



ANNO DECIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1967

No. 77 of 1967

An Act to consolidate and amend the law relating to the Public Service and for other purposes.

[Assented to 30th November, 1967]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

PART I.

PRELIMINARY.

1. This Act may be cited as the "Public Service Act, 1967". Short title.
2. This Act shall come into force on a day to be fixed by proclamation. Commencement.
3. This Act is divided into Parts and Divisions as follows :— Parts, etc.
 - PART I.—PRELIMINARY, ss. 1-8.
 - PART II.—THE PUBLIC SERVICE BOARD, ss. 9-24.
 - PART III.—THE PUBLIC SERVICE—
 - DIVISION I.—DEPARTMENTS AND PERMANENT HEADS, ss. 25-28 :
 - DIVISION II.—CREATION AND ABOLITION OF OFFICES, s. 29 :
 - DIVISION III.—CLASSIFICATION, SALARIES, ALLOWANCES AND DEDUCTIONS, ETC., ss. 30-38 :
 - DIVISION IV.—FIRST APPOINTMENT OF OFFICERS, ss. 39-45 :

- DIVISION V.—FILLING OF VACANT OFFICES, ss. 46-57:
 DIVISION VI.—DISCIPLINE, ss. 58-76 :
 DIVISION VII.—COMPULSORY TRANSFER, RETIREMENT,
 ETC., ss. 77-80 :
 DIVISION VIII.—LEAVE OF ABSENCE, ss. 81-101 :
 DIVISION IX.—COMMONWEALTH AND STATE OFFICERS,
 ss. 102-105 :
 DIVISION X.—RETIREMENT OF OFFICERS, ss. 106-107.
 PART IV.—TEMPORARY OFFICERS, ss. 108-113.
 PART V.—MISCELLANEOUS, ss. 114-131.

Definitions.

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

“appellant” means an Officer who appeals under sub-section (2) of section 48 of this Act :

“classification” means the arrangement of Offices or positions in classes and includes the allotment to Offices or positions of salaries or limits of salary and the expression “classify” bears a like meaning :

“Commissioner” means a Commissioner appointed under section 9 of this Act and includes the Commissioner nominated as Chairman of the Board and a deputy of a Commissioner while acting as such :

“Department” means any Department of the Public Service specified in the second schedule to this Act and includes any Department at any time declared by the Governor under section 25 of this Act either in addition to or in lieu of any of those Departments but does not include any Department which is discontinued by the Governor under that section or in lieu of which another Department is declared :

“financial year” means any period of twelve months ending on the thirtieth day of June :

“Minister” means the Minister of the Crown for the time being administering the Department—

(a) in which the Officer, temporary Officer or person in connection with whom the expression is used, is employed or seeks to be employed ;

or

(b) in which is created the Office, in connection with which the expression is used :

“nominated Officer” means an Officer nominated by the Board, under section 47 of this Act, for appointment to a vacant Office :

“Office” means an office created or deemed to be created under section 29 of this Act and not abolished under that section :

“Officer” means a person appointed to an Office and includes a person who, immediately before the commencement of this Act, was appointed or deemed to be appointed in a permanent capacity to the public service as defined by section 6 of the Public Service Act, 1936-1966 :

“Permanent Head” means—

(a) the Officer who occupies an Office specified in the second column of the second schedule to this Act ;

or

(b) a person referred to in the first column of the third schedule to this Act exercising the powers and functions of a Permanent Head conferred on him by section 26 of this Act,

and in relation to an Officer or temporary Officer means the Permanent Head of the Department in which that Officer or temporary Officer is employed :

“public holiday” means a public holiday within the meaning of the Holidays Act, 1910-1959 :

“recognized organization” means an organization for the time being recognized by the Board under section 115 of this Act and includes the Public Service Association of South Australia Incorporated :

“recreation leave” means leave to which an Officer is entitled under section 82 of this Act :

“temporary Officer” means a person employed or deemed to be employed under Part IV of this Act :

“the Board” means the Public Service Board constituted by section 9 of this Act :

“the Committee” means the Appointments Appeal Committee constituted by section 50 of this Act :

“the Public Service” means the Public Service as defined by section 8 of this Act.

“the Tribunal” means the Tribunal appointed under section 67 of this Act :

PART I.

