

ANTIGUA AND BARBUDA

STATUTORY INSTRUMENTS

1999, No. 15

**The Defence (Pension and Gratuity) Regulations, 1999
made by the Governor General under section 160 of the
Defence Act, Cap. 132.**

PRELIMINARY

1. These Regulations may be cited as the Defence (Pension and Gratuity) Regulations, 1999. Short title.

2. (1) In these Regulations, unless the context otherwise requires Interpretation.
 - “pensionable emoluments” includes salary and duty allowance but does not include entertainment or any other emoluments or allowances;

 - “pensionable service” means paid colour service in the Force after attaining the age of eighteen years and includes paid colour service in Her Majesty’s Military Forces and service before 1981 on the permanent staff of the Antigua Defence Force (Volunteers);

 - “public claim” means a public debt or disallowance, including any over-issue or advance of pay, gratuity, pension or other emoluments made through an error as to the facts; or the sum required to make good any loss, deficiency or irregular expenditure of public money, any deficiency, loss damage or destruction of public stores, buildings or other public property of which, after due investigation no explanation satisfactory to the Council is given by the person who is responsible for the same;

 - “qualifying service” means paid colour service in the Force and in respect of any member of the Force who before the coming into operation of these Regulations was in the Force, includes colour service of such member in the Antigua and Barbuda Defence Force, or service on the permanent staff of the former Antigua Defence Force (Volunteers) or in Her Majesty’s Military Forces;

 - “service claim” means any service debt or the sum required to make good any loss, deficiency or irregular expenditure of service money of which after due investi-

gation no explanation satisfactory to the Council is given by the person who is responsible for the same;

“substantive rank” shall exclude brevet, honorary, acting or local rank.

(2) References in these Regulations to officers and soldiers shall be construed as being references to officers and soldiers of the Regular Force of the Antigua and Barbuda Defence Force.

PART I GENERAL

Pension etc. not of right

3. No person shall have an absolute right to compensation or to pension, gratuity or other grant under these Regulations.

Revision of terms.

4. Except where otherwise provided, no person shall be entitled to claim any gratuity, pension or other advantage conferred by a provision of these Regulations in the event of the provision being at any time added to, varied or cancelled.

Compulsory deductions.

5. A pension, gratuity or other grant awarded under these Regulations to a person shall be liable to deductions on the order of the council to meet a public or service claim.

Payment of pension & gratuity.

6. The payment of pension, and gratuity or other grant awarded under these Regulations may be made provisionally or upon any other basis and for such period as the Council may think fit and, either generally or in any particular case or class of case, any pension, gratuity or other grant awarded in terms of a monthly amount may be paid quarterly or monthly in arrears.

Power to reduce pension etc in certain cases.

7. (1) The Council may withhold or reduce any pension or grant awarded under these Regulations

- (a) if it is satisfied that it was obtained by the wilful suppression of material facts or granted in ignorance of facts which, had they been known at the time of the grant, would have justified the reduction or withholding thereof; or
- (b) if the person to, or in respect of whom such gratuity, pension or grant is awarded is sentenced to death or to any term of imprisonment by any court of competent jurisdiction whether in Antigua and Barbuda or elsewhere, for any crime or offence, or is in the opinion of the Council unworthy of a grant from the public funds.

8. (1) No pension, gratuity or other grant shall be awarded to a person who, having been adjudicated a bankrupt or declared insolvent by a judgment of a court of competent jurisdiction, whether in Antigua and Barbuda or elsewhere, has not obtained his discharge from such adjudication or declaration.

Pension etc in cases of bankruptcy.

(2) If any person to whom, pension, gratuity or other grant has been awarded under these Regulations is adjudicated a bankrupt or is declared insolvent by a judgment of a court of competent jurisdiction, whether in Antigua and Barbuda or elsewhere, then his pension, gratuity or other grant shall cease.

