

To be construed with Ord. 200 of 1902.
 Ord. 217 of 1902

CHAPTER 204.

PENSIONS.

[No. XI of 1903.]

[28th March, 1903.]

Short title.

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

Interpretation.

2. In this Ordinance, unless the context otherwise requires, "public officer" means—

- (a) anyone appointed to any office named in the Civil List Ordinance now in force, or hereafter enacted; and
- (b) anyone appointed to an office named or described in the annual estimates as on the fixed establishment of the colony, whose annual salary amounts to one hundred and forty-four dollars and upwards.

Application of Ordinance :

3. This Ordinance shall apply to all public officers first appointed to the public service of the colony—

- (a) After the commencement of this Ordinance;
- (b) after the first day of April, eighteen hundred and ninety-seven, to whom it was intimated on appointment that they were liable to be affected by any change in the pension law of the colony; and
- (c) after the first day of April, eighteen hundred and ninety-seven, who were resident in the colony at the date of their appointment :

Proviso.

Provided that this Ordinance shall not apply to any public officer who was informed on appointment that he would not be entitled to a pension.

Rate of pension.

4. Every public officer to whom this Ordinance applies, save as is hereinafter provided, shall be entitled to a pension calculated at the rate of one-sixtieth of the annual

average amount of the salary of the officer's fixed appointment during the five years last preceding the time when he retires from the public service, for each year he may have been in the public service of the colony up to thirty years; but no addition shall be made in respect of any service beyond thirty years.

5.—(1) No public officer shall be entitled to retire from the public service of the colony on a pension under the provisions of this Ordinance unless he has been ten years in the service of the colony, and no public officer under the age of fifty-five years shall be entitled so to retire unless it is proved to the satisfaction of the Governor in Council that he is incapable from infirmity of mind or body to discharge the duties of his office, and that the infirmity is likely to be permanent :

Service and age necessary to entitle officer to pension :

Provided that—

Proviso.

- (a) if his health be re-established at any time while he is under the age of fifty-five years, he may be required to accept any office in the colony, the salary or emoluments of which are not of less value than those of his former office; and
- (b) if a public officer, though not suffering from any particular illness or infirmity of mind or body likely to be permanent, is 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 the unfitness is not attributable to misconduct or gross negligence, he may, with the approval of the Secretary of State, be retired and pensioned at a rate not exceeding that for which he would be qualified if he were suffering from an illness or infirmity likely to be permanent, and that rate shall be based on the actual years or months of service notwithstanding that he has been less than ten years in the service of the Government and notwithstanding the provisions of any Ordinance.

(2) The Governor in Council may, with the sanction of the Secretary of State, in cases where service of special and extraordinary merit has been rendered by a public servant distinctly outside the duties in respect of which his salary is paid, sanction the grant of a pension at a higher rate, or calculate a pension by a greater number of months or years, or calculate for pension the annual average

Specially meritorious service :

amount of salary on a less period of years than that for the time being authorised by Ordinance :

Proviso.

Provided that no increased pension shall be granted under this section without the approval of the Legislative Council.

Discretion to grant pension on removal from office.

(3) Where an officer is removed from his office on the ground of his inability to discharge efficiently the duties thereof, and the pension, gratuity, or other allowance, cannot otherwise be granted to him under the provisions of this Ordinance, the Governor in Council, with the approval of the Secretary of State, if he considers it justifiable, having regard to all the circumstances of the case, may grant the pension, gratuity, or other allowance, which he considers just and proper, but in no case exceeding in amount that for which the officer would be qualified if he were suffering from some infirmity of mind or body likely to be permanent.

Manner of calculating service of officer.

6. The service in respect of which a pension or retiring allowance shall be calculated under the provisions of this Ordinance must be continuous, 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, but service prior to a break of service may be allowed to count for pension together with service subsequent to the break if the whole intervening period has been spent in some other employment under the Crown; and the service of every public officer shall, for the purposes of this Ordinance, be taken to commence from the date of his first permanent appointment to any office under the Crown in the colony, save and except as hereinafter provided.

