

CHAPTER 203.

PUBLIC OFFICERS (WIDOWS' AND ORPHANS' FUND).

[No. II of 1873.]

[7th June, 1873.]

1. This Ordinance may be cited as the Public Officers Short title.
(Widows' and Orphans' Fund) Ordinance.

2. For the purposes of this Ordinance, unless the context Interpreta-
tion.
otherwise requires,—

“ public officer ” or “ officer ” means any person who has been or may hereafter be appointed by His Majesty, or by the Governor, to any substantive office in the public service, which,—

(a) has been established by law or by the Governor under the express or implied sanction of the Combined Court, or has been or may be so established under the express or implied sanction of the Legislative Council;

(b) is for the time being of a permanent character; and

(c) has attached to it a salary at the rate of four hundred and eighty dollars per annum and upwards;

“ the public service ” means the public service of the colony;

“ the fund ” means the fund established by the (No. II of
1873.)
Public Officers (Widows' and Orphans' Fund) Ordinance, 1873.

“ the directors ” means the directors of the fund;

“ the clerk ” means the clerk to the directors;

“ abatement ” means abatement for the benefit of the fund;

“ contributory ” means a public officer duly registered as a contributory to the fund, and

“ contribution ” means contribution to the fund.

Pensions
charged on
general
revenue.

3. All pensions now or at any time hereafter payable under the Public Officers (Widows' and Orphans' Fund) Ordinances, 1873 to 1901, are hereby charged upon and made payable from and out of the revenues of the colony in so far as the contributions to the fund may be insufficient for the payment thereof.

Abatements
from
salaries.

4.—(1) An abatement of four per centum shall be made from the salary of every public officer for the benefit of the fund, save as hereinafter excepted.

(2) The abatement shall cease,—

(a) when the officer attains the age of sixty-five years, if he continues so long in the public service, and also

(b) when the officer has been subject to the abatement for thirty-five years.

Abatement
on retirement
on pension
or abolition
of office.

5.—(1) A public officer who,—

(a) has attained the age of fifty-five years and has thereby acquired the right to retire from the public service and decides to retire on a pension; or

(b) is deprived of the office in respect of which he contributed by the abolition thereof, but is entitled to retire on a pension,

shall not be called upon to make any further contribution beyond a monthly abatement for his pension at the rate of four per centum thereon, to commence from the date of his retirement, or from the date of the abolition of his office, as the case may be, until he attains the age of sixty-five years, or has been subject to abatement for thirty-five years, when the abatement shall cease, but it shall be optional with him to continue the abatement after his retirement, or after the abolition of his office, as the case may be, and if he does not consent to the abatement within two months from the date of his retirement, or within four months from the date of the abolition of his office, as the case may be, and thereby ceases to make any further contributions to the fund, his widow and children, on his death, shall have no claim on the fund.

(2) The pensions to the widow and children of the officer in paragraph (b) of the last preceding sub-section mentioned, if he consents to the abatement, shall be at the same rate as if the abatement had continued on the full amount of his salary.

6.—(1) Subject to the provisions of the next succeeding section, if a contributory is permitted by the Governor in Council to retire from the public service on a pension before he attains the age of fifty-five years, all claims whatever in respect of his contributions shall cease and determine unless he continues to contribute at the rate of four per centum on an amount equivalent to the salary of which he was in receipt at the date of his retirement, until he attains the age of fifty-five years.

Retirement
before attain-
ment of
pensionable
age.

(2) After a contributory who has retired as aforesaid has attained the age of fifty-five years, he shall only be required to contribute a sum equal to four per centum on the amount of his pension until he attains the age of sixty-five years, or until he has contributed for thirty-five years, whichever event shall sooner happen, when his contributions shall cease.

(3) Any contributory who has retired as aforesaid, and who desires to preserve his interest in the fund by continuing his contributions, must signify that desire to the directors in writing within six months after the date of his retirement, and, in the event of his failing to do so, all claims whatever in respect of his contributions shall cease and determine.

(4) The pensions payable from the fund to the widow and children of any contributory who has retired as aforesaid and has contributed on the amount of his pension as aforesaid, shall be calculated at the same rate as if he had continued to contribute on an amount equivalent to the salary of which he was in receipt at the date of his retirement.

7.—(1) A contributory who retires from the public service of his own accord and not in consequence of any misconduct on his part, or who is deprived of the office in respect of which he contributed by the abolition of that office, before he is entitled to a pension, or who is promoted or transferred to employment under the Crown in some other colony or place may elect to adopt in respect of his contributions any one of the three following modes, namely,—

Retirement
without
pension, on
abolition of
office, or
promotion
elsewhere.