(3) Notwithstanding the provisions of sub-regulation (2), the Council may, during the lifetime of a person or a shorter period, cause all or part of the moneys that he would have been entitled to by way of pension, gratuity or other grant, had he not become bankrupt or insolvent, to be paid or applied for the maintenance and personal support of himself, his wife or any child of his in such proportions and manner as the Council thinks proper, and any moneys applied for the discharge of his debts shall for the purposes of this sub-regulation be regarded as applied for his benefit.

(4) When a person to whom any pension, gratuity or other grant has not been awarded or whose pension, and gratuity or other grant has ceased under the provisions of this regulation, obtains a discharge of his bankruptcy or insolvency his pension, gratuity or other grant may be awarded or restored to him as the case may be with effect from the date of the discharge.

9. Where a person to whom any payment could have been made under these Regulations before his death, dies before the payment is made, and the amount unpaid does not exceed two thousand five hundred dollars the amounts so unpaid may be paid to the personal representative of the deceased person without probate or other proof of title or may be paid or distributed to or among the persons appearing to the Council to be the person beneficially entitled to the personal estate of the deceased person, and in determining the persons to whom and the proportions in which the amount so unpaid shall be paid or distributed, the Council may have regard to any payment made or expenses incurred by the person for or on account of the funeral of the deceased person.

Power to dispense with probate.

10. If a person to whom an award of pension or gratuity has been made under these Regulations enters the service of a foreign power without the consent of the Council or, if he continues in such service after the consent is withdrawn, he

Service of a foreign power.

shall be liable to have his pension or gratuity, as the case may be, suspended or withheld as the Council may decide.

Officers and soldiers transferred from Public Service and Police Service.

11. An officer or soldier who has been transferred from the Public Service, the Fire Service or Police Service to the Service of the Defence Force shall, on retirement from the Defence Force, be entitled to the payment of the greatest of the following benefits:

- (a) a pension and a gratuity, as the case requires, calculated as if all his pensionable service in the Public Service, the Fire Service or the Police Service as well as pensionable service in the Defence Force were qualifying service under these Regulations; or
- (b) a pension and gratuity calculated as if all his pensionable service in the Defence Force, the Public Service, the Fire Service, or the Police Service were pensionable service under the Pension Act or the Police Act, as the case may be.

PART II OFFICERS AND SOLDIERS

Compulsory retirement.

12. It shall be compulsory for officers and soldiers to retire on attaining the following ages:

- a. OFFICERS**

Lieutenant Colonel and above	at age 55
Major	at age 50
Captain	at age 47
Lieutenant & Second Lieutenant	at age 45
- b. SOLDIERS**

Warrant Officers	at age 47
Staff Sergeants	at age 45
Sergeants and below	at age 43
- c.** Provided that an officer or soldier who has attained the age at which he is required by the foregoing provisions of this regulation to retire may be permitted by the competent appointing authority to continue as a member of the Force for such further period as may be agreed with the officer or soldier, as the case may be, with the approval of the Council.

13. (1) An officer or soldier who retires on or after attaining the compulsory age for retirement in his rank, and whose qualifying service is not less than the minimum period of service specified in sub-regulation (3), may be granted pension calculated in accordance with the provisions of subregulation (2). Retirement at full rate of pension.

(2) Pension shall be computed as follows:

- (a) the annual rate of one-six hundredth of the pensionable emoluments of the officer or soldier in respect of each completed month of service calculated on the basis of the last rate in issue to the officer or soldier immediately preceding the date of retirement; and
- (b) a terminal grant equal to three and a half times the annual pension computed in accordance with paragraph (a).

(3) The standard period of service for the purpose of qualifying for pension is twenty-two continuous years.

14. An officer or soldier permitted to retire at his own request before the compulsory retirement age for his rank with at least twenty-two years qualifying service may be granted pension as calculated in regulation 13 (2). Early retirement at officer's or soldier's request.

15. (1) An officer or soldier who is invalided from the Force before the retirement age for his rank, with at least ten years qualifying service, who produces medical evidence from a Medical Board consisting of at least two duly qualified medical practitioners appointed for the purposes of this regulation by the Council that he is incapable by reason of some infirmity of mind or body of discharging his duties and that the infirmity of mind or body is likely to be permanent may be awarded pension as follows: Pension on being invalided out.

