

To be construed with sec 8 of act of 1932

CHAPTER 202.

PUBLIC OFFICERS' GUARANTEE FUND.

[No. VI of 1894.]

[22nd September, 1894.]

1. This Ordinance may be cited as the Public Officers' Guarantee Fund Ordinance. Short title.

2. In this Ordinance, unless the context otherwise requires,— Interpretation.

“the fund” means the public officers' guarantee fund heretofore established by law and continued by this Ordinance;

“the directors” means the directors of the fund appointed under this Ordinance;

“officer” means any person holding an office by whatever tenure in the public service of the colony who is required to give security for the faithful performance of his duties.

ESTABLISHMENT OF FUND.

3.—(1) The fund heretofore established by law for the purpose of giving security for the faithful performance of their duties by public officers required to give that security shall continue to be established under this Ordinance, and shall consist of the contributions already made by law and directed to be made by this Ordinance and the interest accruing thereon respectively. Continuance of public officers' guarantee fund.

(2) The fund so established shall be called “The Public Officers' Guarantee Fund.”

ADMINISTRATION OF FUND.

4. The fund shall be under the management of three persons holding office in the public service of the colony, who shall be from time to time appointed by the Governor, shall respectively hold office during the Governor's pleasure, and shall be styled Directors of the Public Officers' Guarantee Fund. Directors of fund.

Secretary,
clerical
assistance
and audit.

5.—(1) The directors may employ a secretary, whose salary shall be the sum from time to time fixed by the Governor in Council.

(2) The directors may also obtain and provide necessary books, clerical assistance and stationery.

(3) The directors may expend annually a sum not exceeding fifteen dollars in having the books and accounts of the fund audited.

(4) The expense of clerical assistance, books, stationery and audit (which shall not exceed three per centum of the amount of the income of the fund in any one year), and the salary of the secretary, shall be a first charge on the fund.

Computation
of year of
fund.

6. The year for the purposes of the fund shall be the financial year.

Collection of
contribu-
tions.

7. The Colonial Treasurer shall collect all sums due to the fund and shall deduct from the salary of each officer contributing to the fund the amount due from him to the fund.

Paying of
contribu-
tions.

8. The Colonial Treasurer shall, except as otherwise by this Ordinance provided, pay into the fund, on or before the tenth day of each month, all sums received by him up to the time of making the payment.

Mode of
dealing with
moneys of
fund.

9. All moneys received on account of the fund shall be paid into the fund, and no moneys of the fund shall be appropriated or drawn out except on a cheque or order signed by not less than two directors.

Investments
of fund.

10. The directors shall from time to time invest the moneys of the fund in imperial or any colonial government bonds or other securities for the time being approved by the Governor in Council.

Annual
report of
directors.

11. The directors shall cause to be prepared and laid before the Legislative Council, as soon after the thirty-first day of December in each year as may be practicable, a full statement showing the working of the fund and all claims thereon, and containing full particulars of all transactions connected with the working of the fund, during the twelve months ending on that date.

12. The directors may make regulations for the proper working of the fund and for all matters connected with the fund, and the regulations shall be subject to the approval of the Governor in Council. Regulations.

GIVING OF SECURITY.

13.—(1) The Governor may require anyone holding an office in the public service of the colony to give security for the faithful performance of his duties, and from time to time to determine the amount of that security. Requiring officer to give security.

(2) The amount so determined shall be deemed to be sufficient security for the officer in any appointment in the public service of the colony for which a like amount of security is or may be required.

14.—(1) If an officer is at any time appointed to any other office in respect of which a higher amount of security is required, he shall only be called upon to contribute, in respect of the higher office, such aggregate sum as will, with his previous contributions, not exceed the amount of his full contributions computed on the highest amount of security required of him : Increase in amount of security :

Provided that the previous contributions shall only be deducted from the last payment or payments to be made. Proviso.

(2) If a permanent officer is at any time appointed to another permanent office in respect of which a less amount of security is required than that given by him in respect of his previous appointment, he shall be entitled to a refund of any surplus contributions at his credit over and above the amount which he is required to contribute in respect of the new appointment.

