

PUBLIC SERVICE (NO. 2).

No. 46 of 1951.

An Act to amend the *Public Service Act* 1922-1950.

[Assented to 7th December, 1951.]

BE 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 *Public Service Act (No. 2)* 1951.
- (2.) The *Public Service Act 1922-1950** 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 1922-1951*.
- Commencement.** 2.—(1.) Sections one, two, three, sixteen and twenty of this Act shall come into operation on the day on which this Act receives the Royal Assent.
- (2.) Section fifteen of this Act shall be deemed to have come into operation on the first day of January, One thousand nine hundred and fifty-one.
- (3.) The remaining sections of this Act shall come into operation on such respective dates as are fixed by Proclamation.
- Definitions.** 3. Section seven of the Principal Act is amended—
- (a) by omitting the definition of “Chief Officer” and inserting in its stead the following definition :—
- “ ‘Chief Officer’ means, in relation to an officer or employee of a Department, the Chief Officer of that

* Act No. 21, 1922, as amended by No. 46, 1924; No. 41, 1928; No. 19, 1930; No. 21, 1931; No. 72, 1932; No. 38, 1933; Nos. 45 and 46, 1934; No. 72, 1936; No. 41, 1937; No. 72, 1939; No. 88, 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; and No. 80, 1950.

Department empowered to exercise and perform powers, authorities and duties within the part of the Commonwealth in which that officer or employee is employed ; ” ;

(b) by inserting after the definition of “ Division ” the following definition :—

“ ‘ Employee ’ means a person employed under Division 10 of Part III. ; ” ;

(c) by omitting from the definition of “ Officer ” the words “ a person temporarily employed ” and inserting in their stead the words “ an employee ” ; and

(d) by omitting from the definition of “ The Permanent Head ” the words “ any officer ” and inserting in their stead the words “ an officer or employee ”.

4. Section eight of the Principal Act is amended—

Act not to apply to certain officers.

(a) by inserting after the word “ only ; ” (first occurring) the word “ or ” ;

(b) by omitting the words “ only ; or ” and inserting in their stead the word “ only. ” ; and

(c) by omitting all the words from and including the words “ any officer or class of officers ” to and including the words “ or employee or class of employees ” (last occurring).

5. After section eight of the Principal Act the following section is inserted :—

“ 8A.—(1.) The Governor-General may, on the recommendation of the Board, by order in writing under his hand, declare that the provisions of this Act and of the regulations specified in the order shall not apply to an officer or employee, or to the officers or employees included in a class of officers or employees, specified in the order.

Exempt officers and employees.

“ (2.) An order under the last preceding sub-section may be expressed to be in force for a period specified in the order and, in that case, the order shall be in force for that period only.

“ (3.) The Board may determine the terms and conditions of employment (including rates of payment) of an officer or employee in relation to whom an order is in force under the last preceding sub-section but no such determination shall be made in respect of a matter dealt with in a provision of the Act or of the regulations which the order does not declare not to apply to the officer or employee.”.

6.—(1.) Section twenty-one of the Principal Act is repealed and the following section inserted in its stead :—

Record of
officers.

“ 21.—(1.) The Board shall keep or cause to be kept a record of each officer, showing the date of his birth, the date of his appointment to the Public Service, the Division in which his office is included, the designation of his office and the classification of his office.

“ (2.) Where, under this Act, a period of service of a person otherwise than in the Commonwealth Service is to be reckoned as service in the Commonwealth Service, the record shall show, in relation to that person, the date on which the first-mentioned period of service commenced.

“ (3.) The Board shall, from time to time, and whenever the Prime Minister so directs, prepare and cause to be published in the *Gazette* a list of officers showing, in respect of each officer, the matters specified in the last two preceding sub-sections.

“ (4.) A list so published is evidence of the matters specified in the list.

“ (5.) A copy of a list so published shall be laid before each House of the Parliament within fifteen sitting days of that House after the publication of the list.”

Permanent
Heads.

7. Section twenty-five of the Principal Act is amended by omitting sub-sections (5.) and (6.) and inserting in their stead the following sub-sections :—

“ (5.) A Permanent Head may, in respect of an officer or employee, or the officers or employees included in a class of officers or employees, by writing under his hand, delegate to an officer, or, with the approval of the Board, to an employee, all or any of his powers and functions under this Act, except this power of delegation, so that the delegated powers and functions may be exercised by the delegate as fully and effectively as by the Permanent Head.

