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PUBLIC SERVICE.

No. 41 of 1904.

[Affected by the Public Service Appeal Board Act, 1920-1950, and the Government Employees (Promotions Appeal Board) Act, 1945-1953.]

As amended by Acts No. 10 of 1912 (a); No. 38 of 1912 (b); No. 17 of 1919 (c); No. 14 of 1920 (d); No. 22 of 1920 (e); No. 26 of 1921 (f); No. 27 of 1927 (g); No. 2 of 1930 (h); No. 17 of 1930 (i); No. 28 of 1935 (j); No. 16 of 1947 (k); No. 52 of 1947 (l); No. 45 of 1948 (m); No. 16 of 1950 (n) and No. 71 of 1953 (o) and reprinted for the third time pursuant to the Amendments Incorporation Act, 1938.

(In this reprint the numbering of parts, sections, etc., as adopted in the 1948 reprint* is retained.)

AN ACT for the Regulation of the Public Service.

[Assented to 24th December, 1904.]

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

PART I—PRELIMINARY.

1. This Act may be cited as the *Public Service Act, 1904-1953*.

Short title and division. No. 41 of 1904, s. 1 as amended by No: 71 of 1953, s. 3 (2).

It is divided into parts as follows:—

PART I—PRELIMINARY, ss. 1-6.

PART II—ADMINISTRATION, ss. 7-16.

No. 41 of 1904, s. 1, as amended by No. 2 of 1930, s. 17. (The numbering of ss. is as in 1948 reprint.)

(a) Assented to 9th January, 1912. (b) Assented to 5th November, 1912. (c) Assented to 28th October, 1919. (d) Assented to 3rd December, 1920. (e) Assented to 31st December, 1920. (f) Assented to 21st December, 1921. (g) Assented to 16th December, 1927. (h) Assented to 6th January, 1930: See Sessional Volume of Statutes for the years 1929-1930, p. 165. (i) Assented to 11th December, 1930: Came into operation 1st December, 1931. See Proclamation published in Gazette on 20th November, 1931. (j) Assented to 23rd December, 1935: Came into operation 1st February, 1936. See Proclamation published in Gazette on 31st January, 1936. (k) Assented to 1st November, 1947: Came into operation on 5th March, 1948. See Proclamation published in Gazette on 5th March, 1948, and footnote † to s. 58 of this reprint. (l) Assented to 19th December, 1947. (m) Assented to 7th January, 1948. (n) Assented to 17th November, 1950. (o) Assented to 9th January, 1954.

* i.e. the Public Service Act, 1904, as amended up to and including Act No. 52 of 1947 and reprinted in 1948, pursuant to the Amendments Incorporation Act, 1938.

PART III.—DIVISIONS OF PUBLIC SERVICE, ss. 17-19.

PART IV.—EXAMINATION AND APPOINTMENT OF OFFICERS, ss. 20-31.

PART V.—INTERNAL ADMINISTRATION, ss. 32-45.

PART VI.—MISCELLANEOUS, ss. 46-77.

Formerly Pt. VII, re-numbered VI in 1948. reprint.

Commencement. No. 41 of 1904, s. 2.

2. This Act shall come into operation on a day to be fixed by proclamation.***

This Act to be read with and subject to Part IXA* of the Industrial Arbitration Act, 1912-1941. Inserted by No. 28 of 1935, s. 2, as s. 2A: incorporated and re-numbered as s. 3 in 1948 reprint.

3. (1) This Act shall be read with and subject to the provisions of Part IXA* of the Industrial Arbitration Act, 1912-1941§, and shall be so construed and administered that, where in any case any provision of this Act is inconsistent with or repugnant to any provision of Part IXA* of the Industrial Arbitration Act, 1912-1941§, the last-mentioned provision shall prevail, and the provisions of this Act to the extent by which the effect thereof would but for this section limit, hinder, or obstruct the operation of any provision of Part IXA* of the Industrial Arbitration Act, 1912-1941§, according to the tenor thereof contrary to the object and intention of the said Part IXA* shall have no effect.

(2) Save and except as provided in subsection (1) hereof, the provisions of this Act and the administration of such provisions according to the tenor thereof, shall continue as if the said Part IXA* of the Industrial Arbitration Act, 1912-1941§, had not been enacted.

Repeal. No. 41 of 1904, s. 3, renumbered s. 4 in 1948 reprint. Schedule.

4. The Acts mentioned in the Schedule are hereby repealed.

Interpretation. No. 41 of 1904, s. 4, renumbered s. 5 in 1948 reprint.

5. In this Act the following expressions shall, unless the contrary intention appears, have the

***Came into operation on 17th April, 1905. See Proclamation published in Gazette on 14th April, 1905.

*Re-numbered as Part X in the reprint of the Industrial Arbitration Act, 1912-1941, contained in Vol. 2 of the Reprinted Acts of the Parliament of W.A. (1943). The numbering of that reprint has been retained in the later reprint of the Industrial Arbitration Act contained in Vol. 5 of the Reprinted Acts (1952).

§Now the Industrial Arbitration Act, 1912-1952: See No. 5 of 1952, s. 1 (3).

meanings hereby respectively assigned to them, namely:—

“Commissioner” means the Public Service Commissioner appointed under this Act.

“Department” means any department at any time established by the Governor.

“Magistrate” means a resident magistrate, a police magistrate, or a magistrate of a local court.

“Minister” means the responsible Minister of the Crown for the time being administering the department in which the officer in connection with whom the term is used is employed.

“Officer” means and includes all persons employed in any capacity in those branches of the Public Service to which this Act applies.

“Permanent Head” means the permanent head of the department wherein is employed any officer in connection with whom the term is used or is applicable.

“Prescribed” means prescribed by this Act or any regulation thereunder.

“Regulations” means the Public Service Regulations for the time being in force under this Act.

“This Act” includes the regulations made thereunder.

6. Unless otherwise expressly provided, this Act shall not apply to—

the Judges of the Supreme Court; or

any officer of either House of Parliament under the separate control of the President or Speaker, or under their joint control; or

the Agent General; or

the Auditor General; or

the Police Force; or

Non-application of Act to certain officers. No. 41 of 1904, s. 5 renumbered s. 8 in 1948 reprint. See No. 14 of 1920, s. 2 (2).

the teaching staff of the Education Department; or

any officer or person appointed by the Commissioner for Railways under the Government Railways Act, 1904-1947*, or any Act amending the same; or

any officer or class of officers to whom or to which, on the recommendation of and for special reasons assigned by the Commissioner, the Governor declares that the provisions of this Act shall not apply.

PART II—ADMINISTRATION.

Public Service Commissioner.

7. (1) For the purposes of this Act the Governor may from time to time appoint some fit and proper person to be Public Service Commissioner, who shall have the powers and authority, and shall perform the duties and functions hereinafter vested in or imposed upon the Commissioner.

(2) The Commissioner shall be appointed for a term of seven years, and shall be eligible for re-appointment.

(3) In the case of the illness, absence, or suspension of the Commissioner, the Governor may appoint some other person to act as the deputy of such Commissioner during such illness, absence, or suspension; and such person shall, during the time for which he acts as such deputy, have all the powers and perform all the duties of such Commissioner.

(4) No action shall be brought or maintained against any person who is or shall have been Commissioner for any non-feasance or misfeasance in connection with his duties, nor shall any action lie nor any costs be payable in respect of any proceeding before the Commissioner:

Provided that this subsection shall not apply to any application or reference to or other proceeding before the Court of Arbitration under Part IXA† of the Industrial Arbitration Act, 1912-1941§, in which the Commissioner is or may be concerned as a party.

Appointment of Public Service Commissioner. No. 41 of 1904, s. 6, as amended by No. 22 of 1920, s. 2; No. 27 of 1927, s. 2; No. 28 of 1935, s. 3; No. 52 of 1947, s. 6 (3); No. 16 of 1950, s. 4 (3); No. 71 of 1953, s. 3 (3) and renumbered s. 7 in 1948 reprint.

Proviso added by No. 28 of 1935, s. 3.

*Now the Government Railways Act, 1904-1953: See No. 86 of 1953, s. 1 (3).
†Re-numbered as Part X in the reprint of the Industrial Arbitration Act, 1912-1941, contained in Vol. 2 of the Reprinted Acts of the Parliament of W.A. (1943). See also footnote * on page 2 of this reprint.