15. An officer who is responsible at one and the same time in respect of the duties of more than one office shall be required to give security and contribute in respect of each office. Officer holding more offices than one.

16. All officers who are contributing to the fund at the commencement of this Ordinance shall continue to contribute under this Ordinance. Contribution of existing officers.

17. Every officer contributing to the fund shall be released from all further liability to give security for the faithful performance of his duties unless the Governor otherwise directs, or unless the amount for which security Release of officer contributing from giving further security except in certain cases.

is required exceeds the sum of fifteen thousand dollars; and, in any case where an officer is required to give security or to give security for any amount in excess of the sum of fifteen thousand dollars, he shall be bound to give that security to the satisfaction of the Governor in Council.

CONTRIBUTIONS TO THE FUND.

Entrance fee.

18. Each officer on first contributing to the fund shall pay into the fund a fee prescribed by the Governor in Council.

Contributions to be payable in advance.

19. All contributions to the fund shall be deemed due and payable in advance.

Contribution of officers giving security.

20. Everyone appointed to an office in the public service of the colony who is required to give security for the faithful performance of his duties shall pay into the fund, in the manner hereinafter provided, and subject to the terms and conditions contained in this Ordinance, or in any regulations framed thereunder, one half of one per centum or such rate as the Governor in Council prescribes, per annum of the amount for which security is required.

Payment of contributions by permanent officer:

21. Every officer shall pay the yearly contributions due by him to the fund by equal monthly instalments:

Provided that the reduced contributions mentioned in section twenty-seven of this Ordinance shall be payable yearly.

Proviso.

Payment of contributions by acting officer.

22. Where anyone is appointed to act in an office in the public service of the colony in respect of which security is required, he shall pay a monthly contribution to the fund of one-twelfth part of one half of one per centum, or such rate as the Governor in Council prescribes, of the amount for which security is required from the permanent holder of the office.

Payment of contributions by officer provisionally appointed.

23. Where anyone is provisionally appointed to an office in the public service of the colony in respect of which security is required, he shall pay the same contribution to the fund as if he were permanently appointed, but if the appointment is not confirmed, the amount of his contributions to the fund shall be deemed to have been contributed by an acting officer.

24.—(1) All contributions paid in respect of an acting appointment to an office in the public service of the colony in respect of which security is required shall be deemed contributions by an acting officer.

Who are to be deemed acting officers.

(2) A permanent officer who is temporarily appointed to perform the duties of any other office in the public service of the colony in respect of which security is required shall be deemed an acting officer in respect of that other office.

(3) An officer holding a temporary appointment shall be deemed an acting officer in respect of that appointment.

25.—(1) Where a person is appointed permanently to an office in the public service of the colony in respect of which security is required on any day of a month other than the first, he shall forthwith pay the same contribution to the fund as if he had been appointed on the first day of that month.

Contribution for broken month.

(2) Where a person is appointed to act in that office, his monthly contribution shall be computed from the date of his acting appointment.

26. Where a permanent officer who is a contributor to the fund is absent on leave, or has been appointed to act in another office, he shall not be liable to make any contribution with respect to his substantive office during his absence on leave or period of acting in another office.

Payment of contributions of officer on leave.

27. After an officer holding a permanent appointment has contributed to the fund an amount equal to five years' contributions on the highest amount of security required of him, he shall not be called on to contribute more than one-tenth of one per centum per annum of the highest contributions, unless the directors consider the charges against the fund require him to contribute the full amount, and, with the approval of the Governor, require the full contributions to be resumed.

Reduction of contributions after a certain period.

28. An officer who has ceased to contribute the full amount under the last preceding section, shall, immediately on being required by the directors to do so, re-commence to pay the full amount of his contribution on the security required of him from the time of the requisition.

Resumption of full contributions.

CASE OF DEFAULTING OFFICER.

Provision
where officer
is in default:

29.—(1) Where any officer is in default of duly accounting, or of duly delivering to the public officer, or other person authorised or entitled to receive it, all property which ought to be so delivered, or is otherwise in default, the amount due by the officer in default shall be certified by the Auditor, and the amount so certified shall be deemed to be due by that officer :

Proviso.

