

CHAPTER 39. No. 13.

MUNICIPAL CORPORATIONS (PENSIONS).

Ordinances
Ch.39. No.13
-1940.
No. 3-1944.

AN ORDINANCE TO REGULATE PENSIONS, GRATUITIES AND OTHER ALLOWANCES TO BE GRANTED IN RESPECT OF THE SERVICE OF PERSONS EMPLOYED BY MUNICIPAL CORPORATIONS IN THE COLONY.

Commence-
ment.

[31st December, 1936.]

Short title.

1. This Ordinance may be cited as the Municipal Corporations (Pensions) Ordinance.

Application
of Ordinance
to the City
of Port-of-
Spain.

2. (1) This Ordinance shall apply to the Corporation of the City of Port-of-Spain and in its application to that Corporation it shall be read as one with the Port-of-Spain Corporation Ordinance.

Borough of
San
Fernando.

(2) This Ordinance shall apply to the Borough of San Fernando and in its application to the said Borough it shall be read as one with the San Fernando Corporation Ordinance.

Borough of
Arima.

(3) This Ordinance shall apply to the Borough of Arima and in its application to the said Borough it shall be read as one with the Arima Corporation Ordinance.

Interpre-
tation.

3. In this Ordinance—

“ Corporation ” means the Corporation and Boroughs respectively referred to in section 2 hereof;

“ Council ” means the Council of any such Corporation or Borough;

“ officer ” means a person substantively appointed by resolution of the Council to a permanent office in the service of the Corporation for which separate provision

is made in the annual estimates: Provided that such office has been declared to be a pensionable office by resolution of the Council approved by resolution of the Legislative Council, and published in the *Royal Gazette*;

“ temporary employee ” means a servant or employee of the Corporation other than an “ officer ” as hereinbefore defined, and includes labourers and others paid out of a block vote whether employed by the day, week or month;

“ pensionable emoluments ” includes salary, personal allowance, house allowance or the estimated value of free quarters: Provided that the amount to be allowed for house rent or for estimated value of free quarters shall not exceed one-sixth of the actual salary of the office;

“ personal allowance ” means a special addition to salary granted personally to the holder for the time being of the office;

“ salary ” means the actual salary attached to an office;

“ service ” means employment by and service in a Corporation; and in respect of the Port-of-Spain Corporation includes any unbroken period of the service of an officer appointed by resolution of any of the preceding Port-of-Spain Corporations who continued without interruption in the service of the present Corporation.

4. (1) No officer shall have an absolute right to compensation for past services or to pension, gratuity or other allowance under this Ordinance, nor shall anything herein contained limit the right of the Council to dismiss any officer without compensation. Pension, etc.
not of right.

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

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

(a) while on probation or agreement unless without

break of service he is confirmed in a pensionable office;
or

(b) while under the age of twenty years.

Service in
a non-
pensionable
office.

(2) No service other than service in a pensionable office, will be taken into account in computing pensions, gratuities or allowances, except that where the service in a pensionable office has been immediately preceded by an unbroken period of service in an appointment other than a pensionable office, such period or any part of such period may be taken into account, but only at the rate of one-half of the period taken into account.

Compulsory
retirement
at sixty-five.

6. The Council may require any officer to retire from the service of the Corporation at any time after he attains the age of sixty years. No officer shall remain in the service of the Corporation after he attains the age of sixty-five years:

Saving
clause.

Provided that this section shall not apply to any officer who at the date of the commencement of this Ordinance has attained the age of sixty years and was appointed on condition that he shall hold office during good behaviour.

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

7. (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 sixty years, unless on medical evidence to the satisfaction of the 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.

Officer
unable to
discharge
his duties
may be
retired.

(2) 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 Council may if they consider it justifiable, having regard to all the circumstances of the case, grant such a pension, gratuity, or other allowance as they think 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 may
be retired
on abolition
of office.

(3) If any officer holding a pensionable office retire or be removed from the service in consequence of the abolition of his office, or for the purpose of facilitating improvements

in the organisation 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 Council, to expect that he can be re-employed, a pension may be granted to him free from the above-mentioned condition.

8. Every pension granted to an officer shall be subject to the following condition—

Liability of pensioners to be called upon to take further employment.

(a) unless or until he has attained the age of sixty years, he may, if physically fit for service, be called upon by the Council to accept, in lieu of his pension, an office in the service of the Corporation not less in value than the office which he held at the date of the grant of his pension;

(b) if a pensioner so called upon declines to accept the office for which he may have been selected the payment of his pension may be suspended, until he has attained the age of sixty years.

