

## CHAPTER 49.

## PENSIONS.

AN ORDINANCE TO PROVIDE FOR THE GRANT OF PENSIONS, GRATUITIES AND OTHER ALLOWANCES TO PERSONS WHO HAVE BEEN IN THE PUBLIC SERVICE OF THE COLONY.

13 of 1949.  
10 of 1950.

[31st December, 1949.]

1. This Ordinance may be cited as the Pensions Ordinance. Short title.

2. (1) In this Ordinance, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say— Interpretation.

“Pensionable office” means:

- (a) in respect of service in the Colony an office which, by virtue of provision for the time being in force in an Order made by the Governor in Council and published in the *Gazette*, is declared to be a pensionable office; and any such Order may from time to time be amended, added to, or revoked by an Order so made and published; but where by virtue of any such amendment or revocation any office ceases to be a pensionable office, then so long as any person holding that office at the time of the amendment or revocation continues therein, the office shall, as respects that person, continue to be a pensionable office;
- (b) in respect of other public services an office which is for the time being a pensionable office under the law or regulations in force in such service.

“Non-pensionable office” means an office which is not a pensionable office.

“Pensionable emoluments”:

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[*Note.* This Ordinance is declared to be in force in the Dependencies by the Application of Colony Laws Ordinance, Cap. 1 (D.S.).]

- (a) in respect of service in the Colony includes salary and personal allowance, but does not include duty allowance, entertainment allowance or any other emoluments whatever;
- (b) in respect of other public service means emoluments which count for pension in accordance with the law or regulations in force in such service.

“Salary” means the salary attached to a pensionable office or, where provision is made for taking service in a non-pensionable office into account as pensionable service, the salary attached to that office.

“Personal allowance” means a special addition to salary granted personally to the holder for the time being of the office, but pensionable emoluments do not include such an addition if it is granted subject to the condition that it shall not be pensionable.

10 of 1950.

“Public service” means service in a civil capacity under the Government of the Colony or the Government of any other part of His Majesty’s dominions, or of any British protected state, protectorate or mandated or trust territory administered by the Government of any part of His Majesty’s dominions, or of the New Hebrides or of the Anglo-Egyptian Sudan, or service which is pensionable under the Teachers (Superannuation) Act, 1925, or any Act amending or replacing the same, or under the Colonial Superannuation Scheme, or in a Colonial University College, or pensionable employment under a local authority in the United Kingdom, or in such other service as the Secretary of State may determine to be “public service” for the purpose of any provision of this Ordinance; and, except for the purposes of computation of pension or gratuity and of section 9 of this Ordinance, includes service as a Governor-General, Governor or High Commissioner in any part of His Majesty’s dominions, any British protected state or Protectorate, any territory under British Mandate or the Anglo-Egyptian Sudan.

“Other public service” means public service not under the Government of the Colony.

(2) For the avoidance of doubts it is hereby declared that, where an officer has been confirmed in a pensionable office and is thereafter appointed to another pensionable office, then, unless the terms of such appointment otherwise

require, such last mentioned office is, for the purposes of this Ordinance, an office in which he has been confirmed.

3. (1) Pensions, gratuities and other allowances may be granted by the Governor in Council in accordance with regulations made under this Ordinance to officers who have been in the service of the Colony. Pension regulations.

The said regulations may from time to time be amended, added to, or revoked by regulations made by the Governor in Council with the sanction of the Secretary of State, and all regulations so made shall be laid before the Legislative Council and published in the *Gazette*.

(2) All regulations made under this section shall have the same force and effect as if they were contained in this Ordinance, and the expression "this Ordinance" shall, wherever it occurs in the following sections, be construed as including a reference to the said regulations.

(3) Whenever the Governor in Council is satisfied that it is equitable that any regulation made under this section should have retrospective effect in order to confer a benefit upon or remove a disability attaching to any person, that regulation may be given retrospective effect for that purpose:

Provided that no such regulation shall have retrospective effect unless it has received the prior approval of the Legislative Council signified by resolution.

4. There shall be charged on and paid out of the revenues of the Colony all such sums of money as may from time to time be granted by way of pension, gratuity or other allowance in pursuance of this Ordinance. Pensions, etc., to be charged on revenues of Colony.

5. (1) No officer shall have an absolute right to compensation for past services or to pension, gratuity, or other allowance; nor shall anything in this Ordinance affect the right of the Crown to dismiss any officer at any time and without compensation. Pensions, etc., not of right.

(2) Where it is established to the satisfaction of the Governor in Council that an officer has been guilty of negligence, irregularity or misconduct, the pension, gratuity, or other allowance may be reduced or altogether withheld.