Provided that in any case where the Auditor is unable from the materials before him to ascertain and certify the amount due as aforesaid, he shall refer the matter to the Governor in Council, who shall take all the circumstances into consideration and may direct the clerk of the Council to certify what amount, if any, is due by the officer.

(2) A certificate signed by the Auditor, or clerk of the Council by direction of the Governor in Council stating that the amount specified in the certificate is due to the colony by an officer shall, without proof of the signature or of any other matter or thing therein contained, be deemed *primâ facie* evidence, in all courts of justice and for all other purposes, that the sum so specified is due to the colony by that officer.

Payment of
amount
certified to be
due by officer
in default.

30. On the application of the Colonial Treasurer, the directors, if there are sufficient moneys at the credit of the fund to enable them to do so, shall pay to the Colonial Treasurer from the fund the amount certified to be due from an officer in default, unless the amount so certified exceeds the amount for which the officer was required to give security, in which case the directors shall pay an amount equal to the amount for which security was required from the officer.

General
liability of
officer in
default.

31.—(1) The liability of an officer in default for the amount certified to be due shall continue and may be enforced against all or any part of his property in the same manner as if he had not contributed to the fund, and notwithstanding any payment made by the directors from the fund in respect of the amount due by him.

(2) No one, other than the Governor or the Colonial Treasurer, shall be entitled to claim that the amount due by any officer in default shall be paid by the directors from the fund, and no one, other than the

Governor, the Colonial Treasurer, or the directors, shall be entitled to claim that process shall be issued against any officer in default, or his property, for the recovery of the amount due by him.

32.—(1) Where it is deemed expedient to proceed against any officer in default, and the whole or any part of the amount due by the officer is recovered, the Colonial Treasurer, if he has received from the fund the whole amount due by that officer, shall return to the fund an amount equal to the amount recovered from the officer.

Provision where amount due by officer in default is recovered from him.

(2) Where the Colonial Treasurer has not received from the fund the whole amount, but a part only, he shall repay to the fund any amount which he may have in hand, after deducting from the amounts received from both sources the amount due by the officer in default.

33. If the moneys at the credit of the fund are not sufficient to pay all amounts certified to be due by officers in default, the directors shall pay the claims so far as they are able to do so, and for this purpose shall realise all the securities held by them on account of the fund; and the Colonial Treasurer shall thereafter retain all contributions paid to the fund, and appropriate the same in liquidation of those claims until they are fully paid.

Provision where fund is not sufficient to meet claims.

KEEPING OF ACCOUNTS.

34. There shall be three separate accounts kept of the contributions to the fund to be called the income account, the officers' personal account, and the reserve fund account.

Separate accounts to be kept.

35. The amounts received in each year for entrance fees and interest on investments shall be placed to the credit of the income account.

The income account.

36. Contributions from officers shall be placed to the credit of the officers' personal account, each officer being credited in that account with the amount of his contributions.

The officers' personal account.

37. An amount equal to one-tenth part of the contributions of all officers shall be transferred at the close of each year to the credit of the reserve fund account from the accounts credited with those contributions respectively.

The reserve fund account.

Transfer from income to reserve account.

38. Whenever the amount at the credit of the income account is, in the opinion of the directors, more than sufficient to meet any claims upon it, they may, with the approval of the Governor, transfer a portion thereof to the reserve fund account.

PAYMENT OF CLAIMS ON FUND.

Charging of claims in first instance.

39. All claims against the fund shall be charged in the first instance against the income account.

Where income account is not sufficient to meet claims.

40.—(1) If the moneys at the credit of the income account are not sufficient to pay the claims made on the fund, the directors shall appropriate from the reserve fund account such amount as may be necessary for the payment of those claims.

(2) If the amount of the reserve fund account is not sufficient, then the directors shall appropriate the amounts standing at the credit of the officers' personal account to the payment of those claims, taking and writing off an equal percentage from each.

Liability of personal account of defaulting officer.

41. Where an officer is in default, the amount from time to time at the credit of his personal account shall, to the extent of the default, be transferred to the account out of which the amount of the default has been paid.

DISPOSAL OF CERTAIN CONTRIBUTIONS.

Return of portion of contributions in certain cases.

