

Pension to Surviving Spouse and Children

Act No. 105 of June 28, 1969, as amended

(Contains amendments incorporated by:

Act No. 32 of June 28, 1971

Act No. 4 of April 7, 1985

Act No. 13 of June 13, 1992

Act No. 198 of August 25, 2000

Act No. 158 of June 27, 2003

Act No. 296 of September 15, 2004

(Amendments non-incorporated:
Reorganization Plan No. 1 of July 26, 2010)

To provide a pension to the surviving spouses and to the minor or physically and/or mentally disabled children of participants of the Employees Retirement System of the Government who may die while receiving a disability or retirement annuity pension from said system without being covered by the Federal Social Security.

Be it enacted by the Legislature of Puerto Rico:

Section 1. — (3 L.P.R.A. § 788a (a)]

When a participant of the Employees Retirement System of the Government of Puerto Rico and its Instrumentalities, and/or of the Judiciary Retirement System dies while receiving a retirement or disability annuity pension from said system, the surviving spouse and minor or physically and/or mentally disabled children shall be entitled to a pension which shall be determined pursuant to the provisions of this Act.

If the pensioned participant is, at the time of his death, covered by Title II of the Federal Social Security Act, the above-mentioned persons shall not be entitled to the pension granted hereunder.

Section 2. — (3 L.P.R.A. § 788a (b)]

The persons mentioned in Section 1 hereof shall receive in equal parts sixty percent (60%) of the annuity pension received by the pensioned participant at the time of his death.

Section 3. — (3 L.P.R.A. § 788a (c)]

In the case of minors or mentally disabled children the pension corresponding to them may be given to their father or mother, as the case may be, or to any other person designated by

the Court of First Instance, always bearing in mind the welfare of said minors or mentally disabled children.

Section 4. — (3 L.P.R.A. § 788a (d))

In the case of minors, the payments shall be made until they reach the age of eighteen (18), except if they are persons permanently disabled to work by reason of their mental condition or physical disabilities or until they reach the age of twenty-five (25) if they are pursuing studies.

Said studies must be pursued in an institution recognized by the Council on Higher Education of Puerto Rico, or by the Department of Education, as the case may be.

Provided, further, That at the time the pension of a beneficiary is suspended due to his/her death, or because he/she is over the age of eighteen (18) or of twenty-five (25), if he/she is pursuing studies, or because he/she is no longer permanently disabled, the pension of said beneficiary shall be added to that of the remaining beneficiaries and shall be distributed among them in equal amounts.

Section 5. — (3 L.P.R.A. § 788a (e))

If the pensioned participant is, at the time of death, covered by Title II of the Federal Social Security Act, the persons mentioned in Section 1 of this Act shall receive, instead of the disposition set forth in Section 2 of this Act, fifty percent (50%) of the annuity received by the pensioner at the time of death divided in equal parts. The surviving spouse of the pensioner shall receive the pension set forth in this subsection upon turning sixty (60) years of age. It is also hereby set forth that the surviving spouse shall have been married for at least ten (10) years to the deceased pensioner at the time of death.

This Section shall not apply to the cases of participants in the systems that are not coordinated with the Federal Social Security Act, to whom the sixty percent (60%) of the annuity referred to in Section 2 of this Act shall continue to apply.

Section 6. — (3 L.P.R.A. § 788a (f))

Any of the persons mentioned in this Act, who disagree with the determination that the Administrator of the Retirement System and its instrumentalities and/or of the Puerto Rico Judiciary Retirement System may make with regard to his application for the payment of benefits, may request the consideration of same within the term of thirty (30) days after having been notified of the decision of the Administrator.

If the reconsideration is not requested or if the latter is adverse, the claimant may appeal to the Board of Trustees of the Retirement System within thirty (30) days after the date in which the initial decision of the Director has become final or after having been notified of the final decision in reconsideration.

If the appeal before the Board of Trustees is adverse to said claimant the latter may file with the Court of First Instance a writ of review against the decision of the Board of Trustees within thirty (30) days after having been notified of same.

Section 7. — (3 L.P.R.A. § 788a (g))

The amounts of money necessary for the enforcement of this Act shall be charged to the Fund of the Employees Retirement System of the Government of Puerto Rico and/or to the Fund of the Puerto Rico Judiciary Retirement System.

Section 8. — (3 L.P.R.A. § 788a (h))

In the event that one of the persons mentioned in this Act is entitled under any of the laws in effect, to another pension due to the same reason, or because of the death of a pensioned participating member, he/she shall be paid whichever pension is higher.

Any person entitled to receive or is currently receiving a pension, in their own right from any retirement system under the laws in effect, shall receive or continue to receive said pension, in addition to the pension provided herein for the death of the pensioned participating member. The right to this death benefit shall be retroactive to the date of death of the participating member, and the surviving spouse shall begin to receive its payment from the date he/she meets the eligibility requirements established in this Act.

Section 9. — (18 L.P.R.A. § 788a (i))

The pensions granted under this section shall be exempt from attachment or foreclosure.

Section 10. —

This act shall take effect July 1, 1969, but its provisions shall retroact as to the eligibility of the beneficiaries without consideration of the date in which the participant has died; but prospective from the date in which the act takes effect as to the payment of the pension rights established.

Note. This compilation was prepared by the Puerto Rico OMB staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text. Compiled by the Office of Management and Budget Library.