

# Public Service Act (No. 4) 1973

No. 209 of 1973

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## AN ACT

To amend the Law Relating to the Public Service.

[Assented to 19 December 1973]

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

1. (1) This Act may be cited as the *Public Service Act (No. 4) 1973*.

Short title  
and citation.

(2) The *Public Service Act 1922–1972*,\* as amended by the *Public Service Act 1973*,† the *Public Service Act (No. 2) 1973*‡ and by the *Public Service Act (No. 3) 1973*,§ is in this Act referred to as the Principal Act.

(3) Section 1 of the *Public Service Act (No. 3) 1973* is amended by omitting sub-section (4).

(4) The Principal Act, as amended by this Act, may be cited as the *Public Service Act 1922–1973*.

\* 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; Nos. 51 and 80, 1950; Nos. 46 and 48, 1951; No. 22, 1953; No. 63, 1954; No. 18, 1955; Nos. 13 and 39, 1957; No. 11, 1958; Nos. 17 and 105, 1960; Nos. 2 and 73, 1964; Nos. 47 and 85, 1966; Nos. 2 and 115, 1967; Nos. 59, 114 and 120, 1968; and No. 6, 1972.

† Act No. 21, 1973.

‡ Act No. 71, 1973.

§ Act No. 73, 1973.

Commence-  
ment and  
application.

2. (1) Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Sub-section 12 (1) shall come into operation on a date to be fixed by Proclamation.

(3) The amendments of the Principal Act effected by sections 10 and 11 shall be deemed to have taken effect on 1 January 1973.

Repeal of  
section 3.

3. Section 3 of the Principal Act is repealed.

Definitions.

4. Section 7 of the Principal Act is amended—

(a) by omitting from sub-section (1) the definition of “ the Commonwealth Service ”; and

(b) by inserting in that sub-section, after the definition of “ the Reserve Forces ”, the following definition:—

“ ‘ the Service ’ means the Australian Public Service constituted by section 10;”.

Constitution  
of the Public  
Service.

5. Section 10 of the Principal Act is amended by omitting the words “ the Public Service of the Commonwealth ” and substituting the words “ the Australian Public Service ”.

6. After section 10 of the Principal Act the following section is inserted:—

“ 10A. (1) In—

(a) any law of Australia (other than this Act) or law of a Territory;

(b) any instrument having effect under such a law; or

(c) any award, order or determination of an authority established by a law of Australia,

whether passed or made before or after the commencement of this section, a reference to the Public Service of the Commonwealth, the Public Service or the Commonwealth Service shall, where the context so admits, be read as a reference to the Australian Public Service.

“ (2) References in this Act to the Commonwealth Service shall be read as references to the Public Service of the Commonwealth as constituted before the commencement of the *Public Service Act (No. 4) 1973*, and references in this Act to the Service shall, where the context so admits, be read as including references to the Public Service of the Commonwealth as so constituted.”.

Deter-  
mination of  
time within  
which  
educational  
qualifications  
to be  
obtained,  
&c.

7. Section 43 of the Principal Act is amended—

(a) by adding at the end of paragraph (a) the word “ and ”; and

(b) by omitting paragraph (b).