- (a) if he has twenty-two or more years qualifying service, the award shall be computed as if he had retired in the circumstances mentioned in regulation 12;
- (b) if his qualifying service is less than twenty-two years it shall be calculated at the rate of one six-hundredth of the final pensionable emoluments of the officer or soldier in respect of each completed month of service.

Retirement in the interest of the Force.

16. An officer or soldier who is retired or called upon to retire or resign on the grounds of the interest of the Force, and who has had at least twenty-two years qualifying service, may be granted pension as if he had retired in the circumstances mentioned in regulation 13.

Retirement for misconduct.

17. (1) An officer or soldier who is removed or called upon to retire or resign for misconduct, or who is cashiered or dismissed from the Force, and who has at least twenty-two years qualifying service, may be granted, if the Council so decides, a compassionate award of pension at such rate as it may determine, but not in any event exceeding ninety percent of the pension rate which would have been admissible had he retired at his own request.

(2) Where an officer or soldier has been granted a compassionate award of pension under this regulation the Council may in its discretion award a compassionate gratuity not exceeding three times the annual rate of the compassionate award of pension.

Gratuity for service prematurely terminated.

18. An officer or soldier ineligible for pension may be granted, at the cessation of his service, a gratuity in accordance with the following provisions

(a) an officer or soldier

- (i)** who has retired at his own request or upon reaching the compulsory retirement age for his rank or who is removed or called upon to retire or resign on the grounds of the interest of the Force, and not due to causes within his own control; and
- (ii)** who has had at least ten years qualifying service, may be granted a gratuity of an amount equal to fourteen days pay at the last rate in issue to the officer or soldier immediately preceding the date of retirement for each year of reckonable service;

(b) an officer or soldier who is invalided from the Force may be granted a gratuity of an amount equal to twenty-two days pay at the last rate in issue to the officer or soldier immediately preceding the date of retirement for each year of reckonable service;

- (c) an officer or soldier who is removed or is called upon to retire or resign or who is cashiered or dismissed from the Force and who has at least twenty-two years qualifying service, may be granted, if the Council so decides, a compassionate gratuity at such rate as the Council may determine, but not in any event exceeding ninety per cent of the gratuity which would have been admissible had he retired at his own request.

19. Reckonable service for pension shall be so much of the officer's or soldier's qualifying service as was given after he attained the age of eighteen years.

Reckonable service under this Part.

20. Nothing in these Regulations shall prevent an officer, soldier or his dependents, as a result of injury or death from receiving in addition to the benefits he is eligible for under these Regulations, any other benefits he may be entitled to under any other legislation or insurance company.

Officer or soldier may receive benefits other than under these regulations.

PART III

BENEFITS TO DEPENDENTS ON DEATH OF OFFICER OR SOLDIER

21. (1) When an officer or soldier dies while in the service of the Force and at the date of his death has completed ten years qualifying service, there shall be paid:

Officer or soldier dying after ten or more years service.

- (a) if he is survived only by a widow, to that widow, gratuity or terminal grant to which the officer or soldier would have been entitled had he retired at the date of his death and a pension while she remains unmarried, equal to one-half the pension to which the officer or soldier would be entitled on that date;
- (b) if he is survived by a widow and children, to that widow, subject always to the provisions of regulation 23, the pension and gratuity calculated in accordance with paragraph (a) to be administered in accordance with the provisions of subregulation (1) of regulation 24;
- (c) if he is not survived by a widow, but is survived by children; to the person appointed by the Council under subregulation (2) of regulation 24, the pen-

sion and gratuity calculated in accordance with paragraph (a) to be administered in accordance with the provisions of subregulation (2) of regulation 24.

(2) A pension granted to a female child shall cease upon marriage of the child under the age of eighteen years.

Officer or soldier dying prior to completion of ten years service.

22. (1) When an officer or soldier dies while in the service of the Force but before he has completed ten years of qualifying service in the Force, there shall be paid to his widow or children or to both the widow and the children or, in the appropriate case, to a legal personal representative, a special gratuity equal to fourteen days pensionable emoluments for each completed year of pensionable service of the officer or soldier.

