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**PENSIONS.**

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**Ordinance No. 5 of 1906.**

*As amended by No. 3 of 1907 and No. 6 of 1913.*

[30th November, 1906.]

*An Ordinance to declare the law regulating pensions, gratuities, and other allowances to be granted in respect of officers held in the public service of the Falkland Islands.*

Be it enacted by the Governor of the Colony of the Falkland Islands, with the advice and consent of the Legislative Council thereof, as follows :—

1. This Ordinance may be cited as “The Pensions Ordinance, 1906.”

Short title.

2. Nothing in this Ordinance shall either diminish the rights acquired by any persons before the passing of the Ordinance or affect pensions already granted. Otherwise the provisions of this Ordinance shall apply to all public officers now or hereafter serving in the Colony, and to those who having so served have been transferred to public service elsewhere.

Extent.

3. There shall be charged on and paid out of the revenues of the Colony all such sums of money as may, with the sanction of the Secretary of State for the Colonies, from time to time be granted by way of pension, gratuity or other allowance, in accordance with this Ordinance and with any regulations made thereunder, to persons who have been in the service of the Colony.

Pensions to be charged on revenues of the Falkland Islands.

4. It shall be lawful for the Governor in Council, with the sanction of the Secretary of State for the Colonies, from time to time, to make, and when made, to vary and revoke, regulations for the granting of pensions, gratuities, and other allow-

Governor in Council may make pension regulations.

ances to persons who have been in the service of the Colony :

Provided that until any such regulations shall be made, the regulations contained in the Schedule to this Ordinance shall be in force.

Age from which pension may be earned.

5. No public officer hereafter appointed shall be entitled to a retiring allowance in respect to any service while under the age of twenty years.

Age at which pension may be granted. Certificates required as to conduct, etc.

6. Except in cases of abolition or re-organisation of office, no pension, gratuity, or other allowance shall be granted to any public officer who has not attained the age of sixty years, unless on medical evidence to the satisfaction of the Governor in Council or the Secretary of State for the Colonies that he is incapable, by reason of some infirmity of mind or body, of discharging the duties of his office, and that such infirmity is likely to be permanent; nor in any case without a certificate from the Governor that he has discharged the duties of his office with such diligence and fidelity as to justify the grant to him of a pension :

Provided that, if a public officer, though not suffering from any particular illness or infirmity of mind or body likely to be permanent, becomes unfit in the opinion of the Governor in Council for the discharge of the duties of the office to which he has been appointed, and such unfitness is not attributable to misconduct or gross negligence, and when the Governor in Council considers that the special circumstances of the case justify the grant to him of a pension, he may be pensioned at the rate not exceeding that for which he would be qualified if he were suffering from an illness or infirmity likely to be permanent :

Provided further, that if an officer is transferred to other public service as defined in the regulations under this Ordinance, and ultimately retires at an age less than sixty years, at which he is permitted by the laws or regulations of that service to retire with a pension, the pension which may be granted to him from the revenues of the Colony under this Ordinance and the regulations thereunder shall be payable from

the date of retirement of such officer notwithstanding that he shall not be sixty years of age.

7. No pension granted under this Ordinance shall exceed two-thirds of the highest salary drawn by an officer at any time in the course of his service, except in cases when the retirement has been necessitated by injuries received in the discharge of duty.

Maximum pension grantable.

8. Where an officer eligible for a pension under this Ordinance is also eligible for a pension from Imperial Funds, or from the funds of some other Colonial or Protectorate Government, the maximum pension which may be granted under this Ordinance shall in ordinary cases be such as, when added to such other pension, does not exceed two-thirds of the highest salary drawn by such officer at any time in the course of his service.

Maximum pension where officer entitled to pension from another source.

9. It shall be lawful for the Governor in Council, subject to the approval of the Secretary of State, to require any public officer to retire from the public service of the Colony at any time after he attains the age of sixty years, and retirement shall be compulsory for every officer on attaining the age of sixty-five years except that, in special cases where the Secretary of State is satisfied that the retirement of an officer at sixty-five would be detrimental to the interests of the public service, his employment may be extended for a further specified period.

Age for compulsory retirement.