- 8.** Section 46 of the Principal Act is amended— Recruitment.
- (a) by adding at the end of sub-paragraph (iii) of paragraph (c) of sub-section (2) the word “ and ”; and
- (b) by omitting sub-paragraph (iv) of that paragraph.
- 9.** Section 54A of the Principal Act is repealed. Repeal of section 54A.
- 10.** Section 73 of the Principal Act is amended— Furlough.
- (a) by omitting from sub-section (1) the words “ fifteen years ” and substituting the words “ ten years ”;
- (b) by omitting from sub-section (2) the words “ fifteen years ” and substituting the words “ ten years ”; and
- (c) by omitting sub-section (4).
- 11.** Section 74 of the Principal Act is amended— Extended leave or pay in lieu to officers not entitled to furlough.
- (a) by omitting from sub-section (1) the words “ fifteen years ” and substituting the words “ ten years ”;
- (b) by adding at the end of paragraph (a) of sub-section (1) the word “ or ”;
- (c) by omitting paragraph (c) of sub-section (1);
- (d) by omitting from paragraph (a) of sub-section (3) the words “ fifteen years ’ ” and substituting the words “ ten years ’ ”;
- (e) by omitting from paragraph (a) of sub-section (3) the words “ and is not due to misconduct or to causes within his own control ”;
- (f) by omitting from paragraph (b) of sub-section (3) the words “ fifteen years ’ ” and substituting the words “ ten years ’ ”;
- (g) by omitting sub-section (3A);
- (h) by omitting from sub-section (4) the words “ fifteen years ’ ” and substituting the words “ ten years ’ ”; and
- (i) by omitting sub-section (5).
- 12.** (1) Section 91 of the Principal Act is amended— Performance of work outside the Service.
- (a) by omitting from sub-section (2) all the words after the word “ elsewhere ”; and
- (b) by omitting sub-section (3) and substituting the following sub-sections:—
- “ (3) Notwithstanding sub-section (1), an officer may act as a director of a company or incorporated society—
- (a) with the permission of the Board under sub-section (4) and in accordance with the conditions, if any, to which that permission is subject; or
- (b) in accordance with the requirements of the duties of his office or otherwise on behalf of Australia,
- but not otherwise.

“(4) The Board may, in such cases or circumstances, and subject to such conditions (if any), as are prescribed, grant to an officer, in writing, permission to act as a director of a company or incorporated society and may include in the permission such conditions, or further conditions, if any, as the Board thinks necessary.

“(5) The Board shall not, under sub-section (4), grant permission to an officer to act as a director of a company or incorporated society unless it is satisfied that there will not be, or appear to be, any conflict between the duties of his office and the duties of the directorship.

“(6) The Board may, at any time, by notice in writing to an officer, revoke a permission granted to him under sub-section (4).”.

(2) At any time after this Act receives the Royal Assent and before the date fixed under sub-section 2 (2), regulations may be made for the purposes of the provisions inserted in the Principal Act by sub-section (1) of this section as if those provisions had come into operation on the date on which this Act receives the Royal Assent, but regulations so made shall not come into operation until the date fixed under sub-section 2 (2).

**Additional  
amendments.**

13. The Principal Act is amended as set out in the Schedule.

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## SCHEDULE

Section 13

## ADDITIONAL AMENDMENTS

1. The following provisions of the Principal Act are amended by omitting the words " Commonwealth Service " (wherever occurring) and substituting the word " Service " :—

Sections 7 (1) (definition of " Officer "), 19A (3), 21 (1) and (2), 22 (1), 23, 24 (1A), 25 (4A), 33 (1), 34, 38 (1) and (3), 44, 46 (1) and (3), 47 (1) and (2), 47A (1), (2) and (3), 47B (1), 47C (1) and (4), 47D (2) and (3), 47E (1), 48A, 51 (1), 54C (1), 55 (1) (b), (4) and (5A), 56 (2), 62 (2), (6) and (7), 67 (1), 68 (3) (a), 68A (1) (b) and (2), 71 (1) (b) (i), 72A (3), 72B (1), (3) and (4), 73 (1) and (2), 74 (1), (3) and (4), 75 (3), 75A (2) (b), 76 (1), 81F (1), 81G, 81J, 81K (1), 81s, 81U, 81Z (2), (3), (4), (5) and (7), 81ZA, 81ZB, 81ZD (4), (5) and (7), 81ZE, 81ZK, 82A, 82B (2) and 85 (1).

2. The following provisions of the Principal Act are amended by omitting the words " the Commonwealth " (wherever occurring) and substituting the word " Australia " :—

Sections 15 (2), 47E (2), 53A (2) and (3) (b), 64 (5), 68E (1) (a), 71 (1) (b) (iii), 76 (3) and (4), 78 (2) (a), 81, 81E (1), 81Q (1), 81ZG (6), 82B (1), 86, 89 (1), 91 (1) (e) and 91A (1).