9. No pension granted to an officer under this Ordinance, shall exceed two-thirds of the highest pensionable emoluments drawn by the officer at any time in the course of his service.

Maximum pension.

10. Subject to the provisions of this Ordinance every officer holding a pensionable office in the service of the Corporation who has been in such service for ten years or upwards may be granted on his retirement a pension at the rate of 1/600ths of his pensionable emoluments in respect of each complete month of service until the maximum of two-thirds (400/600ths) is reached.

Pensions to whom and at what rate to be granted.

11. Subject to the provisions of this Ordinance service qualifying for pension, gratuity or allowance as the case may be shall be the inclusive period between the date on which an officer begins to draw salary or half salary from the funds

Period of service qualifying for pension or gratuity defined.

of the Corporation and the date of his leaving the service of the Corporation.

Such service must be unbroken, except in cases where the service has been interrupted by abolition of office or other temporary suspension of employment not arising from misconduct or gross negligence or voluntary resignation.

Computation of pensions and gratuities. Periods of service and absence.

12. (1) For the purpose of computing the amount of an officer's pension, gratuity or allowance, the following periods shall be taken into account as pensionable service—

- (a) any periods during which he has been on duty;
- (b) any periods during which he has been absent from duty on leave with full pay.

Absence on half-pay leave.

(2) The periods during which an officer has been absent on leave on half-pay shall, for the purposes of this Ordinance, be counted at the rate of one month for every two months of such period.

War service.

(3) Any period during which an officer absent on leave from the Colony has, with the consent of the Governor or the Secretary of State, served with His Majesty's armed forces during the war which began on the 4th of August, 1914, or in any other capacity connected with the state of war, may be counted as service on full pay.

Periods not taken into account.

(4) Any period during which he has been absent on leave, other than those specified above, shall be deducted from the officer's total service in order to arrive at his period of pensionable service.

Acting service.

13. Where an officer has performed acting service in a pensionable office, the period of such service may be taken into account as pensionable service:

Provided that—

- (a) the period of such acting service was not part of the pensionable service of the substantive holder of the office; and
- (b) this period of service is immediately preceded or followed by service in the Colony in a substantive capacity in a pensionable office.

14. For the purpose of computing the amount of an officer's pension, or gratuity, or allowance—

Computation of pensions, etc., on what emoluments to be based.

(a) in the case of an officer who has held one office for a period of three years immediately preceding the date of his retirement, the full pensionable emoluments payable to him at that date in respect of that office shall be taken;

(b) in the case of an officer who at any time during such period of three years has been transferred from one office to another, but whose pensionable emoluments have not been changed by reason of such transfer or transfers, the full pensionable emoluments payable to him at the date of his retirement in respect of the office then held by him shall be taken;

(c) in other cases the average of the full pensionable emoluments payable in respect of each of the offices substantively held by the officer during his tenure thereof within such period of three years shall be taken:

Provided that if such average is less than the full pensionable emoluments which were payable to him at the date of the first transfer within such period of three years, the Council may grant him a pension calculated upon the full pensionable emoluments payable to him at that date.

15. (1) In the case of an officer who retires, or is removed from office, in circumstances contemplated by subsection (3) of section 7 and who is otherwise eligible for pension, his pension may be increased at the rate of the number of 720ths of his pensionable emoluments exceeding the pension allowed under section 10 of this Ordinance by the numbers following, that is to say:—

Rates of pension or gratuity when office abolished.

In the case of an officer who has served:—

(a) 20 years and upwards	... ..	60
(b) less than 20 years, but not less than 17 years	... ..	48
(c) less than 17 years, but not less than 15 years	... ..	36
(d) less than 15 years, but not less than 12 years	... ..	24
(e) less than 12 years, but not less than 10 years	... ..	12

(2) No additional pension shall be granted under subsection (1) of this section so as to entitle an officer to a higher total pension than the maximum of two-thirds of his pensionable emoluments at the date he ceased to be in the service of the Corporation or than the pension for which he would have qualified by length of service on reaching the age of sixty years whichever shall be the lower amount.

(3) If the officer has been in the service of the Corporation for less than the qualifying period of ten years, he may be granted a pension calculated in accordance with section 10 as if there had been no qualifying period.

Officers
retiring on
account of
injuries.