“ (6.) A delegation under the last preceding sub-section is revocable at will and does not prevent the exercise of a power or function by the Permanent Head.

“ (7.) For the purposes of the last two preceding sub-sections, a person specified in sub-section (4.) of this section shall be deemed to be a Permanent Head.”

Chief Officers.

8. Section twenty-six of the Principal Act is amended—

(a) by omitting sub-section (1.) and inserting in its stead the following sub-section :—

“ (1.) The following persons are Chief Officers of a Department :—

(a) the officer for the time being occupying an office in that Department which the Board has determined constitutes the occupant a Chief Officer ; and

(b) an officer appointed by the Board, on the recommendation of the Permanent Head, to be a Chief Officer of that Department.”;

(b) by omitting sub-section (2.) and inserting in its stead the following sub-section :—

“(2.) A Chief Officer of a Department shall have and may exercise and perform, in relation to that Department, within such part of the Commonwealth as the Board determines, such powers, authorities and duties as are prescribed or as the Permanent Head of that Department determines.”; and

(c) by omitting sub-section (4.).

9. Section twenty-nine of the Principal Act is repealed and the following section inserted in its stead :—

“29.—(1.) The Governor-General may, on the recommendation of the Board, after the Board has obtained a report from the Permanent Head—

Creation, &c.,
of offices.

(a) create an office in a Department; and

(b) abolish an office in a Department.

“(2.) The Board may, after the Board has obtained a report from the Permanent Head—

(a) raise or lower the classification of an office; and

(b) alter the designation of an office, other than an office of Permanent Head.

“(3.) Where the classification of an office is altered, the office shall be deemed to be vacant and the officer who occupied the office immediately before the alteration shall become an unattached officer.

“(4.) Where the Board makes the same alteration of the classification of all offices having the same designation and classification, the Board may, by notice published in the *Gazette*, direct that the last preceding sub-section shall not apply and in that case that sub-section does not apply.”.

10. Sections thirty and thirty-one of the Principal Act are repealed and the following sections inserted in their stead :—

“30.—(1.) Officers of the First Division shall be paid such salaries as the Parliament provides.

Salaries of
officers.

“(2.) Officers of the Second, Third and Fourth Divisions shall be paid salaries at such rates, or in accordance with such scales of rates, as are prescribed.

“(3.) The regulations may, notwithstanding the classification of offices, provide for the variation of rates of salary according to variations in the cost of living.

Increments.

“ 31.—(1.) Where a scale of rates of salary prescribed under the last preceding section is applicable in relation to an officer, the officer may, subject to this section, be paid increments of salary in accordance with that scale.

“ (2.) An officer is not entitled to receive an increment of salary until he has received salary without the increment for not less than twelve months.

“ (3.) The date from which an officer is entitled to receive an increment of salary is not affected by—

- (a) variations of rates of salary according to variations of the cost of living ; or
- (b) an alteration of the classification of the office occupied by the officer, being an alteration in relation to which a notice is published in the *Gazette* under sub-section (4.) of section twenty-nine of this Act.

“ (4.) If, having regard to the conduct, diligence, efficiency or attendance for duty of an officer during the period after which he is entitled to receive an increment of salary, the Permanent Head is of opinion that the officer should not immediately receive that increment, the Permanent Head may, by order in writing, direct that the increment shall not be paid until the expiration of such period as he thinks fit, and, in that case, payment of the increment shall be deferred until the expiration of that period.

“ (5.) An officer in relation to whom the Permanent Head has made an order under the last preceding sub-section may appeal to the Board and the Board shall, after enquiry, determine the appeal.

“ (6.) An appeal under the last preceding sub-section shall be lodged with the Permanent Head, who shall forward it to the Board.

Conditions of advancement.

“ 32.—(1.) The Board may, by instrument in writing published in the *Gazette*—

- (a) determine that an officer occupying a specified office shall, upon compliance with such conditions as are specified, be paid salary at such rate as is specified, being salary at a rate not exceeding the maximum salary of that office ; and
- (b) determine that an officer shall not be paid salary at a rate exceeding such rate as is specified unless he has complied with such conditions as are specified.

