

TRINIDAD AND TOBAGO.

No. 14—1925.

I ASSENT,

[L.S.]

H. A. BYATT,
Governor.

4th May, 1925.

AN ORDINANCE to consolidate and amend the law relating to the Public Officers' Guarantee Fund.

[1st January, 1925.]

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 Public Officers' short title. Guarantee Fund Ordinance, 1925.

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

“ Fund ” means the Public Officers' Guarantee Fund established under the Public Officers' Guarantee Fund Ordinance, 1906; (9-1906)

“ Directors ” means the Directors appointed under this Ordinance;

[Price 6d.]

"Officer" means any person holding or acting in an office in the Public Service of the Colony, whether paid from a vote in the annual estimates or from any particular fund, who is required to give security for the faithful performance of his duties.

The Fund. **3.** The Fund shall consist of the moneys standing to the credit of the Fund at the commencement of this Ordinance, together with the contributions herein directed to be made and the interest accruing thereon.

"Year." **4.** The year for the purposes of the Fund shall commence on the first day of January.

Administration of the Fund.

Management of Fund. **5.** The Fund shall be under the management of three persons holding office in the Public Service of the Colony, two of whom shall be contributors to the Fund, to be from time to time appointed during pleasure by the Governor, and such persons shall be styled Directors of the Fund.

Clerical assistance, books and stationery. **6.** The Directors may from time to time appoint and employ such clerical assistance, and may provide such books and stationery, as may be deemed necessary for the administration of the Fund, and the expenses thereby incurred shall be a first charge on the Fund.

Treasurer to collect contributions. **7.** The Treasurer shall collect and place to the credit of the Fund all sums due to the Fund, and shall deduct from the salary of each officer contributing to the Fund the amount due to the Fund by such officer.

Appropriation and payment out. **8.** 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 voucher signed by two Directors.

Investment. **9.** The Directors shall from time to time invest the moneys of the Fund in such securities as may be approved by the Governor,

10. The Directors shall cause to be prepared and laid before the Legislative Council, as soon after the first day of January 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 preceding year.

Annual statement.

11.—(1) The Directors may make regulations for the proper working of the Fund.

Regulations.

(2) Such regulations shall be subject to the approval of the Governor in Executive Council.

Giving of Security.

12.—(1) It shall be lawful for the Governor to require any person 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 such security.

Public servant may be required to give security.

(2) The amount so determined in the case of any officer shall be deemed to be sufficient security for such officer in any appointment in the Public Service of the Colony for which a like amount of security is or may be required.

13. An officer who is responsible at one and the same time in respect of the duties of more than one office shall only be required to give security in a single amount in respect of the offices for which he is responsible, unless the Governor, in any particular case, orders him to give security in respect of each such office.

Officer holding more than one office.

Contributions to the Fund.

14. Every officer shall pay into the Fund in the manner provided, and subject to the provisions of this Ordinance or any regulations framed thereunder, a monthly contribution of one-twelfth part of one per centum per annum of the amount for which he is required to give security.

Amount of contribution.

Fund liable only as from first payment.

15. The Fund shall be in no way liable to make good any amount payable in respect of any act or default done or made by an officer before the day on which such officer actually makes his first payment to the Fund.

Contributors to Fund relieved from further liability to give security.

16. 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 is required exceeds the sum of two thousand pounds, and in any case where an officer is required to give security, or to give security for any amount in excess of two thousand pounds, he shall be bound to give such security to the satisfaction of the Governor.

Entrance fee.

17. Every officer on first contributing to the Fund in respect of a permanent appointment shall pay into the Fund an entrance fee of twenty shillings :

Provided that where the salary attached to such appointment does not exceed fifty pounds per annum, such entrance fee shall be five shillings in lieu of twenty shillings, and where such salary exceeds fifty pounds but does not exceed one hundred pounds per annum, such entrance fee shall be ten shillings in lieu of twenty shillings, and the entrance fee so paid shall be carried to the personal account of such officer in the books of the Fund.

Contributions payable in advance.

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

Appointments to be deemed to be on first day of month.

19. Where an officer is appointed to any office 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 such month.

Reduced contributions after 5 years.

