

PUBLIC SERVICE.

No. 63 of 1954.

An Act to amend the *Public Service Act* 1922-1953.

[Assented to 6th November, 1954.]

BE it enacted by the Queen'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 *Public Service Act* 1954.
- (2.) The *Public Service Act* 1922-1953* is in this Act referred to as the Principal Act.
- (3.) The Principal Act, as amended by this Act, may be cited as the *Public Service Act* 1922-1954.

Commencement.

- 2.—(1.) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (2.) Sections ten, eleven, twelve and eighteen of this Act shall come into operation on the first day of March, One thousand nine hundred and fifty-five.

* Act No. 21, 1922, as amended by No. 46, 1924; No. 41, 1928; No. 19, 1930; No. 21, 1931; No. 72, 1932; No. 33, 1933; Nos. 45 and 46, 1934; No. 72, 1936; No. 41, 1937; No. 72, 1939; No. 83, 1940; No. 5, 1941; No. 19, 1943; Nos. 11, 29 and 43, 1945; No. 16, 1946; Nos. 1, 38, 52 and 84, 1947; Nos. 35 and 75, 1948; Nos. 51 and 80, 1950; Nos. 46 and 48, 1951; and No. 22, 1953.

(3.) Notwithstanding the last preceding sub-section—

- (a) appointments of persons who are, immediately before the date of commencement of the sections specified in that sub-section, eligible for appointment to offices in the Commonwealth Service under the Principal Act may be made to those offices as if those sections had not been enacted ; and
- (b) the Board may, for the purpose of enabling appointments to be made after the date of commencement of the sections specified in that sub-section, cause notifications to be published in the *Gazette* inviting applications for appointment to offices in the Commonwealth Service as if those sections had come into operation on the day on which this Act receives the Royal Assent.

3. Section three of the Principal Act is amended—

Parta.

- (a) by omitting the words—
“ Division 2.—Classification.” ; and
- (b) by omitting the words—
“ Part IV.—The Provisional Service.
Division 1.—Application of Act to Provisional Service.
Division 2.—Classification and Salaries.
Division 3.—Appointments.
Division 4.—Miscellaneous.”.

4. Section seven of the Principal Act is amended—

Definitions.

- (a) by omitting the definition of “ Officer ” and inserting in its stead the following definition :—
“ ‘ Officer ’ means a person appointed or transferred to the Commonwealth Service, whether before or after the commencement of this Act, but does not include an employee ; ” ;
- (b) by inserting, after the definition of “ Appeal Board ”, the following definition :—
“ ‘ the Commonwealth Service ’ means the Public Service of the Commonwealth constituted by section ten of this Act ; ” ; and
- (c) by omitting the definition of “ The Public Service ”.

5. Section nine of the Principal Act is amended—

Officers of the Parliament.

- (a) by inserting after sub-section (2.) the following sub-section :—
“ (2A.) Subject to this section, unless inconsistent with the context—
(a) any action or approval required by this Act or the regulations to be taken or given by the Board may, so far as persons temporarily employed in the Department of the Senate, the Department of the House of Representatives, the Department of the Parliamentary Library, the Department

of the Parliamentary Reporting Staff or the Joint House Department are concerned, be taken or given by the President or the Speaker or the President and the Speaker (as the case may be) in substitution for the Board ; and

- (b) any action required or authorized by this Act or the regulations to be taken by a Permanent Head or Chief Officer shall or may be taken by the Clerk of the Senate so far as relates to persons temporarily employed in the Department of the Senate, by the Clerk of the House of Representatives so far as relates to persons temporarily employed in the Department of the House of Representatives, by the Parliamentary Librarian so far as relates to persons temporarily employed in the Department of the Parliamentary Library, by the Principal Parliamentary Reporter so far as relates to persons temporarily employed in the Department of the Parliamentary Reporting Staff and by the Secretary of the Joint House Department so far as relates to persons temporarily employed in the Joint House Department.” ; and

- (b) by adding at the end thereof the following sub-section :—

“(8.) In paragraph (d) of sub-section (1.) of this section and in the last two preceding sub-sections, ‘ officers of the Parliament ’ includes persons temporarily employed in the Department of the Senate, the Department of the House of Representatives, the Department of the Parliamentary Library, the Department of the Parliamentary Reporting Staff or in the Joint House Department.”.

6. Section ten of the Principal Act is repealed and the following section inserted in its stead :—

Constitution of
the Public
Service.

“ 10. The persons who occupy the offices in the several Departments specified in the Second Schedule to this Act and the persons who are unattached officers constitute the Public Service of the Commonwealth.”.