6. (1) No pension, gratuity or other allowance shall be granted under this Ordinance to any officer except on his retirement from the public service in one of the following cases: Circumstances in which pension may be granted.

- (i) on attaining the age of sixty years, or with the approval of the Governor in Council on or after attaining the age of fifty-five years, or in special cases, with the approval of the Secretary of State, on or after attaining the age of fifty years;
- (ii) in the case of transfer to other public service, on or after attaining the age at which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity;
- (iii) on the abolition of his office;
- (iv) on compulsory retirement for the purpose of facilitating improvement in the organisation of the department to which he belongs, by which greater efficiency or economy may be effected;
- (v) on medical evidence to the satisfaction of the Governor in Council or the Secretary of State that he is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;
- (vi) in the case of removal on the ground of inefficiency as provided in this Ordinance;
- (vii) on retirement in circumstances, not mentioned in the preceding paragraphs of this section, rendering him eligible for a pension under the Pensions (Governors of Dominions, etc.) Acts, 1911 to 1936, or any Act amending or replacing those Acts:

Provided that the pensionable service of the officer is not less than ten years.

10 of 1950.

(2) Any pension or gratuity granted under this Ordinance shall be computed in accordance with the provisions in force at the actual date of an officer's retirement.

Retirement  
for in-  
efficiency.

7. Where an officer is removed from his office on the ground of his inability to discharge efficiently the duties thereof, and a pension, gratuity or other allowance cannot otherwise be granted to him under the provision of this Ordinance, the Governor in Council may, if he considers it justifiable having regard to all the circumstances of the case, grant such pension, gratuity or other allowance as he thinks

just and proper, not exceeding in amount that for which the officer would be eligible if he retired from the public service in the circumstances described in paragraph (5) of the preceding section.

8. (1) It shall be lawful for the Governor in Council to require an officer to retire from the service of the Colony

Compulsory  
and volun-  
tary retire-  
ment.

(a) at any time after he attains the age of fifty-five years;  
or

(b) in special cases, with the approval of the Secretary of State, at any time after he attains the age of fifty years.

(2) An officer may with the approval of the Governor in Council retire at any time after he attains the age of fifty-five years.

9. (1) Except in cases provided for by subsection (2) of this section, a pension granted to an officer under this Ordinance shall not exceed two-thirds of the highest pensionable emoluments drawn by him at any time in the course of his service in the Colony.

Maximum  
pension.

(2) An officer who shall have been granted a pension in respect of other public service shall not at any time draw from the funds of the Colony an amount of pension which, when added to the amount of any pension or pensions drawn in respect of other public service, exceeds two-thirds of the highest pensionable emoluments drawn by him at any time in the course of his public service:

Provided that where an officer receives in respect of some period of public service both a gratuity and a pension, the amount of such pension shall be deemed for the purpose of this subsection to be four-thirds of its actual amount.

(3) Where the limitation prescribed by the preceding subsection operates, the amount of the pension to be drawn from the funds of the Colony shall be subject to the approval of the Secretary of State, in order that it may be determined with due regard to the amount of any pension or pensions to be drawn in respect of other public service.

(4) For the purposes of the preceding subsections an additional pension granted in respect of injury shall not be taken into account; but where the officer is granted such an additional pension under this Ordinance, the amount thereof

together with the remainder of his pension or pensions shall not exceed five-sixths of his highest pensionable emoluments at any time in the course of his public service.

Liability of pensioners to be called upon to take further employment.

**10.** (1) Every pension granted under this Ordinance shall be subject to the condition that unless or until the officer shall have attained the age of 55 years, he may, if physically fit for service, be called upon by the Secretary of State to accept an office, whether in the Colony or in other public service, not less in value, due regard being had to circumstances of climate, than the office which he held at the date of his retirement.

If a pensioner so called upon declines to accept such office the payment of his pension may be suspended until he has attained the age of 55 years.

(2) The provisions of the foregoing subsection shall not apply in any case where the Governor, being of opinion that the officer is not qualified for other employment in the public service or that there is no reason to expect that he can be shortly re-employed therein, otherwise directs.

Suspension of pensions on re-employment.

**11.** If an officer to whom a pension has been granted under this Ordinance is appointed to another office in the public service, the payment of his pension may, if the Governor in Council thinks fit, be suspended during the period of his re-employment.

Pensions, etc., not to be assignable.

**12.** A pension, gratuity or other allowance granted under this Ordinance shall not be assignable or transferable except for the purpose of satisfying

(1) a debt due to the Government; or

(2) an order of any Court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor child of the officer to whom the pension, gratuity or other allowance has been granted,

and shall not be liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatever except a debt due to the Government.

Pensions, etc., to cease on bankruptcy.

