

## COMMONWEALTH EMPLOYEES' FURLOUGH.

**No. 19 of 1943.**

An Act to make provision for the granting of long-service leave to Commonwealth Employees.

[Assented to 29th March, 1943.]

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

**Short title and citation.**

1.—(1.) This Act may be cited as the *Commonwealth Employees' Furlough Act 1943*.

(2.) The *Commonwealth Public Service Act 1922–1941*, as amended by this Act, may be cited as the *Commonwealth Public Service Act 1922–1943*.

**Commencement.**

2. This Act shall come into operation on the day on which it receives the Royal Assent.

**Definitions.**

3. In this Act, unless the contrary intention appears—

“approving authority” means—

(a) in the case of a Commonwealth employee employed by the Parliament—

(i) if the employee is employed by the Senate—the President of the Senate;

(ii) if the employee is employed by the House of Representatives—the Speaker of the House of Representatives; or

(iii) in any other case—the President and the Speaker; or

(b) in any other case, such authority as is prescribed;

“Commonwealth employee” means any person to whom this Act is expressed by section five to apply;

“salary” includes such emoluments as are prescribed.

**Amendment of Commonwealth Public Service Act.**

4.—(1.) Section seventy-three of the *Commonwealth Public Service Act 1922–1941* is amended by omitting the second proviso to subsection (1).

(2.) Section seventy-five of the *Commonwealth Public Service Act 1922–1941* is repealed and the following section inserted in its stead:—

**Definitions of “salary” and “service”**

“75. For the purposes of the last two preceding sections—

(a) ‘salary’ includes such emoluments as are prescribed; and

(b) 'service' includes any service which would, if the officer were a Commonwealth employee within the meaning of the *Commonwealth Employees' Furlough Act 1943*, be reckoned as part of his period of service for the purposes of that Act."

5. The provisions of this Act, other than the amendments effected by section four, shall apply to and in relation to—

Application  
of Act.

(a) every person employed by the Commonwealth or by an authority of the Commonwealth, other than—

- (i) a Justice of the High Court of Australia or a Judge of any other court created by the Parliament ;
- (ii) a person who is an officer for the purposes of section seventy-three or seventy-four of the *Commonwealth Public Service Act 1922-1943* ; or
- (iii) a person employed in the Naval, Military or Air Forces only,

but shall not apply to or in relation to—

- (b) any person employed as a part-time employee ;
- (c) any person employed in an honorary capacity only ;
- (d) any person remunerated by fees, allowances or commission only ;
- (e) any person to whom or in relation to whom the provisions of any Act, or any rules, regulations or by-laws under any Act, in force at the commencement of this Act, providing for the granting of long-service leave, are applicable ;
- (f) any person who is temporarily transferred to the Commonwealth or an authority of the Commonwealth from the service of a State or an authority of a State, or whose services are temporarily loaned to the Commonwealth or an authority of the Commonwealth by a State or an authority of a State, whether the transfer or the loan is in accordance with law or in pursuance of any arrangement made between the Commonwealth or a Commonwealth authority and the State or an authority of the State ; or
- (g) any person holding office or employed under the *Commonwealth Bank Act 1911-1932*.

6.—(1.) Subject to this section, the period of service of a Commonwealth employee shall be the period during which he has been employed continuously by the Commonwealth (including an authority of the Commonwealth), and, where that employment is continuous with employment in—

Period of  
service.

- (a) any service of a State ;
  - (b) any service of an authority of a State ; or
  - (c) the Public Service of any Territory of the Commonwealth,
- shall include that last-mentioned employment.

(2.) Where a Commonwealth employee has been employed in two or more of the services specified in paragraphs (a), (b) or (c) of the last

preceding sub-section, and the periods he was so employed are continuous with one another, those periods of employment shall be deemed to be continuous employment for the purposes of this section.

(3.) The period of service of a Commonwealth employee shall not include—

- (a) any employment as a part-time employee ;
- (b) any employment in an honorary capacity only ;
- (c) any employment remunerated by fees, allowances or commission only ; or
- (d) any period of service in respect of which any leave of absence or pay has been granted under this Act or under section forty-nine, seventy-three or seventy-four of the *Commonwealth Public Service Act 1922* (or of that Act as amended and in force at any particular time) or under any other law of the Commonwealth or of a State or Territory of the Commonwealth which provides for the granting of similar leave of absence or pay.

(4.) Except in the case of resignation or discharge on account of unsatisfactory service, the continuity of the service of a Commonwealth employee shall not be deemed to be broken by any absences which do not, in any period of fourteen months, exceed in the aggregate one-seventh of the number of working days in that period, but the period of any such absences shall, for the purposes of this Act, be deducted from the employee's period of service.

