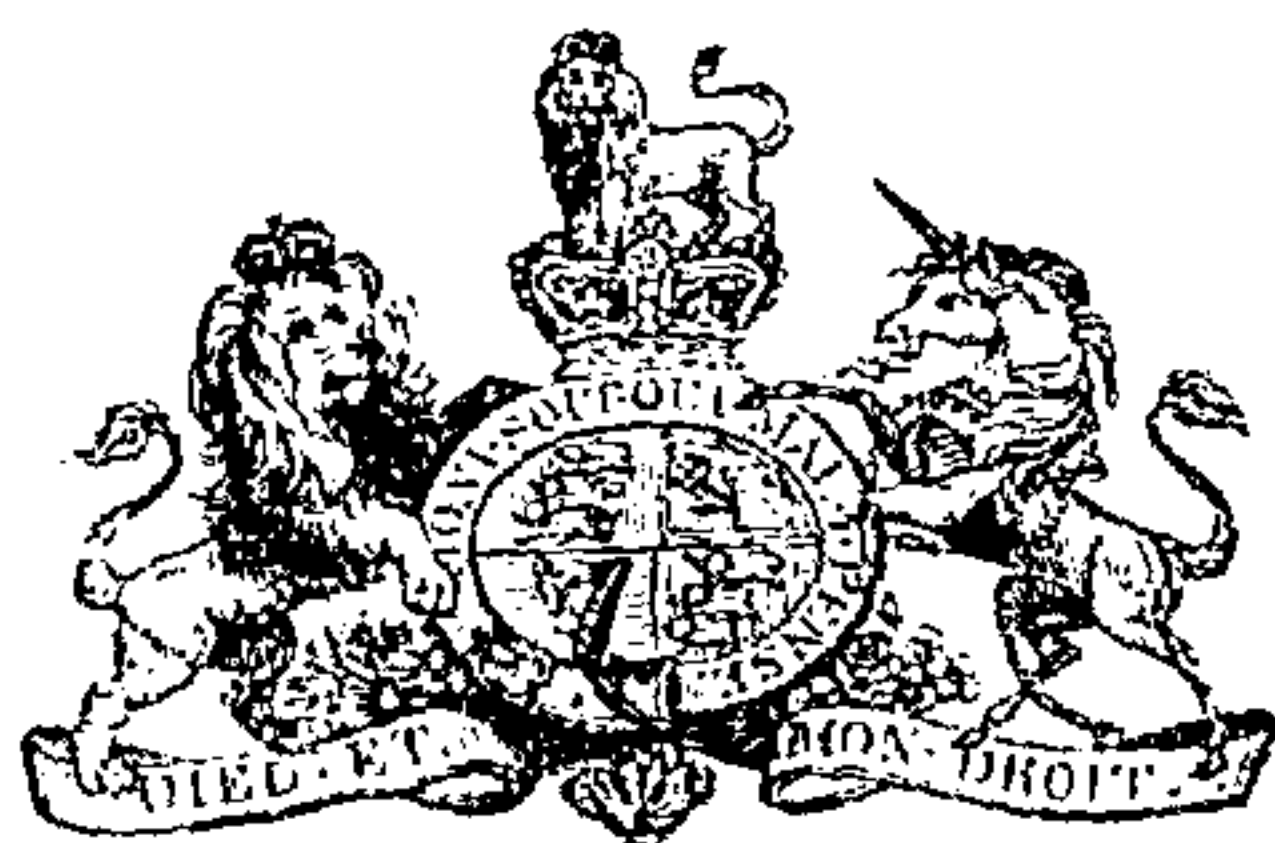


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of Glasgow Widows Fund Act, 1880.



CHAPTER xxxii.

An Act for regulating the management of the Widows Fund of the Faculty of Physicians and Surgeons of Glasgow; for authorising a transfer of the Fund and its liabilities; for winding up the Fund; and for other purposes. A.D. 1880.
[29th June 1880.]

