

TAXATION (STAFF ARRANGEMENTS).

No. 108 of 1969.

AN ACT relating to the employment in the Public Service of the State of certain Employees of the Commonwealth in connection with Taxation and associated Activities, and for incidental and other purposes.

[*Assented to 25th November, 1969.*]

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.

1. This Act may be cited as the *Taxation (Staff Arrangements) Act, 1969*.

2. In this Act, unless the contrary intention appears— Interpretation.

“Commonwealth employee” means a person who—

(a) is employed either permanently or temporarily in the Commonwealth Service; and

(b) is performing duties in the Commonwealth Taxation Office in a position located in Western Australia;

“the Commissioner” means the Public Service Commissioner appointed under section 7 of the Public Service Act;

“the Commonwealth Employees’ Furlough Act” means the Commonwealth Employees’ Furlough Act 1943-1968 of the Parliament of the Commonwealth;

“the Commonwealth Service” means the Public Service of the Commonwealth constituted under the provisions of the Public Service Act 1922-1968 of the Parliament of the Commonwealth and includes persons temporarily employed under that Act;

“the Public Service Act” means the Public Service Act, 1904;

“the Public Service of Western Australia” means the Public Service as defined by section 5 of the Public Service Act.

3. The provisions of this Act relating to the appointment of persons to, or the employment of persons in, the Public Service of Western Australia are incorporated and shall be read as one with the Public Service Act. Incorporation with Public Service Act.

4. (1) The Commissioner may request a Commonwealth employee to elect, by writing addressed to the Commissioner, within the period of twenty-eight days after being so requested or within such Election by Commonwealth employees.

further period as the Commissioner allows, to be appointed to, or engaged for employment in, the Public Service of Western Australia.

(2) A request under this section shall include particulars of the proposed appointment or employment.

Appointment
of Common-
wealth
employees.

5. (1) Where a Commonwealth employee to whom a request is made under section 4 of this Act, not being a person employed in a temporary capacity, elects, in accordance with that section, to be appointed under this Act, the Commissioner is, by force of this section, empowered to appoint that employee to the Public Service of Western Australia.

(2) Such an appointment shall be without examination and without probation and the provisions of paragraphs (b), (c), (d) and (f) of section 21 or of sections 23, 27, 28 or 29 of the Public Service Act shall not apply in relation to the appointment.

Employment
of temporary
Common-
wealth
employees.

6. (1) Where a Commonwealth employee to whom a request is made under section 4 of this Act, being a person employed in a temporary capacity, elects, within the period of twenty-eight days of being so requested or within such further period as the Commissioner allows, to be engaged under this Act, the Commissioner is, by force of this section, empowered to engage that employee for temporary employment in the Public Service of Western Australia.

(2) The provisions of section 31 of the Public Service Act, other than subsections (1) and (2) of that section, apply in relation to the employment of such an employee.

Rate of
remunera-
tion.

7. (1) Subject to this section and to sections 10, 37, 42, 44, 49 and 50 of the Public Service Act and to any law providing for a reduction in the remuneration payable to officers and temporary employees of

the Public Service of Western Australia generally, the gross rate of remuneration of a Commonwealth employee appointed or engaged under this Act shall, while he continues in the Public Service of Western Australia, be not less favourable than that to which, in the opinion of the Commissioner, he was entitled as such a Commonwealth employee immediately before his appointment or engagement under this Act.

(2) For the purposes of this section, "remuneration" means salary or pay, and includes such allowances as, in the opinion of the Commissioner, should be regarded as having formed part of the salary or pay of the officer or temporary employee immediately before his appointment or engagement under this Act, and where the officer or temporary employee would, if he had continued to be a Commonwealth employee, have been entitled to any increment or increments, also means any such increment or increments at the rate or rates payable immediately before his appointment or engagement under this Act.

(3) Nothing in subsection (2) of this section shall be construed as entitling a person appointed under this Act to be paid an increase of remuneration with respect to an increment referred to in that subsection on a date earlier than the date on which that person would have become entitled to the increment if he had continued to be a Commonwealth employee.

(4) Where, by virtue of subsection (1) of this section, the remuneration to which a person is entitled would or might be increased by reason of an increment of salary, his entitlement to the increase is subject to the provisions of section 33 of the Public Service Act.

8. A Commonwealth employee appointed or engaged under this Act preserves his eligibility for the grant of leave of absence for recreation which had accrued immediately prior to his being so appointed or engaged.

Accrued
recreation
leave.

Preservation
of sick leave
credits.

9. (1) A Commonwealth employee shall, upon his being appointed or engaged under this Act, be credited with the eligibility for sick leave for which he was eligible immediately prior to his being so appointed or engaged.