3. The following provisions of the Principal Act are amended by omitting the words " of the Commonwealth " (wherever occurring):—

Sections 8B (4) and (5), 11 (6), 50 (13), 53C (1), 55 (11) (b) and (12), 72B (1) and (4), 79 and 89 (6).

4. The following provisions of the Principal Act are amended by omitting the words " of this Act " and " of this section " (wherever occurring):—

Sections 68 (6) (a), 81G (b), 81Z (4), (5) and (7), 81ZD (5) and (7), 81ZI (5), 82 (12) and 82AA (8).

5. The Principal Act is further amended as set out in the following tables:—

TABLE A

Provision	Amendment
Headings . . . . .	Omit from the heading preceding section 10 " PUBLIC SERVICE ", substitute " AUSTRALIAN PUBLIC SERVICE ". Repeal the heading following section 22, substitute:— " PART III—THE AUSTRALIAN PUBLIC SERVICE ". Omit from the heading preceding section 77 " Commonwealth ", substitute " Officers of the Service ".
Section 7 (1) . . . . .	(a) From the definition of " Department " omit " Public Service ", substitute " Service ". (b) From the definition of " Division " omit " Public Service ", substitute " Service ".
Section 7 (2) . . . . .	Omit.
Section 7B . . . . .	(a) Omit " the Commonwealth " (first occurring), substitute " Australia ". (b) Omit " of the Commonwealth, including the Territory of Nauru ".
Section 11 (6) . . . . .	Omit " Public Service in the Commonwealth ", substitute " service in the Service ".
Section 11 (7) . . . . .	(a) Omit " the Commonwealth " (first occurring), substitute " Australia ". (b) Omit " service of the Commonwealth ", substitute " Australian Public Service ".
Section 17 (1) (e) . . . . .	Omit " Public Service ", substitute " Service ".
Section 20 . . . . .	Omit " Public Service ", substitute " Service ".
Section 25 (1) . . . . .	Omit " the Third Schedule " (wherever occurring), substitute " Schedule 3 ".
Section 34 (b) . . . . .	Add at end " and ".
Section 34 (c) . . . . .	Omit " and " (last occurring).
Section 34 (d) . . . . .	Omit.
Section 38 (1) . . . . .	Omit " of this Act " (first occurring).
Section 47C (1) . . . . .	Omit " of the Commonwealth ", substitute " of Australia ".
Section 47D (1) . . . . .	Omit " Commonwealth Service " (wherever occurring), substitute " Australian Public Service ".

