



GOVERNMENT OF MAHARASHTRA  
LAW AND JUDICIARY DEPARTMENT

## **Maharashtra Act No. I of 1977.**

### **THE MAHARASHTRA LEGISLATURE MEMBERS' PENSION ACT, 1976.**

*(As modified upto the 24th November 2009)*



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PENSION ACT, 1976

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# MAHARASHTRA ACT No. I OF 1977<sup>1</sup>

[THE MAHARASHTRA LEGISLATURE MEMBERS' PENSION ACT, 1976]

(This Act received the assent of the Governor on 29th December 1976, assent was first published on 5th January 1977 in *Maharashtra Government Gazette*, Part IV).

Amended by Mah. 15 of 1977.

Amended by Mah. 53 of 1977 (1-4-1977)\*

Amended by Mah. 29 of 1981.

Amended by Mah. 72 of 1981 (1-4-1981)\*£

Amended by Mah. 41 of 1986 (11-12-1986)\*

Amended by Mah. 3 of 1989 (1-7-1989)\*‡

Amended by Mah. 34 of 1989 (27-10-1989)\*

Amended by Mah. 5 of 1991 (1-6-1990)\*

Amended by Mah. 19 of 1993 (10-5-1993)\*

Amended by Mah. 6 of 1994 (1-8-1993)\*

Amended by Mah. 22 of 1996 (26-8-1996)\*

Amended by Mah. 32 of 1999 (1-5-1999)\*

Amended by Mah. 15 of 2000 (11-1-2000)\*

Amended by Mah. 47 of 2000 (1-9-2000)\*

Amended by Mah. 25 of 2003 (1-1-2003)\*

Amended by Mah. 15 of 2006 (4-5-2006)\*

Amended by Mah. 46 of 2006 (29-12-2006)\*

Amended by Mah. 1 of 2007 (5-1-2007)\*

Amended by Mah. 26 of 2007 (10-8-2007)\*

Amended by Mah. 20 of 2008 (9-5-2008)\*

Amended by Mah. 24 of 2008 (1-5-2008)\*

Amended by Mah. 18 of 2009 (1-7-2009)\*

## **An Act to provide for payment of pension to persons who have served as members of any State Legislature in Maharashtra.**

WHEREAS it is expedient to provide for payment of pension to person who have served as members of any State Legislature in Maharashtra and for other matters connected therewith. It is hereby enacted in the Twenty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Maharashtra Legislature Members' Pension Act, 1976. Short title and commencement.

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

<sup>1</sup>For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1976, Part V, Extra, pp. 612-617.

<sup>2</sup>1st April 1977 *vide* G.N., A.D., PEN. 1077/52-III, dated 1st April 1976, published in *Maharashtra Government Gazette*, 1977, Part IV-B, Extra., Page 156.

\*This indicates the date of commencement of Act.

£ Section 1(2) of Mah. 72 of 1981, provides as follows:—

“(2) The whole of this Act, except sections 3 and 9 shall be deemed to have come into force on the 1st April 1981. Sections 3 and 9 shall come into force on the date of publication of this Act in the *Official Gazette*.” This Act was published in the *Official Gazette* on the 29th December 1981.

‡ Section 3 of Mah. 3 of 1989 read as under:—

“3. For the removal of doubt, it is hereby declared that the provisions of Explanation II and III to clause (2) of section 2 of the principal Act, as amended by this Act, shall be deemed to take effect on the 19th day of July 1987, and a member who by virtue of these provisions become eligible for payment of pension shall subject to the provisions of sections 3, 4 and 6 of the principal Act and the rules made thereunder, be entitled also to the payment of arrears of such pension with effect from 19th day of July 1987.” Removal of doubt.

Definitions.

2. 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 Bombay Reorganisation Act, 1956 ; or

XXX-  
VII of  
1956.

(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 ;

XI of  
1960.

(b) a member of the Bombay Legislative Assembly, nominated to that Assembly, on or after the said date<sup>1</sup> \* \* \*

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

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

XXX-  
VII of  
1956.

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

XI of  
1960.

(d) a member of the Bombay Legislative Council, nominated to that Council, on or after the said date, <sup>1</sup>[\*\*\*\*] <sup>2</sup>[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,—

(A) 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 ;

(B) 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

<sup>1</sup> 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).

<sup>2</sup> This portion was deemed always to have been added by Mah. 29 of 1981, s. 2.