Grants of retiring allowance in certain cases :

7. The Governor in Council may grant to any public officer who is compelled, from infirmity of mind or body, to retire from the public service before the completion of the period which would entitle him to a pension, such sum of money, by way of retiring allowance, as the Governor in Council thinks proper, not exceeding the amount of half a month's salary or emoluments of the officer for each complete six months of service :

Proviso.

Provided that that retiring allowance shall not be granted, except upon medical certificate to the satisfaction of the Governor in Council that the public officer is incapable from infirmity of mind or body to discharge the duties of his office, and that the infirmity is likely to be permanent.

8. No public officer shall be entitled to a pension or retiring allowance in respect of any service while under the age of eighteen years.

No pension for service under age of eighteen.

9. No public officer shall have an absolute right to compensation for past services, or to any pension, gratuity, or retiring allowance under this Ordinance, nor shall anything herein limit the right of the Crown to dismiss any public officer without compensation.

No absolute right to pension.

10. When a pension or retiring allowance is granted to a public officer who, in the opinion of the Governor in Council, has been guilty of negligence, irregularity, or misconduct in the discharge of the duties of his office, or has been guilty of any indiscretion or impropriety in his mode of life, which, in the opinion of the Governor in Council, has affected the length or efficiency of his service, the Governor in Council may, in his discretion, reduce the amount of the pension or retiring allowance of that officer and grant him a pension or retiring allowance at a lower rate than that authorised by this Ordinance.

Pension may be reduced for misconduct.

11. No public officer who has resigned his office or been dismissed from the service, and no public officer who may hereafter resign or be dismissed from his office for misconduct, shall be entitled to the benefit of the provisions of this Ordinance.

Exclusion from benefit in consequence of resignation or dismissal.

12. No pension granted under this Ordinance shall be assignable or transferable or liable to be attached, sequestrated, or levied upon for or in respect of any debt or claim whatsoever.

Pensions not to be assignable.

13. If anyone to whom a pension has been granted under this Ordinance 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 that conviction receive his Majesty's free pardon, then in each of those cases the pension shall forthwith cease:

Pensions to cease on conviction:

Provided 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 at any time receives his Majesty's free pardon.

Proviso.

Pensions to
cease on
bankruptcy :

14. If anyone to whom a pension has been granted under this Ordinance becomes a bankrupt, then the pension shall forthwith cease :

Proviso.

Provided that in any case where a pension ceases by reason of the bankruptcy of the pensioner, the Secretary of State, or, if the pensioner is resident in the colony, then the Governor in Council may, from time to time during the remainder of the pensioner's life, or during any shorter period or periods either continuous or discontinuous which the Secretary of State or Governor in Council thinks fit, pay all or any part of the moneys to which the pensioner would have been entitled by way of pension had he not become a bankrupt, or apply them for the maintenance and personal support or benefit of all or any, exclusive of the other or others, of the following persons, namely, the 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.

Provision
in case of
abolition of
office :

15. If at any time any public servant is deprived of his office by reason of the abolition thereof, the Governor in Council may determine the terms upon which that public servant shall, on appointment to some other office, be entitled to the benefit of the provisions hereof in respect of the period for which he has been or shall be unemployed ; or, in the event of his not being again employed in the public service, may determine what gratuity or pension, if any, shall be granted to him for the period during which he has been in the public service of the colony :

Proviso.

Provided that he may be required, so long as he is under the age of fifty-five years, to accept any office in the colony, the salary or emoluments of which are of not less value than those of his former office.

Compulsory
retirement
at sixty.

16. The Governor in Council, subject to the approval of the Secretary of State, shall have power, at any time after a public officer has attained the age of sixty years and has been ten years in the public service of the colony, to require him to retire from the public service under the provisions of this Ordinance.

Appointment
of officer to
office
elsewhere.