Repeal and Savings

5. (1) The Acts and portions of the Acts mentioned in the first schedule to this Act are hereby repealed.

(2) Notwithstanding the repeal effected by subsection (1) of this section—

(a) all persons, appointed permanently to the public service within the meaning of the Public Service Act, 1936-1966, or continued in office in that public service under an Act repealed by this Act and holding office at the commencement of this Act, shall remain in office as if this Act had been in force at the time when they were appointed and they had been appointed hereunder and this Act shall apply to them accordingly ;

(b) all persons who, at the commencement of this Act, are temporarily employed under or by virtue of any Act repealed by this Act, shall remain in such employment subject to the provisions of this Act ;

and

(c) all regulations, proclamations, determinations and returns made or published under any Act repealed by this Act which are in force at the commencement of this Act shall, except in so far as they are inconsistent with this Act and subject to this Act, be deemed to have been made or published under this Act and any references in any such regulations, proclamations, determinations or returns to any enactment repealed by this Act shall be construed as a reference to the corresponding provisions of this Act.

Reading of references to Public Service Commissioner, etc.

6. Any reference in an Act (other than this Act), regulation, rule, law, order of a court or commission, instrument, agreement or document of any kind to—

(a) the Public Service Commissioner shall be read as reference to the Board ;

(b) The Public Service Board constituted by the Public Service Act, 1936-1966 shall be read as a reference to the Board ;

and

(c) the Public Service Act, 1936 as amended by any Act shall be read as a reference to this Act.

Vacation of office of Chairman and members of former Public Service Board.

7. The Chairman and members of The Public Service Board constituted by the Public Service Act, 1936-1966 in office immediately before the commencement of this Act shall upon that commencement vacate their respective offices.

8. (1) The Public Service comprises all persons employed in any capacity in the service of the State other than—

- (a) the Judges of the Supreme Court ;
- (b) the Judge in Insolvency ;
- (c) the President of the Industrial Court ;
- (d) the Agent-General ;
- (e) the Auditor-General ;
- (f) any officer of either House of Parliament or any person under the separate control of the President of the Legislative Council or the Speaker of the House of Assembly or under their joint control ;
- (g) the South Australian Railways Commissioner and all persons in the railway service within the meaning of the South Australian Railways Commissioner's Act, 1936-1965 ;
- (h) any teacher appointed under the Education Act, 1915 or any Act amending or in substitution for that Act ;
- (i) any member of the police force ;
- (j) any person acting in an honorary capacity ;
- (k) any person remunerated by fees, allowances or commission only ;
- (l) any person employed at hourly, daily or weekly wages or at piecework rates of payment ;
- (m) any person whose salary or remuneration is fixed by Act of Parliament ;
- (n) any person or class of persons in respect of whom it is provided by any Act that this Act shall not apply ;
- (o) any person employed by a Department in respect of which it is provided by any Act that this Act shall not apply ;
- (p) any person or class of persons to whom the Governor declares by proclamation that this Act shall not apply ;

and

- (q) a person employed by a Department to which the Governor declares by proclamation that this Act shall not apply.

(2) Except so far as is inconsistent with any Act for the time being in force, the Governor may by proclamation declare that this Act or any specified provision of this Act shall from the time specified in that behalf—

- (a) apply to any of the persons or class of person mentioned or specified in this section ;

or

(b) cease to apply to any person or class of person to whom by reason of a proclamation under this section this Act or any specified provision of this Act, as the case may be, applies or apply,

and every such proclamation shall have effect according to its tenor.

PART II.

PART II.

THE PUBLIC SERVICE BOARD.

9. (1) For the purposes of this Act there shall be constituted a board to be called the "Public Service Board".

The Public Service Board.

(2) The Board shall consist of three Commissioners appointed by the Governor and the Governor shall from time to time nominate one of them to be the Chairman of the Board and on the happening of a vacancy in the office of Commissioner, the Governor shall appoint a person to that vacant office.

(3) Subject to subsection (5) of this section an appointment of a Commissioner shall be for a term not exceeding five years.

(4) A person who is appointed a Commissioner shall, on the expiration of his term of office, be eligible for re-appointment.