10. No officer shall have an absolute right to compensation for past services, or to any pension, gratuity, or other allowance under this Ordinance or under any regulations made thereunder; nor shall anything herein or in such regulations contained, limit the right of the Crown to dismiss any officer without compensation.

Pensions not of right.

11. No pension granted under this Ordinance, or under any regulations made thereunder, shall be assignable or transferable, or liable to be attached, sequestered, or levied upon, for or in respect of any debt or claim whatsoever.

Pensions not to be assignable.

Pensions to  
cease on con-  
viction.

12. If any person to whom a pension has been granted under this Ordinance, or under any regulations made thereunder, is convicted before any Court in his Majesty's Dominions of any crime or offence for which he is sentenced to death or penal servitude or transportation, or any term of imprisonment with hard labour or exceeding twelve months, and does not within two months after such conviction receive His Majesty's free pardon, then in every such case such pension shall forthwith cease :

Provided always, that the Governor in Council, with the consent of the Secretary of State, may, if he thinks fit, restore the pension in the case of a person who, after conviction as above described, receives His Majesty's free pardon at any time.

Pensions to  
cease on bank-  
ruptcy.

13. If any person to whom a pension has been granted under this Ordinance becomes a bankrupt, then such pension shall forthwith cease :

Provided always, that in any case where a pension ceases by reason of the bankruptcy of the pensioner it shall be lawful for the Secretary of State for the Colonies, or, if such pensioner is resident in the Colony, then for the Governor in Council, from time to time during the remainder of such pensioner's life, or during such shorter period or periods, either continuous or discontinuous, as the Secretary of State or Governor in Council shall think fit, to pay all or any part of the moneys to which such pensioner would have been entitled by way of pension had he not become a bankrupt to, or apply the same for the maintenance and personal support or benefit of, all or any, exclusive of the other or others, of the following persons, namely, such pensioner and any wife, child or children of his, in such proportions and manner as the Secretary of State or Governor in Council thinks proper.

Conditions  
under which a  
retired officer  
may accept the  
directorship,  
etc., of a Com-  
pany operating  
in the Colony.

14. If any person to whom a pension has been granted under this Ordinance becomes, on his final retirement from the service of the Colony, either a Director of any Company the principal part of whose business is in any way directly concerned with the Colony, or an officer or a servant employed in the



Colony by any such Company, without in every such case the permission of the Governor in writing first had and obtained, then in every such case it shall be lawful for the Governor, with the approval of the Secretary of State, to direct that such pension shall forthwith cease :

Penalty.

Provided always, that it shall be lawful for the Secretary of State, on being satisfied that the person in respect of whose pension 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, with retrospective effect, if he shall see fit, to such a date as he shall specify.

Conditions under which pension may be restored.

15. This Ordinance shall come into operation on the 1st day of January, 1907.

Date of operation.

#### SCHEDULE.

*Regulations for the granting of Pensions, Gratuities and other Allowances to persons who have been in the Service of the Falkland Islands.*

1. In these regulations the term "pensionable office" means an office which has been declared by the Governor, with the sanction of the Secretary of State, by publication in the official *Gazette*, to be pensionable:

Definitions.

Provided that any office declared to be pensionable under this section may be declared at any time by the Governor, with the sanction of the Secretary of State, by publication in manner aforesaid, to be no longer pensionable, due regard being had to existing rights.

The term "salary" includes personal allowance, house allowance or the estimated value of free quarters, and fuel allowance or the estimated value of free fuel:

Provided that the amount to be allowed for house rent or the estimated value of free quarters, together with the amount to be allowed for fuel or the estimated value of free fuel, shall not exceed one-sixth of the actual salary of the office.

The term "other public service" includes service in a British Colony or Protectorate or under the Imperial Government or the Government of India, and such other service as the Secretary of State may determine to be "other public service" within the meaning of these regulations.

Pensions to whom and at what rates to be granted.

2. Subject to the provisions of "The Pensions Ordinance, 1906," and of these regulations, every public officer holding a pensionable office in the Colony, who has been in the service of the Colony for ten years or upwards, may be granted on his retirement a pension at the rate of ten-sixtieths of his salary, with an addition of one-sixtieth in respect of each complete year of such service in excess of ten until forty years' service is reached, when a pension of two-thirds of such salary may be granted.