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 I.*—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 II.*—Where any member of the State Legislature had resigned his seat for any cause or cause 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 :

<sup>1</sup>[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 member who has resigned his seat for such cause, the period during which such member would have continued to be a member, but for this 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.]

<sup>2</sup>[*Explanation III.*—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 :

<sup>1</sup> The proviso was deemed to have been added with effect from the 19th July 1987 by Mah. 3 of 1989, s. 2(a).

<sup>2</sup> *Explanations III and IV* were added by Mah. 53 of 1977, s. 2(b).

<sup>1</sup>[ Provided that, notwithstanding anything contained in this *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 in to 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 : ]

<sup>2</sup>[ Provided further that, notwithstanding anything contained in this *Explanation*, in the case of sitting member on the 15th day of July 1991, 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 was not 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 IV.*—Where the term of office of any member of the Bombay Legislative Council referred to in paragraphs (c) and (d) of clause (1) 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<sup>3</sup>[three hundred rupees] per month for every period of one complete year he served as such member. ]

**3.** <sup>4</sup>[(1) There shall be paid a pension of<sup>5</sup>[fifteen thousand rupees ] per month to every person who on his election or nomination as a member of the State Legislature has taken or takes oath as such member of either House of State Legislature :

<sup>6</sup>[ Provided that, where any person has served as a member for a period exceeding five years, there shall be paid to him an additional pension of<sup>7</sup>[one thousand rupees ] per month for every year in excess of five years : ]

<sup>1</sup> The proviso was deemed to have been added with effect from the 19th July 1987 by Mah. 3 of 1989, s. 2(b).

<sup>2</sup> The proviso was added by Mah. 15 of 2005, s. 2.

<sup>3</sup> For the words "one hundred" the words "two hundred" were substituted with effect from the 1st June 1990, and for the words "two hundred" as so substituted these words were substituted, with effect from the 1st August 1993 by Mah. 22 of 1996, s. 2.

<sup>4</sup> Sub-section (1) was substituted by Mah. 47 of 2000, s. 2.

<sup>5</sup> These words were substituted for the words "ten thousand rupees" by Mah. 18 of 2009, s. 7 (a).

<sup>6</sup> This proviso was substituted by Mah. 1 of 2007, s. 2.

<sup>7</sup> These words were substituted for the words "seven hundred fifty rupees" by Mah. 18 of 2009, s. 7 (b).

Provided further that, if any such person becomes <sup>1</sup>[disqualified for being a Member of the State Legislature under clause (1) of article 191 of the Constitution of India], he shall not be entitled to receive such pension.]

(2) In computing the number of years for the purpose of sub-section (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.

4. (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 of 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 office, or continues as such member, or is so employed, or continues to receive such remuneration.

2*	*	*	*
3*	*	*	*

Pension to be held in abeyance or to be reduced in certain circumstances.

<sup>4</sup>[(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.]

<sup>1</sup> These words shall be deemed to have been substituted with effect from the 1st September 2000, for the words " disqualified as a member of the State Legislature " by Mah. 46 of 2006, s. 2.

<sup>2</sup> The proviso was deleted by Mah. 20 of 2008, s. 3 and shall be deemed always to have been deleted.

<sup>3</sup> Sub-section (2) was deleted by Mah. 34 of 1989, s. 3(a).

<sup>4</sup> Sub-section (3) was substituted, *ibid*, s. 3(b).

Pension payable to  
<sup>2</sup>[widow, widower or minor children of member.]

<sup>1</sup>[4A. (1) With effect from the 1st day of August 1988, there shall, subject to the provisions of sub-section (3), be paid a pension of one thousand rupees per month to the <sup>3</sup>[widow], if any, of any member who dies during his term of office as such member, for a period of five years from the date of his death.

(2) With effect from <sup>4</sup>[the 1st July 2009] where a member who is drawing pension or is entitled to draw any pension as such member under this Act dies, then the <sup>5</sup>[widow or widower], if any, of such member shall, subject to the provisions of sub-section (3), be paid pension per month at the rate of fifty per cent. of the amount of pension payable to such member on the date of his death <sup>6</sup>[ or <sup>7</sup>[ rupees seven thousand five hundred ] whichever is more ].

<sup>8</sup>[(2A) With effect from <sup>9</sup>[ the 1st July 2009 ], there shall subject to the provisions of sub-section (3), be paid to the <sup>10</sup>[ widow or widower ] of a member who was drawing pension or was entitled to draw pension as such member under this Act and who died before the 1st day of June 1990, a pension per month at the rate of fifty per cent. of the amount of pension payable to such member on the date of his death <sup>11</sup>[ or <sup>12</sup>[ rupees seven thousand five hundred ], whichever is more ].

