

WESTERN AUSTRALIA.

# PUBLIC SERVICE APPEAL BOARD.

No. 14 of 1920.

(Affected by Act No. 38 of 1945, s. 2.)

[As amended by Acts—

No. 55 of 1923, assented to 22nd December, 1923;  
No. 1 of 1930, assented to 6th January, 1930;  
No. 19 of 1932, assented to 9th December, 1932;  
No. 29 of 1935,<sup>1</sup> assented to 23rd December, 1935;  
No. 27 of 1937, assented to 18th January, 1938;  
No. 21 of 1941, assented to 26th November, 1941;  
No. 10 of 1943, assented to 30th September, 1943;  
No. 42 of 1945, assented to 30th January, 1946;  
No. 39 of 1948, assented to 21st December, 1948;  
No. 7 of 1949, assented to 14th September, 1949;  
No. 9 of 1950, assented to 15th November, 1950;  
No. 63 of 1960,<sup>2</sup> assented to 2nd December, 1960;  
No. 63 of 1966,<sup>3</sup> assented to 12th December, 1966;

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

## AN ACT to establish a Public Service Appeal Board.

Long title amended by No. 9 of 1950, s.3.

[Assented to 3rd December, 1920.]

**B**E it enacted by the King'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:—

1. This Act may be cited as the *Public Service Appeal Board Act, 1920–1966.*

Short title. Amended by No. 63 of 1966, s. 1.

The numbering of the sections, etc., as in the Public Service Appeal Board Act, 1920, as reprinted in the appendix to the Seasonal Volume of Statutes for the year 1930, is retained in this reprint.

<sup>1</sup> Came into operation 1st February, 1936, see G.G. 31/1/36, p. 151.

<sup>2</sup> Came into operation 28th July, 1961, see G.G. 23/7/61, p. 2239.

<sup>3</sup> Came into operation 9th January, 1967, see G.G. 23/12/66, p. 3410.

*Public Service Appeal Board.*

Interpre-  
tation,  
Amended by  
No. 68 of 1960,  
s. 3.  
Repealed and  
re-enacted by  
No. 68 of 1966,  
s. 8.

In this Act unless the contrary intention appears—

“Association” means the Civil Service Association of Western Australia Incorporated;

“Board” means The Public Service Appeal Board established under this Act;

“public servant” means any person who is employed—

(a) in any capacity in the Public Service of the State as an officer or temporary employee within the meaning of the Public Service Act, 1904; or

(b) on the administration staff or as an officer of the field staff of the Forests Department under the Forests Act, 1918.

Amended by  
No. 68 of 1960,  
s. 4;  
No. 68 of 1966,  
s. 4.

3. (1) A Board, to be known as “The Public Service Appeal Board,” shall be established.

(2) If the appeal—

(a) is against a decision of the Public Service Commissioner in relation to an interpretation of any provision of the Public Service Act, 1904, and the regulations made thereunder, concerning the conditions of service (other than salaries and allowances) of public servants;

(b) is against a decision of the Conservator of Forests in relation to an interpretation of any provision of the Forests Act, 1918, and the regulations made thereunder, concerning the conditions of service (other than salaries and allowances) of public servants;

(c) is by an officer included in the Special Division of the Public Service, or by the Association on his behalf, in relation to disciplinary action against him under section forty-four of the Public Service Act, 1904; or

(d) is by an officer included in the Special Division of the Public Service, or by the Association on his behalf, in relation to any determination made by the Public Service

Commissioner concerning the salary of his office, other than a determination made as the result of a variation in the basic wage,

the Board shall consist of a judge who shall be chairman, one member to be appointed by the Governor, and one member to represent the Division of the Public Service concerned, to be elected in the prescribed manner by the members of the Association.

(3) If the Appeal—

(a) is by an officer included in any Division of the Public Service, other than the Special Division, or by the Association on his behalf, in relation to disciplinary action against him under section forty-two of the Public Service Act, 1904; or

(b) is by a temporary employee, or by the Association on his behalf, pursuant to subsection (2) of section six A of this Act,

the Board shall consist of the Public Service Arbitrator appointed under the Public Service Arbitration Act, 1966, who shall be chairman, one member to be appointed by the Governor, and one member to represent the Division of the Public Service concerned, to be elected in the prescribed manner by the members of the Association.

4. Every member of the Board, except the Chairman, shall hold office for three years from the day upon which he shall first take his seat on the Board by virtue of his appointment or election, and shall be eligible for re-appointment or re-election.

Tenure of office of members. Amended by No. 63 of 1966, s. 5.

5. In the absence of any member of the Board other than the Chairman, or in case any such member is personally interested in an appeal or application, a deputy may sit in place of such member during his absence, or for the hearing of the appeal or application in which he is personally interested, and such deputy shall have all the powers and authority of a member of the Board.

Deputy member

The provisions of section three relating to the appointment and election of members of the Board shall extend and apply to the appointment or election of deputy members of the Board.

Resignation  
of member.  
Added by  
No. 63 of 1966,  
s. 6.

**5A.** A person who is elected in accordance with the provisions of this Act to be a member or a deputy member of the Board may at any time resign from that office if he sends to the Minister written notice under his hand of his resignation and the Minister accepts such resignation.

Jurisdiction  
of Board.

