residence of the Chief Justice;
- (d) basic household appliances; and
- (e) allowance of the amount sufficient to pay for water, waste disposal, electricity bills and local telephone calls for a Justice of Appeal, the Principal Judge and a Judge.

2. Travelling on duty and leave:

- (a) by air:
 - (i) First Class Ticket or Business Class where appropriate, in the case of Chief Justice; or
 - (ii) Business Class Ticket in the case of a Justice of Appeal, the Principal Judge or a Judge;
- (b) by ship or railway:
First Class Ticket;
- (c) by road:
Chauffeur-driven Government vehicle; and
- (d) in the case of leave, including spouse and children.

3. Allowances-

- (a) responsibility allowances to Chief Justice, Principal Judge and Judge incharge; and
- (b) court attire payable once annually.

4. Medical Treatment-

- (a) medical treatment at Government expenses; and
- (b) medical treatment at Government expense for spouse and children.

5. Transport-

- (a) personal official vehicle with a driver; and
- (b) fuel allowance at the rate of 70 litres per week.

6. Security-

- (a) for a Justice of Appeal, the Principal Judge and a Judge, provision of police guard at the residence and when travelling by surface or water; and
- (b) for the Chief Justice, provision of police guard when holding office and after retirement.

7. Annual Leave-

- (a) twenty -eight days in every year of service;
- (b) local or vocational leave of up to a maximum of leave days accrued; or
- (c) salary in lieu of leave.

8. Insurance-

Insurance for personal injury and accident arising out of and in the course of duty.

9. A diplomatic passport for the Chief Justice, a Justice of Appeal, the Principal Judge, a Judge and spouse.**10. Terminal benefits for the Chief Justice-**

- (a) in addition to the terminal benefits provided for under the Public Service Social Security Fund Act, the Chief Justice shall on retirement, be entitled from the appropriate authority the following benefits:
 - (i) a diplomatic passport for him and for his spouse;
 - (ii) a health insurance policy that covers medical treatment within the United Republic;
 - (iii) one motor vehicle, of a value not exceeding the amount as the President may determine, which shall be granted to him in his retirement and replaceable after every seven years;
 - (iv) seventy litres of fuel per week;
 - (v) maintenance allowance for a motor vehicle at a rate equal to forty percent of fuel allowance;
 - (vi) a driver; and
 - (vii) use of VIP lounge.
- (b) a winding-up allowance of a sum equal to fifty percent of the total sum of the salaries he received while he held office as Chief Justice; and
- (c) where the Chief Justice was immediately before his appointment to the office of Chief Justice not a public officer, a gratuity of a sum equal to fifty percent of the total sum of the salaries he received while he held office as Chief Justice.

Acts Nos.
2 of 2018 s.28
12 of 2023 s. 28
Cap. 371

11. Terminal benefits for Justice of Appeal and a Judge-

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In addition to the terminal benefits provided for under the Public Service Social Security Fund Act, a Justice of Appeal and a Judge shall, on retirement, be entitled to the following benefits:

- (a) a diplomatic passport for him and his spouse;
- (b) one motor vehicle given once, of a value not exceeding the amount as the President may from time to time determine;
- (c) total sum of money granted once as a lump sum which shall be sufficient to remunerate one driver for a period of four years;
- (d) total sum of money sufficient to purchase fifty litres of fuel per week granted once as a lump sum which shall cover a period of four years;
- (e) total sum of money being maintenance allowance for a motor vehicle to be granted once as a lump sum at a rate equal to forty percent of fuel allowance; and
- (f) use of VIP lounge.

PART II

FUNERAL EXPENSES

1. Coffin.
 2. Shroud.
 3. Wreath.
 4. Cost of grave.
 5. Transportation to a place of burial.
 6. Cash payment to assist preparation and organisation of funeral and burial ceremony.
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