WHEREAS the Faculty of Physicians and Surgeons of Glasgow (herein-after called "the Faculty") was incorporated by Royal Charter, granted by His Majesty King James the Sixth of Scotland, under the Privy Seal of that Kingdom, on the twenty-ninth day of November one thousand five hundred and ninety-nine, which charter was ratified by an Act of the Scottish Parliament passed upon the eleventh day of September one thousand six hundred and seventy-two: Royal
Charter, 29th
November
1599.
Act of
Scottish
Parliament,
1672.

And whereas a fund (herein-after called "the fund"), for the benefit of the widows and children of the then members of the Faculty and of the contributors to the fund, was established by resolution of the Faculty, dated the eighth day of June one thousand seven hundred and ninety-two:

And whereas the fund has been managed, and the affairs thereof administered, under rules and regulations made from time to time pursuant to the provisions of the Acts of Parliament for the time being relating to friendly societies, under which Acts the contributors to the fund were and are at present registered:

And whereas by an Act passed in the thirteenth year of the reign of Her present Majesty, intituled "An Act for better regulating the privileges of the Faculty of Physicians and Surgeons of Glasgow, and amending their Charter of Incorporation" (herein-after called "the Act of 1850"), it was, inter alia, enacted that no person who should thereafter be admitted a Fellow of the Faculty should be obliged to become a contributor to the fund, nor should any such person, or the widow or children of any such person, have any interest in the fund, unless such person should voluntarily 13 & 14 Vict.
c. xx

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become a contributor thereto, according to the regulations thereof in force for the time being; and that neither the Faculty nor its office-bearers, nor the Fellows of the Faculty in consequence of their admission into the said corporation, should have any claim to or interest in any part of the fund, but that the same should remain the sole property and be under the exclusive management and control of the contributors to and trustees of the fund for the time being :

And whereas at the balance of the accounts of the fund on the fifteenth day of May immediately preceding the date of the passing of the Act of 1850, the capital stock of the fund amounted to forty-one thousand four hundred and thirty-four pounds sterling; and there were then surviving seventy-eight contributors to the fund, and thirty-five widows drawing annuities therefrom :

And whereas since the passing of the Act of 1850 no Fellow of the Faculty has applied to become a contributor to the fund; and by regulations passed at a general meeting of the contributors to the fund held on the twenty-fourth day of January one thousand eight hundred and fifty-four, and certified on the tenth day of May following by the Registrar of Friendly Societies in Scotland, as being in conformity to law and to the provisions of the Statutes then in force relating to friendly societies, and again by regulations passed in lieu of the last-mentioned regulations on the third day of July one thousand eight hundred and seventy-two, and certified by the said Registrar on the twenty-second day of same month and year, it was expressly declared that no new contributor to the fund should thereafter be admitted, but that the whole stock thereof, with the interest and other annual returns thereof, under deduction of the necessary expenses of management, should be applied for the benefit of the widows named in the said regulations as annuitants, and the widows and children of the contributors also therein named and then surviving, according to the respective rates therein specified :

And whereas the capital stock of the fund is now reduced to twenty-one thousand three hundred and nineteen pounds nineteen shillings; and the number of widows drawing annuities from the fund at the several rates herein-after specified is reduced to twenty-four, of whom nine are on the first rate, thirteen on the second rate, and two on the third rate; and the number of surviving contributors is reduced to ten, of whom three are on the first rate, four on the second rate, and three on the third rate :

And whereas the respective amounts of the annuities to widows, and of the provisions to children of contributors, have been from time to time augmented and reduced in accordance with reports

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and recommendations of actuaries from time to time appointed to investigate into the state of the fund; and at present the annuities payable to widows until their death or marriage are respectively seventy pounds to those on the first rate, fifty-two pounds ten shillings to those on the second rate, and thirty-five pounds to those on the third rate; and the provision payable to the children of each contributor dying without leaving a widow, or leaving a widow who dies or marries before becoming entitled to annuities for six years, is a sum equal to the annuities which would have been payable to his widow for six years, or to so much of the annuities payable to his widow for six years as by reason of her death or marriage within that period may not have become payable to her, as the case may be : A.D. 1880.

