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PRESIDENTIAL RETIREMENT BENEFITS ACT

NO. 11 OF 2003

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NO. 11 OF 2003

PRESIDENTIAL RETIREMENT BENEFITS ACT

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ADDITIONAL RETIREMENT BENEFITS FOR RETIRED PRESIDENTS

NO. 11 OF 2003

PRESIDENTIAL RETIREMENT BENEFITS ACT

[Date of assent: 31st December, 2003.]

[Date of commencement: 1st January 2003 except section 6(4).]

An Act of Parliament to provide for the granting of pension and other retirement benefits to the holders of the office of President upon their ceasing to hold office as such, and for connected purposes

[Act No. 11 of 2003, Corr. No. 2/2004, Act No. 9 of 2013.]

1. Short title and commencement

This Act may be cited as the Presidential Retirement Benefits Act, 2003 and shall, subject to section 6, be deemed to have come into operation on the 1st of January, 2003.

[Corr. No. 2/2004.]

2. Interpretation

In this Act, unless the context otherwise requires—

“**benefits**” means pension and other retirement benefits conferred by this Act;

“**eligible child**” means any child of a deceased entitled person who—

- (a) is under eighteen years of age; or
- (b) is under twenty-four years of age and is undergoing a course of full time education; or
- (c) was at the time of the death of the deceased wholly or mainly dependent on the deceased and was at that time and has at all times since been either a person falling within paragraphs (a) and (b) or is incapable, and likely to remain permanently incapable, by reason of bodily or mental infirmity, of earning his own living, and is not for the time being maintained out of moneys provided by the Government in a hospital or similar institution;

“**President**” means a person who holds the office of President of Kenya in accordance with the Constitution;

“**retired President**” means a person who, having held the office of President, has ceased to hold office as such in the manner specified in the Constitution;

“**spouse**” means the wife or husband of a retired President, or of a President who dies while holding office as such.

[Act No. 9 of 2013, s. 2.]

3. Persons entitled to benefits

Subject to this Act, the persons entitled to the benefits conferred by this Act shall be—

- (a) a retired President; or
- (b) upon the death of a retired President, his surviving spouse; or
- (c) the surviving spouse of a President who dies while holding office as such.

[Corr. No. 2/2004.]

4. Circumstances under which benefits may not be paid

(1) Notwithstanding the provisions of section 3, the National Assembly may, on a motion supported by the votes of not less than two-thirds of the members thereof, resolve that a retired President or his surviving spouse, as the case may be, shall not be entitled to the whole or any part of the benefits conferred by this Act, on the grounds that the retired President—

- (a) ceased to hold office on account of having acted in wilful violation of the Constitution, or was guilty of gross misconduct; or
- (b) has, since ceasing to hold office—
 - (i) been convicted of an offence and sentenced to imprisonment for a term of three years or more, without the option of a fine; or
 - (ii) held office in, or actively engaged in the activities of any political party contrary to the provisions of section 6(1).

(2) Where the National Assembly passes a resolution under subsection (1), a retired President or his surviving spouse shall not be entitled to any benefits under this Act, or their entitlement to such benefits shall be reduced in accordance with such resolution.

(3) Where a retired President entitled to the benefits conferred by this Act, holds any appointive or elective post in or under the Government to which there is attached a rate of pay, other than a nominal rate, the benefits to which he is entitled shall be reduced by the amount of such pay.

(4) The benefits conferred by sections 6 and 7 on a surviving spouse shall—

- (a) commence on the day after the retired or serving President dies;
- (b) not be payable unless such spouse waives the right to any other annuity or pension to which the spouse is entitled under the provisions of any other Act;
- (c) during any period in which such spouse holds an appointive or elective post in or under the Government to which there is attached a rate of pay, other than a nominal rate, be reduced by the amount of such pay;
- (d) cease on the last day of the month during which such spouse dies or remarries.

5. Pension and other benefits of retired Presidents

A retired President shall, during his lifetime, be entitled to—

- (a) a lump sum payment on retirement, calculated as a sum equal to one year's salary for each term served as President;
- (b) a monthly pension equal to eighty per cent of the monthly salary currently paid to the President;
- (c) an entertainment allowance equal to fifteen per cent of the monthly salary currently paid to the serving President;
- (d) a housing allowance equal to twenty-three per cent of the monthly salary currently paid to the serving President to cater for both an urban and a rural dwelling;
- (e) suitable office space, not exceeding one thousand square metres, with appropriate furniture, furnishings, office machines, equipment and office supplies, to be provided and maintained by the Government;

- (f) two new cars of the retired President's choice, replaceable every three years, each car having an engine capacity not exceeding three thousand cubic centimetres;
- (g) two four-wheel drive motor vehicles of the retired President's choice, replaceable every three years, each vehicle having an engine capacity of at least three thousand, four hundred cubic centimetres;
- (h) a fuel allowance equal to fifteen per cent of the monthly salary currently paid to the serving President;
- (i) an allowance equal to twenty-three per cent of the monthly salary currently paid to the serving President for electricity, water and telephone facilities;
- (j) full medical and hospital cover, providing for local and overseas treatment, with a reputable insurance company for the retired President and his spouse and his children under the age of eighteen years;
- (k) the additional benefits set out in the Schedule.