(5) Nothing in this Act contained shall be taken as authorizing a term of appointment which would result in a Commissioner remaining in office after attaining the age of sixty-five years.

10. For the purposes of this Act the person appointed Public Service Commissioner under the Public Service Act, 1936-1966, and in office immediately before the commencement of this Act shall be deemed to have been appointed a Commissioner and nominated as Chairman of the Board under subsection (2) of section 9 of this Act for the balance of the term for which he was appointed Public Service Commissioner or for a term of five years whichever is the shorter.

Former Public Service Commissioner to be first Chairman of the Board.

11. Subject to this Part, the terms and conditions of appointment of a Commissioner shall be as determined by the Governor.

Terms and conditions of appointment of Commissioner.

12. (1) If an Officer is appointed a Commissioner, his service as a Commissioner shall, for the purpose of determining all his existing and accruing rights, be counted as service in the Public Service.

Appointment of Officer as Commissioner.

(2) An Officer referred to in subsection (1) of this section shall, at the conclusion of his term or terms of office as a Commissioner if he has not then attained the age of sixty-five years, be entitled to be appointed to an Office which is, in the opinion of the Board, of a classification not less than the equivalent of the classification of the Office he previously occupied.

13. (1) In the case of illness, suspension or absence of any Commissioner, the Governor may appoint a person to act as the deputy of that Commissioner during that illness, suspension or absence, as the case may be, and the deputy shall, subject to subsection (3) of this section, whilst so acting, have all the powers and functions of that Commissioner.

Appointment of deputy of Commissioner.

(2) A deputy while so acting shall receive such remuneration for his services as the Governor determines, and where the deputy is an Officer, the remuneration so determined shall, if the Governor so directs, be in addition to his salary as an Officer.

(3) Where a deputy is appointed under subsection (1) of this section in the place of the Commissioner who is for the time being nominated or deemed to be nominated under subsection (2) of section 9 of this Act as Chairman of the Board the Governor may nominate a Commissioner other than the deputy so appointed to act as Chairman for the duration of the illness, suspension or absence as the case may be, and in that case the deputy so appointed shall not exercise the powers and functions of the Chairman of the Board as such.

Quorum and
differences in
opinion.

14. (1) Subject to subsection (2) of this section any two Commissioners shall form a quorum and shall have all the powers and functions conferred on the Board by this Act.

(2) If at a meeting of the Board at which two Commissioners only are present the Commissioners differ in opinion on a matter the determination of that matter shall be postponed to a meeting of the Board at which all three Commissioners are present.

Salaries and
expenses of
Commissioners.

15. (1) The salary of the Commissioner nominated Chairman of the Board shall be at the rate of thirteen thousand dollars a year and the salary of each of the other Commissioners shall be at the rate of eleven thousand dollars a year.

(2) The salaries fixed by subsection (1) of this section shall be a charge upon and be payable out of the general revenue of the State, which is hereby, to the necessary extent, appropriated accordingly.

(3) There shall be paid to each Commissioner, on account of his expenses in discharging the duties of his office such sums as are considered reasonable by the Governor.

Removal or
suspension of
Commissioner.

16. (1) The Governor may remove a Commissioner from office on an address praying for the removal of that Commissioner being presented to the Governor from both Houses of Parliament during one session of Parliament, or from one House during one session and from the other House during the next succeeding session, which sessions however need not be both during the same Parliament.

(2) Where a Commissioner is removed from office under subsection (1) of this section that office shall thereupon become vacant.

(3) The Governor may suspend a Commissioner from office for misbehaviour, incompetence or incapacity.

(4) A statement of the cause of a suspension under subsection (3) of this section shall be laid before both Houses of Parliament within seven days of that 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 and unless within one month after the day when and during the same session as that statement is laid before Parliament an address from either House of Parliament praying for the removal from office of the Commissioner is presented to the Governor that Commissioner shall be restored to office but if such an address is so presented the Governor may remove that Commissioner from office and that office shall thereupon become vacant.

17. The office of a Commissioner shall become vacant if that Commissioner—

Vacation of
office by
Commissioner.