42.—(1) Where an officer is appointed to an office without the colony, or leaves the public service of the colony, or ceases to hold an appointment in the public service of the colony in respect of which security is required to be given by him, or dies, the amount appearing at his credit when the accounts are adjusted as on the thirty-first day of December next after the appointment, leaving, cesser, or death, shall be returned by the directors to him or his representatives, but no payment shall be made under this section until after the accounts for that year have been duly adjusted and the amount at the credit of the officer, after taking into account all transactions and after deducting the proper proportion of the liabilities of the fund for that year, has been ascertained and settled.

(2) Any amount standing to the credit of any officer who, at the commencement of this Ordinance, has left the

public service of the colony or ceased to hold an appointment therein, except as herein provided, may be returned by the directors to such officer or his representatives.

43.—(1) No return of any money paid into the fund shall be made to any officer or his representatives unless and until the Auditor certifies that the officer has duly accounted, and is free from liability to the colony, and no return shall be made in respect of any officer who is dismissed:

Conditions of return of money to officer :

Provided that the directors may refund to an officer or his representative amounts received from him in error or in excess.

Proviso.

(2) Any amount standing to the credit of any officer who, after the commencement of this Ordinance, is dismissed from the public service of the colony for larceny, embezzlement, or other misconduct involving dishonesty or defalcation as a public officer, shall, after all claims therein have been satisfied, be appropriated by the directors and treated as part of the fund and transferred to the credit of the reserve fund account, but any officer dismissed for any cause other than the above shall be entitled to have returned to him the amount to which he would have been entitled had he not been dismissed.

44. The amount standing to the credit of an officer unclaimed for five years after he ceased to hold an appointment in the public service of the colony shall be appropriated by the directors and treated as a part of the fund, and transferred to the credit of the reserve fund account:

Unclaimed amounts to lapse to reserve fund :

Provided that if the officer or his representatives, at any time afterwards, establish a claim to the amount so transferred to the satisfaction of the Governor in Council, the Governor in Council may order that the amount be refunded from the reserve fund.

Proviso.

45. No officer contributing to the fund shall be deemed to have any interest in the fund or its management entitling him to take legal proceedings in respect of the fund or its management or against the directors in respect thereof.

Limitation of right of contributor to fund.

DEPRECIATION OF INVESTMENTS ACCOUNT.

46. In the three next succeeding sections the expression—"annual contributor" means an officer holding a permanent appointment who has contributed to the fund an amount equal to five years' contributions on the highest amount of security required of him.

Interpretation of terms used in this Ordinance.

Establishment of a depreciation of investments account.

47.—(1) The Directors shall establish a depreciation of investments account in connection with the public officers' guarantee fund to be constituted as in this section provided.

(2) After all claims against the income account have been met, the directors, out of the balance remaining, shall in each year transfer to the depreciation of investments account an amount equal to one per centum of the cost price of the securities in which investments of the public officers' guarantee fund have been made by the directors.

(3) A separate account shall be kept of the depreciation of investments account, and the income of that account shall be invested by way of accumulation so as to form part of the account.

(4) Whenever the amount at the credit of the depreciation of investments account (the investments of any portion of the account being taken at their market value) is equal to twenty-five per centum of the cost price of the securities held by the directors as investments, the annual appropriation of one per centum directed by sub-section two of this section shall be discontinued.

Depreciation of investments account.

48. The following shall be deemed to be part of the depreciation of investments account:—

- (a) the sum of three thousand five hundred dollars invested by the directors in the year nineteen hundred and twenty;
- (b) the investments which the directors have made in the years nineteen hundred and twenty and nineteen hundred and twenty-one out of the income account in respect of the sum amounting in each year to one per centum of the cost price of the securities of the public officers' guarantee fund.

Interest to be placed to credit of personal accounts of annual contributors.

49.—(1) If at the end of each year, after providing for the depreciation of investments account, there is a sufficient amount at the credit of the income account, the directors shall out of the income account place to the credit of the balance of the personal account of each annual contributor interest on that balance at the rates from time to time approved by the Governor in Council.

(2) This section shall take effect on and from the thirty-first day of December, nineteen hundred and nineteen.