

A BILL

ENTITLED

AN ACT to Amend the Constitution of Jamaica to provide for circumstances in which pensions, gratuities and other allowances may be paid out of a fund, established by law, other than the Consolidated Fund.

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BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica in accordance with the provisions of section 49 of the Constitution of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Constitution (Amendment) (Established Fund) (Payment of Pensions) Act, 2017, and shall be read and construed as one with the Constitution of Jamaica (hereafter referred to as “the Constitution”) and all amendments thereto.

Short title
and
construction.

Repeal and
replacement
of section
133 of the
Constitution.

2. Section 133 of the Constitution is repealed and replaced as follows—

“Pensions,
etc.”

133.—(1) Subject to subsection (2), awards granted under any law for the time being in force in Jamaica in respect of the public service shall be charged on and paid out of the Consolidated Fund.

(2) Subsection (1) shall not apply to pensions, gratuities and other allowances that are payable out of a pension fund pursuant to a contributory pension scheme established by law for the time being in force in Jamaica in respect of the public service:

However, where the pension fund is at any time unable to pay any sum by way of pension, gratuity or other allowance which the pension fund is required to pay under such law, that sum shall, to the extent that such law so provides, be charged on and paid out of the Consolidated Fund.”

Amendment
of section
134 of the
Constitution.

3. Section 134 of the Constitution is amended as follows—

(a) in subsection (1), by deleting the word “The”, where it first appears in the subsection and substituting therefor the following—

“Subject to subsection (4), the”; and

(b) by inserting next after subsection (3), the following new subsection as subsection (4)—

“ (4) Where a contributory pension scheme is established by law, subsection (1) shall not apply, as from the date that a pension fund is established pursuant to that law, to pensions, gratuities and other allowances paid out of the pension fund in accordance with the contributory pension scheme.”

Passed in the House of Representatives this 5th day of April, 2017.

PEARNEL CHARLES

Speaker.

MEMORANDUM OF OBJECTS AND REASONS

Currently, the Constitution only allows for pensions, gratuities and other allowances granted in respect of the public service to be charged on and paid out of the Consolidated Fund.

The Pensions (Public Service) Act, 2015 establishes a defined benefit contributory scheme which contemplates the establishment of a pension fund into which shall be paid all contributions made by pensionable officers and contributions made by the Government of Jamaica, as employer.

The Bill seeks, therefore, to amend the Constitution to provide for the payment of pensions, gratuities and allowances out of the pension fund so established.

AUDLEY SHAW

Minister of Finance and the Public Service.

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AN ACT to Amend the Constitution of Jamaica to provide for circumstances in which pensions, gratuities and other allowances may be paid out of a fund, established by law, other than the Consolidated Fund.

As passed in the Honourable House of Representatives.

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SECTION 133 OF THE CONSTITUTION OF JAMAICA
WHICH IT IS PROPOSED TO REPEAL AND REPLACE

133. Awards granted under any law for the time being in force in Jamaica in respect of the public service shall be charged on and paid out of the Consolidated Fund.

SECTION 134 OF THE CONSTITUTION OF JAMAICA
WHICH IT IS PROPOSED TO AMEND

134.—(1) The power to grant any award under any pensions law for the time being in force in Jamaica (other than an award to which, under that law, the person to whom it is payable is entitled as of right) and, in accordance with any provisions in that behalf contained in any such law, to withhold, reduce in amount or suspend any award payable under any such law is hereby vested in the Governor-General.

(2) The power vested in the Governor-General by subsection (1) of this section shall be exercised by him—

- (a) in the case of an award payable to a person who, having been a public officer, was immediately before the date on which he ceased to hold public office, serving—
 - (i) as a Judge of the Court of Appeal;
 - (ii) as a Judge of the Supreme Court;
 - (iii) in any office to which section 112 of this Constitution applies at the date of the exercise of the power, on the recommendation of the Judicial Service Commission;
- (b) in the case of an award payable to a person who, having been a public officer, was, immediately before the date aforesaid, serving as a police officer, on the recommendation of the Police Service Commission; and
- (c) in the case of an award payable to any other person, on the recommendation of the Public Service Commission.

(3) In this section, “pensions law” means any law relating to the grant to any person, or to the widow, children, dependants or personal representatives of that person, of an award in respect of the services of that person in a public office, and includes any instrument made under any such law.