- (a) except with the consent of the Governor engages in any paid employment outside the duties of his office ;
 - (b) is adjudicated bankrupt, makes a composition for the benefit of his creditors for less than one hundred cents in the dollar, applies to take the benefit of any law in force in the State for the relief of bankrupt or insolvent debtors or makes an assignment of his salary for the benefit of his creditors ;
 - (c) without leave being granted by the Governor, absents himself from duty for a period of twenty-eight days whether consecutive or not in any period of twelve months ;
 - (d) dies or resigns his office by writing addressed to the Governor ;
 - (e) becomes a member of either House of Parliament of the State or the Commonwealth ;
- or
- (f) for any reason becomes, in the opinion of the Governor, incapable of performing his duties.

18. Subject to the provisions of section 14 and section 24 of this Act the powers and functions of the Board may be exercised notwithstanding a vacancy in the office of one Commissioner.

Vacancy in
the office of
Commissioner.

19. (1) In addition to the powers and functions elsewhere in this Act conferred on it, the Board shall have the following powers and functions :—

(a) to devise means for effecting economies and promoting efficiency in the management and working of Departments by—

(i) improved organization and procedures ;

(ii) closer supervision of operations ;

(iii) the simplification of operations and the abolition of unnecessary operations ;

(iv) the co-ordination of operations ;

(v) the limitation of the staff of Departments to actual requirements and the use of that staff to the best advantage ;

(vi) the improvement of training of Officers ;

and

(vii) the avoidance of unnecessary expenditure ;

(b) to examine the business of each Department to ascertain whether any inefficiency or lack of economy exists ;

(c) to maintain a continuous system of checking to ensure the economical and efficient working of Departments and to standardize the carrying out of recurring operations ;

and

(d) such other powers and functions in relation to the Public Service as are prescribed.

(2) In relation to all the matters specified in paragraphs (a) to (c) inclusive of subsection (1) of this section, the Board shall in the first place advise the Permanent Head of the Department concerned of its suggestions or proposals.

(3) If the Permanent Head does not concur in or adopt the suggestions or proposals he shall, within a reasonable time, inform the Board of his reasons therefor.

(4) Thereupon the Board may, if it thinks fit, report the matter to the Minister and if the Board's suggestions or proposals are not approved or adopted by the Minister within a reasonable time, the Board may report the matter to both Houses of Parliament either in a special report or in its report furnished under subsection (2) of section 23 of this Act.

20. (1) The Board may at any time—

- (a) enter the premises of any Department for the purpose of carrying out its duties ;
- (b) summon any person whose evidence appears to be material to the determining of any subject of inspection, inquiry or investigation being conducted by the Board ;

and

- (c) require the production of documents.

(2) The Board may examine any person, summoned under subsection (1) of this section, upon oath or otherwise touching the matter of any inspection, inquiry or investigation being conducted by the Board.

(3) If without reasonable cause (the proof of which shall lie upon him) a person summoned under this section, after being paid or tendered his reasonable expenses—

- (a) fails to appear in accordance with the summons ;
- (b) fails or refuses to be sworn or to answer any question put to him by the Board ;

or

- (c) fails to produce any book, document or writing pursuant to that summons,

he shall be guilty of an offence.

Penalty : One hundred dollars.

(4) Nothing in this section shall be construed as compelling a person to answer any question which would tend to incriminate him.

21. (1) In the exercise of the powers and functions conferred on it by this Act the Board may hear and consider evidence, argument or representations and shall, so far as is practicable, before making any decision which will affect a significant number of members of a recognized organization—

- (a) notify that organization ;

and

- (b) hear any evidence, argument or representations from that organization,

but nothing in this subsection shall be construed as limiting or restricting the exercise or performance of any power or function of the Board conferred on it by this or any other Act.

(2) In its consideration of the matters referred to in subsection (1) of this section, the Board shall not be bound by rules or practice as to evidence but may inform itself on any matter in such manner as it thinks fit.

(3) Proceedings before the Board may be in public or in private or partly in public and partly in private as the Board thinks fit.

Powers of entry and inspection, etc.

Proceedings before the Board.

PART II.

Records of
Officers.

22. (1) The Board shall cause to be kept a record of all Officers showing with regard to each Officer—

- (a) the date of his birth and of his appointment to the Public Service ;
- (b) the Office he holds and the Offices, if any, he has held ;
and
- (c) the classification of those Offices.