**6.** The Board shall have jurisdiction—

Amended by  
No. 29 of 1935,  
s. 2 (a);  
No. 9 of 1950,  
s. 4;  
No. 63 of 1960,  
s. 5.  
Repealed and  
re-enacted by  
No. 63 of 1966,  
s. 7.

- (a) to hear and determine any appeal by any public servant, or by the Association on his behalf, against any decision of the Public Service Commissioner, or as the case may require, the Conservator of Forests, in relation to an interpretation of any provision of the Public Service Act, 1904, and the regulations made thereunder, or as the case may be, of the Forests Act, 1918, and the regulations made thereunder, concerning the conditions of service (other than salaries and allowances) of public servants;
- (b) to hear and determine any appeal by any public servant, or by the Association on his behalf, in relation to disciplinary action against that public servant under section forty-two or section forty-four of the Public Service Act, 1904;
- (c) to hear and determine any appeal made by an officer included in the Special Division of the Public Service, or by the Association on his behalf, in relation to any determination made by the Public Service Commissioner concerning the salary of his office, other than a determination made as the result of a variation in the basic wage;
- (d) to hear and determine any appeal made by any temporary employee, or by the As-

sociation on his behalf, pursuant to subsection (2) of section six A of this Act,

and to adjust all such matters as are referred to in the foregoing paragraphs of this section.

**6A.** (1) Any person who has been continuously employed as a temporary employee within the meaning of the Public Service Act, 1904, for a period exceeding five years, and whose duties are similar to those of an officer on the permanent staff or are proper for an officer on the permanent staff to perform, may apply to the Public Service Commissioner for appointment to the permanent staff.

Appeal by temporary employee. Added by No. 63 of 1966, s. 8.

(2) The Public Service Commissioner shall determine any application made pursuant to subsection (1) of this section and an appeal shall lie to the Board from any determination of the Public Service Commissioner so made.

**7.** Any public servant, or the Association on behalf of any public servant, may in the prescribed manner appeal to the Board upon any matter within its jurisdiction affecting that public servant.

Right of appeal by public servants. Amended by No. 29 of 1935, s. 3; No. 27 of 1937, s. 3; No. 63 of 1960, s. 6. Repealed and re-enacted by No. 63 of 1966, s. 9.

**8.** (1) The Board shall sit at such time and place as the Chairman may appoint.

Sittings of Board and procedure. Amended by No. 63 of 1960, s. 7; No. 63 of 1966, s. 10.

(2) The Board may regulate its own procedure, and may conduct its inquiries without regard to legal forms, and shall direct itself by the best evidence it can procure, or that is laid before it.

(3) The Board may summon and examine witnesses on oath, and call for the production of papers and documents.

(4) The Public Service Commissioner, or as the case may be, the Conservator of Forests, may be represented before the Board on the hearing of an appeal.

(5) Persons concerned in, or entitled to be represented on, an appeal or matter before the Board, may be represented by counsel or solicitor, or other agent.

9. [*Repealed by No. 63 of 1966, s. 11.*]

Report of  
decisions.

10. The decision of the Board or of a majority of the members of the Board shall in each case be reported in writing by the Board to the Governor, and shall be final; and effect shall be given to every such decision.

Record of  
proceedings.

11. The Board shall keep a record of its proceedings, which shall be open to public inspection and available for future reference.

12. [*Repealed by No. 63 of 1966, s. 11.*]

13. [*Repealed by No. 63 of 1960, s. 9.*]

Public  
servants  
not to be  
prejudiced by  
recent  
cessation  
of work.

14. No public servant shall be prejudiced in respect of privileges, promotion, or continuity of service, by reason only of the recent simultaneous cessation of work on the part of certain public servants:

Provided that nothing in this section shall affect the provisions of section sixty<sup>1</sup> of the Public Service Act, 1904.

15. [*Repealed by No. 9 of 1950, s. 5.*]

Frivolous  
appeals.  
Amended by  
No. 63 of 1966,  
s. 12.

16. The Board may, in its discretion, order an applicant or appellant to forfeit and pay to the Treasurer a sum not exceeding ten dollars if, in the opinion of the Board, any application or appeal is frivolous or unreasonable.

Regulations.  
Amended by  
No. 63 of 1966,  
s. 13.

17. The Governor may make regulations—

- (a) for the nomination of candidates, the conduct of elections of members of the Board, and the preparation of rolls of public servants entitled to vote;

<sup>1</sup> See now section 53.

- (b) prescribing the time within which appeals and applications to the Board shall be made;
- (c) for enforcing the attendance of witnesses before the Board, and imposing a fine not exceeding twenty dollars in case of non-attendance of any witness;
- (d) for the remuneration of members of the Board other than the Chairman; and
- (e) for all such other matters arising under and consistent with this Act not herein expressly provided for, and otherwise for fully and effectually carrying out and giving effect to this Act.

18. The Public Service Act, 1904, and the Superannuation Act, shall be construed and have effect, subject to this Act.

Effect of this Act on existing Acts, Amended by No. 68 of 1960, s. 10.

19. Sections ten and nineteen of the Public Service Act, 1904, are hereby repealed, and sections fifty-one and fifty-two thereof (as amended by the Act No. 10 of 1912) are hereby further amended as follows: —

Repeal.

The proviso to subsection (1) of section fifty-one, and the words “and may either maintain, increase, or reduce the value of the office, as defined by the Commissioner in the proposal appealed from or change the office from one division to another,” in subsection (1) of section fifty-two, and subsection (5) of section fifty-two, are omitted.