Gratuities.

3. Every officer, otherwise qualified for a pension, who has not completed the minimum period of service qualifying for a pension may be granted a gratuity, which will be at the rate of half a month's salary for each complete six months of service.

Abolition of office.

4. If any person holding a pensionable office retire or be removed from the public service in consequence of the abolition of his office, or for the purpose of facilitating improvements in the organisation of the department to which he belongs, by which greater efficiency and economy can be effected, he may be granted a temporary pension, subject to the condition that he shall hold himself ready to be recalled to service:

Provided that if such person is not qualified for other employment, or if there is no reason, in the opinion of the Governor, to expect that he can be shortly re-employed, a pension may be granted to him free from the above-mentioned condition.

Rates of pension when offices are abolished.

5. In the case of an officer whose office is abolished, his pension may be increased by the addition of a certain number of fortieths of his salary in the case of a Judge, and of sixtieths in the case of a holder of another pensionable office, that is to say:—

- (a) In the case of an officer who has served twenty years 7
- (b) In the case of an officer who has served less than twenty years, but not less than fifteen years ... 5
- (c) In the case of an officer who has served less than fifteen years, but not less than ten years ... 3

No addition shall be made under this section so as to entitle an officer to a higher pension than the maximum of two-thirds, or to a higher pension than that to which he would have been entitled by length of service on reaching the age of sixty years.

Rate of gratuity on abolition when service less than 10 years.

6. In the case of an officer whose office is abolished and whose length of service is not such as to entitle him to a pension, a special gratuity not exceeding one and a half month's salary for every year of service may be granted.

Officers retiring on account of injuries.

7. Where a public officer, whether holding a pensionable or a non-pensionable office, has been permanently injured—

- (a) In the actual discharge of his duty, and
- (b) Without his own default, and
- (c) By some injury specifically attributable to the nature of his duty,

and his retirement is thereby necessitated or materially accelerated, he may receive, in addition to the pension, if any, granted to him under these regulations, an annual allowance in proportion to the extent of his injury, as follows:—

When his capacity to contribute to his support is—			
Slightly impaired	...	...	Five-sixtieths.
Impaired	...	...	Ten-sixtieths.
Materially impaired	...	...	Fifteen-sixtieths.
Totally destroyed	...	...	Twenty-sixtieths.

Provided that in the case of a pensionable officer no such allowance shall, together with the pension, exceed fifty-sixtieths of his salary at the date of the injury. The allowance shall be less than the above-mentioned maximum by such amount as the Governor in Council shall think reasonable in the following cases:—

(a) Where the injured man has continued to serve for not less than one year after the injury in respect of which he retires;

(b) Where the injured man is fifty years of age and upwards at the date of the injury;

(c) Where the injury is not the sole cause of retirement, *i.e.*, the retirement is caused partly by age or infirmity.

8. When the public officer so injured is a pensionable officer, but has less than ten years' service and he is not entitled to an ordinary pension, he may receive in lieu of a gratuity an annual allowance of so many sixtieths as the years he has actually served, in addition to the number of sixtieths that may be awarded to him under Section 7.

9. For the purpose of computing pensions and gratuities, the salary of the permanent office held by the officer at the date of retirement will be taken if he has held such office, or an office with the same salary, for a period of three years immediately preceding such date; otherwise the average amount of the salary of the permanent offices held by the officer during the three years immediately preceding his retirement will be taken.

How salary to be computed for pension purposes.

10. The service in respect of which pensions or gratuities will be granted must be unbroken, except in cases where the service has been interrupted by abolition of office or other temporary suspension of employment not arising from misconduct or voluntary resignation.

Service to be unbroken.

11. No service other than service in a pensionable office, on full or half salary, will be taken into account in computing pensions or gratuities, except that where the service in a pensionable office has been immediately preceded by an unbroken period of service in an appointment other than a pensionable office, or of service paid for out of an open vote, or of both such services, such period or any part of such period may be taken into account:

Non-pensionable service followed by pensionable service.