“ (2.) A determination under the last preceding sub-section has effect notwithstanding the last preceding section.”.

11. Section fifty of the Principal Act is amended—

Promotions.

- (a) by omitting sub-section (5A.) and inserting in its stead the following sub-sections:—

“(5A.) For the purposes of this section there shall be a Promotions Appeal Committee for each State.

“(5AA.) The Board may establish one or more additional Promotions Appeal Committees for a State.

“(5AB.) A Promotions Appeal Committee shall be constituted as prescribed.”;

- (b) by omitting sub-section (8.) and inserting in its stead the following sub-section:—

“(8.) Upon receipt of an appeal under this section, the Board shall, having regard to the next three succeeding sub-sections, forward the appeal to an appropriate Promotions Appeal Committee, and shall furnish to the Committee particulars of the officers (if any) referred to in the last preceding sub-section.”;

- (c) by omitting from sub-section (8A.) the word “the” (first occurring) and inserting in its stead the word “a”;

- (d) by omitting from sub-section (8B.) the word “the” (fifth occurring) and inserting in its stead the word “a”;

- (e) by omitting from sub-section (8c.) the word “the” (second and fifth occurring) and inserting in its stead the word “a”; and

- (f) by omitting sub-sections (13.) and (14.) and inserting in their stead the following sub-sections:—

“(13.) An appeal by an officer performing his duties in, or an appeal in respect of an office in—

(a) a place outside Australia other than a place in a Territory of the Commonwealth; or

(b) a Territory of the Commonwealth,

shall be inquired into and determined as prescribed.

“(14.) The last preceding sub-section shall cease to have effect in relation to a Territory of the Commonwealth after such date as is prescribed in respect of that Territory.

“(15.) For the purposes of this section, the Australian Capital Territory shall be deemed to be a State and, as from the date prescribed under the last preceding sub-section in respect of any other Territory of the Commonwealth, that other Territory shall be deemed to be a State.”.

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

“53.—(1.) The Board may, by instrument in writing published in the *Gazette*, determine that an officer shall not be transferred or promoted to a specified office, or to an office included in a specified class of offices, unless the officer possesses such qualifications, and complies with such conditions, as are specified.

Qualifications
for particular
positions.

“(2.) The Board may, for the purposes of the last preceding sub-section—

- (a) hold, or authorize the holding of, such examinations as it thinks fit;
- (b) determine conditions of entry for any such examination; and
- (c) appoint examiners for the purpose of any such examination.”.

Attachment of salaries.

13. Section sixty-four of the Principal Act is amended by omitting sub-section (10.) and inserting in its stead the following sub-section :—

“(10.) In this section, ‘ officer ’ includes employee.”.

14. Sections seventy, seventy-one and seventy-two of the Principal Act are repealed and the following sections inserted in their stead :—

Leave of absence on account of illness or other prescribed cause.

“70.—(1.) The Chief Officer may grant leave of absence to an officer, on account of illness or other prescribed cause—

- (a) for a continuous period not exceeding three months; or
- (b) with the approval of the Board, and subject to such conditions as are prescribed, for a continuous period not exceeding twelve months.

“(2.) If, at the expiration of a period of leave granted to an officer under the last preceding sub-section, the Board is satisfied that the officer is unable to resume his duties, the Board may—

- (a) retire the officer from the Commonwealth Service; or
- (b) grant to the officer leave of absence without pay for a period not exceeding six months.

“(3.) If, at the expiration of a period of leave granted under the last preceding sub-section, the Board is satisfied that the officer is unable to resume his duties, the Board may retire the officer from the Commonwealth Service.

“(4.) The regulations may empower a Chief Officer to direct that an officer who is ill shall absent himself from duty and shall comply with such conditions as are prescribed.

Leave without pay.