§Now the Industrial Arbitration Act, 1912-1952: See No. 5 of 1952, s. 1 (3).

(5) The Commissioner shall receive a salary on and after the first day of January, one thousand nine hundred and fifty-four at such rate per annum, being not less than two thousand one hundred and fifty pounds and not more than such sum as the Governor is hereby authorised to determine, from time to time, whenever he thinks fit, and does determine, and unless otherwise so determined at a rate per annum of two thousand one hundred and fifty pounds. Such salary and adjustments are hereby charged on the Consolidated Revenue Fund, which, to the necessary extent, is hereby appropriated accordingly.

Cf. No. 16 of 1950, s. 4 (3).

(5a) (a) In this subsection—

Subsec. (5a) added by No. 71 of 1953, s. 3 (3).

“salary rate” means the salary rate per annum of two thousand one hundred and fifty pounds or such other sum per annum as the Governor determines;

“variations” means variations in the amount of the basic wage as determined from time to time on or after the first day of January, one thousand nine hundred and fifty-four under section one hundred and twenty-seven of the Industrial Arbitration Act, 1912.

Cf. No. 57 of 1912 as amended ss. 127 and 164.

(b) The Governor shall cause adjustments to be made to the salary rate by multiples of twenty pounds as and when the variations are to an extent of twenty pounds or a multiple of twenty pounds.

(6) No person shall be eligible for the office of Commissioner who is or has been at any time during the twelve months preceding the commencement of this Act a member of Parliament.

8. (1) The Commissioner may be suspended from his office by the Governor, but shall not be removed from office except as hereinafter provided.

Suspension or removal of Commissioner. No. 41 of 1904, s. 7, renumbered s. 8 in 1948 reprint.

(2) There shall be laid before both Houses of Parliament a full statement of the grounds of suspension within seven days after such suspension, if Parliament is in session and actually sitting, or if Parliament is not in session or not actually sitting, within seven days after the commencement of the next session or sitting.

(3) The Commissioner so suspended shall not be restored to office unless each House of Parliament, within forty-two days after the day when such statement is laid before it, severally declares by resolution that the said Commissioner ought to be restored to office.

(4) If each House of Parliament within the said time so declares, the said Commissioner shall be restored to office by the Governor accordingly, but otherwise, he may be removed from office.

(5) If the Commissioner is restored to office, he shall receive arrears of salary in full from the date of his suspension.

Offices, how vacated. No. 41 of 1904, s. 8, renumbered s. 9 in 1948 reprint.

9. The Commissioner shall be deemed to have vacated his office—

- (a) if he engages during his term of office in any paid employment outside the duties of his office;
- (b) if he becomes bankrupt, or compounds with his creditors or makes any assignment of his salary for their benefit, or takes advantage of any provision of any Act relating to bankruptcy;
- (c) if, except on leave granted by the Governor, he absents himself from duty for fourteen consecutive days, or for twenty-eight days in any twelve months, or becomes permanently incapable of performing his duties; or
- (d) if he resigns his office by writing under his hand addressed to the Governor and such resignation is accepted by the Governor.

General Powers and Duties of Commissioner.

Commissioner to inspect departments, etc. No. 41 of 1904, s. 9, as amended by No. 2 of 1930, s. 2, and renumbered s. 10 in 1948 reprint. Cf. N.S.W., 1902, No. 31, s. 9.

10. (1) As often as necessary to carry out the directions and provisions of this Act, and ensure the establishment and continuance of a proper standard of efficiency and economy in the Public Service, the Commissioner shall, as far as practicable, personally inspect each department, and investigate the character of the work performed by every officer therein, and the efficiency, economy, and general working of such department, both separately and in its relation to other departments, and may, for

such purpose, examine the permanent head of such department and such other witnesses as may appear to the Commissioner to be necessary.

(2) The Commissioner may propose to the Governor any particular disposition of officers and offices and the division, class, or grade of every officer, and re-arrangement or improved method of carrying out any work which appears to the Commissioner necessary or expedient for the more economic, efficient, or convenient working of any department, and such proposal shall be considered and dealt with by the Governor.

Commissioner to propose changes of officers or re-arrangement of work.

(3) If the Governor does not approve of any proposal, it shall be the duty of the Commissioner to reconsider such proposal, and within a time to be specified by the Governor to submit another proposal. Such fresh proposal shall be considered and dealt with by the Governor.

(4) Where the Governor does not approve of any proposal, a statement of the reasons for not approving and for requiring a fresh proposal shall be laid before the Parliament.

(5) If the Commissioner finds that more officers are employed in a department than may be determined to be necessary for the efficient working of such department, such officers as are in excess may be transferred by the Governor, on the recommendation of the Commissioner, to some other department; and no appointment or promotion of an officer shall be made in such first-mentioned department until by transfer, retirement, dismissal, or death, the number of officers is reduced below the number determined to be necessary for the efficient working of such department.

Alteration of staff of any department. Formerly (6) re-numbered (5) in 1930 reprint*. former (5) having been repealed by No. 2 of 1930, s. 2.

(6) If the services of any officers in excess in any department are not likely to be required in any other department, the Governor, on the recommendation of the Commissioner, may call upon such officers to retire from the Public Service; and every such officer so called upon to retire shall retire accordingly. A record shall be kept of all officers who retire under this subsection, and in the event of the re-appointment of any such officer to the Public Service the provisions of section twenty-nine shall not apply.

Excess officers. Formerly (7) re-numbered (6) in 1930 reprint*.

* See Appendix to Sessional Volume of Statutes for the year 1930.

Formerly (8)
re-numbered
(7) in 1930
reprint*.

(7) The Commissioner shall make such specific or general reports as the Governor may from time to time require.

Power to
summon
witnesses
and take
evidence
on oath.
No. 41 of
1904, s. 11.

11. (1) The Commissioner may at any time summon any person whose evidence appears to be material to the determining of any subject of inspection, inquiry, or investigation under this Act; and any person so summoned shall attend at such place and time as is specified in such summons and produce any official or public books, documents, or writings in his custody or control material to the inquiry, and the Commissioner may examine such person upon oath touching any matter to be inquired into.

(2) If without reasonable cause any person not being an officer summoned pursuant to this section, after being paid or tendered his reasonable expenses, neglects or fails to appear or refuses to be sworn or to answer any question put to him by the Commissioner or to produce all books, documents, or writings pursuant to such summons, he shall be liable to pay a penalty not exceeding twenty pounds, to be recovered by any authorised officer in any court of competent jurisdiction: Provided that no person shall be compelled to answer any question which would tend to incriminate him.

For purpose
of inquiry,
Commis-
sioner may
delegate
powers.
Ibid. s. 12.
Cf. N.S.W.
Act, 1902,
No. 31, s. 11.

12. For the purpose of conducting an inquiry or investigation under the authority of this Act outside of Perth, at which it may be inconvenient for the Commissioner to be present, the Commissioner may, with the approval of the Governor, delegate any of his powers or functions to any fit person or persons; but the report or decision upon any such inquiry or investigation shall be made by the Commissioner.

Record of
officers to be
kept and
gazetted.
No. 41 of
1904, s. 13,
as amended
by No. 2 of
1930, s. 3.

13. (1) The Commissioner shall keep a record of all officers, showing, with regard to each officer, his age and length of service, the office he holds, and his classification.

(2) The Commissioner shall, in the month of August or as soon thereafter as practicable in each year, forward to the Governor, and publish in the *Government Gazette*, a list of all officers on the first day of July in such year, together with the particulars so recorded in respect to them, and showing the date of appointment of such officers. Such list shall be *prima facie* evidence of the information contained therein; a copy of such list shall be laid before Parliament within fourteen days of publication, or, if Parliament is not sitting, then within fourteen days after the commencement of the next sitting thereof.

14. The Commissioner shall furnish to the Governor, for presentation to Parliament, at least once in each year, a report on the condition and efficiency of the Public Service, and of the proceedings of the Commissioner; and in such report there shall be set forth any changes and measures necessary for improving the method of the working of the Public Service, and especially for insuring efficiency and economy therein and in each department thereof. The Commissioner shall, in such report, draw attention to any breaches or evasions of this Act which may have come under notice.