20.—(1) Where an officer holding a permanent appointment has contributed to the Fund for a period of five years on the amount of security required of him, his contribution shall thenceforth be reduced to a yearly contribution of one-tenth of one per centum upon the

amount of security required of him, save and except in the following cases :—

- (a) If the amount of security required from such officer be increased, whether by his acceptance of another permanent appointment or otherwise, the reduction of his yearly contribution to one-tenth of one per centum shall only apply to the amount of security upon which for five years he has paid a monthly contribution of one-twelfth part of one per centum per annum : Provided always, that as soon as the aggregate amount of an officer's contributions is equal to the aggregate amount of one per centum per annum for five years, calculated upon the higher amount of security required to be given by such officer, his contribution shall thenceforward be a yearly contribution of one-tenth of one per centum upon such higher amount of security ;
- (b) If it should appear to the Directors that the Fund requires that an officer's contributions should not be reduced, or, if they have already been reduced, that the payment of the whole or a part of the full monthly contribution of one-twelfth of one per centum should be resumed, it shall be lawful for the Directors, with the approval of the Governor, to require such officer to contribute the full amount, or such portion of the full amount as the Directors shall direct, and any officer on being required by the Directors so to do shall thenceforth, and until such time as the Directors may otherwise direct, pay the full amount of his contribution upon the security required of him at the time of such requisition.

(2) Nothing in this section contained shall render any contributor liable to repay to the fund the amount of any reduction in his contribution, of which he has already had the benefit under the provisions of this section.

Refund of
surplus
contributions
in certain
cases.

21. If an officer holding a permanent appointment is or has been at any time appointed to another 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 such new appointment.

Acting Officers.

Absence on
leave.
Acting
Officers.

22.—(1) Where an officer is absent on leave or is appointed to act in another office in respect of which no security is required, his contribution to the Fund shall continue to be paid by such officer.

(2) Where an officer is appointed to act in another office, or is temporarily appointed to perform the duties of another office, in respect of which security is required from the holder of such office, such officer shall pay a monthly contribution to the Fund of one-twelfth part of one per centum of the amount for which security is required from the holder of such office, but no contribution shall be required of such officer in respect of his substantive office during the period he is so acting.

(3) Where any person, not an officer, is appointed to act as an officer, or is temporarily or provisionally appointed to an office in respect of which security is required from the holder of such office, such person shall pay a monthly contribution to the Fund of one-twelfth part of one per centum per annum of the amount for which security is required from the holder of such office.

(4) Where an acting officer is confirmed in the appointment in which he has acted, he shall for the purposes of this Ordinance be deemed to have been from the first a permanent officer.

(5) All contributions of acting officers shall be computed from the date of such acting appointment, and a monthly contribution shall be required in respect of each month or portion of a month computed from such date.

Case of defaulting officer.

23.—(1) Where any officer is in default of duly accounting, or of duly delivering to the Public Officer or other person authorized to receive the same all moneys or property which ought to be so delivered, or is otherwise in default, the amount due by such officer in default shall be certified by the Auditor, and the amount so certified shall be deemed to be due by such officer.

When officer in default, amount due to be certified by Auditor.

(2) The Auditor's certificate shall, without proof of the signature or of any other matter or thing therein contained, be deemed prima facie evidence in all Courts of Justice and for all other purposes that the amount so certified is due by the officer named in such certificate.

24. On the application of the Treasurer, the Directors, if there are sufficient moneys at the credit of the Fund to enable them so to do, shall pay to the 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.

Directors to pay Treasurer amount certified to be due.

25.—(1) The liability of an officer in default for the amount certified to be due by him 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 such officer.

General liability of officer in default.

(2) No person, other than the Governor or the 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 person, other than the Governor, the 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.

26.—(1) Where it is deemed expedient to proceed against any officer in default and the whole or any part of the amount due by such officer is recovered, the Treasurer,

Amount recovered from officer to be repaid to Fund.

if he has received from the Fund the whole amount due by such officer, shall return to the Fund an amount equal to the amount recovered from such officer.

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

Where Fund
insufficient to
satisfy claims.

27. 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 so to do, and for this purpose shall realize all the securities held by them on account of the Fund; and the Treasurer shall thereafter retain all contributions paid to the Fund, and appropriate the same in liquidation of such claims until they are fully paid.

Keeping of Accounts.

Accounts to be
kept.

28. There shall be three separate accounts kept of the contributions to the Fund to be called:

- (1) The Income Account;
- (2) The Officers' Personal Account;
- (3) The Reserve Fund Account.

Income
Account.

29. The amounts received in each year for

- (1) Interest on investments, and
- (2) Contributions from persons, not being officers, who are appointed to act as officers,

shall be placed to the credit of the Income Account.

Officers' Per-
sonal Account.

