

TRINIDAD AND TOBAGO.

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No. 21—1938.

I ASSENT,

[L.S.]

J. HUGGINS,

Governor's Deputy.

22nd November, 1938.

1st December, 1938.

AN ORDINANCE to amend the Pensions Ordinance, 1934.

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows :—

1. This Ordinance may be cited as the Pensions Short title.
(Amendment) Ordinance, 1938, and shall be construed Construction.
as one with the Pensions Ordinance, 1934, hereinafter No. 16-1934.
referred to as the Principal Ordinance.

2. Sections 8, 9, 10 and 11 of the Principal Ordinance Sections 8-11
of Ord. 16 of
1934 replaced.
are hereby repealed and replaced by the following :—

8.—(1) No officer shall have an absolute right to Pension, &c.
not of right
compensation for past services or to pension, gratuity
or other allowance under this Ordinance, nor shall
anything herein or in the regulations contained limit
the right of the Crown to dismiss any officer without
compensation.

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

Service
for pension.

9.—(1) No pension, gratuity or other allowance shall be granted to any officer in respect of any service—

(a) while on probation or agreement, unless without break of service he is confirmed in a pensionable office in the Colony or in an office in other public service which is at the time of confirmation pensionable under the pension law applicable to such service or

(b) while under the age of twenty years.

Pensionable
service.

(2) Only service in a pensionable office shall be taken into account as pensionable service :

Part of non-
pensionable
Service that
may be taken
into account.

Provided that where a period of service in a civil capacity otherwise than in a pensionable office is immediately followed by service in a pensionable office, one-half of such period may with the approval of the Governor in Executive Council be so taken into account. Provided further that any break in service which may be disregarded under the provisions of any law or regulation which so permits may likewise be disregarded in determining for the purposes of this section whether a period of service is unbroken or whether one period of service immediately follows another period of service.

Reservation of
rights in case
of temporary
transfer

(3) Where an officer is seconded or temporarily transferred for duty in the service of the Colony from a pensionable office to an office or employment which would not entitle him to pension under this Ordinance, the period during which he shall serve in such office or employment as aforesaid shall count for pension as if the officer had not been seconded or temporarily transferred unless the Governor in Executive Council shall in any case otherwise decide.

Age of
compulsory
retirement.

10. It shall be lawful for the Governor in Executive Council to require an officer to retire from the service of the Colony at any time after he attains the age of sixty years or, in special cases, with the approval of the Secretary of State, at any time after he attains the age of fifty years.

11.—(1) Except in the cases hereinafter provided, no pension, gratuity, or other allowance shall be granted to any officer who has not attained the age of fifty-five years (in special cases, with the approval of the Secretary of State, fifty years), unless on medical evidence to the satisfaction of the Governor in Executive Council 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: Provided that the consent of the Secretary of State shall be obtained in respect of—

Circumstances in which pensions may be granted. Officer may be granted pension at 55 years, or earlier on account of ill-health.

- (a) an officer recruited from the United Kingdom ;
- (b) an officer who is a member of a unified branch of the service ;
- (c) an officer occupying any other post of which the initial emoluments are not less than two thousand dollars per annum.

(2) If an officer is transferred to other public service and ultimately retires at an age less than fifty-five years at which he is permitted by the law or regulations of that service to retire with a pension, the pension which may be granted to him from the revenue of the Colony under this Ordinance shall be payable from the date of retirement of such officer, notwithstanding that he shall not be fifty-five years of age.

Age limit in respect of other public service.

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

Officer unable to discharge his duties may be retired.

No. 21.

Officer may be retired on abolition of office.

(4) If any officer 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 organization 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 officer is not qualified for other employment or if there is no reason, in the opinion of the Governor, to expect that he can be re-employed, a pension may be granted to him free from the above-mentioned condition.

Pension to Governors.

(5) If an officer on retirement in any circumstances is eligible for a pension under the Pensions (Governors of Dominions, &c.) Acts or any Act replacing or amending the same, he shall be eligible for a pension under this Ordinance notwithstanding that such officer has not attained the age of fifty-five years.

Gratuity to female officer retiring on account of her marriage.

(6) Where a female officer resigns on or with a view to marriage, or is required to retire on account of her marriage, she may be granted a gratuity notwithstanding that she is not otherwise eligible under this Ordinance for the grant of any pension, gratuity or other allowance.

Section 12 of Ord. 16-1934 amended.

3. Section 12 of the Principal Ordinance is hereby amended by substituting the word "held" for the word "had" where it last occurs in paragraph (a).