Commissioner to report on state of Public Service to Governor. No. 41 of 1904, s. 14.

15. The Governor may appoint, temporarily, an Assistant Public Service Commissioner, or two assistant Public Service Commissioners, who shall act in conjunction with the Commissioner in the classification of officers, and in the exercise of such other powers and duties of the Commissioner as the Governor may, from time to time, on the recommendation of the Commissioner, direct.

Assistant Commissioners. *Ibid.*, s. 15, as amended by No. 2 of 1930, s. 4, and No. 28 of 1935, s. 4.

Subject to any award or agreement made and in force under Part IXA* of the Industrial Arbitration Act, 1912-1941§, there shall be a reclassification once at least in every five years.

16. No member of Parliament shall interview or communicate with the Commissioner regarding the appointment of any applicant for a position in the Public Service.

Commissioner not to be interviewed. No. 41 of 1904, s. 16.

*Re-numbered as Part X in the reprint of the Industrial Arbitration Act, 1912-1941, contained in Vol. 2 of the Reprinted Acts of the Parliament of W.A. (1943). See also footnote * on page 2 of this reprint.

§Now the Industrial Arbitration Act, 1912-1952: See No. 5 of 1952, s. 1 (3).

PART III—DIVISIONS OF PUBLIC SERVICE.

Divisions of Service.
Ibid., s. 17.

17. The Public Service shall consist of four Divisions, that is to say:—

The Administrative Division,
The Professional Division,
The Clerical Division, and
The General Division.

Administrative Division.
Ibid., s. 18, as amended by No. 2 of 1930, s. 5.

18. (1) The Administrative Division shall include all Permanent Heads of Department, and all persons whose offices are, on classification, included in such division, and also all persons whose offices the Governor, on the recommendation of the Commissioner, directs to be included in such Division.

Professional Division.

(2) The Professional Division shall include all 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.

Clerical Division.

(3) The Clerical Division shall include all officers whose offices on classification are included in such Division.

General Division.

(4) The General Division shall include all persons in the Public Service not included in the Administrative, or Professional or Clerical Division.

Power to fix salary.
No. 41 of 1904, s. 22, renumbered s. 19 in 1948 reprint.
See No. 14 of 1920, s. 12.

19. Notwithstanding anything contained in this Act, the Governor may, on the recommendation of the Commissioner, fix by order the rate of salary to be paid to an officer occupying any particular office at any sum within the limits of his class or grade, and such sum shall be the salary attached to such officer while he holds such office, until the Commissioner otherwise recommends.

PART IV—EXAMINATION AND APPOINTMENT OF OFFICERS.

Commissioner, to provide by regulation for examinations.
No. 41 of 1904, s. 23, as amended by No. 2 of 1930, s. 7, and renumbered s. 20 in 1948 reprint.
Cf. N.S.W. 1902, No. 31, s. 27.

20. (1) The Commissioner may make regulations for the examination of persons desirous of admission into the Public Service, which shall prescribe—

- (a) a preliminary medical examination as to the health of the candidates;
- (b) the character and standard of the examinations or tests as to the acquirements and efficiency to which candidates are required to have passed or to submit themselves;

- (c) the times and places where the examinations shall be held, and the manner of holding the same;
- (d) a maximum and minimum age of candidates.

(2) For the purposes of this section the Commissioner may appoint as many fit persons as may from time to time be required to be examiners to conduct examinations in the prescribed manner.

21. (1) Except as hereinafter provided, no person shall be admitted to the Public Service unless he is a natural born or naturalised subject of His Majesty, and unless he has successfully passed the examination prescribed.

Qualification for appointment. No. 41 of 1904, s. 24, renumbered s. 21 in 1948 reprint. Cf. N.S.W. 1902, No. 31, s. 28.

(2) With the permission of the Governor a person not a natural born or naturalised subject of His Majesty may be so admitted, but such person shall, as soon as he is qualified so to do, apply for and obtain a certificate of naturalisation under the laws of the United Kingdom or of the Commonwealth.

22. (1) Separate examinations shall be held in connection with the Professional, Clerical, and General Divisions respectively, and shall be designed to test the efficiency and aptitude of candidates for employment in such several Divisions; but the educational examination for the General Division shall be of an elementary or rudimentary character.

Separate examinations to be held for the different divisions. No. 41 of 1904, s. 25, renumbered s. 22 in 1948, reprint.

(2) The Commissioner shall arrange the times and places of entrance examinations.

(3) Candidates who have passed the examinations in connection with the Professional Division shall be deemed to have passed the examinations for the Clerical and General Divisions respectively; and candidates who have passed the examinations in connection with the Clerical Division shall be deemed to have passed the examinations for the General Division.

23. (1) Except as hereinafter provided, every person admitted to the Public Service shall in the first instance be appointed on probation only, and may be continued in such probationary position for a period of six months, but may be dispensed with at any time during such period.

Admissions to public service to be on probation only. Ibid., s. 28, renumbered s. 23 in 1948 reprint.

(2) After the period of six months on probation has expired, the Governor may, on the recommendation of the Commissioner upon a report from the Permanent Head, confirm or annul such appointment, or extend the period of probation for a further period of six months, provided that the whole term of probation shall not in any case extend beyond twelve months.

(3) No such probationer whose appointment shall be so annulled as aforesaid shall be eligible as a probationer at any time within twelve months from the date of the annulling of such appointment.

Appoint-
ments in
certain
cases with-
out
examination
or proba-
tion.
Ibid., s. 29.
renumbered
s. 24 in 1948
reprint.

24. If at any time in any special case it appears expedient or desirable in the interests of the Public Service to appoint to any Division some person who is not in the Public Service, or who, being in the Public Service, holds an office exempted from the provisions of this Act, the Governor may, on the recommendation of the Commissioner, appoint such person accordingly, without either examination or probation, and also, if he thinks fit, without requiring compliance with the provisions of sections twenty-nine and sixty-two to sixty-eight.

Qualification
and
appointment
of magis-
trates.*
Ibid., s. 30,
as amended
by No. 2 of
1930, s. 9,
and No. 17
of 1930.
s. 10 (3),
renumbered
s. 25 in 1948
reprint.
Cf. N.S.W.,
1902, s. 37.
[See also
No. 17 of
1930, ss.
9-12.]

25. No person shall be appointed to the office of magistrate unless—

- (a) he has passed the prescribed examination in law; or
- (b) he is a legal practitioner duly qualified under the Legal Practitioners Act, 1893-1946†; or
- (c) he has, prior to the commencement of the Public Service Act Amendment Act, 1929‡, served with diligence and fidelity in the office of clerk of courts or mining registrar, followed by at least four years' continuous service as an acting magistrate.

Provided that, on the certificate of the Commissioner that it is desirable for the economy of the Public Service so to do, the Governor may appoint

*See Stipendiary Magistrates Act, 1930-1950. †Now the Legal Practitioners Act, 1893-1950: See Act No. 49 of 1950, s. 2. ‡6th January, 1930.

a District Medical Officer or may temporarily appoint any other officer a magistrate without examination.

26. The Governor may make regulations prescribing the subjects for and the nature and standard of the examination to be undergone by persons who desire to be appointed magistrates.

Examination for magistrates. No. 41 of 1904, s. 31, renumbered s. 26 in 1948 reprint.
Cf. N.S.W. 1902, No. 31, s. 33.

27. (1) Subject to the provisions of section twenty-four, no appointment of any person not already in the Public Service to any permanent office or position therein shall be made except—

Conditions of new appointments. No. 41 of 1904, s. 32, renumbered s. 27 in 1948 reprint.
Cf. N.S.W. 1902, No. 31, s. 34.

- (a) at the instance of the Commissioner; or
- (b) upon the written request of the permanent head of a department to the Commissioner.

(2) No such appointment shall in any case be made except upon a certificate from the Commissioner that such an appointment is necessary.

28. (1) The Commissioner, in giving the certificate in the last section mentioned, shall, in addition, state therein—

Certificate of Commissioner preliminary to appointment. No. 41 of 1904, s. 33, renumbered s. 28 in 1948 reprint.
Cf. N.S.W. 1902, No. 31, s. 35.