Annual report
to Parliament.

7. Section twenty-two of the Principal Act is amended by omitting from sub-section (1.) the words “ Public Service ” (wherever occurring) and inserting in their stead the words “ Commonwealth Service ”.

8. Section twenty-four of the Principal Act is amended by adding at the end thereof the following sub-section :—

Composition
of respective
Divisions.

“(5.) An unattached officer shall be deemed to be included in the Division in which the officer was included immediately before he became an unattached officer.”.

9. Division 2 of Part III. of the Principal Act is repealed.

Repeal of
Division 2,
Part III.

10. Section thirty-three of the Principal Act is repealed and the following section inserted in its stead :—

“33. A person is not eligible for appointment to an office in the Commonwealth Service unless—

Admission
to the
Commonwealth
Service.

- (a) he is a British subject ;
- (b) except as provided by this Act, he has, within the period specified by the Board in a notification published under section thirty-four of this Act in relation to that office, obtained the educational qualifications required for appointment to that office as specified in the notification ;
- (c) the Board is satisfied, after he has undergone a medical examination as required by the Board, as to his health and physical fitness for appointment to that office ; and
- (d) he makes and subscribes an oath or affirmation in the form in the Fourth Schedule to this Act.”.

11. Section thirty-four of the Principal Act is repealed and the following sections are inserted in its stead :—

“34.—(1.) The Board may, from time to time, cause a notification to be published in the *Gazette* inviting applications for appointment to offices in the Commonwealth Service specified in the notification.

Notification
of vacancies.

“(2.) The Board shall specify in the notification—

- (a) the educational qualifications required for appointment to the offices ;
- (b) the period within which those educational qualifications must have been obtained ;
- (c) the salaries, or the limits of salary, payable in respect of the offices ;
- (d) the number of appointments to be made to the offices ;
- (e) in appropriate cases, the respective proportions in which males and females are to be appointed to the offices ;
- (f) the conditions subject to which applications for appointment may be made ;
- (g) the order in which persons who, during the period specified for the purposes of paragraph (b) of this sub-section, obtain, or have obtained, the educational qualifications required for appointment to the offices will be appointed ;

- (h) the period during which persons who, during the period specified for the purposes of paragraph (b) of this sub-section, obtain, or have obtained, the educational qualifications required for appointment to the offices are eligible for appointment to those offices ; and
- (i) such other matters as are prescribed.

“(3.) The educational qualifications, in relation to an office, specified in the notification shall be—

- (a) that the applicant must have passed in such subjects as are required by the notification at an examination specified in the notification as an examination for appointment to that office, being an examination conducted by a University or other public examining authority in a State or Territory of the Commonwealth ; or
- (b) that the applicant must have passed an open examination conducted by or on behalf of the Board for appointment to that office.

“(4.) The Board may, in a notification under this section, state that a person is not eligible for appointment to a specified office, being an office the occupant of which is required to undergo a course of training for the purpose of enabling him to perform duties which require professional, technical or other knowledge, unless the Board is of opinion, having regard to the person’s scholastic record and such other matters as the Board thinks relevant, that the person is likely to complete that course of training to the satisfaction of the Board, and, in that case, a person is not eligible for appointment to an office so specified unless the Board is of that opinion.

Entrance
examinations
conducted by
the Board.

“34A.—(1.) In a notification of an examination to be conducted by or on behalf of the Board for the purposes of paragraph (b) of sub-section (3.) of the last preceding section, the Board shall specify—

- (a) the subjects of the examination ;
- (b) the scope of, or syllabus for, each of the subjects of the examination ;
- (c) the subjects required to be passed at the examination ; and
- (d) the conditions of entry for the examination.

“(2.) The scope of, or syllabus for, a subject of an examination for appointment to an office in the Fourth Division, not being a subject requiring special knowledge, shall be of an elementary character.

“(3.) The Board may, for the purposes of the examination, appoint such examiners as it considers necessary.

Ages of
applicants for
appointment.

“34B.—(1.) The Board may, in a notification under section thirty-four of this Act, state that a person is not eligible for appointment to a specified office unless he is, at a date specified in the notification, of an age not less than a specified age, being an age not lower

than the minimum age, if any, for appointment to that office applicable under this Act, and not more than a specified age, being an age not higher than the maximum age, if any, for appointment to that office applicable under this Act.

“(2.) A person is not eligible for appointment to an office in relation to which the Board has, in pursuance of the last preceding sub-section, specified a minimum age and maximum age unless he is, at the date specified in pursuance of that sub-section, of an age not less than that minimum age and not more than that maximum age.