17.—(1) Every public officer who, after holding any office in this colony for the space of one year and upwards, is appointed by His Majesty to any public office in any other part of his Majesty's dominions or possessions or in any protectorate, shall be entitled, on his final retirement from

the service of His Majesty, whether from infirmity or by reason of his being superannuated, to receive from the Government of this colony a pension, at the rate of one-sixtieth of the annual average amount of the salary of that officer's fixed appointment during the last five years of his service in this colony, or of the annual average amount of that salary if he has served less than five years in this colony, for each year during which he has been in the public service of this colony; but the officer must have served His Majesty for at least ten years in all.

(2) Every public officer who, after holding a public office in any other part of his Majesty's dominions or possessions, or in any protectorate, is appointed to a public office in this colony, shall be entitled on his retirement from the service of His Majesty, whether from infirmity or by reason of his being superannuated, to receive from the Government of this colony a pension at the rate of one-sixtieth of the annual average amount of the salary of his fixed appointment during the last five years of his service in this colony, or of the annual average amount of that salary if he has served less than five years in this colony, for each year during which he has been in the public service of this colony, but the officer must have served His Majesty for at least ten years in all.

(3) Sec. 27 CW. 21 of 1928

18. Where any public officer is appointed to any office in this colony after serving His Majesty in any other part of his Majesty's dominions or possessions, or in any protectorate, in which there is conditionally allowed in the calculation of pensions, an addition of five years on account of service in a tropical climate, there shall be allowed in calculating the pension of that officer under this Ordinance, that proportion of the total addition, if the conditions have been fulfilled, which the length of the officer's service in this colony bears to the length of service in the other part of his Majesty's dominions, or possessions, or protectorate.

Provision for allowing climate bonus in certain cases.

19. Where any person has served in an office other than an office named in the Civil List Ordinance now in force, or which may hereafter be passed, or named or described in the annual estimates as on the fixed establishment of the colony, and is transferred from that office to an office which is so named or described, two-thirds of the period of the first mentioned service may be taken into account in calculating the pension of that person.

Transfer of officer from non-pensionable to pensionable office.

Rate of
pension.

20.—(1) (a) Every public officer shall be entitled to a pension calculated at the rate of one-nine hundred and sixtieth of the annual average amount of the salary of his fixed appointment during the five years last preceding the time when he retires from the public service for each month he has been in the public service of the colony up to thirty years; but no addition shall be made in respect of any service beyond thirty years.

(b) Every public officer who is transferred to or from a public office in this colony from or to a public office in any part of his Majesty's dominions, or possessions, or in any protectorate, shall be entitled, on his final retirement from the service of His Majesty to receive from the Government of this colony a pension at the rate of one-nine hundred and sixtieth of the annual average amount of the salary of his fixed appointment during the last five years of his service in this colony, or of the annual average amount of that salary, if he has served less than five years in this colony, for each month during which he has been in the public service of this colony, provided he has served His Majesty ten years in all.

Payment of
lump sum on
retirement
or death.

(2)—(a) Where a public officer retires from the public service of the colony, or dies whilst in the service, after having served in the colony for thirty years or more, there shall be paid to him (in addition to any pension), or to his personal representative, a sum equal to twice the amount of his annual salary at the time of his retirement or death, as the case may be.

(b) Where a public officer's service in the colony is less than thirty years, there shall be paid to him (in addition to any pension), or to his personal representative on his retirement or death whilst in the service of the colony, a sum which shall be calculated at the rate of one-thirtieth of twice the amount of his annual salary at the time of his retirement or death for each year of service in the colony, provided he has served His Majesty for at least ten years in all.

(c) Where any public officer to whom sub-section (1) (b) of this section applies, who has held office in this colony for the space of one year and upwards, retires from the service of His Majesty, or dies whilst in that service, there shall be paid to him (in addition to any pension), or to his personal representative, a sum equal to one-thirtieth of twice the amount of his annual salary at the time that he ceased to hold office in this colony for each year of service in the colony.