- (a) the name of the person proposed to be appointed;
- (b) that the person named in the certificate has passed the prescribed examination; or
- (c) having regard to the nature of the appointment that examination is not required, or may be dispensed with under the provisions of this Act.

(2) The Governor may thereupon appoint the person named in such certificate, subject to the provisions of section twenty-three.

29. (1) No person shall be appointed to the Clerical Division whose age at his last birthday previous to appointment was less than fifteen years or more than twenty-five years, unless such person is at the time of appointment already in the Public Service. In cases of special duties the Governor may, how-

Age of new appointees to Clerical Division. No. 41 of 1904, s. 34, as amended by No. 38 of 1912, s. 2, and No. 2 of 1930, s. 10, renumbered s. 29 in 1948 reprint.

ever, on the recommendation of the Commissioner, extend the age from twenty-five to thirty-five years.

Age of new appointees to General Division.

(2) No person shall be appointed to the General Division whose age at his last birthday previous to appointment was less than fourteen years or (except as hereinafter provided) more than fifty years, unless such person is at the time of his appointment already in the Public Service. In cases of special duties the Governor may, however, on the recommendation of the Commissioner, extend the age from fifty to fifty-five years. But, subject to the Acts relating to public elementary education, nothing in this subsection shall be taken to prevent the employment of boys above the age of thirteen years to be message boys or junior messengers.

Power to extend limit of age for special cases.

No. 38 of 1912, s. 2.

(3) For the purposes of this section, persons temporarily employed shall be deemed to be already in the public service.

Re-appointment of retired officers. No. 41 of 1904, s. 35, as amended by No. 2 of 1930, s. 11, renumbered s. 30 in 1948 reprint.

30. (1) Any person having at any time, either before or after the commencement of this Act, retired from a salaried office not being of a temporary or casual character in the Public Service of the State shall, if not more than sixty years of age, and his retirement was not due to misconduct or incompetence, be eligible for appointment to the Public Service without examination or probation, and, if the Governor thinks fit, without compliance with the provisions of sections sixty-two to sixty-eight, inclusive, of this Act; and such appointment shall be made at a rate of salary not exceeding that received by such person at the time of his retirement, and shall not be made to a position superior in classification.

(2) In the case of any person who shall have received a sum of money as compensation or gratuity on such retirement, no appointment shall be made until he has, if so required by the Governor, paid into the Treasury an amount equal to such compensation or gratuity in one sum, or arranged to pay by instalments. Such sum shall be refunded upon the person so appointed retiring from the Public Service.

Temporary Employment.

31. (1) Whenever in the opinion of the Minister of a department, after a report from the Commissioner, the prompt despatch of the business of a department renders temporary assistance necessary, and the Commissioner is unable to provide such assistance from other departments, the Commissioner shall select in such manner as may be prescribed, from the persons whose names are upon the prescribed register, such person or persons who are available as appear to be best qualified for such work, and they shall be paid at a daily or weekly rate of payment.

Temporary employment. No. 41 of 1904, s. 36, as amended by No. 10 of 1912, s. 5, and renumbered s. 31 in 1948 reprint. [See No. 14 of 1920, s. 2 (1).]

(2) Such person or persons may be employed to perform such work for any period not exceeding twelve months.

Limit of employment.

(3) No person who has been temporarily employed in any department for twelve months continuously, or for eighteen months continuously where extended as hereinafter provided, or for twelve months in the whole in any two years, or for eighteen months in the whole in any two years where extended as hereinafter provided, shall, during the six months following such temporary employment, be eligible for further temporary employment in the Public Service.

Restriction on re-employment.

(4) If it appears in the public interest to be desirable so to do, the Governor may order that any person who has been temporarily employed in any department for twelve months continuously or twelve months in the whole in any two years, may be temporarily employed for not more than six additional months.

Power to extend by six months.

(5) The services of any person temporarily employed may be dispensed with at any time by the Minister or by the Permanent Head.

Liability to being dispensed with.

(6) Notwithstanding the provisions hereinbefore contained, the Governor, if it appears in the public interest to be desirable so to do, may, in the case of temporary work in the carrying out of any public work or scheme, order that the temporary employment of all or any persons employed upon such work or scheme may be continued until the completion of the same.

Provision as to certain departments.

(7) The Governor may, by Order in Council, temporarily suspend the operation of subsections two, three, and four of this section in respect of any department or office specified.

(8) This section shall not apply to any person on the temporary staff of any department at the commencement of this Act, whose services it is not intended to dispense with at an early date, if the Commissioner shall, on the examination of the department, certify that the services of such person are permanently required. Upon such certificate being given, every such person shall be appointed to the permanent staff.

PART V—INTERNAL ADMINISTRATION.

Alterations of Staff.

32. The Governor may, on the recommendation of the Commissioner, after obtaining a report from the Permanent Head—

- (a) create a new office in any Division in any Department; or
- (b) abolish any office in any Department; or
- (c) transfer or promote any officer from any one Division to any other Division, after such examination, if any, as may be prescribed.

33. (1) Increments of salary within the limits of a range shall be annual; but no increment shall accrue to any salary until the officer in receipt thereof has received such salary for a period of twelve months:

Provided that the right to receive an increment in any year shall depend upon the good conduct, diligence, and efficiency of the officer.

(2) The permanent head of each department shall furnish to the Commissioner a report upon the conduct, diligence, and general efficiency of the officers of his department before any increase of salary is paid to such officers.

Power to create or abolish offices and alter classification or grading. No. 41 of 1904, s. 37, as amended by No. 2 of 1930, s. 12, renumbered s. 32 in 1948 reprint.

Formerly (d), re-designated (c) in 1930 reprint, former (c) having been omitted by No. 2 of 1930, s. 12.

Increments of salary, No. 41 of 1904, s. 37A inserted by No. 2 of 1930, s. 13, renumbered s. 33 in 1948 reprint.

Report.

Such report shall, in the first instance, be made by the immediate superior of the officer reported upon, and then forwarded by the permanent head, with such amendments as he may think fit.

34. Whenever a vacancy occurs in any office, and it is expedient to fill such vacancy by the promotion of an officer, the Governor may, on the recommendation of the Commissioner, subject to the provisions of this Act—

How vacancies to be filled by promotions. No. 41 of 1904, s. 38, renumbered s. 34 in 1948 reprint.

appoint to fill such vacancy an officer of the Department in which such vacancy occurs, regard being had to the relative efficiency, or, in the event of an equality of efficiency of two or more officers, to the relative seniority of the officers of such department; or

appoint to fill such vacancy any qualified officer from any other Department whom, on the ground of efficiency, or in the event of an equality of efficiency of two or more officers whom, on the ground of seniority, it appears desirable so to appoint, if it appears that such appointment would result in the work of such office being more efficiently performed than by selecting an officer from the Department in which such vacancy occurs.

“Efficiency” in this section means special qualifications and aptitude for the discharge of the duties of the office to be filled, together with merit and good and diligent conduct.

35. All promotions in and appointments to the Administrative Division shall, as far as practicable, and subject to the provisions of this Act, be from such Administrative Division, or from the highest class of the Professional or Clerical Division, and shall be made with regard to special qualifications and aptitude, as well as to seniority in grade or duration of service, seniority being subordinated to considerations of special fitness.

Order of promotions, etc. Ibid., s. 39, renumbered s. 35 in 1948 reprint. Cf. N.S.W. 1902, No. 31, s. 47.

Examination in special cases. No. 41 of 1904, s. 42, renumbered s. 36 in 1948 reprint.

36. Notwithstanding anything in this Act contained, the Commissioner shall have the power to direct the holding of examinations in connection with the filling of certain offices or any of them in order to test the efficiency and aptitude of the candidates for and the officers available for appointment to the position in respect of which the Commissioner has directed an examination to be held, and the provisions of section twenty shall, *mutatis mutandis*, apply to any examination under the provisions of this section.

Transfer from Professional or Clerical to General Division. *Ibid.*, s. 43, renumbered s. 37 in 1948 reprint.

37. The Governor may, on the recommendation of the Commissioner, transfer any officer in the Clerical Division who has been found incapable of performing his duties to the General Division, and may transfer any officer in the Professional Division who has been found incapable of performing his duties to the Clerical Division or General Division.

How promotions made. *Ibid.*, s. 44, renumbered s. 38 in 1948 reprint.