And whereas by the Friendly Societies Act, 1875, (herein-after called "the Act of 1875,") it was provided (section 8, sub-section 1) that no society (except as therein-before provided) which contracts with any person for the assurance of an annuity exceeding fifty pounds per annum, or of a gross sum exceeding two hundred pounds, should be registered under the said Act; and (section 6) that every society then subsisting, whose rules had been registered, enrolled, or certified under any previous Act relating to friendly societies, should be deemed to be registered under the Act now under recital, and that its rules should, so far as the same were not contrary to any express provision of that Act, continue in force until altered or rescinded; provided that nothing in that Act contained should affect the validity of the rules of friendly societies established before the fifteenth day of August one thousand eight hundred and fifty, notwithstanding that the contingent annual payments to which the members or nominees of members of such societies might become entitled might exceed the limit thereby fixed; and (section 27) that no member of a registered friendly society, nor any person claiming through a member, should be entitled to receive more than two hundred pounds by way of gross sum, together with any bonuses or additions declared upon assurances not exceeding that amount, or (except as provided by section 6 of the said Act) fifty pounds a year by way of annuity, from any one or more such societies : 38 & 39 Vict. c. 60.

And whereas in consequence of the said enactments doubts have arisen as to the legality of the payment of the before-mentioned provisions to the children of contributors to the fund, and it is expedient that such doubts should be removed :

And whereas, in consequence of the reduced and diminishing number of the contributors to the fund, and of their advanced age, and of the places of residence of several of them being at a distance

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from Glasgow, difficulties have been experienced in carrying on the ordinary management of the fund by trustees appointed from among the contributors, and it would be still more difficult to secure the appointment of other trustees from time to time when necessary, in consequence of the death or incapacity or resignation of existing trustees, if such appointment were required to be made by the contributors, as provided by the Act of 1875, and it is therefore expedient to make other provision for the appointment of trustees who may not be contributors to the fund, and for the future vesting of the fund in and management of the same by such trustees, or if necessary in and by a judicial factor, in the manner and with the powers herein-after provided, and also to alter in other respects the rules and regulations under which the fund is at present managed :

And whereas it is expedient to make provision for the ultimate winding up and disposal of the fund, with an equitable regard to the rights of the widows at present entitled to annuities therefrom, and to the contingent interests of the widows and children of the surviving contributors :

And whereas with that view it is expedient to authorise and make provision for the transfer of the fund, and of the obligations and liabilities of the contributors thereto, or any of them, to some insurance company, corporation, or association, in consideration of such insurance company, corporation, or association undertaking to pay to the widows and children of deceased and surviving contributors entitled thereto annuities and provisions as herein-after mentioned, and for the due implement and enforcement of such undertaking, or for the purchase from some insurance company, corporation, or association, for behoof of the widows at the time entitled to annuities from the fund, and of the children of contributors then deceased who may become entitled to provisions of annuities and provisions as herein-after mentioned, and for the apportionment among the then surviving contributors of the value of the contingent interests of their widows and children in the fund :

And whereas it is expedient to empower the contributors to or trustees of the fund for the time being, or the judicial factor who may be appointed to manage the same, or (in the event of the transfer of the fund as aforesaid) the insurance company, corporation, or association to whom the same may be transferred, to agree from time to time with any of the contributors to the fund for the surrender of their or his interest therein, and of the annuities or annuity, provisions or provision, to which their or his widows or widow or children may be entitled, and for the payment to such contributors or contributor of the surrender value or price thereof,

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or for the same being held in trust for their or his widows or widow and children : A.D. 1880.

And whereas the present number of trustees of the fund is five :

But the purposes aforesaid or some of them cannot be effected without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted ; and be it enacted by the Queen'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 Faculty of Physicians and Surgeons of Glasgow Widows Fund Act, 1880. Short title.

2. This Act shall commence and take effect from and after the first day of the month next following the passing thereof. Commence-
ment of Act.

3. Nothing contained in the Act of 1875, or in any previous Act relating to friendly societies, shall be deemed to prejudice or affect those rules and regulations of the contributors to the fund under which the children of any deceased contributor are entitled to a provision exceeding two hundred pounds, or to render invalid any past or future payment exceeding that amount to the children of any contributor already deceased or who may hereafter decease ; and no such rule, regulation, or payment shall in any way affect, prejudice, or impede the existing or any future registration of the rules and regulations of the fund under the said Acts, or any Act or Acts amending or renewing the same, or deprive the fund or the contributors thereto of the benefits and privileges arising from registration under the same, except sub-section (2) of section 15 of the Act of 1875, as to exemption from stamp duty, which shall not apply to the fund. Provisions
to children
not to be
affected by
Friendly
Societies
Acts.