“71.—(1.) The Board may, on the application of an officer or employee, grant to the officer or employee leave of absence without pay—

- (a) where the absence is for the purpose of enabling the officer or employee to occupy an executive office in an organization (as defined by the *Public Service Arbitration Act 1920-1950*) of employees in the Public Service and the officer or employee is required to devote the whole of his time to the duties of that office;

(b) where the leave of absence is for the purpose of enabling the officer or employee—

- (i) to pursue a course of studies, or to undertake research, relating to the duties of an office in the Commonwealth Service;
- (ii) to undertake training under the Commonwealth Reconstruction Training Scheme; or
- (iii) to engage in employment under the Commonwealth or an authority of the Commonwealth, not being employment under this Act or employment in relation to which the *Officers' Rights Declaration Act 1928-1940* applies,

for a period not exceeding twelve months or for such longer period as the Board thinks fit; or

(c) for any other purpose (not being a purpose in respect of which leave may be granted under any other provision of this Act)—for a period not exceeding twelve months.

“(2.) The period during which an officer or employee is absent on leave granted under this section shall not, unless the Board otherwise determines, be deemed to form part of the period of service or employment of the officer or employee under this Act.

“72.—(1.) The Chief Officer may grant leave of absence to an officer or employee—

Leave for
defence
purposes, &c.

- (a) to enable the officer or employee to engage in such service as is prescribed in the Defence Force or in the naval, military or air forces of a part of the King's dominions (including a British protectorate or a British protected state), of a country allied or associated with Australia for the purposes of defence or of the United Nations; or
- (b) with the approval of the Board, to enable the officer or employee to engage in work or employment which is in the interests of the defence or public safety of the Commonwealth or the Territories of the Commonwealth.

“(2.) Leave granted under this section is subject to such terms and conditions as are prescribed.

“(3.) The period during which an officer or employee is absent on leave granted under this section shall be deemed to form part of the period of service or employment of the officer or employee under this Act.”.

15. Section seventy-three of the Principal Act is amended—

Furlough.

(a) by omitting sub-section (1.) and inserting in its stead the following sub-sections:—

“(1.) The Board may grant to an officer who has continued in the Commonwealth Service for not less than twenty years leave of absence for a period not exceeding three-tenths of one month on full salary, or three-fifths of one month on half salary, in respect of each year of continuous service.

“(1A.) An officer shall not be granted leave of absence under this section for a period exceeding twelve months at any one time.”;

(b) by omitting from sub-section (2.) the words “the last preceding sub-section” and inserting in their stead the words “sub-section (1.) of this section”;

(c) by adding at the end of paragraph (a) of sub-section (4.) the word “and”; and

(d) by omitting paragraph (b) of that sub-section.

16. Section seventy-five A of the Principal Act is repealed and the following section inserted in its stead :—

Officers
formerly
officers of the
Northern
Territory—
furlough or pay
in lieu thereof.

“75A.—(1.) Notwithstanding anything contained in sections seventy-three and seventy-four of this Act, where an officer of the Public Service of the Northern Territory who was, on the twelfth day of June, One thousand nine hundred and forty-one, appointed under section forty-two of this Act to an office in the Commonwealth Service, was, immediately before being so appointed, eligible for the grant of furlough or pay in lieu of furlough (including pay to his dependants on his death) after a period of continuous service specified in the *Public Service Ordinance 1921-1941* of the Northern Territory, he or his dependants, as the case may be, are, after the expiration of that period of continuous service, eligible for the grant of furlough or pay in lieu of furlough for a period equal to the period to or for which he would have been eligible if he had continued to be employed in the Public Service of the Northern Territory and his service in the Commonwealth Service had been service in the Public Service of that Territory.

“(2.) There shall not be granted under this Act, in respect of the total service of an officer to whom this section applies, leave of absence or pay on retirement or death exceeding in the whole twelve months on full salary or its equivalent.”.

Public holidays.

17. Section seventy-six of the Principal Act is amended by omitting sub-sections (5.), (6.), (6A.) and (7.) and inserting in their stead the following sub-sections :—

“(5.) The Minister, or the Permanent Head or Chief Officer of a Department, may require the Department, or a part of the Department, to be kept open in the public interest for the whole or part of a day observed as a holiday in pursuance of this section and may require the attendance and services of any officer of the Department on that day.

“(6.) An officer shall, in respect of his attendance and services on a holiday, be granted payment of an amount calculated in the prescribed manner, not being less than one-half of a day’s salary.