“34C. Appointments of persons eligible under the preceding provisions of this Division for appointment to the offices in respect of which they hold the required educational qualifications shall be made in accordance with the order specified in the notification under section thirty-four of this Act inviting applications for appointments to those offices.

Order of appointments.

“34D. Persons who obtain or have obtained the educational qualifications required, in pursuance of a notification under section thirty-four of this Act, for appointment to the offices specified in the notification cease to be eligible for appointment to those offices after the expiration of the period specified, for the purposes of paragraph (h) of sub-section (2.) of that section, in the notification.”

Period within which appointments may be made.

12. Section thirty-six A of the Principal Act is repealed and the following section inserted in its stead :—

“36A.—(1.) Where, in a notification under section thirty-four of this Act, the Board specifies that appointments are to be made to offices in the Third Division from persons who, during the period specified in the notification, have passed an examination conducted by a University or other public examining body, persons who, during that period, become or have become eligible for admission to a degree at an Australian University are, subject to this section, eligible for appointment, without examination, to those offices during the period specified for the purposes of paragraph (h) of sub-section (2.) of section thirty-four of this Act in relation to persons who have passed that examination during that period.

Appointment of persons who have completed courses for degrees at Australian Universities.

“(2.) A person who has attained the age of twenty-six years is not eligible for appointment under this section.

“(3.) The number of appointments made under this section shall not exceed one-tenth of the number specified in the notification referred to in sub-section (1.) of this section as the number of appointments to be made to offices in the Third Division, not being offices which the Board has, in the notification, specified for the purposes of sub-section (4.) of section thirty-four of this Act.

“(4.) A person appointed under this section shall, on appointment, be paid salary at such rate as is prescribed, being a rate which is not less than the minimum rate of salary, nor more than the maximum rate of salary, payable in respect of the office to which the person is appointed.”

Appointment
of officers
retired from
Commonwealth,
Territorial
or State
Service.

13. Section forty-six of the Principal Act is amended—

(a) by omitting the words “ if not more than fifty years of age ” and inserting in their stead the words “ subject to the next succeeding sub-section ” ; and

(b) by adding at the end thereof the following sub-section :—

“ (2.) A person who has attained the age of fifty-one years shall not be appointed under this section unless he is a person who—

(a) was retired from the Commonwealth Service under section sixty-seven or seventy of this Act on grounds arising out of illness ; and

(b) is to be appointed to the Commonwealth Service by reason of the operation of section fifty of the *Superannuation Act 1922-1954*.”.

Qualifications
for particular
offices.

14. Section fifty-three of the Principal Act is amended by adding at the end thereof the following sub-section :—

“ (3.) The Board shall, by instrument published in the *Gazette*, give adequate notice of an examination under the last preceding sub-section and shall specify in the instrument—

(a) the subjects of the examination ;

(b) the scope of, or syllabus for, each of the subjects of the examination ; and

(c) the subjects required to be passed at the examination.”.

15. After section fifty-three of the Principal Act the following sections are inserted :—

Transfers and
promotions to
specified offices
to be made in
accordance with
the order of
passing of
examinations.

“ 53A.—(1.) Where the Board has, by instrument under sub-section (1.) of the last preceding section, determined that an officer shall not be transferred or promoted to a specified office unless the officer has passed an examination held or authorized by the Board for transfer or promotion to that office, the Board may, in an instrument published under sub-section (3.) of the last preceding section, determine that the transfer or promotion to that office of officers who pass the examination shall not be made in accordance with section fifty of this Act but shall be made in accordance with this section.

“ (2.) The Board may, in an instrument published under sub-section (3.) of the last preceding section, also determine that only officers who submit themselves for the examination in a specified part of the Commonwealth shall, upon passing the examination, be eligible for transfer or promotion to a vacant office in that part of the Commonwealth.

“(3.) An officer who passes an examination for transfer or promotion to an office in respect of which the Board has made a determination under sub-section (1.) of this section shall—

- (a) as soon as practicable after a vacancy occurs in an office for transfer or promotion to which he thereby becomes eligible ; or
- (b) where the Board has made a determination under the last preceding sub-section—as soon as practicable after a vacancy occurs in an office, in the part of the Commonwealth specified by the Board in its determination, for transfer or promotion to which he thereby becomes eligible,

be transferred or promoted to the vacant office.

“(4.) Where two or more officers have passed the same examination, those officers are entitled to be transferred or promoted according to the order of merit in which they passed the examination.