(a) he may claim repayment of the reserve value of his contributions, assessed at one-third of his contributions, less ten per centum of that one-third as a compensation to the fund for his

withdrawal, in which event his interest in the fund will cease and his widow and children will have no claim to pensions from the fund; or

- (b) he may claim to be allowed to continue his contributions on the amount equivalent to the salary of which he was in receipt at the date of his retirement, deprivation, promotion, or transfer, in which event his widow and children will be entitled to the full benefit of the fund in respect of those contributions, subject to the provisions of this Ordinance; or
- (c) he may claim to have the reserve value of his past contributions, assessed as aforesaid, applied to the purchase of an annuity, according to any table approved by the directors and in force at the date of his retirement, for the wife to whom he is married at the date of his retirement, deprivation, promotion, or transfer, when she becomes a widow, or for the child or children of that wife when they become orphans, subject to the provisions of this Ordinance.

(2) Notice of the election of a contributory to adopt either of those modes must be given to the directors within six months of his retirement, deprivation, promotion, or transfer, otherwise all payments made by him shall lapse to the fund.

Contributions by contributory promoted or transferred :

8. A contributory to the fund who is promoted or transferred to employment under the Crown in some other colony or place and elects as provided in paragraph (b) of sub-section (1) of the last preceding section shall cause his contribution to the fund to be paid to the Colonial Treasurer, and if the contribution remains unpaid for nine months after it has become due he shall be regarded as having ceased to contribute to the fund and all claims whatever in respect of his contributions to the fund shall cease and determine :

Proviso.

Provided that the person so in default, on signifying to the directors in writing his desire to that effect, may be permitted by them, with the sanction of the Governor in Council, to contribute again to the fund and to recover his interest therein on any terms and conditions by them deemed proper.

9. Any contributory who has retired on pension, and who has elected to continue to contribute after his retirement, may at any time, by giving notice to the directors, cease to be a contributor, and, in the event of his giving that notice, his widow and children on his death, shall have no claim on the fund.

Power of contributory on pension to discontinue.

10.—(1) Every public officer whose salary or income is subject to abatement who marries, or to whom any legitimate child is born, or whose wife or any child dies, shall, within six months after each or any of those events, notify and prove to the satisfaction of the directors the marriage, the birth, or the death, as the case may be.

Notification of marriage, child's birth, and death of wife or child.

(2) A public officer who neglects to comply with the requirements of this section shall be liable to a fine for each default not exceeding twenty-four dollars, to be deducted from his salary or income by the Colonial Treasurer on an order to that effect by the directors and to be placed to the credit of the fund.

Penalty.

11.—(1) The abatement of four per centum from the salaries of all public officers whose salaries are subject to abatement shall be made by the Colonial Treasurer in proper proportion upon each occasion of his paying the salary or any portion thereof and placed to the credit of the fund; and all other payments and contributions to the fund shall be made to the Colonial Treasurer and placed to the credit of the fund.

Payments to Colonial Treasurer to credit of fund.

(2) Interest at the rate of six per centum per annum shall be allowed by the colony on all sums in the hands of the Colonial Treasurer, calculated yearly to the thirty-first day of December of each year.

MANAGEMENT OF THE FUND.

12.—(1) For the due and proper management of the fund, the Governor shall annually appoint three public officers as directors thereof who shall be eligible for re-election, and whose duty it shall be to superintend and direct the management and administration thereof and to see that the laws and regulations relating thereto are duly observed.

Director of the fund.

(2) It shall further be the duty of the directors annually, on or before the thirty-first day of January of each year, to prepare, or cause to be prepared, and send to the Governor to be laid before the Legislative Council at its annual session, a detailed statement

and account of the fund for the year ending the thirty-first day of the last preceding December, with such report on the state and prospect of the fund as the directors deem necessary.

Cost of management.

13. A sum not exceeding ten per centum shall be deducted from the annual contributions to the fund for the purpose of defraying all expenses connected with the management and administration thereof.

Appointment and salary of clerk.

14.—(1) For the purpose of having proper accounts of the fund kept and of keeping registers with reference thereto, the directors shall appoint a clerk, whose salary shall be fixed by them and who shall be under their control and direction.

(2) The salary of the clerk shall form part of the expenses provided for in the last preceding section.

Register of contributories.