16. (1) Where an officer has been permanently injured—
- (a) in the actual discharge of his duty, and
 - (b) without his own default, and
 - (c) by some injury specifically attributable to the nature of his duty,

and his retirement is thereby necessitated or materially accelerated, he may be granted in respect of such injury in addition to his pension, if any, granted to him under this Ordinance an annual allowance in proportion to the extent of his injury as follows:—

When his capacity to contribute to his support is—				
slightly impaired	...	...	...	60/720ths.
impaired	...	...	...	120/720ths.
materially impaired	...	...	...	180/720ths.
totally destroyed	...	...	...	240/720ths.

Provided that no such allowance shall, together with the pension, exceed 600/720ths of his pensionable emoluments at the date of the injury.

(2) The allowance shall be less than the above-mentioned maximum by such amount as the Council shall think reasonable in the following cases—

(a) where the injured officer has continued to serve for not less than one year after the injury in respect of which he retires;

(b) where the injured officer is fifty years of age or upwards at the date of the injury; or,

(c) where the injury is not the sole cause of retirement, for instance if the retirement is caused partly by age or infirmity not due to the injury.

(3) When the officer so injured is a pensionable officer but has less than ten years' service, and he is not eligible for an ordinary pension, he may be granted in lieu of a gratuity an annual allowance of so many 720ths as the number of months he has actually served, in addition to the number of 720ths that may be awarded to him under subsections (1) and (2) of this section.

(4) An officer so injured who is not qualified for either a pension under section 10 or a gratuity under subsection (1) of section 19 may nevertheless be granted a pension of the same amount as the additional pension which he might have been granted if he had been so qualified.

17. An officer to whom a pension is granted under this Ordinance may, at his option exercisable as hereinafter 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. Such option shall be exercisable not later than one month after the earliest date on which the officer attains pensionable status or on which, if retired on grounds of ill-health, the officer might be awarded a pension under this Ordinance:

Gratuity
and reduced
pension.

Provided that any officer who, at the commencement of this Ordinance has been in the service of the Corporation for a longer period than ten years may exercise such option within three months from such commencement:

And Provided always—

(a) 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 Corporation may apply within one month of his subsequent marriage for permission to exercise the option, which permission may be granted at the Council's discretion after examination of the officer by a Medical Board;

(b) that the date of the exercise of the option shall

be deemed to be the date of the receipt of his written notification addressed to the Town Clerk;

(c) 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;

(d) that an officer who is permitted to continue in the service of the Corporation 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 on his retirement an unreduced pension notwithstanding that he may have elected for a reduced pension and gratuity.

Pension payable to officer after re-employment.

18. If an officer to whom a pension has been granted under this Ordinance is appointed to another office in the service of the Corporation, and subsequently retires in circumstances in which he may be granted a pension, he may be granted in lieu of his previous pension, a pension computed as if the periods of his service had been continuous, and such pension may be based on his pensionable emoluments on his previous or final retirement from the service of the Corporation, whichever are the greater:

Provided that if, on his previous retirement, he was paid a gratuity and reduced pension, the gratuity to be paid to him on final retirement shall be reduced by the amount of gratuity already paid:

And Provided further that it shall be lawful for the Council to withhold the payment of the whole or any part of the pension previously granted to an officer during the period of further employment in the service of the Corporation.

Gratuities.

19. (1) An officer, otherwise qualified for a pension, who has not completed ten years' service may be granted on retirement a gratuity not exceeding five times the annual amount of the pension which if there had been no qualifying period might have been granted to him under section 10 of this Ordinance.

(2) Where a female officer, having completed not less than five years' service in the Corporation, resigns from

such service on or with a view to marriage, or is required to retire from such service on account of her marriage, she may be granted on production within six months after her resignation or retirement, or such longer period as the Council may in any particular case allow, of satisfactory evidence of her marriage, a gratuity not exceeding one-twelfth of a month's pensionable emoluments for each completed month of pensionable service in the Corporation:

Provided that such gratuity shall not, in the case where the officer resigns on or with a view to marriage, exceed one year's pensionable emoluments.

20. If an officer to whom a gratuity without pension has been granted under this Ordinance is re-appointed to any office in the service of the Corporation, his previous service may, with the approval of the Council, be taken into account for the purposes of pension, if he refunds the gratuity.

Gratuity affected by re-employment.

21. When an officer who is not serving on probation or agreement, and who has served for not less than five years, dies while in the service of the Corporation, it shall be lawful for the Council to grant to the legal personal representative of the officer, a gratuity of an amount not exceeding one year's pensionable emoluments of such officer computed at the rate of one-third of a month's salary of such officer for every completed year of his service.

Gratuity to estate where officer dies in service of Corporation.

22. (1) The Corporation may grant a gratuity not exceeding one year's pay to any of their temporary employees who may be either temporarily or permanently disabled or injured in their service through no default of his own, or who, after not less than ten years' effective service may be incapacitated through age or other infirmity.