## SCHEDULE—continued

Provision	Amendment
Section 48 (1)	(a) Omit " of the Commonwealth Service ". (b) Omit " Commonwealth Service " (second and fourth occurring), substitute " Service ". (c) Omit " Commonwealth Service " (third and fifth occurring), substitute " Australian Public Service ".
Section 48AA (1)	(a) Omit " Commonwealth Service " (second and third occurring), substitute " Service ". (b) Omit from paragraph (d) " Public Service of the Commonwealth ", substitute " Service ".
Section 48AA (2)	(a) Omit " Commonwealth Service " (second and third occurring), substitute " Service ". (b) Omit from paragraph (c) " Public Service of the Commonwealth ", substitute " Service ".
Section 50 (5c)	Omit.
Section 50 (14) (b)	Omit " of the Commonwealth, or two such Territories ", substitute " ", or two specified Territories ".
Section 54c (f) (b)	After " commencement " (first occurring) insert " of this section ".
Section 55 (1) (g)	Omit.
Section 55 (1) (h)	Omit " the Commonwealth " (first occurring), substitute " Australia ".
Section 55 (7)	Omit.
Section 62 (1)	(a) Omit " the Commonwealth " (first occurring), substitute " Australia ". (b) Omit " Territory of the Commonwealth ", substitute " Territory ".
Section 66	(a) Omit " of the Commonwealth Service ". (b) Omit " the Commonwealth " (second and third occurring), substitute " Australia ".
Section 68 (3)	Omit " of this Act ".
Section 71 (1) (a)	Omit " Public Service " (second occurring), substitute " Service ".
Section 71 (1) (b) (ii)	Omit " Commonwealth scheme of vocational training ", substitute " scheme of vocational training established by Australia ".
Section 71 (1) (b) (iv)	Omit " the Commonwealth " (last occurring), substitute " Australia ".
Section 72 (1) (b)	(a) Omit " the Commonwealth " (first occurring), substitute " Australia ". (b) Omit " Territories of the Commonwealth ", substitute " Territories ".
Section 75A (1) (a)	Omit " Commonwealth Service " (last occurring), substitute " Service ".
Section 75A (2) (b)	Omit " the twelfth day of June, One thousand nine hundred and forty-one ", substitute " 12 June 1941 ".
Section 76 (8)	Omit " a Territory of the Commonwealth not forming part of the Commonwealth ", substitute " an external Territory ".
Section 77	Omit " Commonwealth Service ", substitute " Australian Public Service ".
Section 78 (1)	(a) Omit " the Commonwealth " (first occurring), substitute " Australia ". (b) Omit " Commonwealth Service ", substitute " Australian Public Service ".
Section 81A	Omit " Commonwealth law ", substitute " a law of Australia ".
Section 81K (f)	Omit " with the Commonwealth ", substitute " in the Service ".
Section 81L (a) (i)	Omit " Public Service of the Commonwealth ", substitute " Commonwealth Service ".
Section 81L (b) (i)	Omit " service of the Commonwealth ", substitute " Commonwealth Service ".
Section 81s	Omit " of this section " (wherever occurring).
Section 81v (1)	Omit " with the Commonwealth ", substitute " in the Service ".
Section 81w	(a) Omit " the Commonwealth " (first and last occurring), substitute " Australia ". (b) Omit " Public Service of the Commonwealth ", substitute " Service ".
Section 81zd (3)	Omit " Commonwealth Service " (second occurring), substitute " Service ".

## SCHEDULE—continued

Provision	Amendment
Section 81zg (1) .. ..	Omit " the twenty-eighth day of October, One thousand nine hundred and forty-two ", substitute " 28 October 1942 ".
Section 82 (9) .. ..	Omit.
Section 82 (9A) .. ..	Omit.
Section 82 (10) .. ..	Omit.
Section 82A .. ..	Omit " of this Act " (first and last occurring).
Section 91A (2) .. ..	Omit " the first day of July, One thousand nine hundred and forty-seven ", substitute " 1 July 1947 ".
Section 94 (1) .. ..	(a) Omit " persons in the Public Service or employ ", substitute " officers or employees ".
	(b) Omit " in the Public Service or employ " (last occurring), substitute " as an officer or employee ".
	(c) Omit " the Public Service or employ " (last occurring), substitute " office or employment ".
Section 94 (2) .. ..	(a) Omit " in the Public Service or employ ", substitute " as an officer or employee ".
	(b) Omit " the Commonwealth ", insert " Australia ".
	(c) Omit " the Public Service or employ " (last occurring), substitute " office or employment ".
Section 94 (3) .. ..	(a) Omit " the Commonwealth Public Service or employ ", substitute " office or employment ".
	(b) Omit " the Commonwealth " (last occurring), substitute " Australia ".
Section 94 (4) .. ..	Omit.
Section 97 (1) (n) .. ..	Omit " of the Commonwealth Service ".
Schedule 4 .. ..	Repeal.
Schedule 5 .. ..	Repeal.
Schedule 6 .. ..	Repeal.