15. The clerk shall keep a register of all public officers contributing to the fund, containing their names, ages, offices, and the amounts of their salaries, and, if an officer is married, also containing the date of the marriage, the age of the wife, and the ages of any children, of that officer.

PENSIONS TO WIDOWS AND ORPHANS.

Persons entitled to pension from fund.

16. The widows and orphans who will be entitled to pensions from the fund are the widows and orphans of all officers whose salaries have been subject to abatement, save as hereinafter excepted.

Cesser of orphans' pension.

17. The allowance or pension to orphans shall cease, in the case of males, at eighteen years of age, and in the case of females, at twenty-one years of age or on marriage.

Computation of pension or allowance.

18. The pension or allowance to which a widow, or any child, of a deceased public officer is entitled shall be computed in accordance with tables to be approved by order of the Governor in Council, and the tables shall be subject to revision and readjustment from time to time as the Governor in Council deems necessary.

Scales of payment of pension.

19.—(1) The pensions to the widows and orphans of those contributories who died before the twenty-first day of December, nineteen hundred, shall continue to be paid in accordance with the respective scales whereon they were then payable.

(2) The pensions becoming payable on or after the twenty-first day of December, nineteen hundred, to the widows and orphans of those contributories who became contributories on or after the first day of April, eighteen hundred and ninety-seven, shall be payable according to the scale approved by the Governor in Council on the seventh day of January, eighteen hundred and ninety-eight.

(3) The pensions becoming payable on or after the twenty-first day of December, nineteen hundred, to the widows and orphans of those contributories who became contributories before the first day of April, eighteen hundred and ninety-seven, but were not on the twenty-first day of December, nineteen hundred, liable to any abatement from their salaries or pensions, shall be payable in accordance with the scale according to which they would have been payable if those contributories had died when they ceased to be liable to any abatement.

(4) The pensions becoming payable on or after the twenty-first day of December, nineteen hundred, to the widows and orphans of those contributories who became contributories before the first day of April, eighteen hundred and ninety-seven, and were on the twenty-first day of December, nineteen hundred, liable to an abatement of four per centum from their salaries or pensions, shall be payable according to the scale approved by the Governor in Council on the seventh day of January, eighteen hundred and ninety-eight, unless the contributory consents as hereinafter provided to an abatement at five per centum instead of four per centum being made (so long as he is liable to any abatement) from his salary or pension, as the case may be, in which case the pension payable to the widow or orphan of that contributory shall be payable according to the scale approved by the Governor and Court of Policy on the ninth day of June, eighteen hundred and seventy-three, but shall be calculated as if the contributory had continued to contribute four, instead of five, per centum on his salary or pension.

(5) The abatement of five per centum shall be made and dealt with as hereinbefore provided with regard to the abatement of four per centum.

(6) Where any contributory has consented to an abatement of five per centum instead of four per centum as hereinbefore mentioned, any refund made to him under section seven of this Ordinance shall be calculated as if that contributory had continued to contribute four per centum instead of five per centum on his salary.

Orphans'
pensions.

20. When a public officer, who is a widower, dies leaving a child or children entitled to pension, the pensions shall be as follows:—If the children are three in number or less, each child shall receive one-fourth of the allowance to which the widow of the officer would have been entitled had she survived him, and if they are more than three, then the amount which the widow would have received shall be divided equally among the children.

Present
claims of
children of
contribu-
tory's widow.

21. When the widow of a past contributory who has married once only, dies whilst in receipt of a pension from the fund, leaving children by that contributory, those children shall as heretofore be entitled to pensions as follows:—If they are three in number or less, each child shall receive one-fourth of the allowance received by his or her mother, and if they are more than three in number, then the amount which their mother received shall be divided equally among them.

When there
are children
by a former
marriage.

22.—(1) When a public officer dies leaving a widow, and also children by a previous marriage whose ages entitle them to pensions from the fund, those children, if three or more in number, shall be entitled to one-half of the pension to which their mother, if she had survived their father, would have been entitled; and the widow to one-half of the pension to which she would have been entitled had there not been any of those children, but, if there are not any of those children, or when they cease to be entitled to pensions, then the widow shall be entitled to her full pension.

(2) If the step-mother of those children dies, leaving no lawful issue by the officer, they shall then be entitled to pensions as if their father had not married a second time.

(3) If the step-mother of those children dies, leaving lawful children, the children of the previous marriage shall have the pension to which their mother was entitled equally divided among them.

Remarriage
of widow in
receipt of
pension.

