

**CHAPTER xxi.**

An Act to provide for the granting of superannuation allowances to the officers and servants of the Council of the metropolitan borough of Saint Marylebone and for other purposes. A.D. 1908
[18th June 1908.]

WHEREAS the metropolitan borough of Saint Marylebone in the administrative county of London (hereinafter referred to as "the borough") is a borough constituted under the London Government Act 1899 and is under the management and control of the mayor aldermen and councillors of the borough (hereinafter referred to as "the Council"):

And whereas under and by virtue of the Superannuation (Metropolis) Act 1866 and the London Government Act 1899 the Council are empowered as the successors of the vestry of the parish of Saint Marylebone to grant allowances in the nature of superannuation allowances or gratuities to persons who shall have served in an established capacity as officers of the Council:

And whereas it has been the custom of the Council to grant superannuation allowances to their officers and servants on retirement under the provisions of the Superannuation (Metropolis) Act 1866 aforesaid:

And whereas by the London (Existing Officers) Scheme 1900 it is provided that subject to the provisions of the Superannuation (Metropolis) Act 1866 in computing the time of the service for the purposes of that Act of an officer of the council of a metropolitan borough who has been transferred by or under the London Government Act 1899 to that council from any other authority and who before the transfer was an officer to whom the Superannuation (Metropolis) Act 1866 applied any period during

A.D. 1908. which the officer was in the service of that other authority shall be included :

And whereas in pursuance of the aforesaid scheme certain of the officers transferred to and now in the service of the Council are to the extent defined by such scheme entitled to the benefits conferred by the Superannuation (Metropolis) Act 1866 :

And whereas doubts have arisen as to whether certain persons transferred to or appointed by the Council are officers acting in an established capacity within the meaning of the Superannuation (Metropolis) Act 1866 and as to the powers and duties of the Council with reference to such persons and it is expedient that provision should be made with reference thereto as in this Act set forth :

And whereas it is expedient that a uniform practice should so far as possible be established for the granting by the Council of superannuation allowances to the whole of the officers and servants transferred to or appointed by the Council as aforesaid in manner provided by this Act :

And whereas an absolute majority of the whole number of the Council at a meeting held on the seventh day of November one thousand nine hundred and seven after ten clear days' notice by public advertisement of such meeting and of the purpose thereof in the Marylebone Mercury a local newspaper published and circulating in the borough such notice being in addition to the ordinary notices required for summoning such meeting resolved that the costs and expenses of promoting the Bill for this Act should be charged on the general rate :

And whereas such resolution was published twice in the said newspaper and has received the approval of the Local Government Board :

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of the Council at a further special meeting held in pursuance of a similar notice on the thirteenth day of February one thousand nine hundred and eight being not less than fourteen days after the deposit of the Bill in Parliament :

And whereas in relation to the promotion of the Bill for this Act the requirements contained in the First Schedule to the Borough Funds Act 1903 have been observed :

And whereas the objects of this Act cannot be effected A.D. 1908.
without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

1. This Act may be cited as the Saint Marylebone Borough Council (Superannuation) Act 1908 and shall (except where otherwise provided) come into operation as from the thirty-first day of March one thousand nine hundred and nine.

Short title
and com-
mencement
of Act.

2. In this Act the expression—

Interpreta-
tion.

“Borough” means the metropolitan borough of Saint Marylebone;

“Council” means the mayor aldermen and councillors of the borough;

“General rate” means the rate or rates levied and collected in the borough and defined by section 10 of the London Government Act 1899 as the general rate;

“Officer” means every officer in the service of the Council designated an officer in an established capacity by a resolution of the Council passed or to be passed;

“Servant” means every servant or workman in the permanent employment of the Council and appointed by the Council or by a committee or officer of the Council duly authorised (either generally or specially) to make the appointment;

“Service” means service under the Council or as regards an officer or servant transferred to the Council from any other authority by or under the London Government Act 1899 service under such authority;

“Emoluments” includes all fees poundage and other payments made to any officer or servant as such by the Council for his own use also the money value of any apartments rations or other allowance in kind appertaining to his office or appointment;

“Joint appointment” includes any office the tenure whereof is determined by the death removal resignation or

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incapacity of the holder of another office under the Council ;

“Superannuation fund” means a fund to be established and administered by the Council in the manner described and provided in the section of this Act whereof the marginal note is “Superannuation fund” ;

“Quarter day” means the first day of July the first day of October the first day of January or the first day of April.

