

No. XI.**An Act to provide a Superannuation Fund and to regulate the granting of retiring and other allowances and gratuities in respect of Public Services. [22nd April, 1864.]**

SUPERANNUATION.

WHEREAS it is expedient to provide a fund for the payment of Preamble. superannuation and other allowances and gratuities in respect of Civil Services under Government and to prescribe the regulations and conditions under which such allowances shall be authorized and paid Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

1. There shall be deducted from the pay or salary of all persons in the Public Service—except as hereinafter mentioned—whatever may be the amount of such pay or salary such rateable sum not exceeding the rate of four per cent. as shall from year to year be fixed and notified as hereinafter enacted and the sums so deducted shall be invested in such manner as may be approved by the Governor with the advice of the Executive Council and the interest and dividends thereof or so much of the same as shall not be required for the purposes hereinafter mentioned shall be invested in like manner and shall accumulate so as to form a fund to be called the “Superannuation Fund” and be applied as occasion may require for the payment of such superannuation or other allowances or gratuities as may be ordered or appointed by the Governor with the advice aforesaid under the provisions hereinafter contained.

Contributions of
public officers to
form a fund.

2. Upon the application of any officer in the Civil Service—with the exceptions hereinafter specified—in office at the commencement of this Act or hereafter appointed to office accompanied by such certificates or recommendations as the Governor with the advice aforesaid shall require the Governor may with such advice direct that such officer shall be superannuated and shall receive such yearly allowance or such gratuity upon such conditions and not exceeding such proportions as to age length of service and other circumstances as are hereinafter mentioned And thereupon such person shall cease to hold such office and such allowance or gratuity shall be paid to him accordingly and shall be charged upon and paid out of the said “Superannuation Fund” so far as the same shall from time to time be adequate to discharge the same.

Governor may grant
allowance on
superannuation.

3. Where the person applying for the same shall be under sixty years of age such allowance or gratuity shall only be granted—except in certain cases hereinafter mentioned—upon a certificate from two legally qualified medical practitioners duly appointed in that behalf by the Governor with the advice aforesaid that such person is incapacitated by infirmity of mind or body from discharging the duties of his office in which case if he shall have served with diligence and fidelity for fifteen years it shall be lawful to grant him by way of superannuation allowance an annual sum not exceeding one half of the salary of his office and also an addition of two-sixtieth parts of such salary for each year of service after fifteen years and less than thirty years and if fully thirty years then an annual sum not exceeding the whole amount of such salary And if such person shall be above sixty years of age and shall have served for fifteen

Above sixtr.

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fifteen years it shall be lawful without any such medical certificate to grant him by way of superannuation any annual sum not exceeding one half of the salary of his office and an addition of two-sixtieths for each year of service above fifteen years and less than thirty years and if he shall have served fully thirty years an annual sum not exceeding the whole amount of such salary.

Conditions of retirement.

4. When any officer after the passing of this Act—except as hereinafter mentioned—shall have attained the full age of sixty years he shall thereupon be entitled or may be required by the Governor with the advice aforesaid to retire from active service upon a superannuation allowance according to the scale hereinbefore fixed. And if any officer shall desire to retire from active employment who has not attained the full age of sixty years he shall be at liberty without any such medical certificate after having served with diligence and fidelity for a period of thirty years so to retire on a superannuation allowance of two-third parts of his annual salary. Provided that in either such case the Minister in whose department such officer may be serving may request such officer to continue to perform his duties but without prejudice to his right to decline such request or to have then assigned to him a superannuation allowance in conformity with this Act. Provided also that any superannuation allowance so granted to such officer shall not be received for any time during which he may continue to perform the duties and to draw the salary of such office.

Annual allowance may be commuted for gross sum.

5. Any retiring allowance to which an officer may be entitled from the "Superannuation Fund" in accordance with the two preceding clauses may at the option of such officer be commuted for such a gross payment not exceeding seven years purchase as may be considered a fair equivalent by the Governor with the advice aforesaid. Provided that in the opinion and on the report of the Commissioners hereinafter mentioned the state of the fund will admit of such payment.

Deductions in certain cases.

6. Any person awarded a pension or other allowance under the preceding clauses before the expiration of ten years from the date of his first contribution under this Act shall be subject to a deduction of two per cent. per annum or such other rate as may be fixed from year to year on the amount of his salary at the date of his being awarded such pension for such time as with the period for which he may have contributed to the Superannuation Fund whilst in the service will complete a term of ten years or at the same rate or rates on any sum for which such pension may be commuted. Provided that this clause shall not apply to persons required by the Governor to leave the service under section four.

Gratuity for premature incapacity.

7. Any holder of an office who under the conditions aforesaid might obtain a superannuation allowance although he has not completed the period which would have enabled him to apply for such allowance if constrained by infirmity of mind or body to leave the Public Service shall be entitled to a gratuity for less than ten years service of one month's pay for each year of such service and for ten or more years service to a gratuity of three months' pay for every two years of such service not exceeding in the whole fifteen years.