**13.** (1) If any person to whom a pension or other allowance has been granted under this Ordinance is adjudicated bankrupt or is declared insolvent by judgment of any competent Court, then such pension or allowance shall forthwith cease.

(2) If any person is adjudicated bankrupt or declared insolvent as aforesaid, either

- (a) after retirement in circumstances in which he is eligible for pension or allowance under this Ordinance but before the pension or allowance is granted; or
- (b) before such retirement, and he shall not have obtained his discharge from bankruptcy or insolvency at the date of retirement,

then, in the former case any pension or allowance eventually granted to him shall cease as from the date of adjudication or declaration as the case may be and, in the latter case, the pension or allowance may be granted, but shall cease forthwith and not become payable.

(3) Where a pension or allowance ceases by reason of this section, it shall be lawful for the Secretary of State, or if the person in question is resident in the Colony, the Governor, from time to time during the remainder of such person's life, or during such shorter period or periods, either continuous, or discontinuous, as the Secretary of State or the Governor, as the case may be, shall think fit, to direct all or any part of the moneys to which such person would have been entitled by way of pension or allowance, had he not become bankrupt or insolvent, to be paid to, or applied for the maintenance or benefit of, all or any to the exclusion of the other or others, of the following, that is to say, such person and any wife, child or children of his, in such proportions and manner as the Secretary of State or the Governor, as the case may be, thinks proper, and such moneys shall be paid or applied accordingly.

(4) Moneys applied for the discharge of the debts of the person whose pension or allowance has so ceased shall, for the purpose of this section, be regarded as applied for his benefit.

(5) When a person whose pension or allowance has so ceased obtains his discharge from bankruptcy or insolvency, it shall be lawful for the Secretary of State or, if such person is resident in the Colony, the Governor, to direct that the pension or allowance shall be restored as from the date of such discharge or any later date, and the pension or allowance shall be restored accordingly.

14. (1) If any person to whom a pension or other allowance has been granted under this Ordinance is sentenced to a term

Pensions,  
etc. may  
cease on  
conviction.

of imprisonment by any competent Court for any offence, such pension or allowance shall, if the Secretary of State, or if such person is resident in the Colony, the Governor, so directs, cease as from such date as the Secretary of State or the Governor, as the case may be, determines.

(2) If any person is sentenced as aforesaid after retirement in circumstances in which he is eligible for pension or allowance under the Ordinance but before the pension or allowance is granted, then the provisions of the foregoing paragraph shall apply as respects any pension or allowance which may be granted to him.

(3) Where a pension or allowance ceases by reason of this section it shall be lawful for the Secretary of State or the Governor, as the case may be, to direct all or any part of the moneys to which such person would have been entitled by way of pension or allowance had he not been sentenced as aforesaid to be paid, or applied, in the same manner in all respects as prescribed in the preceding section, and such moneys shall be paid or applied accordingly.

(4) If such person after conviction at any time receives a free pardon, the pension or allowance shall be restored with retrospective effect; but in determining whether arrears of such pension or allowance are payable to such person and in computing the amount thereof, account shall be taken of all moneys paid or applied under the preceding subsection.

Pensions,  
etc., may  
cease on  
accepting  
certain  
appoint-  
ments.

15. If any person to whom a pension or other allowance has been granted under this Ordinance otherwise than under section 17 becomes either a director of any company the principal part of whose business is in any way directly concerned with the Government, or an officer or servant employed in the Colony by any such company, without the prior permission of the Governor in writing, such pension or allowance shall cease if the Governor so directs:

Provided that it shall be lawful for the Governor, on being satisfied that the person in respect of whose pension or allowance any such direction shall have been given has ceased to be a director of such company or to be employed as an officer or servant of such company in the Colony, as the case may be, to give directions for the restoration of such pension or allowance, with retrospective effect, if he shall see fit, to such a date as he shall specify, and the pension or allowance shall be restored in accordance with any such directions.



16. (1) Where an officer holding a pensionable office who is not on probation or agreement, or an officer holding a non-pensionable office to which he has been transferred from a pensionable office in which he has been confirmed, dies while in the service of the Colony, it shall be lawful for the Governor in Council to grant to his legal personal representative a gratuity of an amount not exceeding his annual pensionable emoluments.

Gratuity where an officer dies in the service.

(2) For the purpose of this section, "annual pensionable emoluments" means the emoluments which would be taken for the purpose of computing any pension or gratuity granted to the officer if he had retired at the date of his death in the circumstances described in paragraph (5) of section 6 of this Ordinance.

17. (1) Where an officer dies as a result of injuries received:
- (a) in the actual discharge of his duty; and
  - (b) without his own default; and
  - (c) on account of circumstances specifically attributable to the nature of his duty.

