

Pensions and Superannuations

WESTERN AUSTRALIA

ANNO TRIGESIMO QUINTO

VICTORIÆ REGINÆ

No. 7

An Act to regulate Superannuations and other Allowances to Persons having held Civil Offices in the Public Service under the Colonial Government.

[Assented to 8th August, 1871.]

Preamble

WHEREAS it is expedient that the Law in force in the United Kingdom concerning Superannuations and other Allowances to persons having held civil offices in the Public Service should with certain modification be adopted in this Colony, and be applicable to persons having held office in the permanent Civil Service: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

Ordinary rate of superannuation allowance

1. Subject to the exceptions and provisions hereinafter contained, the superannuation allowance to be granted after the commencement of this Act to persons who shall have served in an established capacity in the permanent Civil Service of the Colonial Government, whether their remuneration be computed by day pay, weekly wages or annual salary, and for whom provision is not otherwise made by legislative enactment in force at the time of the commencement of this Act or hereafter to be passed, shall be as follows, that is to say:—

To any person who has served ten years and upwards and under eleven years, an annual allowance of ten-sixtieths of the annual salary and emoluments of his office.

For eleven years and under twelve years, an annual allowance of eleven-sixtieths of such salary and emoluments.

And in like manner a further addition to the annual allowance of one-sixtieth in respect of each additional year of such service until the completion of a period of service of forty years, when the annual allowance of forty-sixtieths may be granted, and no addition shall be made in respect of any service beyond forty years.

Provided that if any question should arise in any department of the public service as to the claim of any person for superannuation under this clause it shall be referred to the Governor in Executive Council, whose decision shall be final.

Provision for computing amount of superannuation to persons holding professional and other special offices

2. It shall be lawful for the Governor in Executive Council from time to time by any order or warrant to declare that for the due and efficient discharge of the duties of any office or class of offices, to be specified in such order or warrant, professional or other peculiar qualifications not ordinarily to be acquired in the public service are required and that it is for the interest of the public that persons should be

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appointed thereto at an age exceeding that at which public service ordinarily begins, and by the same or any other warrant or order to direct that when any person now holding or who may hereafter be appointed to such office or any of such class of officers shall retire from the public service, a number of years, not exceeding twenty, to be specified in the said order or warrant, shall in computing the amount of superannuation allowance which may be granted to him under the foregoing section of this Act be added to the number of years during which he may have actually served, and also to direct that in respect of such office or class of officers the period of service required to entitle the holders to superannuation may be a period less than ten years to be specified in the order or warrant: Provided that no grant shall be made under this section before receiving the sanction of the Legislative Council.

3. The superannuation allowance to be granted to any person under this Act shall not be computed upon the amount of the salary and emoluments enjoyed by him at the time of his retirement unless he has been in receipt of the same for a period of at least three years immediately before the granting of such superannuation allowance, and in case he shall not have enjoyed his then existing salary and emoluments for that period, such superannuation allowance shall be calculated upon the average amount of salary and emoluments received by such person for three years next preceding the commencement of such allowance.

Superannuations not to be granted on advanced amount of salary received for less than three years.

4 & 5 WIL. IV., c. 24, s. 12

4. It shall be lawful for the Governor in Executive Council to grant to any person who being the holder of an office in respect of which a superannuation allowance may be granted but not having completed the period which would have entitled him to a superannuation allowance is compelled to quit the public service by reason of severe bodily injury occasioned without his own default in the discharge of his public duty, a gratuity not exceeding three months' pay for every two years of service or a superannuation allowance not exceeding ten-sixtieths of the annual salary and emoluments of his office.

Allowances in cases of bodily injury

5. It shall be lawful for the Governor in Executive Council to grant to any person who being the holder of an office in respect of which a superannuation allowance may be granted is constrained from infirmity of mind or body to leave the public service before the completion of the period which would entitle him to a superannuation allowance such sum of money by way of gratuity as the Governor in Executive Council may think proper, but so as that no such gratuity shall exceed the amount of one month's pay for each year of service.

