

PUBLIC SERVICE.

No. 71 of 1966.

AN ACT to amend the Public Service Act, 1904-1963.*[Assented to 12th December, 1966.]*

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Public Service Act Amendment Act, 1966.*

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Acts.

(2) In this Act the Public Service Act, 1904-1963, is referred to as the principal Act.

Approved
for reprint
1st May,
1964.

(3) The principal Act as amended by this Act may be cited as the Public Service Act, 1904-1966.

2. This Act shall come into operation on a date to be fixed by proclamation. Commencement.

3. Section three of the principal Act is amended— S. 3 amended.

- (a) by substituting for the passage, “Part IXA of the Industrial Arbitration Act, 1912-1941”, where it occurs in lines two and three, again in lines six and seven, and again in lines eleven and twelve, of subsection (1), the passage, “the Public Service Arbitration Act, 1966”, in each case;
- (b) by substituting for the passage, “the said Part IXA” in the penultimate and last lines of subsection (1), the words, “that Act”; and
- (c) by substituting for the passage, “said Part IXA of the Industrial Arbitration Act, 1912-1941” in lines four and five of subsection (2), the passage, “Public Service Arbitration Act, 1966”.

4. Section five of the principal Act is amended by deleting the interpretation, “Justiciable salary”. S. 5 amended.

5. Section seven of the principal Act is amended— S. 7 amended.

- (a) by repealing subsection (2) and re-enacting it with amendments as follows—

(2) Subject to subsection (3) of this section the Commissioner shall be appointed for a term of seven years and shall be eligible for re-appointment. ;

- (b) by adding after subsection (2), the following subsections—

(2a) If the person appointed to be the Commissioner is at the time of his appointment or re-appointment above

the age of fifty-eight years, the term of his appointment, or as the case may be, re-appointment, shall be the period that will expire on his attaining the age of sixty-five years.

(2b) Where the Commissioner was immediately before his appointment as Commissioner, in the employ of the Government of the State, he shall, if he resigns his office as Commissioner, or if the term of his appointment or re-appointment expires and is not renewed, be entitled to be employed in the Government of the State in a position of no less status than that enjoyed by him immediately prior to his appointment as Commissioner. ;

- (c) by substituting for the passage, "application or reference to or other proceeding before the Court of Arbitration under Part IXA of the Industrial Arbitration Act, 1912-1941" in lines two, three and four of the proviso to subsection (4), the passage, "claim, application, appeal or other proceeding before the Public Service Arbitrator under the Public Service Arbitration Act, 1966";
- (d) by repealing subsection (5) and re-enacting it with amendments as follows—

(5) The Commissioner shall receive a salary, on and after the commencement of the Public Service Act Amendment Act, 1966, at a rate per annum being not less than twelve thousand dollars and not more than such salary and adjustments at such rate per annum as the Governor determines and is hereby authorised to determine, from time to time, whenever he thinks fit, and such salary and adjustments are hereby charged on the Consolidated Revenue Fund which to the necessary extent is hereby appropriated accordingly. ; and

- (e) by repealing subsection (5a) and substituting the following subsection—

(5a) The Commissioner is entitled to such leave of absence as for the time being is prescribed for an officer appointed under the provisions of this Act.

6. The principal Act is amended by adding after section seven, the following section—

S. 7A
added.

7A. For the purposes of this Act the Governor, on the recommendation of the Commissioner, may appoint one or two officers to be a Deputy Commissioner or Deputy Commissioners to assist the Commissioner in the exercise of such of his powers and duties as the Commissioner may determine, but so that the number of Deputy Commissioners so appointed shall not at any one time exceed two.

Appointment
of Deputy
Commissioners.

7. Section eight of the principal Act is amended—

S. 8
amended.

- (a) by repealing subsections (3) and (4) and substituting the following subsections—

(3) The Commissioner shall be restored to office unless each House of Parliament within twenty-one sitting days after the statement referred to in subsection (2) of this section has been so laid before it presents to the Governor an address praying for the removal of the Commissioner on the grounds of proved misbehaviour or incapacity.