Provided always that of the period of service paid for out of an open vote, only two-thirds shall be counted for the purposes of these regulations (whether appointed before or after the passing of "The Pensions Ordinance, 1906").

Leave of absence with half salary.

12. The periods during which an officer shall hereafter be absent on leave with half salary shall, for the purpose of computing the amount of his pension, be counted at the rate of one month for every two months of such absence, but the period during which an officer has been absent on leave with full salary shall, under all circumstances, be counted at the full rate.

Leave of absence without salary.

13. Any periods during which an officer has been absent on leave without salary shall not be counted as service, unless such leave has been granted on grounds of public policy, in which case a period not exceeding one year may be counted, for the purpose of these regulations, as service on full salary.

Commencement of pensionable service.

14. Subject to the provisions of Section 5 of "The Pensions Ordinance, 1906," service will be deemed to commence, for pension purposes, at the date on which officers commence to draw salary or half salary.

Acting service.

15. Acting service in a pensionable office will, when continuous with permanent employment, be allowed to reckon as service for pension, provided that the period of such acting service has not been taken into account as part of the service of the previous holder of the office or as part of the officer's other public service.

Service on probation.

16. Every officer who has been appointed provisionally and subject to probation to a pensionable office, and whose appointment shall be afterwards confirmed, shall be entitled to have counted as service for the purpose of computing his pension the period during which he served provisionally and subject to probation.

Professional officers who are allowed private practice not entitled.

17. Except in cases where a claim to pension is sanctioned by the Secretary of State, officers whose whole time is not given to the public service, and professional officers who are allowed the private practice of their professions, shall not be entitled to pensions under these regulations.

Pensions to abate on pensioner obtaining other public employment.

18. If any pensioner under these regulations is appointed to another office in the public service of the Colony or in any other public service, then during his tenure of such office so much only (if any) of his pension shall be paid to him as together with any pension received by him from any other Government, and with the salary of such office makes up an amount equal to the salary of the office which he held at the date of the grant of his pension.

19. Every public officer who, having held a pensionable office in the Colony for a period of at least twelve calendar months, leaves the service of the Colony for any other public service, and whose aggregate service would have entitled him, had it been wholly in the Colony, to a pension under these regulations, shall, on his ultimate retirement from service, be entitled to a pension at the rate of one seven hundred and twentieth ( $\frac{1}{20}$ ) of the amount of his annual salary at the date of his leaving the service of the Colony as aforesaid for each calendar month of his service in the Colony:

Rights of officers transferred from the Falkland Islands to any public service.

Provided that his total pension shall in no case be greater than the maximum of two-thirds of the highest salary drawn by him at any time in the course of his service.

20. Every public officer who, having been in any other public service, is transferred from such service to a pensionable office in the Colony, and whose aggregate service would have entitled him, had it been wholly in the Colony, to a pension under these regulations, shall, on his retirement from service and if he has served for a period of at least twelve months in the Colony, be entitled to a pension at the rate of one seven hundred and twentieth of the amount of his annual salary at the date of such retirement for each calendar month of his service in the Colony, and in every such case there may be added, at the discretion of the Governor, in computing the period of the retiring officer's service in the Colony, a number of months not exceeding (a) one-third of the aggregate of his service elsewhere than in the Colony, nor (b) two-thirds of his service in the Colony, nor (c) in any case sixty months.

Rights of officers transferred to the Falkland Islands from any other public service.

21. (i) Pensions, gratuities and allowances, computed at the rates before mentioned, shall only be granted in cases of decidedly faithful and meritorious service.

Good conduct required.

(ii) Where the fidelity and diligence of the officer fall short of the first degree of merit, the computation may be made at lower rates.

(iii) Where the officer has been guilty of gross negligence, irregularity or misconduct, the grant of pension, gratuity or other allowance may be altogether withheld.

22. Every pension granted under these regulations on the ground of ill-health shall be subject to the condition that, should the officer's health be re-established, he will be bound to accept, in lieu of his pension, any office, not inferior in value to that from which he retired, which the Secretary of State may think proper to confer on him, due regard being had to circumstances of climate, and if a pensioner so called upon declines to accept the office for which he may have been selected, the payment of his pension may be suspended until he has attained the age of sixty years.

Regulations as to ill-health.