Power to Governor in Executive Council to grant gratuities in case of short service

6. It shall be lawful for the Governor in Executive Council to grant to any person retiring or removed from the public service under the Colonial Government 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 such special annual allowance by way of compensation as on a full consideration of the circumstances of the case may seem to the Governor in Council to be a reasonable and just compensation for the loss of office; and if the compensation shall exceed the amount to which such person would have been entitled under the

Power to Governor in Council to grant allowance on abolition of offices

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scale of superannuation provided by this Act if ten years were added to the number of years which he may have actually served, such allowance shall be granted by special minute stating the special grounds for granting such allowance, which minutes shall be laid before the Legislative Council, and no such allowance shall exceed two-thirds of the salary and emoluments of the office.

Conditions of
grant of full
superannuations
to public officers
not heads of
departments

7. It shall not be lawful for the Governor in Executive Council to grant the full amount of superannuation allowance which can be granted under this Act to any person not being the head officer or one of the head officers of a department unless upon production of a certificate signed by the head officer of the department by two head officers if there be more than one, that he has served with diligence and fidelity to the satisfaction of such head officer or officers, and in every case in which any superannuation allowance is granted after the refusal of such certificate the Order in Council granting it shall state such refusal and the grounds on which such allowance is granted.

Special services,
reduced allow-
ances for de-
merits in indi-
vidual cases

8. It shall be lawful for the Governor in Executive Council to grant to any person any superannuation, compensation, gratuity or other allowance of greater amount than the amount which might be awarded to him under the foregoing provisions when special services rendered by such person and requiring special reward shall appear to him to justify such increase, but so that such allowance shall in no case exceed the salary and emoluments enjoyed by the grantee at the time of retirement, and the grounds of every such increase shall be stated in a minute of the Governor in Council which shall be laid before and be subject to the confirmation of the Legislative Council; and the Governor in Council may grant to any person any such allowance of less amount than otherwise would have been awarded to him when his defaults or demerit in relation to the public service appear to the Governor in Executive Council to justify such diminution.

Evidence of
infirmity of
persons under
sixty

9. It shall not be lawful to grant any superannuation allowance under the provisions of this Act to any person who is under sixty years of age unless upon medical certificate to the satisfaction of the Governor in Executive Council that he is incapable from infirmity of mind or body to discharge the duties of his situation and that such infirmity is likely to be permanent.

Persons super-
annuated under
sixty may be
required to serve
again

10. Every person to whom a superannuation or compensation allowance has been granted before he has attained the age of sixty years shall until he has attained that age be liable to be called upon to fill any public office or situation under the Crown in this Colony for which his previous public services may render him eligible and if he declines when called upon to do so to take upon himself such office or situation or declines or neglects to execute the duties thereof satisfactorily being in a competent state of health he shall forfeit his right to the compensation or superannuation allowance which had been granted to him.

No superannua-
tion or compen-
sation to be
enjoyed with
salary for
efficient services

11. In case any person enjoying any superannuation allowance in consequence of retiring from office on account of age, infirmity or any other cause or enjoying any compensation for past services upon the abolition or reduction of office is appointed to fill any office in any public department under the Crown whether in this Colony or else-

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where every such allowance or compensation shall cease to be paid for any period subsequent to such appointment if the annual salary and emoluments of the office to which he is appointed are equal to those of the office formerly held by him, and in case they are not equal to those of his former office then no more of such superannuation allowance or compensation shall be paid to him than what with the salary and emoluments of his new appointment is equal to those of his former office.

12. Nothing in this Act contained shall extend or be construed to extend to give any person an absolute right to compensation for past services or to any superannuation or retiring allowance under this Act or to deprive the Governor of the power and authority to dismiss any person from the public service without compensation.

Act not to give an absolute right to allowances or to prevent dismissal of persons for misconduct

13. The Governor in Executive Council may from time to time make such rules as he deems expedient for regulating the superannuation allowances on the ultimate retirement from the permanent Civil Service of the Colony of colonial officers who may have been promoted and transferred from or into the permanent Civil Service of the Colony. And may alter or revoke such rules or any of them and make others in their stead.

Governor to make rules for retiring allowance to officers transferred from or into colonial service

14. Sections 2 and 8 of this Act shall not apply to persons who may enter the public Civil Service of this Colony after the date on which this Act comes into operation.

Sections 2 and 8 not to apply to certain persons

15. In referring to this Act it shall be sufficient to use the expression 'The Superannuation Act.'

Short title

FRED. A. WELD,
GOVERNOR.