Section 13 of Ord. 16-1934, amended.

4. Section 13 of the Principal Ordinance is hereby amended by inserting at the commencement thereof the words—"Except in cases provided for in section 14 subsection (1) of this Ordinance".

Section 15 of Ord. 16-1934 replaced.

5. Section 15 of the Principal Ordinance is hereby repealed and replaced by the following:—

Gratuity and reduced pension.

15.—(1) An officer who was in the service of the Colony on the 1st day of August, 1934, or who having been in that service was at that date in other public

service and to whom a pension is granted under this Ordinance may, at his option exercisable as herein-after provided, be paid in lieu of such pension a pension at the rate of three-fourths of such pension together with a gratuity equal to ten times the amount of the reduction so made in the pension.

(2) The option referred to in sub-section (1) shall be exercisable not later than one month after the earliest date on which, if retired on grounds of ill health, the officer might be awarded a pension under this Ordinance:

Provided always—

- (i) That an officer who has previously had the opportunity of exercising the option but has not done so, and who is still in the service of the Colony or in any other public service, may apply within one month of his subsequent marriage for permission to exercise the option, which permission may be granted at the Governor's discretion after examination of the officer by a Government Medical Board, and upon the grant of such permission the option shall be deemed to have been exercised ;
- (ii) That the date of the exercise of the option shall be deemed to be the date of the receipt of his written notification addressed either to the Colonial Secretary in the Colony or to the Crown Agents for the Colonies ; and
- (iii) That if an officer has exercised the option his decision shall be irrevocable so far as concerns any pension ultimately to be granted to him under this Ordinance.

(3) Any officer to whom sub-section (1) of this section does not apply and who is otherwise eligible for pension shall, subject to the provisions of this

Ordinance, be granted a reduced pension and gratuity calculated in the manner prescribed in the said sub-section.

(4) Notwithstanding anything contained in the preceding sub-sections an officer who is permitted to continue in the public service after he attains the age of sixty years, at his own request and not for the convenience of the service, shall, subject to the provisions of this Ordinance, be granted an unreduced pension in lieu of reduced pension and gratuity.

Section 16 of
Ord. 16-1934
replaced.

6. Section 16 of the Principal Ordinance is hereby repealed and replaced by the following :—

Pension
payable to
officer after
re-employ-
ment

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

Sections 17
and 18 of
Ord. 16 of 1934
replaced.

7. Sections 17 and 18 of the Principal Ordinance are hereby repealed and replaced by the following :—

Gratuity to
estate where
officer dies in
service of
Colony.

17. When an officer holding a pensionable office who is not serving on probation or agreement, dies while in the service of the Colony, it shall be lawful for the Governor in Executive Council to grant—

- (i) to the legal personal representative of an officer who held an office in Grade I at the time of his death, a gratuity of an amount not exceeding one year's pensionable emoluments of such officer ;
- (ii) to the dependants (if any) of an officer who held an office in Grade II at the time of his death, a gratuity of an amount not exceeding nine months pensionable emoluments of such officer, the amount to be divided among the dependants in such proportion as the Governor in Executive Council shall think fit.

18.—(1) Where an officer holding a pensionable office, who is not serving on probation or agreement, dies as the direct result of injuries received—

Pensions, &c.,
to dependants
when an
officer is
killed on duty.

- (a) in the actual discharge of his duty, and
- (b) without his own default, and
- (c) on account of circumstances specifically attributable to the nature of his duties,

while in the service of the Government of the Colony, it shall be lawful for the Governor in Executive Council to grant in addition to the grant, if any, made to his legal personal representative or dependants in accordance with the immediately preceding section—

- (i) if the deceased officer leaves a widow, a pension to the widow, while unmarried and of good character at a rate not exceeding ten-sixtieths of his pensionable emoluments at the date of the injury or \$48 a year, whichever be the greater, and also a gratuity not exceeding \$4.80 multiplied by the total number of their years, starting from their ages at the time of their father's death, and ending with 15 years, to each child alive at the date of the father's death, and a gratuity not exceeding \$72 to any posthumous child :

Provided that the gratuities so granted shall not in the aggregate be less than \$48 nor more than \$288 ;

- (ii) if the officer's wife predeceases him or if no pension is granted to her under the preceding paragraph (i), and he leaves children who would have been eligible for gratuity if a pension had been granted to the widow, gratuities of twice the amount of the gratuities for which they would have been eligible in such circumstances ;
- (iii) if the deceased officer does not leave a widow, and if his mother was wholly or mainly dependent on him for her support, a pension to the mother, while of good character and without

adequate means of support, at a rate not exceeding the rate of the pension which might have been granted to his widow :

Provided that—

- (a) if the mother is a widow at the time of the grant of the pension and subsequently remarries, such pension shall cease as from the date of remarriage ; and
- (b) if the mother is not a widow and it appears that the deceased's father is in a position to support her, such pension shall cease from such date as the Secretary of State may determine.