(2) The provisions of regulation 24, which relate to the manner in which a pension and gratuity shall be administered, shall apply *mutatis mutandis* to a special gratuity payable in accordance with sub-regulation (1).

Pension to widow and children of an officer or soldier dying after retirement.

23. When an officer or soldier who has married prior to the date of his retirement from the Force dies after his retirement, and, before his death, was actually in receipt of or entitled to receive a pension granted under these Regulations, there shall be payable to his widow or children or to both the widow and children, as the case may be, a pension at the rate of one-half of the pension received by the officer or soldier or that he was entitled to receive at the date of his death and the provisions of regulation 24 shall apply *mutatis mutandis* to the administration of that person.

Division of pension between widow and children in the discretion of the Councils.

24. (1) When an officer or soldier dies leaving a widow and children, there shall be paid to the widow, whether in the first instance or at any time while a pension is payable, the whole of the pension, or a part only of the pension, and the balance of the pension may be applied for or towards the maintenance or education of the children in such manner as the Council thinks fit; but where the pension ceases to be payable owing to the remarriage of the widow, the whole of the pension may be applied towards the maintenance and education of the children, as the case may be, in such manner as the Council may from time to time direct.

(2) When any sum becomes payable to any person not *sui juris* in law, there shall be paid or applied such sum or any part thereof for the benefit or towards the maintenance or education of the person, in the manner and at the times the Council thinks

fit; and the amount may be paid either direct to the person or to any other person as the Council may direct.

(3) If the widow of an officer or soldier while in receipt of a pension deserts or abandons or does not assist a child whom she is liable to maintain under these Regulations, the Council may cause to be paid to a fit and proper person on behalf of the child, such portion of the pension as the Council thinks fit.

25. For the purposes of Part III

Definitions.

- (a) where the deceased officer or soldier is female, references to "widow" shall be construed as a reference to "widower" and all benefits accruing to the "widow" shall be construed as accruing to the "widower";
- (b) "child/children" includes a child being out of wedlock and an adopted child.

PART IV

SPECIAL ALLOWANCES FOR INJURIES OR DEATH IN THE DISCHARGE OF DUTIES

26. (1) Subject to sub-regulation (2), where an officer or soldier has been permanently disabled

Special allow
injuries.

- (a) in the actual discharge of his duty;
- (b) without his own default; and
- (c) by some injury specifically attributable to the nature of his duty,

the officer or soldier may, on his retirement from the Force, be granted in respect of the injury, in addition to any pension, terminal grant or gratuity to which he is entitled under these Regulations, an allowance in proportion to his injury in such annual amount not exceeding the following:

When his capacity to contribute to his support is	
Slightly impaired.....	five-sixtieths
Impaired.....	ten-sixtieths
Materially impaired.....	fifteen-sixtieth
Totally destroyed.....	twenty-two-sixtieth

(2) The annual allowance granted under sub-regulation(1) together with any pension granted under these Regulations shall not exceed two thirds of the highest pensionable emoluments of the officer or soldier.

Pension to widow and children of members of the Force who die in execution of their duty.

27. (1) Subject to this regulation, where a member of the Force dies while in the service of the Force as a result of injuries received

- (a) in the actual discharge of his duty;
- (b) without his own default; and
- (c) on account of circumstances specifically attributed to the nature of his duty,

there may be granted to his widow or children in addition to any pension, terminal grant or gratuity, to which she or they are entitled under these Regulations, an annual allowance equal to ten-fiftieths of the member's pensionable emoluments on the date of his death.

(2) The annual allowance granted under sub-regulation (1) shall not exceed two thirds of the highest pensionable emoluments of the officer or soldier concerned at the date of his death.

PART V

MISCELLANEOUS

Repeal S.I. 24/1957

28. Regulations 6, 11 and 28 of the Defence Force Regulations, 1957 are repealed.

Made this 29th day of March, 1999

James B. Carlisle,
Governor-General.

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