38. (1) Before an officer is promoted from any office to a higher office in the Administrative or Professional or Clerical Division, there shall be submitted to the Governor the name of the officer recommended for promotion to such higher office by the Commissioner, after report from the Permanent Head; and any officer so recommended may be promoted by the Governor accordingly: Provided that, in every instance where a junior officer is recommended, the certificate of the Commissioner be first issued certifying that there is no senior officer available as capable of satisfactorily performing the duties.

(2) If any officer recommended by the Commissioner is not approved by the Governor, it shall be the duty of the Commissioner, after report from the Permanent Head, to recommend, within a time specified by the Minister, some other officer for the office, and such officer, if approved of by the Governor, may be promoted accordingly to such office.

(3) Where the Governor does not approve of any officer recommended, a statement of the reasons for not approving any such recommendation, and for requiring a further recommendation, shall, within

seven days, be laid before Parliament, and if Parliament is not sitting, then within seven days of the next sitting thereof.

39. The Governor may, in any case, allow any officer to decline any offered promotion or appointment, without prejudice to his right to any future promotion or appointment to which his grade and order of seniority and merit would, under the provisions of this Act, entitle him: But no officer shall be allowed to refuse compliance with any order of the Governor directing his removal from one position to another, or from one division or department to another; and disregard of, or disobedience to, any such order shall be followed by dismissal, unless the officer concerned justifies such refusal, in the judgment of the Commissioner, by adducing some valid and sufficient reason therefor.

Governor may allow officer to decline promotion. Ibid., s. 45, renumbered s. 39 in 1948 reprint. N.S.W. 1902. No. 36, s. 57.

40. When it appears to the Minister or Permanent Head of any Department necessary or expedient for the more economic, efficient, or convenient working of such department or any branch thereof that any particular disposition of officers and re-arrangement of work should be effected, the matter shall be referred to the Commissioner for consideration and action:

Minister or Permanent Head may propose changes of officers or re-arrangement of work. No. 41 of 1904, s. 46, renumbered s. 40 in 1948 reprint. N.S.W. 1902. No. 31, s. 52.

Provided that nothing in this Act contained shall be construed as restricting the ordinary and necessary departmental authority of such Minister or Permanent Head of any department with respect to the direction and control of officers and work.

41. An officer performing the work of another officer or performing the work of an office other than his own office, during a vacancy therein may, with the approval of the Commissioner, be granted increased remuneration on the following basis:—

Increased remuneration for acting position. No. 41 of 1904, s. 46A, inserted by No. 2 of 1930, s. 15, as amended by No. 28 of 1935, s. 5, and renumbered s. 41 in 1948 reprint.

- (a) when acting in a position for a period of one month or longer, the minimum value of which exceeds his own salary, the minimum value of such position for the whole time he is acting;

- (b) when acting in a position for a period of one month or longer, the minimum value of which does not exceed his own salary, at the rate of half the difference between the respective salaries for the whole time he is acting.

The amounts mentioned in paragraphs (a) and (b) may be reduced by the Commissioner should circumstances, in his opinion, warrant it.

Dismissals, Removals, etc.

Offences,
No. 41 of
1904, s. 47,
renumbered
s. 42 in 1948
reprint.

42. (1) If any officer is guilty of a breach of the provisions of this Act or any regulations thereunder, or is guilty—

- of any wilful disobedience or disregard of any lawful order made or given by any person having authority to give such order; or
- of being negligent or careless in the discharge of his duties; or
- of being inefficient or incompetent, and such inefficiency or incompetency appears to arise from causes within his own control; or
- of using intoxicating beverages to excess; or
- of any disgraceful or improper conduct;

then such officer shall be guilty of an offence, and shall be liable to such punishment as may be determined upon under the provisions of this section.

(2) Any officer (not being an officer included in the Administrative Division) charged with the commission of an offence—

- (a) may, in the case of minor offences against discipline, be reprimanded or cautioned by the Permanent Head or by any officer prescribed as having power to suspend officers in the office or place in which the offending officer is employed; or
- (b) for any such offence whatever may be temporarily suspended by the Permanent Head, or, in emergent cases, by any officer prescribed as having power to suspend

Summary
reprimand
for minor
offences.

Temporary
suspension
of officer
charged.

officers in the office or place in which the offending officer is employed, in which event such suspension shall be immediately reported to the Permanent Head. The suspending officer or Permanent Head shall forthwith furnish the offending officer with a copy of the charge on which he is suspended, and require him to forthwith state, in writing, whether he admits or denies the truth of such charge, and to give any explanation in writing as to such offence for the consideration of the Permanent Head.

(3) On consideration of such explanation, if any, the Permanent Head, if of opinion that the alleged offence has not been committed, may remove such suspension, or if of opinion that the alleged offence has been committed by such officer, but is not of so serious a nature that an investigation thereof should be made by the Commissioner, may reprimand or caution such officer, and remove the suspension, or, in his discretion, fine him any sum not exceeding ten pounds, and in any case shall determine whether such officer shall be paid his salary or any part thereof for the period of his suspension.

Power of
Permanent
Head to
reprimand.

(4) If the Permanent Head considers the alleged offence to be of so serious a nature that an investigation thereof should be made by the Commissioner, he may further suspend such officer and forthwith refer the charge to the Commissioner for investigation and report; and if such suspended officer does not, in writing, admit the truth of the charges made against him, within four days, or such further time as the Commissioner may allow, the Commissioner shall inquire as to the truth of such charges.

Or refer
charge
to Com-
missioner.

(5) If any such charges are admitted or are found by the Commissioner to be proved, then the Commissioner may, subject to the regulations, impose a penalty upon such offending officer, or may deprive him of his leave of absence during a specified period, or the Governor may, according to the nature of the offence, reduce such officer to a lower class or grade and salary or wages, or may dismiss such officer

Punishment
when charge
proved.

from the Public Service, or require him to resign, and in the event of being so dismissed such officer shall, unless otherwise ordered by the Governor, be entitled to no salary or wages during the time of his suspension.

Removal of suspension.

(6) If none of such charges are found by the Commissioner to be proved, the suspension shall be immediately removed, and the officer shall receive arrears of salary in full from the date of his suspension.

Appeal to Commissioner. Ibid., s. 48, renumbered s. 43 in 1948 reprint.

43. Any officer fined by the Permanent Head under the provisions of subsection three of the last preceding section may appeal in the prescribed manner to the Commissioner, who may confirm, reverse, or vary the decision of the Permanent Head.

Offences by officers in Administrative Division. Ibid., s. 49, renumbered s. 44 in 1948 reprint.

44. (1) Where an officer in the Administrative Division is charged by any person with any of the offences mentioned in subsection one of section forty-two, the Minister may suspend such officer, and report the charge and suspension to the Commissioner; and if such officer does not, in writing, admit the truth of the charges made against him, the Commissioner shall inquire into the truth of such charges, and, after fully hearing the case, shall report to the Governor his opinion thereon.

(2) If any such charges are admitted or are found by the Commissioner to be proved, then the Commissioner may make such recommendation in reference thereto, and as to the punishment or otherwise of the person charged, as to the Commissioner seems fit. On receiving such recommendation, the Governor may dismiss such officer from the Public Service, or reduce such officer to a lower division and salary, or impose such penalty or other punishment as the case demands.

(3) If such charges are found by the Commissioner not to be proved, the suspension shall be immediately removed, and the officer shall receive arrears of salary in full from the date of his suspension.

45. Any officer may appeal from the recommendation of the Commissioner under sections forty-two or forty-four to the Public Service Appeal Board constituted under the Public Service Appeal Board Act, 1920-1945*, and such Board shall have jurisdiction to hear and determine the appeal under and subject to the provisions of that Act.

Appeal to Public Service Appeal Board. No. 41 of 1904, s. 50 repealed and new s. 50 substituted by No. 2 of 1930, s. 18, and re-numbered s. 45 in 1948 reprint.

[Former Part VI, which contained former ss. 51 and 52, repealed by No. 2 of 1930, s. 17.]

PART VI—MISCELLANEOUS.

Performance of Duties in Absence.