(2) When an officer who is not qualified for either pension or gratuity dies in the circumstances mentioned in sub-section (1) of this section, it shall be lawful for the Governor in Executive Council to grant the pension or gratuities which might have been granted if his case had fallen under such sub-section, but no grant shall be made under the immediately preceding section.

Sec. 20 (3) of
Ord. 16-1934
amended.

8. Sub-section (3) of section 20 of the Principal Ordinance is hereby amended by substituting the words " a person of unsound mind " for the words " a lunatic in accordance with the provisions of the Lunatics Ordinance " where they occur in the said sub-section, and by deleting the marginal note " Cap. 101 ".

Sections 21-23
of Ord. 16-
1934 replaced.

9. Sections 21, 22 and 23 of the Principal Ordinance are hereby repealed and replaced by the following :

Pensions, &c.
to cease on
bankruptcy.

21. If any officer to whom a pension or other allowance has been granted under this Ordinance is adjudicated a bankrupt or is declared insolvent by judgment of the Court, then such pension or allowance shall forthwith cease :

Provided always that in any case where a pension or allowance ceases by reason of the bankruptcy or insolvency of the pensioner, it shall be lawful for the Secretary of State, or if such pensioner is resident in the Colony then for the Governor, 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 the Governor as the case may be shall think fit, to cause all or any part of the moneys to which such pensioner would have been entitled by way of pension or allowance, had he not become a bankrupt or insolvent, to be paid to or applied for the maintenance and personal support or benefit of all or any, to the exclusion 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 the Governor as the case may be thinks proper, and such moneys shall be paid or applied accordingly.

22. If any officer to whom a pension or other allowance has been granted under this Ordinance is sentenced to a term of imprisonment by any competent Court whether within or without the Colony for any crime or offence, then in every such case, it shall be lawful for the Secretary of State, or if the person is resident in the Colony the Governor, to direct that such pension or allowance shall forthwith cease :

Pensions, &c.
to cease on
conviction.

Provided always that the pension or allowance shall be restored with retrospective effect in the case of a person who after conviction at any time receives a free pardon :

And provided further that where a pension or allowance ceases for the reason aforesaid it shall be lawful for the Secretary of State or the Governor as the case may be to cause all or any part of the moneys to which the pensioner would have been entitled by way of pension or allowance to be paid to or applied for the benefit of any wife, child or children of the pensioner, or, after the expiration of his sentence, also for the benefit of the pensioner himself, in the same manner precisely and subject to the same qualifications and restrictions as in the case of bankruptcy hereinbefore provided.

23. If any officer to whom a pension or other allowance has been granted under this Ordinance becomes 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 servant employed in the Colony by any such Company, without

Pensions, &c.
to cease on
accepting
certain
appointments.

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 to direct that such pension or allowance shall forthwith cease :

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

Saving Clause. 10.—(1) Notwithstanding anything contained in section 9 (2) of the Principal Ordinance as amended by section 2 of this Ordinance, and in Regulations 9, 13 and 14 in the Second Schedule to the Principal Ordinance, where an officer in the service of the Colony or in other public service on the date when this Ordinance comes into force shall before that date have served in a civil capacity otherwise than in a pensionable office, then, if it shall be to his advantage, his pension may be calculated on the conditions which would have applied if the said section 2 of this Ordinance had not been enacted; and the reference to section 16 of the Ordinance in the proviso to Regulation 13 shall be read as though it were a reference to section 15 of the Ordinance and such substituted reference shall apply to all officers in the service of the Colony.

(2) Where, prior to the commencement of this Ordinance, an officer has been granted a pension under the Principal Ordinance, and has been appointed to another office in the service of the Colony, any pension granted to him on his subsequent retirement may be computed as if section 6 of this Ordinance had not been enacted.

Repeal. 11. The Pensions (Amendment) Ordinance, 1936, is Ord.11 of 1936. hereby repealed.

Passed in Council this fourth day of November, in the year of Our Lord One thousand nine hundred and thirty-eight.

W. E. BOARDMAN,
Clerk of the Council.