(2) In addition to sick leave credited by virtue of subsection (1) of this section, a Commonwealth employee appointed or engaged under this Act shall be credited with the periods of sick leave prescribed by the Public Service Act and the regulations made thereunder, on each anniversary date of the day on which he last became eligible to receive an entitlement of such leave as a Commonwealth employee.

Long service
leave.

10. (1) Notwithstanding the provisions of sections 56 and 56A of the Public Service Act, a Commonwealth employee, upon being appointed or engaged under this Act, shall be credited with a period of long service leave equal to the period of furlough for which he was eligible immediately prior to his being so appointed or engaged, together with any *pro rata* furlough based on his service as a Commonwealth employee but for which he was not, immediately prior to his being so appointed or engaged, yet eligible, and shall then commence to accrue long service leave either—

- (a) in accordance with the conditions and provisions of the Commonwealth Employees' Furlough Act, if he elects in writing to that effect within three months of his being so appointed or engaged; or
- (b) in accordance with the provisions of the Public Service Act,

from the date of his appointment or engagement under this Act, but nothing in this subsection entitles a Commonwealth employee appointed or engaged under this Act to be credited with long service leave in respect of any period of furlough for or with respect to which he has received, or receives by reason of his ceasing to be a Commonwealth employee, any payment or other benefit under the Commonwealth Employees' Furlough Act.

(2) Where a Commonwealth employee—

- (a) was, immediately prior to his becoming such an employee, employed in the Public Service of Western Australia; and
- (b) upon becoming such a Commonwealth employee had his eligibility for furlough in the Commonwealth Service determined under the Commonwealth Employees' Furlough Act by reference to his period of continuous service in the Public Service of Western Australia preceding his so becoming a Commonwealth employee,

the Commissioner may, if he is satisfied that all the circumstances of the case so warrant it, determine that, in addition to receiving benefits under subsection (1) of this section in accordance with his election, the employee is entitled to be credited with the amount by which the period of his accrued long service leave, including any *pro rata* long service leave, as at the day immediately preceding the day on which he so became a Commonwealth employee exceeded the period of furlough with which he was so credited under the provisions of the Commonwealth Employees' Furlough Act upon his so becoming a Commonwealth employee.

11. The provisions of the Government Employees (Promotions Appeal Board) Act, 1945 shall not apply in relation to any appointment made under this Act.

Appointments under this Act not subject to appeal.

12. (1) In this section and in sections 13 and 14 of this Act, unless the contrary intention appears—

Elections by Commonwealth employees to contribute to State Superannuation Fund.

“Commonwealth contributor” means a Commonwealth employee who—

- (a) was, immediately before his appointment or engagement under this Act, a contributor for units of pension under the provisions of the Commonwealth Superannuation Act;

(b) elects in writing in accordance with the provisions of this section to receive the benefits under this section applicable to Commonwealth contributors,

but does not include a Commonwealth pensioner as defined by section 13 of this Act;

“Commonwealth pension” in relation to a Commonwealth contributor, means the amount of pension expressed as a rate per annum that the Commonwealth contributor would have been entitled to receive under the Commonwealth Superannuation Act if, on the date immediately prior to his being appointed or engaged under this Act, he had attained his selected retiring age with respect to the units of pension for which he had contributed under that Act;

“Commonwealth pension contribution” in relation to a Commonwealth contributor, means the amount of the contributions, expressed as a rate per fortnight, which a Commonwealth contributor was paying as contributions for units of pension under the Commonwealth Superannuation Act immediately before his appointment or engagement under this Act, but does not include any contributions so paid in respect of reserve units of pension;

“Commonwealth Superannuation Act” means the Superannuation Act 1922-1969 of the Parliament of the Commonwealth;

“Commonwealth Superannuation Board” means the Superannuation Board constituted by the Commonwealth Superannuation Act 1922-1969;

“the State Act” means the Superannuation and Family Benefits Act, 1938.

(2) The provisions of this section and of sections 13 and 14 of this Act are incorporated with and shall be read as one with the State Act.

(3) A Commonwealth contributor may, subject to subsections (4) and (5) of this section, elect in writing in a form approved by and addressed to the Board within one month of his being appointed or engaged under this Act to become a contributor to the Fund in accordance with the provisions of this section.

(4) Where a Commonwealth contributor elects under subsection (3) of this section and has, at the time of so electing, received from the Commonwealth Superannuation Board any refund of contributions made by him as a contributor under the Commonwealth Superannuation Act, his election shall not be valid unless at the time that he so elects he pays to the Board an amount equal to any refund so made less any amount included in that refund which represents a refund of contributions paid and interest thereon in respect of reserve units of pension.