4. The contributors to the fund present at any general meeting specially convened may by a majority of those so present make provision for the future management of the fund by electing as a trustee or trustees, in the place of any trustee or trustees who may have died, resigned, or gone out of office by rotation, one or more persons not being contributors to the fund ; and immediately thereafter the right of the contributors to elect the chairman and trustees, collector, and legal adviser and clerk of the fund, as heretofore, shall cease and determine, and such rights, together with the right of electing from time to time as trustees other persons who may or may not be contributors, and the whole management of the fund, shall thereupon and thenceforth be vested in and exercised by the Power to
elect as
trustees
persons who
are not
contributors.

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A.D. 1880. — trustees for the time being alone at such annual or special meetings as they may fix. The persons so elected shall respectively hold office under the rules and regulations with respect to the fund in force at the time, with the powers and subject to the provisions therein prescribed with regard to their respective offices, and with this further provision, that to the chairman and trustees then and thereafter appointed and acting there may annually be paid by the collector out of the revenues of the fund an honorarium of twenty-five guineas for their attendance at meetings and for their management of the fund, which honorarium shall be divided among the chairman and trustees in such proportions as they may from time to time prescribe. If and when by death, resignation, or non-election there shall cease to be any contributor to the fund acting as a trustee thereof, the place of the contributor last ceasing to be a trustee shall not be filled up, and the number of the trustees shall thereupon be reduced to four, and when a vacancy in the office of trustee next occurs such vacancy shall not be filled up, and the number of the trustees shall thereupon be reduced to three; and when such events shall respectively occur the whole management of the fund shall thereupon and thenceforth be vested in such four or such three trustees, as the case may be, and in their successors in office (of whom two shall in each case form a quorum), with the powers, rights, and privileges hereinbefore and herein-after reserved to and conferred on the trustees.

Power to
appoint a
judicial
factor.

5. The trustees of the fund for the time being present at any meeting specially convened after not less than ten days notice in writing sent by post to each contributor and trustee, specifying the purpose of such meeting, may, by a majority of those so present,—or any five or more of the contributors, or of the widows at the time entitled to annuities from the fund, may, by a minute signed by them, alleging that their interests are prejudiced by the manner in which the fund is administered,—resolve on applying and may apply to the Court of Session in Scotland for the appointment of a judicial factor; provided that no such application shall be made by the trustees if objection thereto be previously stated to them in writing by a majority of the then surviving contributors; and the Court of Session is hereby empowered on such application by the trustees, or on such application by five or more contributors or widows, and on being satisfied that such allegations are well founded, to appoint as such judicial factor any contributor to the fund, or other person whom the Court may think fit, and from time to time, if the Court see cause, to remove such judicial factor and to appoint another contributor or other person in his place; and on and after the appointment of such judicial factor the fund shall

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cease to be managed by the contributors to or by the trustees of the fund, and the whole management thereof shall be vested in such judicial factor. A.D. 1880.

6. The judicial factor so appointed, in addition to the ordinary powers and privileges conferred by law, shall have and may exercise all the powers, discretionary or otherwise, vested in the trustees and collector of the fund, subject to the obligations incumbent on them by the rules and regulations of the fund existing at the time of the first appointment of such judicial factor, and in particular he shall collect the revenues of the fund and pay the annuities and provisions to the widows and children entitled thereto. Powers and duties of judicial factor.