(2) The Board shall at least once in every period of two years forward to the Governor a list of all Officers employed on the thirtieth day of June next preceding the day on which the list is forwarded together with the particulars referred to in subsection (1) of this section other than the particulars relating to Offices which each Officer has held.

(3) A copy of the list referred to in subsection (2) of this section shall be laid before Parliament within fourteen days of it being forwarded to the Governor, or if Parliament is not then sitting, within fourteen days after the commencement of the next sitting of Parliament.

Reports.

23. (1) The Board shall submit for the consideration of the Governor reports as to any matters which by this Act are required to be, or may be, dealt with by the Governor.

(2) The Board shall furnish to the Governor for presentation to the Parliament at least once in each year a report on the condition and efficiency of the Public Service and in that report there shall be set forth any changes and measures which the Board considers necessary.

(3) The Board shall in a report made in accordance with subsection (2) of this section draw attention to such breaches or evasions of this Act which may have come under its notice which it considers are of sufficient importance to require being brought to the attention of Parliament.

Delegation by
Board.

24. (1) The Board may, by writing under the hand of each Commissioner, delegate to any Commissioner, Officer, temporary Officer or person any of the powers or functions of the Board under this Act (except this power of delegation) so that the delegated powers or functions may be exercised by the delegate with respect to the matters or class of matters specified, or the place or locality defined, in the instrument of delegation.

(2) A delegation under subsection (1) of this section shall be revocable in writing at will, and no delegation shall prevent the exercise of any power or function of the Board.

(3) If, in pursuance of a delegation given to him under subsection (1) of this section, the delegate does any act, a Permanent Head of a Department affected by that act may request the delegate to refer the matter to the Board and in that event the act shall not be deemed to be an act of the Board until the action of the delegate has been endorsed by at least two Commissioners.

PART III.
THE PUBLIC SERVICE.

DIVISION I.—DEPARTMENTS AND PERMANENT HEADS.

25. (1) Notwithstanding anything in any other Act contained the Departments of the Public Service shall be those specified in the first column of the second schedule to this Act.

Departments
and Permanent
Heads.

(2) Subject to subsection (5) of this section the Officer for the time being holding the Office, if any, specified in the second column of that second schedule shall be the Permanent Head of the Department specified in that first column opposite the description of that Office.

(3) Subject to subsection (6) of this section the Governor may by proclamation and upon the recommendation of the Board—

- (a) declare an additional Department and create an additional Office of Permanent Head in respect of that Department ;
 - (b) discontinue an existing Department and abolish the Office of Permanent Head of that Department ;
- or
- (c) change the name of an existing Department or the title of the Office of Permanent Head of that Department.

(4) An additional Department so declared may be formed by the severance thereof from an existing Department or Departments or by the amalgamation of existing Departments or parts thereof or otherwise as the Governor thinks proper.

(5) Upon the publication of a proclamation referred to in subsection (3) of this section the second schedule to this Act shall be amended—

- (a) by the addition of the name of the Department, if any, thereby declared and the addition of the Office, if any, thereby created ;
- (b) by the omission of the name of the Department, if any, thereby discontinued and by the omission of the name of the Office, if any, thereby abolished ;

and

- (c) by the alteration of the name of the Department, if any, thereby altered and by the alteration of the title of the Office, if any, thereby altered.

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DIVISION I.

(6) In a proclamation under subsection (3) of this section or in a subsequent proclamation the Governor may provide for—

(a) the reading of a reference in any Act to a Department affected by a proclamation under that subsection as a reference to—

(i) a Department declared or renamed under that proclamation ;

or

(ii) a Department assuming the functions of a Department abolished by that proclamation ;

or

(b) the reading of a reference in an Act to an Office of Permanent Head affected by a proclamation under that subsection as a reference to—

(i) an office of Permanent Head created or the title of which is changed by that proclamation ;

or

(ii) a reference to a Permanent Head assuming the functions of the Office abolished by that proclamation.

**Vesting of
powers of
Permanent
Head in
certain persons.**

26. (1) Each person holding an office specified in the first column of the third schedule to this Act shall for the purposes of this Act have all the powers and functions of a Permanent Head under this Act in relation to the Department specified in the second column of that schedule opposite that office specified in that first column.