(5) Where a Commonwealth contributor who elects under subsection (3) of this section receives, after he so elects, a refund of the kind referred to in subsection (4) of this section, his election shall cease to be valid for the purposes of this section and be deemed to have been of no effect if, at the expiration of seven days after receiving that refund, he fails to pay to the Board the amount of that refund less any amount included in that refund which represents a refund of contributions paid and interest thereon in respect of reserve units of pension.

(6) The Board shall—

- (a) cause any amounts paid to it under subsections (4) and (5) of this section to be remitted to the Treasury for payment into the Consolidated Revenue Fund; and
- (b) repay to any Commonwealth employee whose election under subsection (3) of this section ceases to be valid pursuant to subsection (5) of this section, any contributions made by him to the Fund pursuant to this section.

(7) Where the Board receives an election duly made by a Commonwealth contributor under subsection (3) of this section, it shall determine—

- (a) the Commonwealth pension applicable to the Commonwealth contributor; and
- (b) the number of units of pension under the State Act for which the Commonwealth contributor would be required to contribute in order to be eligible for pension under that Act at a rate equal to, or approximately equal to but not less than, the Commonwealth pension so determined,

and the Commonwealth contributor may apply and contribute for the number of units of pension under the State Act so determined in relation to him, and those units shall be so contributed for as to produce a full pension at the same age as the age at which he would have received full pension in respect of the Commonwealth units for which he was previously contributing under the Commonwealth Superannuation Act.

(8) The contributions that a Commonwealth contributor is required to make to the Fund in respect of units of pension for which he contributes under subsection (7) of this section shall be—

- (a) the contributions that any contributor for those units under the State Act would be required to make under that Act if, when he commenced to contribute for those units, he were the same age as the Commonwealth contributor; or
- (b) contributions equal to those he was making under the Commonwealth Superannuation Act immediately before he ceased to make contributions under that Act prior to being appointed or engaged under this Act,

whichever is less, and where in relation to any Commonwealth contributor, the amount of contributions which he is required to pay to the Fund is the amount referred to in paragraph (b) of this subsection, there shall be paid to the Fund from the

Consolidated Revenue Fund the amount by which the amount of those contributions is less than the contributions that the Commonwealth contributor would, but for this subsection, have been required to make to the Fund in respect of those units.

(9) Any service by a Commonwealth employee in the Commonwealth Service prior to his appointment or engagement under this Act shall be deemed, for the purposes of the State Act, to be service within the meaning of subsection (1) of section 6 of the State Act.

13. (1) In this section "Commonwealth pensioner" means a Commonwealth employee who—

Provisions re Commonwealth employees already entitled to Commonwealth pension.

- (a) has attained the age of sixty years before being appointed or engaged under this Act;
- (b) had contributed under the Commonwealth Superannuation Act for units of pension entitling him to a full pension on attaining the age of sixty years; and
- (c) elects under the Commonwealth Superannuation Act, upon resigning, to receive a refund of contributions in lieu of a pension in respect of those units under that Act and within seven days of receiving the refund pays the amount of the refund, less any part thereof which represents a refund of contributions paid, and interest thereon, in respect of reserve units of pension, to the Board to be dealt with in the manner provided by paragraph (a) of subsection (6) of section 12 of this Act.

(2) Where a Commonwealth pensioner ceases to be employed under the provisions of the Public Service Act, he is entitled to receive from the Board a pension equal to, or approximately equal to, but not less than, the pension which he would have been entitled to receive under the provisions of the Commonwealth Superannuation Act as in force on

the date he ceased to be a Commonwealth employee had he remained in the Commonwealth Service in lieu of being appointed or engaged under this Act and had resigned or retired from the Commonwealth Service on the same date as that on which he ceases to be so employed under the provisions of the Public Service Act.

(3) There shall be paid into the Fund out of the Consolidated Revenue Fund amounts equal to any amounts paid by way of pension by the Board under subsection (2) of this section.

Application
of ss. 12 to 14,
etc.

14. (1) The provisions of section 35 of the State Act do not apply in relation to a Commonwealth contributor who has made a valid election under section 12 of this Act.

(2) A Commonwealth employee shall not be regarded as a "former employee" for the purposes of section 32A of the State Act, irrespective of whether he elects to receive the benefits applicable to him under section 12 or 13, as the case may be, of this Act.

(3) The Consolidated Revenue Fund is hereby appropriated to the extent necessary for the purposes of sections 12 and 13 of this Act.

(4) The provisions of this section and of sections 12 and 13 of this Act have effect notwithstanding anything to the contrary contained in the State Act.