13\*

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<sup>1</sup> Section 4A was inserted by Mah. 5 of 1991, s. 3.

<sup>2</sup> These words were substituted for the words "widow of member" by Mah. 15 of 2006, s. 2(e).

<sup>3</sup> This word was substituted for the word "wife" by Mah. 19 of 1993, s. 2(a).

<sup>4</sup> These words, letters and figures were substituted for the words, letters and figures "the 1st May of 2008" by Mah. 18 of 2009, s. 8(a)(i).

<sup>5</sup> These words were substituted for the word "widow" by Mah. 15 of 2006, s. 2(a)(ii).

<sup>6</sup> These words were substituted for the words "rupees one thousand" *ibid.*, s. 2(a)(iii).

<sup>7</sup> These words were substituted for the words "rupees five thousand" by Mah. 18 of 2009, s. 8(a)(i).

<sup>8</sup> This sub-section was inserted by Mah. 19 of 1993, s. 2(b).

<sup>9</sup> These words, letters and figures were substituted for the words, letters and figures "the 1st May of 2008" by Mah. 18 of 2009, s. 8(b)(i).

<sup>10</sup> These words were substituted for the word "widow" by Mah. 15 of 2006, s. 2(b)(ii).

<sup>11</sup> These words were substituted for the words "rupees one thousand" *ibid.*, s. 2(b)(iii).

<sup>12</sup> These words were substituted for the words "rupees five thousand" by Mah. 18 of 2009, s. 8 (b)(ii).

<sup>13</sup> This proviso shall be deemed to have been deleted with effect from the 1st August 1993 by Mah. 6 of 1994, s. 3 (b)(iii).



<sup>1</sup>[(2B) Notwithstanding anything contained in sub-sections (1), (2) or (2A), but subject to the provisions of sub-section (3), there shall be paid a pension to the widow or widower of the member of the State Legislature, who was not entitled to pension under the Act, <sup>2</sup>[with effect from <sup>3</sup>[the 1st July 2009, at the rate of rupees seven thousand five hundred per month.] ]

(2C) With effect from the 1st January 2006, where the widow or the widower of the deceased member is survived by a minor child or children of such member, there shall be paid a pension per month to such minor child or children at the same rate at which the pension was payable to the widow or widower, and such pension shall be paid in such manner as may be prescribed by rules.]

<sup>4</sup>[(3) Where such widow or widower has re-married, then she or he shall not be entitled to the pension under this section from the date of such re-marriage.]

<sup>5</sup>[5. (1)(a) For the purpose of making rules or orders under this section, there shall 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 <sup>6</sup>[of the Assembly and the Finance Minister shall be its *ex-officio* member and Chairman].

Power to  
makes rules  
and orders.

(b) The Joint Committee constituted under clause (A) <sup>7</sup>[\* \* \*] shall have power to regulate its procedure.

(c) A member of Joint Committee <sup>8</sup>[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.

<sup>1</sup> These sub-sections were inserted by Mah. 15 of 2006, s. 2(c).

<sup>2</sup> These words, letters and figures were substituted for the portion beginning with the words, letters and figures "from the 1st September 2000" and ending with the words "rupees three thousand per month" by Mah. 26 of 2007, s. 3(c).

<sup>3</sup> These words, figures and letters were substituted for the words, figures and letters "the 1st May 2008, at the rate of rupees five thousand per month" by Mah. 18 of 2009, s. 8(c).

<sup>4</sup> This sub-section was substituted by Mah. 15 of 2006, s. 2(d).

<sup>5</sup> Section 5 was substituted for the original by Mah. 15 of 1977, s. 2.

<sup>6</sup> These words were substituted for the words "of the Assembly" by Mah. 72 of 1981, s. 9(a).

<sup>7</sup> The words "shall elect its Chairman and" were deleted, *ibid.*, s. 9(b).

<sup>8</sup> These words were inserted, *ibid.*, s. 9(c).

(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 certificates to be furnished along with an application for pension ;

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

(iv) any other matter 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 the 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.]

Decisions on  
questions  
relating to  
pension.

6. 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 <sup>1</sup>[ 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. <sup>1</sup>[ The decision of the Chairman and the Speaker shall be final.]

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