(5.) For the purposes of this section, a person shall not be deemed to have broken the continuity of his service or to be absent by reason of his being—

- (a) on leave of absence with pay or part pay ; or
- (b) on leave of absence without pay, where the leave of absence is granted—
  - (i) on account of illness ;
  - (ii) for any of the purposes specified in section seventy-two of the *Commonwealth Public Service Act 1922-1943* ; or
  - (iii) for such other purpose as is prescribed.

Grant of furlough to temporary employees.

7.—(1.) Where the period of service of a Commonwealth employee is at least twenty years, the approving authority may grant to him leave of absence for a period not exceeding one month and a half on full salary or three months on half salary, in respect of each completed five years of his period of service :

Provided that the employee shall not be granted leave of absence to exceed a continuous period of twelve months at any one time.

(2.) Where a Commonwealth employee whose period of service is at least twenty years ceases to be a Commonwealth employee (other than by discharge on account of unsatisfactory service) the approving

authority may authorize payment to him of a sum equivalent to the salary for a period of leave not exceeding that which the employee could have been granted under the last preceding sub-section.

(3.) Upon the death of any Commonwealth employee who at the date of his death was eligible under this section for the grant of leave of absence or, if the approving authority, after consideration of all the circumstances, directs that the death of a Commonwealth employee so eligible be presumed, the approving authority may authorize payment to the dependants of the employee of a sum equivalent to the amount of salary which would, under this section, have been granted to the employee had he ceased to be a Commonwealth employee on the date of his death or, in any case where the approving authority has directed that the death of the employee be presumed, a date determined by the approving authority.

8.—(1.) The approving authority may grant to any Commonwealth employee whose period of service is less than twenty years, who is not eligible for furlough under the last preceding section, immediately prior to his ceasing to be a Commonwealth employee (other than by discharge on account of unsatisfactory service) on, or subsequent to, his attaining the age of sixty years, leave of absence on full salary for a period not exceeding that appropriate to his service as specified in the following scale :—

Grant of extended leave or pay in lieu to temporary employees not entitled to furlough.

Service.	..	..	Leave.
16 years and less than 20 years	..	..	5 months
12 years and less than 16 years	..	..	4 months
8 years and less than 12 years	..	..	3 months

(2.) In lieu of leave in accordance with the last preceding sub-section, the approving authority may authorize payment to a Commonwealth employee eligible for leave in pursuance of that sub-section, upon his ceasing to be a Commonwealth employee (other than by discharge on account of unsatisfactory service), of a sum equivalent to the salary for a period of leave not exceeding that which the employee could have been granted under that sub-section.

(3.) Where a person who is less than sixty years of age ceases to be a Commonwealth employee after less than twenty years service, and produces to the approving authority satisfactory evidence that his ceasing to be a Commonwealth employee is due to ill-health and that such ill-health is permanent and is not due to misconduct or to causes within his own control, the approving authority may authorize payment to the employee of a sum equivalent to the salary for a period of leave not exceeding that for which, had he attained the age of sixty years, he would have been eligible under sub-section (1.) of this section.

(4.) Where, before a Commonwealth employee has completed a period of service of twenty years and either before or after he has attained the age of sixty years—

(a) the employee dies ; or

- (b) the approving authority, after consideration of all the circumstances, directs that the death of the employee be presumed,

the approving authority may authorize payment to the dependants of the employee of a sum equivalent to the salary for the period of leave which the employee would have received had he, under subsection (1.) of this section, been eligible for, and granted, leave of absence at the date of his death, or in any case where the approving authority has directed that the death of the employee be presumed, at a date determined by the approving authority.

Limit of  
furlough or  
payment in  
lieu thereof.

9.—(1.) Notwithstanding anything contained in this Act—

- (a) there shall not be granted or authorized under this Act, in respect of the service of any Commonwealth employee, any leave of absence or pay or payment of any sum on his ceasing to be a Commonwealth employee, or on his death, or in any case where the approving authority has directed that the death of the employee be presumed, which, when added to any similar leave of absence or pay or sum which may be or has been granted or payment of which may be or has been authorized under any other law of the Commonwealth, exceeds, in the whole, twelve months on full salary or its equivalent; and
- (b) except in the case of a person who ceases to be a Commonwealth employee after he attains the age of sixty years, leave of absence for recreation shall not be granted to that person in respect of the year in which leave of absence granted under this Act commences, and if leave of absence for recreation has been granted in the year in which leave of absence under this Act commences, it shall be regarded as part of the period of leave of absence granted under this Act.

(2.) The total period of leave of absence for recreation which, under paragraph (b) of the last preceding sub-section or under any similar provision in any other law of the Commonwealth, may be so withheld or regarded, shall not, during a Commonwealth employee's period of service, exceed the period of leave of absence for recreation which may be granted in respect of one year of service.

Conduct of  
employee to  
be taken into  
account.

10. The official conduct record of a Commonwealth employee shall be taken into consideration in determining whether the whole or any portion of the leave of absence or pay provided in this Act may be granted.

Regulations.

11. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.