Pensions to dependants when an officer is killed on duty.

while in the service of the Government of the Colony, it shall be lawful for the Governor in Council to grant, in addition to the grant, if any, made to his legal personal representative under section 16 of this Ordinance—

- (i) if the deceased officer leaves a widow, a pension to her, while unmarried and of good character, at a rate not exceeding ten-sixtieths of his annual pensionable emoluments at the date of the injury or £15 a year, whichever is the greater;
- (ii) if the deceased officer leaves a widow to whom a pension is granted under the preceding paragraph and a child or children, a pension in respect of each child, until such child attains the age of 18 years, of an amount not exceeding one-eighth of the pension prescribed under the preceding paragraph;
- (iii) if the deceased officer leaves a child or children, but does not leave a widow or no pension is granted to the widow, a pension in respect of each child, until such child attains the age of 18 years, of double the amount prescribed by the preceding paragraph;

- (iv) if the deceased officer leaves a child or children and a widow to whom a pension is granted under paragraph (i) of this subsection, and the widow subsequently dies, a pension in respect of each child as from the date of the death of the widow until such child attains the age of 18 years, of double the amount prescribed in paragraph (ii) of this subsection;
- (v) if the deceased officer does not leave a widow, or if no pension is granted to his widow, and his mother was wholly or mainly dependent on him for her support, a pension to the mother, while of good character and without adequate means of support, of an amount not exceeding the pension which might have been granted to his widow:

Provided that—

- (A) pension shall not be payable under this subsection at any time in respect of more than six children; and
- (B) in the case of a pension granted under paragraph (v) of this subsection, if the mother is a widow at the time of the grant of the pension and subsequently remarries such pension shall cease as from the date of remarriage; and if it appears to the Secretary of State at any time that the mother is adequately provided with other means of support, such pension shall cease as from such date as the Secretary of State may determine;
- (c) a pension granted to a female child under this section shall cease upon the marriage of such child under the age of 18 years.

(2) In the case of an officer not holding a pensionable office, the expression "pensionable emoluments" in the preceding subsection shall mean the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office.

(3) For the purpose of this section the word "child" shall include

- (a) posthumous child;

- (b) a step-child or illegitimate child born before the date of the injury and wholly or mainly dependent upon the deceased officer for support; and
- (c) an adopted child, adopted in a manner recognised by law, before the date of the injury, and dependent as aforesaid.

(4) An officer who dies as a result of injuries received while travelling by air in pursuance of official instructions shall be deemed to have died in the circumstances detailed in (a) and (c) of subsection (1) of this section; provided that in such a case and if (b) is also satisfied the rates of pension prescribed in (i) and (ii) of that subsection shall be fifteen sixtieths and one-sixth respectively.

(5) If an officer proceeding by a route approved by the Governor to or from the Colony at the commencement or termination of his service therein, or of a period of leave therefrom, dies as a result of damage to the vessel or vehicle in which he is travelling, or of any act of violence directed against such vessel or vehicle, and the Governor is satisfied that such damage or act is attributable to circumstances arising out of war in which His Majesty may be engaged, such officer shall be deemed, for the purposes of this section, to have died in the circumstances described in subsection (1) of this section. 10 of 1950.

(6) This section shall not apply in the case of the death of any officer selected for appointment to the service of the Colony on or after the date of operation of this subsection if his dependants as defined in the Workmen's Compensation Ordinance, or any Ordinance amending or replacing that Ordinance, are entitled to compensation under that Ordinance. Chapter 79.

18. (1) The provisions of this Ordinance shall apply—

- (a) to every officer first appointed to the public service of the Colony
  - (i) after the commencement of this Ordinance; or
  - (ii) before the commencement of this Ordinance, to whom it was intimated before appointment that he would be liable to be affected by any change in the pensions law of the Colony; and

Application  
of Ord-  
inance.

(b) to every other officer serving in the Colony at the commencement of this Ordinance or transferred from the Colony to any other public service before the date of such commencement and still in public service on that date, unless not later than twelve months after such commencement or within such further period as the Governor may in any special case allow, he gives notice in writing to the Colonial Secretary of his desire that the provisions of the Pensions Ordinance, 1937, the Pensions (Amendment) Ordinances, 1940, 1941 and 1946, and the regulations made thereunder shall apply to him, in which case they shall continue to apply accordingly.

(2) If any officer who shall have given notice under paragraph (b) of the preceding subsection is thereafter re-appointed to the service of the Colony the provisions of this Ordinance shall apply to him in respect of his whole service;

Provided that except where such an officer shall eventually become eligible for a pension or gratuity under this Ordinance in respect of his service both before and after his re-employment, a pension or gratuity granted to him solely in respect of service prior to such re-employment shall not be re-computed.