Title of
officers and
servants to
superannua-
tion allow-
ances.

3.—(1) Subject to the provisions of this Act every officer and servant who shall have completed ten years' service and shall become incapable of discharging the duties of his office or employment with efficiency by reason of permanent infirmity of mind or body (other than permanent incapacity due to an injury in respect of which he receives compensation under the Workmen's Compensation Act 1906 or under any scheme made thereunder) or of old age or who shall have attained the age of sixty years and have completed a service of forty years or who shall have attained the age of sixty-five years shall be entitled on resigning or otherwise ceasing to hold his office or employment to receive during life out of the superannuation fund a superannuation allowance according to the scale by this Act provided.

(2) An officer or servant shall not be entitled to an allowance on the ground of old age unless he has attained the age of sixty years.

(3) Where an officer or servant has attained the age of sixty-five years he shall on completion of the current year of his service cease to hold his office or employment upon payment to him of the superannuation allowance to which he may be entitled under this Act Provided that the Council may by resolution extend his period of service for one year and so from time to time as they may deem expedient.

(4) Provided always that (notwithstanding anything in this Act contained) any superannuation allowance which may be granted to any officer or servant who at the passing of this Act shall have attained the age of sixty years and have completed a service of forty years or shall have attained the age of sixty-five years shall be paid out of the general rate and not out of the superannuation fund.

4. The scale of superannuation allowances to be made to an officer or servant under this Act shall be as follows (that is to say):—

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Scale of
superannua-
tion allow-
ances.

(a) After ten years' service ten-sixtieths of the average amount of his salary or wages and emoluments during the five years ending on the quarter day which immediately precedes the day on which he ceases to hold his office or employment:

(b) After eleven years' service eleven-sixtieths of such average amount:

(c) And so on up to a maximum after forty or more years' service of forty-sixtieths of such average amount.

5. An officer or servant who is dismissed or resigns or otherwise ceases to hold his office or employment in consequence of any offence of a fraudulent character or of grave misconduct shall forfeit all claim to any superannuation allowance under this Act in respect of his previous service. Provided that in the case of any such officer or servant the Council may if they see fit return to him out of the superannuation fund a sum equal to the amount of all or part of his contributions under this Act.

Forfeiture
for fraud &c.

6.—(1) An officer or servant who has not become entitled to a superannuation allowance and who voluntarily resigns his office or employment or loses his office or employment by reason of a reduction of staff or of any alteration of areas or boundaries or otherwise ceases to hold his office or employment by reason of bodily injury not occasioned by his own default or of any other cause whatever other than his own misconduct shall be entitled to receive a sum equal to the amount of all his contributions under this Act.

Return of
contributions
and power
to grant
gratuities
and super-
annuation
allowances
in certain
cases.

(2) In any such case of loss of office or employment as in this section mentioned the Council may also if they see fit grant to an officer or servant a gratuity not exceeding twice the amount of his salary or wages and emoluments during the year ending on the quarter day which immediately precedes the day on which he ceases to hold his office or employment but every such gratuity shall be paid out of the general rate and not out of the superannuation fund.

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(3) Provided that when such loss of office or employment occurs in a case in which the death resignation or insanity of one of the holders of a joint appointment vacates the office of the other the officer or servant whose office or employment is so vacated shall unless he is reappointed by the Council and except where in the case of husband and wife the joint appointment is terminated owing to the misconduct of one of them be entitled to receive during life a superannuation allowance according to the scale provided by this Act if such officer or servant has attained the age of fifty years or has served for not less than twenty years.

Return of contributions or part thereof in case of death.