7. Sub-section (4) of section 16 of the Act of 1875 shall apply to any trustee or trustees appointed under the provisions of this Act, in all respects as if such trustee or trustees had been appointed under the provisions of the Act of 1875; and on the first appointment of any judicial factor, under the powers of this Act, all the property, real and personal, securities, stocks, moneys, debts, and revenues then belonging and owing to the fund, and all the obligations and liabilities then incumbent on the trustees thereof, shall be and the same are by virtue of this Act, and without the necessity of any conveyance or assignment, transferred to, vested in, and imposed upon such judicial factor, except that stocks and securities in the public funds of Great Britain and Ireland shall be transferred into his name by transfer; and the trustees for the time being appointed under the provisions of the Act of 1875, or of this Act, and any judicial factor for the time being so appointed, shall respectively have all the powers now vested in the existing trustees of the fund of investing and re-investing the stock of the fund, and of transferring, selling, receiving, and discharging the property, real and personal, securities, stocks, moneys, and debts belonging and owing thereto, and the revenues thereof; and shall also have power, at their or his discretion, and at any time they or he think fit, of directing actuarial investigations and reports upon the fund, and after due consideration of such reports of decreasing or increasing the rates of the annuities to widows and provisions to children thereafter payable. Vesting of property in new trustees and judicial factor.

8. The contributors to the fund present at any general meeting specially convened may, by a majority of those so present,—or the trustees of the fund for the time being present at any meeting specially convened after not less than ten days notice in writing sent by post to each contributor and trustee, specifying the purpose of such meeting, may, by a majority of those so present,—or the Power to contract for the transfer of the fund and its liabilities.

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judicial factor appointed as aforesaid may, with the consent of a majority of the then surviving contributors, or in the event of their inability or incapacity from any cause to grant such consent, then with the consent of the Lord Advocate of Scotland for the time being,—resolve to enter, and may, after obtaining the consents or the order in lieu thereof herein-after provided, enter into a contract with any insurance company, corporation, or association for the transfer to such insurance company, corporation, or association of the fund, and of all the property, real and personal, securities, stocks, moneys, debts, and revenues belonging or owing thereto, and of the right to enforce all the obligations and liabilities incumbent, under the rules and regulations of the fund, upon the contributors, or any of them, for payment to the fund of annual contributions and of the interest and penalties exigible in the event of non-payment thereof, in consideration of such insurance company, corporation, or association becoming bound to pay to the widows and children of then deceased contributors, and of contributors who may thereafter die, annuities and provisions of such amounts respectively as can be obtained in consideration of such transfer, in lieu of and proportioned to the annuities and provisions, according to their respective rates, to which such widows and children would respectively have been entitled out of the fund if this Act had not been passed: Provided always, that no such resolution shall be passed by the contributors after the election as a trustee of a person who is not a contributor or the appointment of a judicial factor, nor by the trustees or judicial factor except when the whole management of the fund shall be vested in them or him as herein-before provided, nor by the trustees if objection thereto be previously stated to them in writing by a majority of the then surviving contributors: Provided also, that no such contract shall be valid or effectual until or unless five sixths of the contributors surviving at the time assent thereto, either at the meeting at which the resolution to enter into the same was passed or in writing, nor without the written consent of every person for the time being receiving or entitled to receive at the time any annuity or other benefit from the fund, unless the claim of such person be first duly satisfied or adequate provision be made for satisfying such claim, or unless upon application, after notice published in the Edinburgh Gazette, of the parties passing such resolution, the Chief Registrar of Friendly Societies, after hearing such parties and any other persons whom he may consider entitled to be heard upon the application, shall, with the consent of the Treasury, order that any of the consents herein-before required be dispensed with: Provided further, that the provisions contained in section 25, sub-sections (7) (c) and

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(7) (d), and section 34 of the Act of 1875, as to the punishment of officers and the remedy of members or persons dissatisfied with the provision made for satisfying their claims, shall apply to the transfer hereby authorised. A.D. 1880.

9. As soon as practicable after such contract shall have been entered into in manner herein-before prescribed, the trustees of the fund, or the judicial factor or other person in whom any part of the property or assets of the fund shall at the time be vested, shall convey the same to such insurance company, corporation, or association, as the case may be, and thereupon all the powers and functions of the contributors to and trustees of the fund, or of the judicial factor, shall cease and determine; and such insurance company, corporation, or association, as the case may be, shall have right to receive, and, if necessary, to sue for and recover, all annual contributions then due or which may thereafter become due by the contributors, or any of them, under the rules and regulations of the fund in force at the date of such contract, with corresponding interest and penalties thereby provided in the event of nonpayment, and shall pay to the widows and children entitled or who may become entitled thereto annuities and provisions at the rates contracted for as aforesaid, during the periods for which such widows, and at the terms at which such widows and children, respectively are or would have been entitled to annuities and provisions under the said rules and regulations of the fund. Fund to be conveyed to insurance company, &c.