(4) The Governor may remove the Commissioner from office on an address praying for his removal on the grounds of proved misbehaviour or incapacity being presented to the Governor by each House of Parliament in the same session of Parliament.

S. 9
amended.

8. Section nine of the principal Act is amended—
- (a) by adding after the word, “office” in the last line of paragraph (a), the passage, “, without the approval of the Governor”; and
 - (b) by substituting for paragraph (c), the following paragraph—
 - (c) if he absents himself from duty for any period in excess of seven days in any twelve months, other than—
 - (i) any period of leave of absence to which he is entitled; or
 - (ii) any other period of leave of absence approved by the Governor,
- or if he becomes permanently incapable of performing his duties; or.

S. 15
amended.

9. Section fifteen of the principal Act is amended by deleting the passage commencing with the word, “Subject” in line nine down to the end of the section.

S. 17
repealed and
re-enacted.

10. Section seventeen of the principal Act is repealed and re-enacted with amendments as follows—

Divisions
of the Public
Service.

17. The Public Service shall consist of five divisions, that is to say—
- (a) The Special Division.
 - (b) The Administrative Division.
 - (c) The Professional Division.
 - (d) The Clerical Division.
 - (e) The General Division. .

S. 18
repealed and
re-enacted.

11. Section eighteen of the principal Act is repealed and re-enacted with amendments as follows—

Constitution
of Divisions.

18. (1) The Special Division shall include such Permanent Heads of Departments, and such other officers and offices, as the Governor on the recommendation of the Commissioner determines.

(2) The Administrative Division shall include such officers and such of the more important offices of the Public Service in which officers are required to exercise executive functions, as the Governor on the recommendation of the Commissioner determines.

(3) The Professional Division shall include those officers whose duties require in the person performing them some special skill or technical knowledge usually acquired only in some profession or occupation different from the ordinary routine of the Public Service, and whose offices the Commissioner includes in such Division.

(4) The Clerical Division shall include such officers and offices as the Commissioner determines.

(5) The General Division shall include all officers and offices not included in any other Division. .

12. Section nineteen of the principal Act is repealed and re-enacted with amendments as follows—

S. 19
repealed and
re-enacted.

19. Subject to the provisions of the Public Service Arbitration Act, 1966, the Commissioner shall determine—

Commis-
sioner to
determine
salaries.

- (a) the salary rates or ranges of salary rates of all offices;
- (b) the salaries and allowances payable to all officers and temporary employees;
- and
- (c) the conditions governing the payment of those salaries and allowances.

S. 23
amended.

13. Section twenty-three of the principal Act is amended—

(a) by repealing subsection (2) and re-enacting it with amendments as follows—

(2) An appointment to—

(a) an office included in the Special Division;

(b) an office included in the Administrative Division; or

(c) an office included in the Professional Division the salary of which exceeds the maximum salary of the highest office included in the Clerical Division,

shall be made only by the Governor on the recommendation of the Commissioner. .

(b) by repealing subsection (3) and re-enacting it with amendments as follows—

(3) Any appointment to—

(a) an office included in the Clerical Division;

(b) an office included in the General Division; or

(c) an office included in the Professional Division the salary of which does not exceed the maximum salary of the highest office included in the Clerical Division,

shall be made by the Commissioner. .

S. 32
amended.

14. Subsection (1) of section thirty-two of the principal Act is repealed and the following subsections substituted—

(1) Subject to this section the Governor, on the recommendation of the Commissioner made after the Commissioner has obtained a report from the Permanent Head, may—

(a) create a new office or abolish an existing office in the Public Service; and

- (b) transfer or promote, subject to this Act, any officer from one office to another office, or from one Division to another Division of the Public Service, after the officer has passed such examinations, if any, as are prescribed,

where the office referred to in paragraph (a) of this subsection, or the office to be occupied by the officer referred to in paragraph (b) of this subsection, is included—

- (c) in the Special Division;
- (d) in the Administrative Division; or
- (e) in the Professional Division and that office has a salary that exceeds the maximum salary of the highest office included in the Clerical Division.