- (3) This section shall apply to:—
- (a) all public officers first appointed to the public service of the colony after the fourth day of June, nineteen hundred and twenty-one; and
 - (b) all public officers who are entitled to pension wholly under the provisions of this Ordinance other than those of this and the three next succeeding sections hereof, and who, within three months after the fourth day of June aforesaid gave notice in writing to the Colonial Secretary of their desire that the provisions of this section should apply to them.

21.—(1) Where a public officer who is entitled to pension under the Public Officers (Pensions) Ordinance, 1875, or partly under that Ordinance and partly under this Ordinance, retires from the public service, or dies whilst in the service, the like payments shall be made on his retirement or death as in the case of a public officer to whom the last preceding section applies; if he has, within three months from the fourth day of June, nineteen hundred and twenty-one, given notice in writing to the Colonial Secretary of his desire that the provisions of this section shall apply to him.

Pension and payment of lump sum to public officers entitled to pension under Ordinance III. of 1875.

(2) When a public officer who has given notice under sub-section (1) of this section retires, and—

- (a) is entitled to pension under section three of the Public Officers (Pensions) Ordinance, 1875, the pension shall be calculated at the rate of one-seven hundred and fifty-sixth of the average annual amount he has received for the three years last preceding the time when he retires for each month of pensionable service; or
- (b) is entitled to pension partly under the Public Officers (Pensions) Ordinance, 1875, and partly under this Ordinance, the pension under the first named Ordinance shall be calculated at the rate of one-seven hundred and fifty-sixth of the average annual amount he has received for the three years last preceding the time when he retires for each month of pensionable service under that Ordinance, and under this Ordinance at the rate of one-nine hundred and sixtieth of the annual average amount of the salary during the five years last preceding the time when he retires from the public service for each month of pensionable service under this Ordinance.

Assignability
of one-half
of lump
payment.

22. Where any payment is made on the retirement or death of a public officer under sub-section (2) of section twenty of this Ordinance, or sub-section (1) of the last preceding section, any amount not exceeding one-half of the payment may be assigned or transferred, or be attached, sequestrated, or levied upon for or in respect of any debt or claim.

Pension
payable to
officer upon
re-employ-
ment :

23. If a public officer to whom a pension has been granted under this Ordinance, or under any previous Ordinance, is appointed to another office in the service of the colony or of any other part of his Majesty's dominions or possessions or of any protectorate, then during his tenure of that office so much only (if any) of his pension shall be paid to him as, together with any pension received by him in respect of other public service, and with the salary and fees of that office, makes up an amount not greater than the highest pensionable emoluments drawn by the officer at any time in the course of his service in the colony or other public service :

Proviso.

Provided that—

- (a) where the officer retired, or was transferred from the service of the colony, prior to a date fixed by the Governor in Council, the highest pensionable emoluments drawn by the officer in the course of his service in the colony, shall, for the purposes of this section, be deemed to be the highest pensionable emoluments actually so drawn by him plus fifty per centum thereof; and
- (b) any bonus or temporary increase, whether on pension or on the salary of the new office, granted in view of the cost of living, shall be added to the pension or salary, as the case may be, for the purposes of this section.

Calculation
of pension
for increase
of salary.

24. In the calculation of pensions of officers who have received permanent increases of salary within the period from the first day of January, nineteen hundred and nineteen, to the first day of August, nineteen hundred and twenty-three, those increases shall, for the purposes of the calculation, be deemed to run from the first day of January, nineteen hundred and nineteen.

Additional
years of
pension in
certain
cases :

25. In any case where a judge, colonial secretary, attorney-general, director of science and agriculture, surgeon general, director of public works, or other officer,

*Repealed by sec.
a by the 20/1/1933*

retires from the public service after completion of not less than ten years service in the colony as the holder of any office, the Governor in Council may, in his discretion, direct that a period of years not exceeding six in any particular case shall be added to the number to which the officer is already entitled for the calculation of his pension :

Provided that—

- (a) the maximum of thirty years prescribed by this Ordinance shall not be exceeded ; and
- (b) the approval of the Legislative Council shall in every instance previously be obtained.