## TABLE B

Provision	Amendment
Heading .. ..	Repeal the heading immediately preceding section 23, substitute the following heading:— " Division 1—Divisions, Permanent Heads and Chief Officers ".
Section 4 .. ..	Repeal.
Section 7 (1) .. ..	From the definition of " Classification " omit " positions " (wherever occurring), substitute " offices ".
	From the definition of " The Minister " omit " responsible Minister of the Crown ", substitute " Minister ".
	From the definition of " The Territorial Service " omit " under the authority of the Commonwealth ".
Section 9 (2) .. ..	Omit " thereunder " (wherever occurring).
Section 9 (3) .. ..	Omit " thereunder ".
Section 11 (8A) .. ..	Add at the end " and the regulations ".
Section 13A (3) .. ..	Omit " as such Acting ", substitute " while acting as ".
Section 14 (3) .. ..	Omit " both Houses of the Parliament within seven days after the suspension if the Parliament is then sitting, or, if the Parliament is not then sitting, then within seven days after the next meeting of the Parliament, ", substitute " each House of the Parliament within 7 sitting days of that House after the suspension, ".
Section 15 (i) (b) .. ..	Omit, substitute the following paragraph:— " (b) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; ".
Section 16 (1) .. ..	After " Act " insert " or the regulations ".
Section 16 (3) .. ..	Omit " permanent head or a chief officer ", substitute " Permanent Head or a Chief Officer ".

## SCHEDULE—continued

Provision	Amendment
Section 17 (2) .. ..	Omit " permanent head ", substitute " Permanent Head ".
Section 17 (3) .. ..	Omit " permanent head ", substitute " Permanent Head ".
Section 18 (3) .. ..	Omit, substitute the following sub-section:— " (3) If the Governor-General does not approve of the fresh recommendation, a statement of the reasons for not approving shall be laid before each House of the Parliament within 14 sitting days of that House after the receipt of the recommendation."
Section 20 .. ..	Omit " position " (first, second and last occurring), substitute " office ".
	Omit " a position ", substitute " an office ".
	Omit " salary. If ", substitute " salary but if ".
Section 22 (1) .. ..	Omit " insuring ", substitute " ensuring ".
Section 25 (3) .. ..	After " Act " (wherever occurring) substitute " or the regulations ".
Section 25 (4) .. ..	After " Act " substitute " or the regulations ".
Section 25 (4A) .. ..	Omit " Trade Practices Act 1965-1966 ", substitute " Restrictive Trade Practices Act 1971-1973 ".
Section 25 (5) .. ..	After " Act " substitute " or the regulations ".
Section 47 (14) .. ..	Omit.
Section 50 (8) .. ..	Omit " Promotion Appeals Committee ", substitute " Promotions Appeal Committee ".
Section 52 (2) .. ..	Omit " position ", substitute " office ".
Section 55 (1) (f) .. ..	Omit " any regulations thereunder ", substitute " the regulations ".
Section 55 (3) (a) .. ..	Omit " emergent cases ", substitute " cases of emergency ".
Section 57 (3) .. ..	Omit " the Act or ", substitute " this Act or the ".
Section 62 (2) .. ..	Omit " position ", substitute " office ".
Section 62 (6) .. ..	Omit " appointed ", substitute " reappointed ".
	Omit " , without examination, ", substitute " , whether or not he possessed the prescribed educational qualifications, ".
Section 62 (7) .. ..	Omit " appointed ", substitute " reappointed ".
Section 66 .. ..	Omit " the Act ", substitute " this Act ".
Section 67 (1) .. ..	Omit " position " (wherever occurring), substitute " office ".
Section 76 (7A) .. ..	Omit " Regulations ", substitute " regulations ".
Section 81L .. ..	From the definition of " State employee " omit " this Act " (wherever occurring), substitute " this section ".
Section 82AA (1) .. ..	Omit, substitute the following sub-section:— " (1) Where the services of an employee who is a contributor to the Superannuation Fund established under the <i>Superannuation Act 1922-1973</i> or to the Provident Account established under Part IVb of that Act are dispensed with by the Chief Officer on the ground that the employee has been guilty of conduct that, if he were an officer, would have constituted an offence specified in sub-section (1) of section 55, the Chief Officer shall give to that employee written notice that his services have been so dispensed with and shall specify in the notice the ground on which, and the date upon which, his services were dispensed with."
Section 82AA (6) .. ..	Omit " re-instated ", substitute " reinstated ".
Section 82B (1) .. ..	Omit " the last preceding section ", substitute " section 82 ".
Section 85 (1) .. ..	Omit " (unless retired as hereinafter provided) ", substitute " , unless he is retired in pursuance of sub-section (2), ".
Schedule I .. ..	Repeal.