46. Where in or by any Act, Order in Council, rule, regulation, by-law, contract, or agreement any duty, obligation, right, or power is imposed or conferred upon any officer in His Majesty's service (other than a Minister or judicial officer) in his capacity as such officer, such duty, obligation, right, or power may be performed or exercised by any officer directed by the Governor to perform and exercise the duties, obligations, rights, and powers of such first-mentioned officer during his temporary absence or incapacity, in the same manner and to the same extent in all respects as the same might have been respectively performed or exercised by such first-mentioned officer, and everything so done under the provisions of this section shall be as good and effectual for all purposes and against all persons whatsoever as if done by such first-mentioned officer.

Formerly Part VII, renumbered VI in 1948 reprint.

Performance of duties and powers of officer in his absence. No. 41 of 1904, s. 53, renumbered s. 46 in 1948 reprint.

Officers Not British Subjects to be Naturalised.

47. Every officer admitted to the Public Service before the commencement of this Act, who is not a natural born or naturalised subject of His Majesty, shall forthwith, after the commencement of this Act, or so soon as he is qualified so to do, apply for and obtain a certificate of naturalisation under the laws of the United Kingdom or of the Commonwealth.

Officers not British subjects to be naturalised. *Ibid.*, s. 54, renumbered s. 47 in 1948 reprint.

* Now the Public Service Appeal Board Act, 1920-1950: See Act No. 9 of 1950, s. 2.

Rent Chargeable for Quarters.

Rent charged to officers residing in Government buildings. *Ibid.*, s. 55, renumbered s. 48 in 1948 reprint.

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 may direct that a fair and reasonable sum as rent therefor be deducted from such officer's salary, and the amount of such sum, not exceeding ten per centum on the salary of such officer, shall be fixed by the Governor on the recommendation of the Commissioner or by officers specially or generally appointed for the purpose by the Governor. In calculating for any purpose the rate of salary of such officer, the amount so deducted as rent shall be deemed and taken to be part of his salary:

But no officer shall be subject to any deduction from his salary as rent of any premises he may continue to occupy, if at the commencement of this Act such premises were occupied by him free of rent.

Incapacity of Officers.

Services of incapable officer may be dispensed with. *Ibid.*, s. 56, renumbered s. 49 in 1948 reprint.

49. If an officer appears to the Commissioner, after a report from the Permanent Head, to be unfit to discharge or incapable of discharging the duties of his office efficiently the Commissioner shall inquire and determine whether it is proved that such officer is unfit to discharge or incapable of discharging the duties of his office, and the Governor, on the recommendation of the Commissioner, may deal with such officer either by calling upon such officer to retire from the Public Service or by transferring him to some other position; and every such officer, if called upon to retire, shall retire accordingly.

Forfeiture of Office.

Forfeiture of office in certain cases. *Ibid.*, s. 57, renumbered s. 50 in 1948 reprint.

50. (1) If an officer is, on an indictment, convicted of any offence, he shall be deemed to have forfeited his office, and shall thereupon cease to perform his duties or receive his salary.

(2) If the estate of an officer is sequestrated, either voluntarily or compulsorily, for the benefit of his creditors, such officer shall apply, as soon as he may legally do so, to a court of insolvency for a certificate of discharge. If it appears to such court that the

Services dispensed with for fraudulent bankruptcy. *N.S.W.*, 1902, No. 31, s. 61 (2).

applicant has been guilty of fraud, dishonourable conduct, or extravagance, such court shall direct the clerk of the court thereupon to report the same to the Minister or Permanent Head or chief officer of the department in which such officer is employed. If such officer does not apply as aforesaid for such certificate of discharge, or if he applies, and it appears from the report that such officer has been guilty of fraud, dishonourable conduct, or extravagance, such officer may be dismissed from the Public Service, or reduced to a lower division, class, or grade therein, or fined, reprimanded, or otherwise punished by order of the Governor.

Penalties.

51. On receiving notice of any pecuniary penalty imposed upon or of any order for the payment of costs made against any officer under the authority of this Act, the officer who pays the salary of the officer so punished, or against whom any such order is made, shall deduct the amount thereof from such salary.

Fines to be stopped from salary.
No. 41 of 1904, s. 58, renumbered s. 51 in 1948 reprint.

Leave of Absence and Holidays.

52. (1) Every officer shall be entitled to annual leave of absence for recreation for two weeks on full pay.

Annual leave for recreation.
Ibid., s. 59, renumbered s. 52 in 1948 reprint.
See 64 Vict., No. 21, s. 28.

(2) The time for taking annual leave shall, in every case, be approved by the Minister.

(3) With the written consent of the Minister, annual leave for recreation may, when the convenience of the department is served thereby, be allowed to accumulate for not exceeding six weeks altogether.

(4) The period of leave of absence for recreation which may be granted to officers stationed in places remote from large centres of settlement, or whose duties cannot ordinarily be performed within regular hours, shall not necessarily be limited to two weeks, but shall be limited as may be prescribed.

53. When the absence of an officer is not sanctioned, there shall be deducted from his salary his pay for each day or portion of a day of such absence.

Deduction of pay for unauthorised absence.
No. 41 of 1904, s. 60, renumbered s. 53 in 1948 reprint.
(See No. 14 of 1920, s. 14.)

Leave on the ground of illness or necessity. No. 41 of 1904, s. 61, renumbered s. 54 in 1948 reprint.

54. (1) In cases of illness or other pressing necessity, the Minister may grant to any officer extended leave for not exceeding two months, and the Governor may, subject to the regulations, grant such leave for not exceeding twelve months, on such terms as may be prescribed.

(2) Where, in case of illness, any officer who has received extended leave of absence for twelve months is not so far recovered as to be able to resume his duties, the Governor may grant such officer further leave of absence.

(3) For such further leave of absence no salary or allowance shall be paid to such officer.

(4) Leave of absence in case of illness shall not be reckoned as nor included in leave of absence for recreation.

Leave without pay. Ibid., s. 62, renumbered s. 55 in 1948 reprint.

55. (1) On the application of any officer, the Governor, on the recommendation of the Commissioner, may grant to him leave of absence without pay for any period not exceeding twelve months.

(2) The period during which any officer is absent on leave granted pursuant to this section shall not for any purpose be included as part of such officer's period of service.

Long service leave. No. 41 of 1904, s. 63 as inserted by No. 16 of 1947, s. 2;* renumbered as s. 56 in 1948 reprint.

56. (1) Subject to this section, any officer who in the public service, shall have completed seven years of continuous service in a permanent capacity, or ten years of continuous service in a temporary capacity, or eight and one-half years of continuous service, of which not less than eighteen months shall have been served in a temporary capacity and the balance in a permanent capacity, shall be or become entitled to three months of long service leave on full pay.

*No. 16 of 1947, s. 3 provides as follows:—

Retrospective Operation of Act.

"3. This Act shall operate and have effect retrospectively to the thirty-first day of January, 1942, and shall apply to all permanent and temporary officers who were on that date, or who subsequently became or become employed under the principal Act: Provided that nothing in this Act shall prejudice or affect the operation of section sixteen of the Interpretation Act, 1918-1938."

(2) Subject to this section, every officer in the public service shall be or become entitled to an additional three months of long service leave on full pay in respect of each and every subsequent period of seven years of continuous service completed by him.

Additional leave.

(3) Every officer shall take the long service leave to which he shall be or become entitled under this section between such dates as the Commissioner, after obtaining a report from the Permanent Head, may direct or approve, but within seven years next after becoming entitled thereto: Provided that, upon application by the officer and on the recommendation of the Commissioner, the Governor may—

When to be taken.

(a) in the case of any officer, approve the accumulation of his long service leave entitlement up to a maximum of six months thereof;

(b) in the case of any officer who at the date of the proclamation of the Public Service Act Amendment Act, 1947†, has accumulated or within five years of such date shall accumulate at least six months' long service leave, approve the accumulation of his long service leave entitlement (inclusive of the long service leave already accumulated) up to a maximum of twelve months thereof.

(4) Upon application by any officer and on the recommendation of the Commissioner, the Governor may approve of the taking by the officer—

Concessions.

(a) of double the period of long service leave entitlement on half pay in lieu of the period of long service leave entitlement on full pay; or

(b) of any portion of his long service leave entitlement on full pay or double such period on half pay.