7. In the event of an officer or servant dying before becoming entitled to or receiving a superannuation allowance under this Act the Council shall pay to his legal personal representatives out of the superannuation fund a sum not exceeding the amount of the contributions made by such officer or servant under this Act and not less than one half of that amount.

Notice of proposal to return contributions or grant gratuity.

8. At least one month's notice in writing shall be given to every member of the Council of the time at which any proposal to return contributions to an officer or servant who has been dismissed or resigns or any proposal to grant a gratuity under this Act will be considered.

Allowances not assignable.

9. Every superannuation allowance granted under this Act shall be payable to or in trust for the officer or servant and shall not be assignable or chargeable with his debts or other liabilities.

Obligation of officers and servants to contribute.

10. Subject to the provisions of this Act every officer and servant in the service or employment of the Council shall contribute for the purposes of this Act a percentage amount of his salary or wages and emoluments according to the scale provided by this Act such amount to be deducted by the Council from the salary or wages and emoluments payable to him and to be carried to the credit of and form part of the superannuation fund.

Scale of contributions.

11.—(1) The percentage amounts to be deducted for the purposes of this Act shall be as follows (that is to say):—

(a) In the case of officers and servants with less than five years' service at the commencement of this Act or

appointed after the commencement of this Act two per centum of the annual salary or wages and emoluments; A.D. 1908.

- (b) In the case of officers and servants with more than five and less than fifteen years' service at the commencement of this Act two and a half per centum of the annual salary or wages and emoluments; and
- (c) In the case of officers and servants with more than fifteen years' service at the commencement of this Act three per centum of the annual salary or wages and emoluments.

(2) The percentage amounts aforesaid shall be deducted from each and every payment made to officers and servants by way of salary wages or emoluments but such deductions shall not be calculated to fractions of one penny. Provided that deductions in respect of emoluments other than monetary payments shall be made by instalments or otherwise as the Council may from time to time direct.

12.—(1) The Council shall establish and administer a superannuation fund to which shall be carried and credited— Superannuation fund

- (a) A sum hereinafter called "the primary annual contribution" to be raised annually in and by the general rate and to be of such amount as hereinafter provided;
- (b) All percentage amounts of salary or wages and emoluments deducted as in this Act provided;
- (c) All dividends and interest arising out of the investment of the superannuation fund or any part thereof; and
- (d) Such amount out of the general rate as may be required to meet any deficiency in the superannuation fund as in this Act provided.

(2) The following shall be charged upon the superannuation fund (namely):—

- (a) Superannuation allowances made in pursuance of this Act;
- (b) Contributions or parts of contributions returned or paid in pursuance of this Act.

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(3) The superannuation fund shall be administered in manner following (that is to say):—

All superannuation allowances and all contributions or part contributions to be returned or paid by the Council in pursuance of this Act shall in each year be paid—

(a) In the first place out of so much of the superannuation fund as is represented by the primary annual contribution ;

(b) In the event of the primary annual contribution not being sufficient to fully satisfy such payments then to the extent to which it is insufficient for that purpose out of so much of the superannuation fund as is represented by the percentage amounts of salary or wages and emoluments deducted by the Council in pursuance of this Act and placed to the credit of the superannuation fund during the year in which such payments shall accrue due and become payable ;

(c) In the event of the primary annual contribution together with such percentage amounts not being sufficient to fully satisfy such payments then to the extent to which the same are insufficient for that purpose out of such portion of the superannuation fund as is represented by the dividends and interest (if any) which have accrued during the year in which such payments shall accrue due and become payable ;

(d) In the event of the primary annual contribution and percentage amounts together with the amount of such dividends and interest (if any) not being sufficient to fully satisfy such payments then to the extent to which the same are insufficient for that purpose out of moneys or investments standing to the credit of the superannuation fund on the thirty-first day of March immediately preceding but not exceeding ten per centum of the total amount thereof ;

(e) In the event of the sources above-mentioned not being sufficient to fully satisfy such payments then to the extent to which the same are insufficient out of the portion of the superannuation fund taken from the general rate to make up the deficiency.