Allowances may be recommended to Parliament under special circumstances.

8. Nothing herein shall prevent the Governor with the advice aforesaid in consideration of any special services rendered by any officer or any other unusual circumstances or by way of compensation to any officer removed in consequence of the abolition of his office or for the purpose of facilitating improvements in the organization of any department or effecting greater efficiency or economy from recommending to Parliament such sum in addition to any retiring allowance or gratuity to which any such officer may be entitled from age or length of service in terms of this Act as may appear reasonable and just to meet any such case as aforesaid. Provided that if for the interest

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interest of the Public Service any office be made political the Governor with the advice aforesaid may recommend to Parliament the payment to the officer then holding the appointment of a fair and just compensation for his retirement therefrom independent of any superannuation or retiring allowance to which he may then be entitled from age or length of service as aforesaid.

9. Nothing herein shall prevent any person to whom any superannuation allowance or any allowance for loss of office may be assigned from accepting any new appointment whether political or otherwise in this Colony or elsewhere or from receiving the emoluments thereof. Provided that if such appointment be in this Colony such allowance shall merge or be reduced during the tenure of such new appointment according as the salary or emoluments thereof are greater or less than the amount of such allowance. Provided also that no addition shall be made to any such allowance for any service under such new appointment.

10. Upon the death of any officer while in the service of the Government or within five years after his retirement upon a pension under this Act his widow shall be entitled to receive a gratuity of one month's pay for each year of service of such officer—or if he leave no widow his children or if no children any other relations of such officer to be named by him or if not so named then at the discretion of the Governor with the advice aforesaid shall be so entitled.

11. This Act shall not apply to any Judge of the Supreme Court—nor to any Minister of Religion—nor to any honorary officer—nor to any political officer—nor to any officer the right to appoint to whose office is not vested in the Governor with the advice of the Executive Council or in a responsible Minister—nor to any officer constable or other member of the police or volunteer force—nor to any official paid out of contingencies—nor to any officer remunerated solely by fees or commission—nor to any person temporarily employed or appointed only on probation—nor to persons receiving small salaries or retaining-fees following other pursuits. Provided that nothing in this section shall be construed to exclude from the provisions of this Act any Police Magistrate not deriving advantage from the Police Superannuation Fund or any Clerk of Petty Sessions or the officers of the Sydney Branch of the Royal Mint or any other officer or class of officers or persons to whom the Governor with the advice aforesaid shall declare that the provisions of this Act shall apply.

12. The Governor with the advice aforesaid may appoint three officers to be Superannuation Fund Commissioners for the purpose of recommending from time to time the investment or disposal of the amount at the credit of the "Superannuation Fund" which is to be retained until invested or otherwise appropriated as a separate account in the Colonial Treasury.

13. The said Commissioners subject to the approval of the Governor advised as aforesaid shall as soon as conveniently may be after the passing of this Act fix and notify in the *Gazette* for the then current year and again within the month of December in that and every succeeding year fix and notify in the *Gazette* for the next following year the rate not exceeding four per cent. at which the deductions from pay and salaries shall be made under the first section of this Act.

14. Applications for Superannuation or other allowances or gratuities to be paid out of the "Superannuation Fund" under this Act shall be addressed to the Minister in whose department the officer may be serving accompanied by such certificates as may be prescribed in manner aforesaid.

15. Any retiring or other allowance or gratuity awarded under this Act shall be paid quarterly or monthly as may be desired by the applicant.

Allowance not to prevent other appointment but to abate proportionately if in the Colony.

Allowance to widow and children.

Commissioners for Act.

Rate of deductions notified in *Gazette*.

How applications to be made and dealt with.

How allowances to be paid.

(Consolidated Fund) Appropriation.

applicant from the money at the credit of the fund in the Colonial Treasury under an assignment in such form as may be prescribed signed by the Governor which with the receipt of the person receiving the same shall be a sufficient authority for the payment as such allowance may become due.

Grant from public Revenue in aid of Superannuation Fund.

16. To provide for the interval during which the contributions of public officers towards the fund established by this Act will be insufficient to meet the requirements of this Act there shall be appropriated in aid of the "Superannuation Fund" out of the Consolidated Revenue Fund a sum not exceeding ten thousand pounds in full satisfaction of any claim for pensions or retiring allowances by the civil servants of the Crown.

Annual accounts for Parliament.

17. An account in detail of all appropriations of the "Superannuation Fund" or any part thereof during every year ending the thirty-first day of December shall be laid before both Houses of Parliament within thirty days next thereafter if Parliament be sitting and if not then within fourteen days after the opening of the next Session.

Not to prejudice Constitution Act. Short title.

18. Nothing in this Act shall alter or affect the Constitution Act.

19. This Act shall be styled and may be cited as the "Superannuation Act of 1864."

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