(5) The Governor may make regulations furthering or facilitating the objects or operation of this section, and providing for lump sum payments in lieu of long service leave entitlements, and for pro

Regulations.

† 5th March, 1948—See Proclamation published in Gazette on 5th March, 1948.

rata long service leave entitlements, to officers who retire after attaining the age of sixty years or through ill-health, to female officers who resign because of or with a view to marriage, to other officers, and, in the case of a deceased officer, to his widow or other person approved by the Treasurer; and, in relation to each class of officer, to prescribe the minimum qualifying continuous service: Provided that the calculation of the amounts of leave or money due to any officer under such regulations shall be based upon the rate of salary of the officer at the date of his retirement, resignation or death, as the case may be; and no payment shall exceed the equivalent of twelve months' salary.

Meaning of
"continuous
service."

(6) The expression "continuous service" in this section includes any period during which the officer is absent on full pay or part pay from his duties in the public service, but does not include—

- (a) any period exceeding two weeks during which the officer is absent on leave without pay;
- (b) any period during which the officer is taking his long service leave entitlement or any portion thereof;
- (c) any service of the officer prior to his attaining the age of eighteen years;
- (d) any service of the officer who resigns (except a female officer who resigns because of or with a view to marriage) or is dismissed, other than service prior to such resignation or to the date of any offence in respect of which he is dismissed, when such prior service has actually entitled the officer to long service leave under this section.

57. The following days shall be Public Service holidays throughout the service:—

- (a) New Year's Day.
Good Friday.
Easter Eve.
Easter Monday,
Christmas Day.
The 26th day of December.
The 25th day of April (Anzac Day).

Holidays.
No. 41 of
1904, s. 64,
as amended
by No. 17 of
1919, s. 3,
No. 26 of
1921, s. 2,
and No. 45
of 1948,
s. 3, and
renumbered
s. 57 in 1948
reprint.
(Cf. 64 Vict.
No. 21, s. 30;
2 Edw. VII
No. 16, s. 6.)

(b) The anniversary of the Birthday of the Sovereign.

Foundation Day (1st day of June).

Labour Day (1st day of March).

(c) Also all days which the Governor may appoint, and which shall be notified in the *Government Gazette* as Public Service holidays.

Whenever any of the days mentioned in subsection (b) fall on a day other than a Monday, the next following Monday shall be the holiday instead of such day.

58. The services of any officer may be required by the Minister on any Public Service holiday, but in such case such officer shall be granted in lieu thereof a holiday upon such other occasion as shall not interfere with public business.

Attendance on public holidays. No. 41 of 1904, s. 65, renumbered s. 58 in 1948 reprint. (Cf. 64 Vict., No. 21, s. 31.)

Retirement of Officers.

59. Every officer having attained the age of sixty years shall be entitled to retire from the Public Service if he desires so to do; but any such officer may (unless called upon to retire as hereinafter provided) continue in the Public Service until he attains the age of sixty-five years. If any such officer continues in the Public Service after he has attained the age of sixty years, he may at any time before he attains the age of sixty-five years be called upon by the Governor, on the recommendation of the Commissioner, to retire from the Public Service; and every such officer so called upon to retire shall retire accordingly.

Officers between sixty and sixty-five years of age entitled or may be called upon to retire. No. 41 of 1904, s. 66, renumbered s. 59 in 1948 reprint.

60. Every officer shall retire on attaining the age of sixty-five years, unless he is required to continue to perform his duty in the Public Service as hereinafter provided, and is able and willing so to do.

Officers attaining age of sixty-five to retire unless required to continue. Ibid., s. 67, renumbered s. 60 in 1948 reprint.

61. Notwithstanding that an officer has attained the age of sixty-five years, if the Commissioner certifies that in the interests of the Public Service it is

Officers of age of sixty-five may be continued in public service by Governor. Ibid., s. 68, renumbered s. 61 in 1948 reprint.

desirable that such officer should continue in the performance of the duties of his office or of any office in the Public Service to which he may be appointed, and that such officer is able and willing to do so, the Governor may direct such officer to continue in the service for not exceeding such time as the Governor in each case directs, or during pleasure.

Life Insurance.

Non-application to certain officers. Ibid., s. 69, renumbered s. 62 in 1948 reprint.

62. The six next following sections shall not apply to any officer appointed to the Public Service before the commencement of this Act, or to any person exempted under the provisions of sections twenty-four and thirty, or to any person temporarily employed.

Appointee to insure his life. Ibid., s. 70, renumbered s. 63 in 1948 reprint.

63. Subject to the provisions of this Act, every officer, on the confirmation of his appointment, shall effect an insurance of his life with some life insurance company or society approved by the Governor, registered and carrying on business in the State, providing for such benefits as may be prescribed, and for increasing from time to time the amount insured: Provided that this section shall not apply to any officer who at the time of his appointment is already insured in such company or society for benefits equivalent to those prescribed.

Provision for increase of amount of policy. Ibid., s. 71, renumbered s. 64 in 1948 reprint.

64. Such insurance shall be continued by the insured, and not allowed to lapse, and the amount thereof shall be increased by the insured from time to time in proportion as nearly as practicable to his salary as may be prescribed.

Policy not assignable, and to be exempt from insolvency laws, etc. Ibid., s. 72, renumbered s. 65 in 1948 reprint.

65. No such policy of insurance shall at any time be assignable or transferable either at law or in equity, or be mortgaged or charged in any way either wholly or in part; and the moneys thereby secured and the property and interest under such policy of the person insured shall be wholly exempt from the operation of any laws in force relating to bankruptcy, and shall not be liable to be seized, levied upon, attached, or sold upon, by, or under any legal process, or in case of his death shall not be assets for the payment of his debts.

66. A copy of the last preceding section shall be indorsed on every policy of insurance issued for the purpose of compliance with the provisions of this Act.

Indorsement of policy. Ibid., s. 73, renumbered s. 68, in 1948 reprint.

67. It shall be the duty of the company or society insuring any officer to notify in writing to the Permanent Head whenever the premiums of such officer are more than two months in arrear, or whenever any policy is liable to lapse within one month, and to state the exact amount of arrears of premiums and fines (if any) payable thereon, and such amount, if not sooner paid by the officer, may be deducted from the next payment that shall become due to such officer on account of salary, and shall be paid to such company.

Deduction from salary of premiums in arrear. Ibid., s. 74, renumbered s. 67 in 1948 reprint.

68. (1) Where a person is unable to insure his life, or is unable to insure his life without a loading of five years or more being made upon his age, and in such latter case is unwilling to insure his life, he shall not thereby be disqualified for appointment or promotion, but a prescribed deduction shall be made at prescribed times from such person's salary.

Provision for inability to insure. Ibid., s. 75, renumbered s. 68 in 1948 reprint.

(2) Such deductions shall be invested and accumulated in the prescribed manner by the Treasurer; and such accumulations shall, during the continuance of any such person in the Public Service, be protected as hereinbefore prescribed with respect to moneys received by and property and interest under policies of insurance, and shall be paid in full without any deduction and with all interest accumulated thereon to such person on his ceasing to be a member of the Public Service or to his representatives on his death, whichever shall first happen, and in case of his death shall not be assets for the payment of his debts.

Public Notifications.

69. Notices of all appointments, promotions, transfers, retirements, vacations of office, or removals of officers, and of all Orders in Council or Proclamations under this Act, shall be published in the *Government Gazette* within twenty-eight days after making thereof by the Governor, and every

Notices to be gazetted. Ibid., s. 76, as amended by No. 2 of 1930, s. 18, and renumbered s. 69 in 1948 reprint.

such notice shall be deemed and taken to be conclusive evidence of every such appointment, promotion, transfer, retirement, vacation of office, or removal, or of such Order in Council or Proclamation respectively.

All classifications and reclassifications shall also be published in the *Government Gazette*.

Service of Notices on Officers.

As to officers whose address is unknown. No. 41 of 1904, s. 77, renumbered s. 70 in 1948 reprint.

70. (1) In the event of the address for the time being of an officer being unknown to the Commissioner or any Permanent Head, as the case may be, all notices, orders, or communications to or for such officer shall be posted to the last-known address of such officer, and a notification of the fact of such posting shall be published in the *Government Gazette*.