(1a) Subject to this section the Commissioner, after obtaining a report from the Permanent Head, may—

- (a) create a new office or abolish an existing office in the Public Service; and
- (b) transfer or promote, subject to this Act, any officer from one office to another office, or from one Division to another Division of the Public Service, after the officer has passed such examinations, if any, as are prescribed,

where the office referred to in paragraph (a) of this subsection, or the office to be occupied by the officer referred to in paragraph (b) of this subsection, is included—

- (c) in the Clerical Division;
- (d) in the General Division; or
- (e) in the Professional Division and that office has a salary that does not exceed the maximum salary of the highest office included in the Clerical Division. .

S. 42
amended.

15. Section forty-two of the principal Act is amended—

- (a) by substituting for the word, “Administrative” in line two of subsection (2), the word, “Special”; and
- (b) by substituting for the words, “ten pounds” in line ten of subsection (3), the words, “twenty dollars”.

S. 44
amended.

16. Section forty-four of the principal Act is amended—

- (a) by substituting for the word, “Administrative” in line one of subsection (1), the word, “Special”; and
- (b) by deleting the words, “division and” in line eight of subsection (2).

S. 48
repealed and
re-enacted.

17. Section forty-eight of the principal Act is repealed and re-enacted with amendments as follows—

48. If an officer occupies, for the purpose of residence, the whole or part of a building belonging to or occupied by the State Government, the Governor, on the recommendation of the Commissioner, may direct that a fair rent therefor be deducted from the salary of that officer, and the amount of such fair rent shall be fixed by the Commissioner after obtaining the advice of the Government Employees' Housing Authority established under the provisions of the Government Employees' Housing Authority Act, 1964.

S. 55
amended.

18. Section fifty-five of the principal Act is amended by adding after the word, “officer” in the last line of subsection (2), the passage, “unless the Governor, on the recommendation of the Commissioner, otherwise determines”.

19. The principal Act is amended by adding after section fifty-six, the following section—

S. 56A
added.

56A. (1) Where an officer is appointed to the Public Service after the coming into operation of the Public Service Act Amendment Act, 1966 and that officer was, immediately prior to his being appointed to the Public Service, employed in the service of the Commonwealth or of any other State of Australia and that employment was continuous with his service under this Act, that officer shall be entitled to long service leave determined in the following manner:—

- (a) the *pro rata* portion of long service leave to which the officer would have been entitled up to the date of his appointment under this Act, shall be calculated in accordance with the provisions that applied to his previous employment referred to, but in calculating that period of *pro rata* long service leave, any long service leave taken or any benefit granted in lieu of any such long service leave during that employment shall be deducted from any long service leave to which he may become entitled under this Act; and
- (b) the balance of the long service leave entitlement of the officer shall be calculated upon his appointment to the Public Service in accordance with the provisions of section fifty-six of this Act.

(2) For the purposes of this section the previous employment of an officer shall be deemed to be continuous with his service under this Act, provided that the period between the date when the officer ceased his previous employment and the date of his commencing employment in the Public Service does not exceed four weeks, or such further period as the Governor, on the recommendation of the Commissioner, determines.

(3) An officer previously employed by the Commonwealth or by any other State of Australia shall not proceed on any period of long service leave without the express approval of the Governor, on the recommendation of the Commissioner, until the officer has served a period of not less than three years' continuous service in the Public Service.

(4) Nothing in this section confers or shall be deemed to confer on any officer previously employed by the Commonwealth or by any other State of Australia any entitlement to a complete period of long service leave that accrued in his favour prior to the date on which he commenced employment in the Public Service.

S. 69
amended.

20. Section sixty-nine of the principal Act is amended—

- (a) by inserting after the word, "Governor" in line six, the passage, "or, as the case may be, the Commissioner"; and
- (b) by substituting for the passage commencing with the word, "All" in the penultimate line down to the end of the section, the following passage—

"All salary determinations made by the Commissioner applicable to offices shall be published in the *Government Gazette*."

S. 77
amended.

21. Section seventy-seven of the principal Act is amended by substituting for the words, "fifty pounds" in line two of paragraph (p) of subsection (1), the words, "one hundred dollars".