Proviso.

26. In calculating pensions under this Ordinance, periods of absence exceeding three months at any one time on leave, other than vacation leave, shall not be counted as service for pension.

Leave of absence not to count for pension.

27. Where a public 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 government, or possession, or protectorate, the maximum pension which may be granted under this Ordinance shall, in ordinary cases, be that which, when added to the other pension, does not exceed two-thirds of the highest salary drawn by the officer at any time in the course of his service.

Maximum pension where officer entitled to pension from other Government.

28. If anyone, other than a person who has been Governor of the colony, to whom a pension has been granted under this Ordinance or under the Public Officers (Pensions) Ordinance, 1875, accepts the office of director of any company carrying on business in the colony without previously obtaining the consent in writing of the Governor of the colony for the time being, and if anyone to whom that pension has been granted who has been Governor of the colony accepts the office of director of any such company as aforesaid without previously obtaining the permission of the Secretary of State for the Colonies, then, in each of those cases that pension shall forthwith cease :

Acceptance of directorships by retired officials : (No. 3 of 1875) :

Provided that the Governor in Council, if the person so deprived is resident in the colony, or the Secretary of State for the Colonies if the person so deprived is not resident in the colony, may restore the pension in whole or in part on such terms as he thinks advisable.

Proviso.

Exception of
the police
force.

29. The non-commissioned officers and constables of the police force shall not come under the provisions of this Ordinance.

Settlement
of questions
arising under
this
Ordinance.

30. Whenever any doubt arises the Governor in Council shall have full power and authority to determine who shall be considered public officers of the colony within the meaning of this Ordinance, and to decide all questions arising in respect of the period of service to be allowed in computing the claims of public servants under this Ordinance, and also all other questions of whatever nature arising in connection with the provisions of this Ordinance.

Saving rights
of officers
appointed
before pass-
ing of this
Ordinance.

31. Nothing in this Ordinance shall be held or construed to apply to any public officer who was first appointed to the public service of the colony before the first day of April, eighteen hundred and ninety-seven, or who, being so appointed before the passing of this Ordinance, was not resident in the colony at the time of appointment, and was not informed on appointment that he was liable to be affected by any change in the pension law of the colony, and that officer shall have and enjoy the same rights as to pension, and be subject to the same liabilities, as if this Ordinance had not passed.

Saving
certain
rights of
officers
appointed
before pass-
ing of this
Ordinance,
but promoted
after :
Proviso.

32.—(1) This Ordinance shall apply to every public officer appointed before the passing of this Ordinance, who thereafter is promoted to any other office in the colony, the salary or emoluments of which exceed the salary or emoluments of his former office by twenty per centum or one hundred pounds, whichever amount may be the lower :

Provided that—

- (a) the pension of the officer for the period previous to his promotion shall be calculated according to the law in force before the passing of this Ordinance;
- (b) the period of service in respect of which the officer's pension shall be calculated may extend to thirty-five years, instead of thirty years, notwithstanding any provision to the contrary in this Ordinance;
- (c) leave of absence granted to the officer before the date of the promotion aforesaid, shall be counted as service for pension, notwithstanding any provision to the contrary in this Ordinance;

(d) leave of absence granted to the officer after the date of the promotion aforesaid, but to which he had become entitled before promotion, shall be counted as service for pension, notwithstanding any provision to the contrary in this Ordinance.

(2) Leave of absence for active service with his Majesty's armed forces, or for special duty in connection with any war in which the British Empire may be engaged, shall be counted as service for pension notwithstanding anything to the contrary contained in this or in any other Ordinance.

33. The Public Officers (Pensions) Ordinance, 1875, is hereby repealed :

Repeal :
(No. 3 of
1875) :
Proviso.

Provided that the repeal shall not affect the rights of anyone to whom a pension has been granted under the said Ordinance, nor any other right or liability granted, accrued or incurred under the said Ordinance before the passing of this Ordinance, nor any right or liability saved and provided for by the last two preceding sections of this Ordinance.