30. Entrance fees and contributions from officers in respect of both permanent and acting appointments shall be placed to the credit of the Officers' Personal Account, each of such officers being credited in such account with the amount of his entrance fee and contributions.

Reserve Fund
Account.

31. An amount equal to one-tenth part of the contributions of all officers shall at the close of each year be transferred to the credit of the Reserve Fund Account from the accounts credited with such contributions respectively.

32. If at the end of any year there is, in the opinion of the Directors, a sufficient amount to the credit of the Income Account, the Directors shall out of such Account place to the credit of the personal account of each officer interest on such balance at such rates as may from time to time be approved by the Governor in Executive Council.

Transfer from
Income
Account to
Personal
Account
of Officers.

Payment of claims on Fund.

33. All claims against the Fund shall be charged in the first instance against the Income Account.

Claims to be
charged on
Income
Account.

34.—(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 such claims.

When Income
Account
insufficient to
meet claims.

(2) If the amount of the Reserve Fund Account is not sufficient, then the Directors shall appropriate the amounts standing to the credit of the Officers' Personal Accounts to the payment of such claims, taking and writing off an equal percentage from each.

When Reserve
Fund Account
insufficient.

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

Personal
account of
defaulting
officer.

Disposal of certain contributions.

36. Where an officer holding a permanent appointment 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 standing to his credit when the accounts are adjusted as on the thirty-first day of December next after such appointment, leaving, cesser, or death, shall be returned by the Directors to him or his personal representative; but no payment shall be made under this section until after the accounts for that year have been

Refund of
contributions
in certain cases.

duly adjusted and the amount standing to 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.

Conditions of
refund.

37.—(1) No return of any money paid into the Fund shall be made to any officer or his personal representative unless and until the Auditor certifies that the officer has duly accounted and is free from liability to the Colony : Provided that the Directors may at any time refund amounts that may have been received in error or in excess from any officer to such officer or his personal representative.

(2) Any amount standing to the credit of an officer who may at any time have been dismissed from the Public Service of the Colony for misconduct involving dishonesty or defalcation as a public officer, shall, after all claims 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 from any cause other than the above shall be entitled to have returned to him such amount as he would have been entitled to had he not been dismissed.

Unclaimed
amounts to
credit of an
officer.

38. The amount standing to the credit of any officer unclaimed for five years after such officer has ceased to hold an appointment in the Public Service of the Colony shall be appropriated by the Directors and treated as part of the Fund and transferred to the Reserve Fund Account : Provided that if the officer or his representatives at any time establish a claim to the amount so transferred to the satisfaction of the Directors, they may direct that the amount be refunded from the Reserve Fund.

Miscellaneous.

No right of
action against
Fund by
contributor.

39. 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.

40. The enactments mentioned in the Schedule to this ^{Repeal.} Ordinance are hereby repealed.

41. This Ordinance shall be deemed to have commenced ^{Commence-} and come into operation on the 1st day of January, 1925. ^{ment.}

OBJECTS AND REASONS.

The P It is proposed by this Bill to consolidate the existing Ordinances
The P relating to the Public Officers' Guarantee Fund and to introduce some
The P changes in connection with the contributions payable to the Fund.

The F Clause 14. Provides for the payment, by equal monthly
instalments, instead of yearly in advance, of an officer's contributions.

Clause 17. Under the present law entrance fees paid by officers
are placed to the credit of the Income Account. It is proposed that
these fees should go to the credit of the Officers Personal Account.

the] Clause 22 (2). Removes the present anomaly of a permanent officer
twen acting in another office having to pay concurrently two contributions
although only performing the duties of one appointment. It is proposed
that such an officer should only pay one contribution whilst so
acting, viz., that of the acting appointment.

Clause 29. Provides for the transfer to the Income Account of only
interest on investments and contributions from persons acting as officers
who are not members of the Fund.

Clause 31. In addition to entrance fees, officers will be credited
with nine-tenths of all contributions (permanent, acting and reduced).
Under the present law they are only given credit for nine-tenths of five
years contributions in respect of permanent appointments.

Clause 32. This is new. It provides that, if in the opinion of the
Directors there is a sufficient amount to the credit of the Income Account
at the end of any year, the Directors shall out of such account place
to the credit of the personal account of each officer interest on such
balance and at such rates as may be approved by the Governor in
Executive Council.

These several changes are in keeping with the provisions of the
Public Officers' Guarantee Fund laws of other Colonies.