“(7.) Notwithstanding the provisions of the last preceding sub-section, where the hours of duty of an officer are arranged by schedule and his hours of duty for the day immediately before or immediately after a holiday commence or cease, as the case may be, on that holiday, the officer shall, in respect of his attendance and service on the holiday, be paid salary as prescribed.

“(7AA.) An officer of the Parliament is not entitled to payment under this section in respect of attendance or service on a holiday.”.

18. Section eighty-four of the Principal Act is amended by omitting sub-section (8.) and inserting in its stead the following sub-section :— Permanent appointment of returned soldiers.

“(8.) Notwithstanding anything contained in this Act, a returned soldier may be appointed to the Commonwealth Service, although he is not free from physical defects due to service in the war, if the Board is satisfied, after such medical examination as it requires, that the returned soldier is free from such physical defects as would incapacitate him for the efficient discharge of the duties of the office to which he is to be appointed.”.

19. Section ninety-seven of the Principal Act is amended— Regulations for Commonwealth Service.

(a) by omitting paragraphs (a), (b) and (c) of sub-section (1.) and inserting in their stead the following paragraphs :—

“(a) for defining the seniority of officers of the Second, Third and Fourth Divisions ;

“(b) for defining, in relation to the officers included in a class of officers, the seniority of those officers for the purpose of transfer or promotion within that class ;

“(c) prescribing the conditions under which officers of a Division may be transferred to another Division or to an office in another Division, and fixing maximum ages for such transfers ;” ;

(b) by inserting after paragraph (d) of sub-section (1.) the following paragraph :—

“(da) the payment of examiners ;” ;

(c) by omitting paragraph (g) of sub-section (1.) ;

(d) by omitting paragraph (j) of sub-section (1.) and inserting in its stead the following paragraph :—

“(j) the allowances which may be paid to officers or employees ;” ; and

(e) by omitting paragraph (o) of sub-section (1.) and inserting in its stead the following paragraph :—

“(o) the performance of overtime ;”.

**Second and
Third Schedules**

20. The Second and Third Schedules to the Principal Act are repealed and the following Schedules inserted in their stead:—

“SECOND SCHEDULE.

Sec. 7.

DEPARTMENTS.

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.
 The Joint House Department.
 The Prime Minister's Department.
 The Department of the Treasury.
 The Attorney-General's Department.
 The Department of the Interior.
 The Department of Defence.
 The Department of the Navy.
 The Department of the Army.
 The Department of Air.
 The Department of Trade and Customs.
 The Department of Commerce and Agriculture.
 The Department of External Affairs.
 The Postmaster-General's Department.
 The Department of Health.
 The Department of Territories.
 The Department of Social Services.
 The Department of Works and Housing.
 The Department of Immigration.
 The Department of Civil Aviation.
 The Department of Supply.
 The Department of Defence Production.
 The Department of Labour and National Service.
 The Department of Shipping and Transport.
 The Department of National Development.
 The Repatriation Department.

“THIRD SCHEDULE.

Sec. 25.

PERMANENT HEADS OF DEPARTMENTS.

The Clerk of the Senate.
 The Clerk of the House of Representatives.
 The Parliamentary Librarian.
 The Principal Parliamentary Reporter.
 The Secretary of the Joint House Department.
 The Secretary to the Prime Minister's Department.
 The Secretary to the Department of the Treasury.
 The Secretary to the Attorney-General's Department.
 The Secretary to the Department of the Interior.
 The Secretary to the Department of Defence.
 The Secretary to the Department of the Navy.
 The Secretary to the Department of the Army.
 The Secretary to the Department of Air.
 The Comptroller-General of Customs.
 The Secretary to the Department of Commerce and Agriculture.
 The Secretary to the Department of External Affairs.
 The Director-General of Posts and Telegraphs.
 The Director-General of Health.
 The Secretary to the Department of Territories.
 The Director-General of Social Services.
 The Director-General of Works and Housing.
 The Secretary to the Department of Immigration.
 The Director-General of Civil Aviation.

"THIRD SCHEDULE—continued.

The Secretary to the Department of Supply.
The Secretary to the Department of Defence Production.
The Secretary to the Department of Labour and National Service.
The Secretary to the Department of Shipping and Transport.
The Secretary to the Department of National Development.
The Chairman of the Repatriation Commission."