[Corr. No. 2/2004, Act No. 9 of 2013, s. 3.]

6. Role of a retired President

(1) A retired President shall not hold office in any political party for more than six months after ceasing to hold office as President.

(2) A retired President shall be expected to play a consultative and advisory role to the Government and the people of Kenya.

(3) A retired President may be requested by the Government to perform specific official functions and shall be paid a reasonable allowance in respect of such official functions.

(4) Notwithstanding the provisions of section 1, this section shall come into operation on the date of publication of this Act in the *Gazette*.

7. Spouse benefits

Upon the death of a serving President or of a retired President who is in receipt of or who is entitled to a pension under this Act, his surviving spouse shall be entitled to benefits amounting to fifty per cent of such pension.

7A. Children's benefit

Children's pension shall be payable for the benefit of an eligible child where an entitled person dies and—

- (a) if there is only one child, pension at the rate of twenty-five per cent of the pension entitlement of the entitled person;
- (b) if there are two or more children, a pension at the rate of fifty per cent of the pension entitlement of the deceased entitled person to be divided equally for the benefit of each child.

[Act No. 9 of 2013, s. 4.]

8. Staff

The professional and other staff required to be provided for a retired President under the Schedule shall be public officers, but no person shall be appointed or posted to serve on such staff except with the concurrence of the retired President and such staff shall, in the performance of their duties, be responsible only to the retired President.

9. Funds for expenses

(1) A retired President shall, at least three months before the commencement of each financial year, submit estimates of all the expenditure required in respect of the benefits to which he is entitled under this Act for that year, to the Minister responsible for finance for approval.

(2) Upon approval of the estimates submitted under subsection (1), all monies, from time to time, required in respect of the benefits conferred on a retired President by this Act shall be charged on and issued out of the Consolidated Fund without further appropriation than this Act.

(3) All other expenses incurred in the administration of the provisions of this Act shall be met out of monies appropriated by Parliament for that purpose.

10. Tax exemption

The pension and other benefits conferred by this Act shall, notwithstanding the provisions of any other law to the contrary, be exempt from tax.

11. Annual audit and accounts

The accounts relating to the expenditure incurred under the provisions of this Act shall be audited and reported upon by the Controller and Auditor-General.

12. State funeral

Upon his death, a retired President shall be accorded a State funeral.

Presidential Retirement Benefits

SCHEDULE

[Section 5(k).]

ADDITIONAL RETIREMENT BENEFITS FOR RETIRED PRESIDENTS

SCHEDULE

[Section 5(k), Corr. No. 2/2004.]

ADDITIONAL RETIREMENT BENEFITS FOR RETIRED PRESIDENTS

SCHEDULE

[Section 5(k), Corr. No. 2/2004, Act No. 9 of 2013.]

ADDITIONAL RETIREMENT BENEFITS FOR RETIRED PRESIDENTS

- (a) Two personal assistants;
- (b) four secretaries;
- (c) four messengers;
- (d) four drivers;
- (e)
 - (i) such number of guards for personal and escort unit use as may from time to time be certified by the Minister responsible for national security in consultation with the retired President; Provided that there shall be a maximum of six security guards;
 - (ii) adequate security at the retired President's urban and rural residences as may from time to time be certified by the Minister responsible for national security in consultation with the retired President:

Provided that there shall be a maximum of six security guards;
- (e)
 - (i) such number of guards for personal and escort unit use as may from time to time be certified by the Minister responsible for national security in consultation with the retired President;
 - (ii) adequate security at the retired President's urban and rural residences as may from time to time be certified by the Minister responsible for national security in consultation with the retired President:
- (f) two cooks;
- (f) four cooks;
- (g) two housekeepers;
- (g) four housekeepers;
- (h) two gardeners;
- (h) four gardeners;
- (i) two laundry persons;
- (i) four laundry persons;
- (j) four house cleaners;
- (k) office maintenance;
- (l) maintenance and running expenses of vehicles;

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- (l) maintenance expenses of vehicles;

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- (m) a diplomatic passport;
 - (m) a diplomatic passport for the President and his or her spouse;
 - (n) local travel;
 - (o) international travel allowance of up to four trips a year not exceeding two weeks each; and
 - (p) access to the V.I.P. lounge at all airports within Kenya.
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