(2) So far as regards any such notice, order, or communication, compliance with subsection one of this section shall be deemed a sufficient service of such notice, order, or communication on an officer whose address is unknown as aforesaid.

(3) Where any such notice, order, or communication relates to any charges made against an officer, then if within a time specified in such notice, order, or communication no answer is received by the authority asking whether the officer admits the truth of such charges, he shall be deemed to deny the truth of such charges, and such charges may be inquired into and dealt with in the absence of the officer affected.

Commonwealth and State Officers.

Service in Commonwealth not to disqualify for State service. Ibid., s. 78, renumbered s. 71 in 1948 reprint.

71. The fact that any person is an officer of the Public Service of the Commonwealth shall not disqualify him from also executing the duties of an office in the Public Service of the State.

Officer of Commonwealth may discharge State functions. Ibid., s. 79, renumbered s. 72 in 1948 reprint.

72. (1) The Governor may arrange with the Governor-General for the performance by an officer in the Public Service of the Commonwealth for the Government of the State of any work or services or for executing the duties of any office in the Public Service of the State.

(2) In any such case the Governor may, by agreement with the Governor-General or otherwise, make arrangements for determining—

Consequent arrangements to be made.

- (a) the rate of payment to be made by the Government of the State for the services to be performed or the work done for the State by such officer; and
- (b) any matters which may require to be adjusted with regard to the performance of such duties or execution of such work by such officer.

73. Where an officer of the State performs some duties for the Government of the Commonwealth, it shall be lawful for the Governor, by agreement with the Governor-General or otherwise, to make arrangements for determining—

Arrangement for performance of duties by officer. Ibid., s. 80, renumbered s. 73 in 1948 reprint.

- (a) the rate of payment to be made by the Government of the Commonwealth for the services performed for the Commonwealth by such officer; and
- (b) any matters which may require to be adjusted with regard to the performance of such duties by such officer.

74. It shall be lawful for the Governor, at the request of the Governor-General, to authorise and cause any work or services to be performed for the Government of the Commonwealth; and the Governor, by agreement with the Governor-General or otherwise, may make arrangements for determining—

Arrangement for performance of work or services for Commonwealth. Ibid., s. 81, renumbered s. 74 in 1948 reprint.

- (a) the rate of payment to be made by the Government of the Commonwealth for the performance of such work or services; and
- (b) any matters which may require to be adjusted with regard to the performance of such work or services.

Performance of Work Outside Public Service.

Officer not to engage in duties unconnected with his office.
Ibid., s. 82, renumbered s. 75 in 1948 reprint.

75. (1) Except with the express permission of the Governor, which permission may at any time be withdrawn, no officer shall—

- (a) accept or continue to hold an office in or under the Government or a paid office in or under any public or municipal corporation; or
- (b) accept or continue to hold or discharge the duties of or be employed in a paid office in connection with any banking, insurance, mining, mercantile, or other commercial business, whether the same be carried on by any corporation, company, firm, or individual; or
- (c) engage in or undertake any such business, whether as principal or agent; or
- (d) engage or continue in the private practice of any profession; or
- (e) accept or engage in any employment for reward other than in connection with the duties of his office or offices under the State or the Commonwealth.

Effect as to companies.

(2) Nothing herein contained shall be deemed to prevent an officer—

- (a) from becoming a member or shareholder only of any incorporated company or of any company or society of persons registered under any statute; or
- (b) from accepting and continuing to hold any office in any society founded under the law relating to friendly societies for the benefit of public servants only.

N.S.W. 1902, No. 31, s. 68 (5).

Superannuation.

Superannuation. No. 41 of 1904, s. 83, renumbered s. 76 in 1948 reprint. (See No. 17 of 1930, ss. 7 and 8.)

76. The provisions of the Superannuation Act shall not apply to any person appointed to the Public Service after the commencement of this Act; and nothing in this Act contained shall be deemed to confer on any person whomsoever any right or privilege under the said Act.

Regulations.

77. The Governor may make, alter, or repeal regulations for the carrying out of any of the provisions of this Act, and in particular for all or any of the following purposes, namely:—

Regulations.
Ibid. s. 84,
as amended
by No. 2 of
1930, s. 19,
renumbered
s. 77 in 1948
reprint.

(a) The establishment, alteration, or abolition of any department;

(b) for examinations, and for registering in the order of merit the names of those candidates who, having qualified at any such examination, may be appointed to fill subsequent vacancies arising within nine months thereof;

Formerly (d)
redesignated
(b) in 1930
reprint*.

(c) for prescribing the terms upon which the service of female officers may be dispensed with upon their marriage: Provided that nothing herein shall be taken to permit the employment of any married woman except upon the certificate of the Commissioner in each case that such employment is desirable;

Formerly (e)
redesignated
(c) in 1930
reprint*.

(d) for constituting in any part of the State, or for any locality or office in any locality, boards of inquiry for the purpose of investigating charges against any officer for breaches of the provisions of this Act or any regulations thereunder, or of being unfit to discharge or incapable of discharging the duties of his office efficiently, or of committing any offence for which an officer may be suspended from duty, and for regulating the procedure of such boards;

Formerly (f),
redesignated
(d) in 1930
reprint*.

(e) for regulating and fixing, for breach of any specified regulation, penalties not exceeding fifty pounds, according to the nature and gravity of the offence;

Formerly (g),
redesignated
(e) in 1930
reprint*.

(f) for regulating and determining the scale or amount to be paid to officers for transfer or travelling allowances or expenses, or for living in localities where the climatic conditions are severe, or in places where, owing

Formerly (h),
redesignated
(f) in 1930
reprint*.

to their situation, the cost of living is exceptionally high; and providing for the relief and transfer of officers employed in any such locality after having been so employed for the period prescribed for that locality;

Formerly (l),
redesignated
(g) in 1930
reprint*.

- (g) for prescribing the form of Register of applicants for temporary employment, and the mode of keeping the same, and the mode of selecting persons therefrom, and also the method of dealing with or punishing persons temporarily employed;

Formerly (l),
redesignated
(h) in 1930
reprint*.

- (h) for regulating the hours of attendance of officers, and the keeping and signing of records of attendances, or prescribing other methods of recording attendances;

Formerly (k),
redesignated
(i) in 1930
reprint*.

- (i) for regulating the performance of and payment of officers for extra services, and the payment of examiners;

Formerly (l),
redesignated
(j) in 1930
reprint*.

- (j) for fixing the amount and nature of the security to be given for the fidelity of officers occupying positions the nature of which, in the opinion of the Commissioner, renders it necessary for such officers to find security for their fidelity;

Formerly
(m),
redesignated
(k) in 1930
reprint*.

- (k) for fixing the maximum or minimum age of persons who may be appointed to any particular division or class or grade or to any particular office;

Formerly (n),
redesignated
(l) in 1930
reprint*.

- (l) for providing for a notification to the Commissioner of every punishment inflicted on any officer by virtue of this Act, and for keeping records thereof;

Formerly (o),
redesignated
(m) in 1930
reprint*.

- (m) prescribing the lowest amount for which the lives of officers shall, having regard to their annual salary, be assured, and other matters in connection with the provisions of this Act relating to life assurance;

- (n) for determining the dates, times, or periods of time at or within which shall be done all things and acts required or permitted by this Act to be done, and in respect of which no dates, times, or periods of time are specifically provided; and
- (o) for notifying all vacancies and the method of applying for such vacancies.

Formerly (p), redesignated (n) in 1930 reprint*.

Formerly (q), redesignated (o) in 1930 reprint*.

Publications of Regulations in Gazette.

Regulations made pursuant to this Act may be made either generally or with respect to any particular case or class of cases, and when published in the *Government Gazette* shall have full force and effect; and such regulations shall be laid before both Houses of Parliament within seven days of publication in the *Government Gazette* if Parliament is in session and actually sitting, or if Parliament is not in session or not actually sitting, then within seven days after the commencement of the next session or sitting.

Every officer shall be entitled to a copy of this Act and the regulations free of charge.

Schedule.

Sec. 4.

Date.	Title.	Extent of Repeal.
64 Vict., No. 21 2 Edw. VII., No. 16	The Public Service Act, 1900 The Public Service Act Amendment Act, 1902.	The whole. The whole.

* See Appendix to Sessional Volume of Statutes for the year 1930.