Gratuity to temporary employee retiring through age or injury.

(2) Any such gratuity shall be computed, in the case of incapacity through age or other infirmity, on the basis of two week's pay for every year of effective service.

(3) In the case of a temporary employee who is permanently disabled by severe bodily injury sustained in the course of his employment under the Corporation through no default of his own, the Council may, if they consider the circumstances justify such a course, grant to such employee a pension in lieu of the gratuity provided by subsection (1) hereof:

Provided that, in any such case, the pension granted shall not exceed three-quarters of what might have been granted had the employee been an officer holding a pensionable office and the number of months' service in respect of which such pension shall be granted shall be twelve times the number of years of effective service for which the employee has worked for the Corporation without a break.

(4) The Corporation may grant to the widow or children or other next of kin of any temporary employee who has served for not less than five years and dies in their service, a gratuity not exceeding three months' wages of such employee, computed at the rate of one week's pay for every complete year of his service.

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(5) For the purposes of this section, the expression "year of effective service" means a period of 250 days' work performed within one calendar year.

(6) In relation to persons who are temporary employees of the Corporation on the 30th of March, 1944, the interpretation of the expression "year of effective service" given by this section shall apply to service before as well as after the above mentioned date.

Pensions not assignable or attachable.

23. No pension, gratuity or other allowance granted under this Ordinance shall be assignable or transferable, or liable to be attached, sequestered, or levied upon, for or in respect of any debt or claim whatsoever other than a debt due to the Corporation and except as provided for in the next succeeding section.

Council may apply part of a person's pension towards the maintenance of his wife or children.

24. (1) Where an order of maintenance has been made by a court of competent jurisdiction against any person to whom a pension has been granted, it shall be lawful for the Council on its being proved to them that there is no reasonable probability of such order being satisfied, from time to time to deduct from the moneys payable to such person by way of pension such sum or sums as the Council may deem expedient, and to apply the same to satisfy wholly or in part the said order.

(2) Where any person to whom a pension has been granted has left the Colony and deserted and left his wife or child within the Colony without sufficient means of

support, the Council, on being satisfied that such wife or child is by reason of such person's absence from the Colony unable, and would but for such absence be able, to obtain an order of maintenance, may from time to time deduct from the moneys payable to such person by way of pension such sum or sums as the Council may deem expedient, and may apply the same for the maintenance and support of such wife or child.

(3) Where any person to whom a pension has been granted has been adjudicated a person of unsound mind and has a wife or a child or children living, the Council may deduct from the moneys payable to such person by way of pension such sum or sums as they may deem expedient and apply the same for the maintenance and support of the wife or any child or children of such person.

25. If an 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:

Pensions to
cease on
bankruptcy.

Provided 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 Council, 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 Council 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 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 Council think proper, and such moneys shall be paid or applied accordingly.

26. 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 Council to direct that such pension or allowance shall forthwith cease:

Pensions,
etc., to cease
on conviction.

Provided 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:

Provided further that where a pension or allowance ceases for the reason aforesaid it shall be lawful for the Council 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.

Pensions and gratuities to be charged to fund from which officer or employee was paid.

27. Every pension or gratuity granted to any officer or servant of the Corporation under this Ordinance shall be charged to and paid out of the fund or funds on which the salary, wages, or emoluments of such officer or servant would have been charged or paid if he had continued in his office or service.

Application of the Ordinance to officers.

28. The provisions of this Ordinance shall apply—

(a) to all officers appointed to the service of the Corporation after the commencement of this Ordinance; and

(b) to all officers in the service of the Corporation at the commencement of this Ordinance unless within three months of such commencement any such officer shall have given notice in writing to the Town Clerk of his desire that the enactments repealed by this Ordinance shall continue to apply to him.

Repeals. Saving clause.

29. Notwithstanding the repeal of the following enactments, namely—

(a) sections 38 to 45 inclusive of the Port-of-Spain Corporation Ordinance (Cap. 224 of the 1925 Revised Laws);

(b) the Port-of-Spain Corporation (Amendment) Ordinance, 1927 (No. 18 of 1927);

(c) sections 60 to 66 inclusive of the Municipal

Corporations Ordinance (Cap. 230 of the 1925 Revised Laws);

the provisions of such repealed enactments shall continue to apply to any officer who has given the notice specified in paragraph (b) of section 28 hereof, and nothing in this Ordinance contained shall affect the pensions granted to any persons who have retired from the service of any of the Corporations before the 31st of December, 1936.