13. Within six months after the passing of this Act and at the expiration of every subsequent period of five years dating from the commencement of this Act the condition of the superannuation fund shall be submitted by the Council to an actuary being a fellow either of the Institute of Actuaries or of the Faculty of Actuaries in Scotland appointed by them and approved by the Local Government Board who shall consider the same and shall report as to the solvency thereof and certify what sum in his opinion is necessary to be the amount of the primary annual contribution so that the superannuation fund shall be solvent as constituted under the paragraphs (a) (b) and (c) of subsection (1) of the immediately preceding section without further recourse to the general rate and the sum so certified shall be the primary annual contribution for the next quinquennial period and shall be paid into the superannuation fund accordingly but the primary annual contribution shall not be less than four hundred pounds.

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Actuarial investigation.

14. The Council may, at their discretion invest any such part of the superannuation fund as may not in their opinion be required to meet payments arising in pursuance of the provisions of this Act in any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money and in any mortgage bond debenture debenture stock stock or other security authorised by or under any Act of Parliament passed or to be passed of any county council or municipal corporation in Great Britain or of any other local authority as defined by section 34 of the Local Loans Act 1875 but not in securities of the Council or in annuity certificates rentcharges or securities payable to bearer.

Investment of superannuation fund.

15.—(1) Any officer or servant in the service of the Council at the date of the passing of this Act may at any time within three months from that date signify in writing to the Council his intention not to avail himself of the provisions of this Act and in that event it shall not be obligatory on him notwithstanding anything in this Act contained to make any contributions or submit to any deductions from his salary wages or emoluments under this Act nor shall he be entitled to receive any superannuation allowance gratuity or other benefit under this Act.

Saving for existing officers and servants.

(2) Any officer or servant who has given such notice as aforesaid or who at the date of the passing of this Act shall have attained the age of sixty-five years as mentioned in subsection (4)

A.D. 1908. of the section of this Act whereof the marginal note is "Title of officers and servants to superannuation allowances" shall if entitled immediately before the date of the passing of this Act to any benefits conferred by the Superannuation (Metropolis) Act 1866 or the Poor Law Officers' Superannuation Act 1896 remain subject to the provisions of such Acts as if this Act had not been passed and those provisions shall for the purpose of this enactment continue in force notwithstanding the provisions of the section of this Act whereof the marginal note is "Acts of 1866 and 1896 to cease to apply."

Acts of 1866
and 1896 to
cease to
apply.

16. Except as hereinbefore provided the Superannuation (Metropolis) Act 1866 and the Poor Law Officers' Superannuation Act 1896 shall cease to apply to the Council and their officers and servants as from the commencement of this Act but this provision shall not affect the payment of any superannuation allowance granted before the commencement of this Act nor any right or liability acquired or accrued nor anything duly done or suffered before the commencement of this Act.

Application
of provisions
of Friendly
Societies Act
1896.

17. The Council shall in respect of the superannuation fund be registered under the Friendly Societies Act 1896 and the provisions of that Act (except the proviso to subsection (1) of section 8 and section 41) so far as they are applicable and are not inconsistent with the provisions of this Act shall apply as if—

- (1) The Council were a society to which that Act applies and were the trustees of such society;
- (2) The provisions of this Act were the rules of such society;
- (3) The superannuation fund were the fund of such society;
- (4) The contributors to the fund were the members of such society; and
- (5) The accounts of the superannuation fund as audited by the district auditor appointed by the Local Government Board were the annual return of the receipts and expenditure funds and effects required by section 27 (Annual returns) of the said Act.

Arbitration.

18. Any question which may arise between the Council and any officer or servant as to the right to or the amount of a superannuation allowance or the amount of the contribution of such officer or servant shall in default of agreement be submitted to

arbitration in accordance with the provisions of the Arbitration Act 1889. A.D. 1908.

19. All the costs charges and expenses preliminary and incidental to the preparing applying for obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Council out of the general rate. Costs of Act.

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