10. The widows and children entitled to such annuities and provisions may respectively, if such annuities or provisions or any of them or any part thereof are at any time not paid when due, institute and follow out in their own name such legal proceedings against such insurance company, corporation, or association as may be necessary for securing and recovering the amounts due to them respectively. Proceedings for enforcing contract.

11. In lieu of entering into a contract for the transfer of the fund and its liabilities as aforesaid, the contributors, trustees, or judicial factor herein-before empowered to enter into such a contract may, in the manner and subject to the provisions herein-before contained with respect thereto, enter into a contract with any insurance company, corporation, or association for the purchase of annuities for the widows of contributors then entitled to annuities from the fund, and of provisions for the children of such contributors in the event of such widows dying or marrying without becoming entitled to such annuities for six years, of such respective amounts as shall be ascertained in manner herein-after provided, in Power to contract for purchase of annuities and provisions for widows and children of deceased contributors, &c.

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A.D. 1880. — lieu of the annuities which such widows respectively may be then entitled to receive from the fund, and the provisions which such children would be entitled to receive from the fund in the event of such widows dying or marrying as aforesaid; and shall apportion, divide, and pay among and to the then surviving contributors the value of the contingent interests in the fund to which their widows and children, if any, would become entitled on their death, as such value shall be ascertained in manner herein-after provided: Provided always, that before entering into any such contract the contributors, trustees, or judicial factor, as the case may be, shall, after notice in the *Edinburgh Gazette*, make summary application to the Court of Session in Scotland for the appointment of an actuary, who shall ascertain under one scheme the respective capitalised and annual values of the then existing interests in the fund of the widows of deceased contributors, and the capitalised values of the interests of the children of such contributors, and subject thereto of the contingent interests in the fund of the surviving contributors, in respect of the annuities and provisions to which their widows and children, if any, would be entitled on their death; and the contributors, trustees, or judicial factor, as the case may be, shall pay the value of the said existing interests, as so ascertained, to the insurance company, corporation, or association contracting for payment of annuities and provisions to widows and children of deceased contributors as aforesaid, and shall pay to the surviving contributors, in such proportions as the said actuary shall determine, the value of the said contingent interests ascertained as aforesaid.

Annuities,
 &c. to be
 alimentary,
 and not sub-
 ject to
 assignment
 or arrest-
 ment.

12. The annuities and provisions payable as aforesaid by any insurance company, corporation, or association, under any of the provisions of this Act, shall (in like manner with and to the same extent as the annuities and provisions now payable out of the fund, but no further or otherwise) be incapable of sale, assignment, or transference, in whole or in part, by the widows or children entitled thereto, and shall not be subject to arrestment or other diligence at the instance of their creditors or of the creditors of their husbands or fathers, but shall be purely alimentary, and shall be paid, notwithstanding any such sale, assignment, transference, arrestment, or diligence, to the widows and children respectively entitled thereto, upon their own receipt and for their own use exclusively.

Agreement
 with retiring
 contributors.

13. The trustees of the fund, or, subject to the approval of the Lord Advocate of Scotland, the judicial factor who may be appointed

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as aforesaid, may at any time previously to the transfer of the fund to an insurance company, corporation, or association as aforesaid, and such insurance company, corporation, or association may at any time after such transfer agree, if they think fit, with any of the contributors desirous of retiring from the fund, and such contributors are hereby empowered to agree to that effect, for the surrender of the interest of such contributors or contributor in the fund, and of the annuities or provisions, or annuity or provision, to which their or his widows or widow or children might become entitled therefrom, in consideration of the payment to such contributors or contributor of the price or value thereof, as the same shall be agreed upon between the said parties respectively, or for the said price or value being held in trust for the widows or widow or children of such contributors or contributor.

A.D. 1880.
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14. All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid out of the fund. Expenses of Act.

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