“53B.—(1.) The Board may, by instrument published in the *Gazette*, determine that—

- (a) a specified office is an office the occupant of which is required to undergo a course of training for the purpose of enabling him to perform duties which require professional, technical or other knowledge ; and
- (b) an officer who has completed that course of training to the satisfaction of the Board is entitled to be promoted in accordance with this section to such office as is specified in the instrument in relation to that first-mentioned office.

Promotion of officers who complete courses of training for special positions.

“(2.) An officer who has completed, to the satisfaction of the Board, the course of training approved by the Board shall be promoted to the office specified by the Board under paragraph (b) of the last preceding sub-section as soon as practicable after a vacancy occurs in that office.

“(3.) Where two or more officers complete at the same time a course of training approved by the Board, the promotion of those officers under the last preceding sub-section shall be made in accordance with the respective seniorities of those officers.

“(4.) Until an officer who is entitled to promotion under sub-section (2.) of this section is promoted, the officer—

- (a) is an unattached officer having the designation appropriate to an officer occupying the office to which he is entitled to be promoted ; and
- (b) shall, for the purposes of salary and of transfer to another office, be deemed to be the occupant of such an office.

“(5.) A promotion under sub-section (2.) of this section is not subject to the right of appeal provided in section fifty of this Act.

Promotion of
junior officers
after attaining
the age of
twenty-one
years.

“ 53c.- (1.) The Board may, by instrument published in the *Gazette*, determine that an officer who, immediately before he attains the age of twenty-one years, occupies a specified office in a Department in a State or Territory of the Commonwealth, being an office in respect of which an increased rate of salary is not payable to an officer upon his attaining that age, shall be entitled, on attaining that age, to be promoted in accordance with this section to another specified office in that Department in that State or Territory.

“ (2.) An officer who occupies an office in respect of which the Board has made a determination under the last preceding sub-section and has attained the age of twenty-one years shall be promoted to the office specified as soon as practicable after a vacancy occurs in that office.

“ (3.) Where two or more officers are entitled to be promoted under this section, the promotion of those officers shall be made in accordance with the respective seniorities of those officers.

“ (4.) Until an officer who is entitled to promotion under sub-section (2.) of this section is promoted, the officer—

(a) is an unattached officer having the designation appropriate to an officer occupying the office to which he is entitled to be promoted; and

(b) shall, for the purposes of salary and of transfer to another office, be deemed to be the occupant of such an office.

“ (5.) A promotion under sub-section (2.) of this section is not subject to the right of appeal provided in section fifty of this Act.”

Offences.

16.- (1.) Section fifty-five of the Principal Act is amended—

(a) by omitting paragraph (c) of sub-section (5.) and inserting in its stead the following word and paragraph:—

“ and (c) an officer elected as prescribed, by and from the officers of the Division in which the appellant is included in the State in which the appellant performs his duties, as the representative for that State of the Division in which the appellant is included or an officer appointed in pursuance of sub-section (6.) of this section.”;

(b) by omitting sub-section (6A.); and

(c) by omitting sub-section (11.) and inserting in its stead the following sub-sections:—

“ (11.) For the purposes of this section --

(a) the Australian Capital Territory shall be deemed to be a State; and

(b) an officer who performs his duties in a place outside Australia other than a place in a Territory of the Commonwealth shall be deemed to perform his duties in the Australian Capital Territory.

“ (12.) The regulations may provide that, for the purposes of this section—

- (a) a specified Territory of the Commonwealth shall be deemed to be a State ;
- (b) such of the Territories of the Commonwealth as are specified in the regulations shall together be deemed to be a State ; and
- (c) a specified Territory of the Commonwealth shall be deemed to be part of a specified State or of another Territory of the Commonwealth.”.

(2.) An officer who is, immediately before the commencement of this section, the elected representative of a Division in a State or in the Australian Capital Territory for the purposes of sub-section (5.) of section fifty-five of the Principal Act shall be deemed, for the purposes of that sub-section as amended by this section, to continue to be the elected representative of that Division for that State or Territory for the remainder of the term for which he was elected.

17. Section sixty-three of the Principal Act is repealed and the following section inserted in its stead :—

“ 63. An officer who becomes a bankrupt—

Bankrupt
officers.

- (a) shall forthwith give notice to the Chief Officer of the fact that he has become a bankrupt ; and
- (b) shall, as and when required to do so by the Chief Officer, furnish such information in relation to his bankruptcy as the Chief Officer requires.”.

18. Section ninety-seven of the Principal Act is amended by omitting paragraphs (d), (da) and (i) of sub-section (1.).

Regulation-

19. Part IV. of the Principal Act is repealed.

Repeal of
Part IV.