23.—(1) If the widow of a deceased contributory, being in receipt of a pension from the fund, marries again, she shall forfeit, during the subsistence of that marriage, all claim to her pension, but in the event of her again becoming a widow her right to a pension from the fund shall revive

and continue during her widowhood in the same manner as if she had not married again, and similarly in the case of any subsequent marriage.

(2) During the subsistence of any subsequent marriage, the children, if any, of the previous marriage whose ages may entitle them to a pension from the fund shall be entitled to that pension as if both their parents were dead.

24. If the widow of a deceased contributory, being in receipt of a pension from the fund, marries a contributory and her husband dies in her lifetime, on his death she may elect to receive either the pension which she was receiving at the time of that marriage or the pension to which she is entitled in respect of the contributions of the husband to whom she has been so married, but she shall not be entitled to receive both pensions, and similarly in the case of any subsequent marriage.

Right of widow to elect on her marriage to contributory.

25. The children of a deceased contributory and of a widow who marries again as mentioned in the last preceding section may be paid one-half of the pensions to which they may be legally entitled in respect of the contributions of their father so long as their ages entitle them respectively thereto, and during the period in which their mother may be receiving a pension other than that to which she is entitled in respect of the contributions of that deceased contributory, as mentioned in the last preceding section.

Right of children in case of mother's re-marriage.

26. Nothing in this Ordinance shall prejudice or affect the privileges or interests of anyone in the fund, or the claim of anyone on the fund existing prior to the twenty-fourth day of March, eighteen hundred and ninety-six, but all those privileges or interests and claims shall subsist in the same manner as if this Ordinance had not passed :

Saving of existing rights :

Provided that the provisions as to the re-marriage of widows contained in the last three preceding sections shall apply whether a wife became or becomes a widow before or after the twenty-fourth day of March, eighteen hundred and ninety-six, subject, however, to the provision that no widow of a public officer who, after the seventh day of June, eighteen hundred and seventy-three, and before the twenty-fourth day of March, eighteen hundred and ninety-six, forfeited her right to a pension from the fund, shall acquire any right to a pension under this and the last three preceding sections.

Proviso.

Death of contributory within one year after marriage.

27. If a contributory to the fund dies within one year from the date of his marriage, his widow shall not be entitled to a pension unless she satisfies the directors by a medical certificate or otherwise, as they may require, that he was at the time of his marriage in good and sound health, and that at the time of the marriage there was no reason to suspect or apprehend his death within that period.

Effect of dismissal or resignation of officer.

28. Neither the widow nor any child of a public officer who may be dismissed from the public service for misconduct shall have any claim to a pension or interest in the fund; nor shall the widow or any child of a public officer who resigns his office, except on account of ill-health as heretofore provided, without being entitled to a pension, have any claim to a pension or interest in the fund.

Marriage of officer after ceasing to contribute.

29. The widow of a public officer whose marriage was subsequent to the time when he ceased to contribute on the full amount of his salary shall not be entitled to any pension nor shall the children of that marriage be entitled to any pension.

MISCELLANEOUS PROVISIONS.

Proof of existence from beneficiary.

30. Widows and orphans entitled to pensions from the fund and residing out of the colony must produce proof to the satisfaction of the directors of their being alive and entitled thereto before their pensions can be paid.

Appointment of recipient of minor's pension.

31.—(1) The directors, in every case in which a minor now is, or may hereafter be, entitled to a pension from the fund, shall appoint some fit and proper person to receive for and on his behalf any moneys from time to time payable in respect of that pension.

(2) The receipt of the person so appointed for any moneys paid to him by the directors, or by the Crown Agents on behalf of the directors, shall be an absolute discharge therefor, and neither the directors nor the Crown Agents, as the case may be, shall be bound to see to the application of those moneys, or be liable for the mis-application or non-application thereof.

Pension not assignable nor executable.

32. No pension payable from the fund shall be assignable or transferable, nor shall any pension payable from the fund be attached, arrested, or taken in execution, for or in respect of any debt or claim due by the recipient of the pension.

33. Wherever any question or doubt or difficulty arises as to whether anyone is a public officer within the meaning and for the purposes of this Ordinance, or as to the right of a widow or a child to a pension from the fund, or as to the amount of that pension, or as to any other matter connected with the fund, the question or doubt or difficulty shall be referred by the directors of the fund to the Governor in Council, whose decision thereon shall be final.

Settlement of questions in dispute.

34. Notwithstanding anything in this Ordinance contained, no one who was not a contributory on or before the twenty-first day of December, nineteen hundred, shall be called upon, or allowed, to become a contributory.

Closure of contribution to fund.