(2) The Governor may by proclamation revoke, amend or vary the third schedule to this Act and that schedule shall be revoked, amended or varied accordingly.

**Duties of
Permanent
Head.**

27. Subject to section 19 of this Act the Permanent Head of a Department shall be responsible for its general working and for all the business thereof and shall advise the Minister on all matters relating to that Department and shall in addition to those duties perform such other duties in his capacity as Permanent Head as the Governor or the Minister directs.

**Delegation by
Permanent
Head.**

28. (1) A Permanent Head may, with the approval of the Board, by writing under his hand delegate to an Officer or temporary Officer 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 with respect to the matters or class of matters specified or the place or locality defined in the instrument of delegation.

(2) A delegation under subsection (1) of this section shall be revocable in writing at will, and no delegation shall prevent the exercise of any power or function by the Permanent Head.

DIVISION II.—CREATION AND ABOLITION OF OFFICES.

DIVISION II.

29. (1) The Governor may on the recommendation of the Board—

Creation and abolition of Offices.

(a) create an Office in a Department ;

or

(b) abolish an Office in a Department.

(2) All offices and positions in the public service as defined by section 6 of the Public Service Act, 1936-1966, in existence immediately before the commencement of this Act shall be deemed to have been created as Offices under subsection (1) of this section.

DIVISION III.—CLASSIFICATION, SALARIES, ALLOWANCES AND DEDUCTIONS, ETC.

DIVISION III.

30. (1) Every Permanent Head shall be paid such salary as is determined, in accordance with this section, by the Governor on the recommendation of the Board.

Salaries of Permanent Head.

(2) A recommendation made under subsection (1) of this section shall be published in the *Gazette* and the Governor shall not determine a salary so recommended until the expiration of fourteen days from the date of that publication.

(3) A Permanent Head to whom a recommendation under this section relates may, within the time specified in subsection (2) of this section request in writing the Board to reconsider its recommendation, on the grounds stated in the request, and the Board shall reconsider its recommendation accordingly.

(4) A recommendation under this section may provide that the salary recommended be payable from a day earlier than the day on which that salary is determined in accordance with this section and the Governor may determine accordingly.

PART III.

DIVISION III.

Returns by
Board.

31. (1) Subject to this section, for every Office other than the Office of Permanent Head the Board may make returns—

(a) classifying each Office by specifying—

(i) the limits of annual salary and the amount of annual increment of salary of each Office or class of Offices ;

and

(ii) the level of salary beyond which the occupant of that Office or class of Offices may not advance until he has complied with requirements specified in the return ;

(b) altering the description of an Office ;

(c) fixing any special payment or allowance for any special circumstances connected with the work of any Office ;

(d) determining the conditions upon which Officers shall be entitled to increments of salary ;

and

(e) varying or adding to any return previously made by the Board or rescinding any such return and making a new return in lieu thereof.

(2) Every Officer occupying an Office referred to in subsection (1) of this section shall be paid not less than the minimum salary specified or deemed to be specified by the Board under this section.

(3) A return made under subsection (1) of this section shall be published in the *Gazette* and shall, subject to this section and to section 32 of this Act, take effect on publication.

(4) The Board shall, before it publishes a return in accordance with subsection (3) of this section, transmit a copy of that return to the Chief Secretary.

(5) The Chief Secretary may, in relation to a return transmitted to him under subsection (4) of this section and within twenty-one days after that transmission, make a submission to the Board.

(6) The Board shall consider a submission made under subsection (5) of this section and advise the Chief Secretary of its decision thereon.

(7) An Officer aggrieved by the application of a return under this section to his Office may within thirty days after the publication of that return appeal to the Board by notice in writing in the prescribed form setting out the grounds of his appeal.

(8) The Board shall hear and determine an appeal made under subsection (7) of this section and any return made in consequence of determination under this subsection shall be expressed to

take effect on the day on which the return, in relation to which the appeal was made, took effect.

(9) In determining an appeal pursuant to subsection (8) of this section the Board shall hear any representation from the Officer appealing or made on his behalf by an officer of a recognized organization of which that Officer is a member.

32. (1) Subject to this section, the Board may, where a return under subsection (1) of section 31 of this Act raises the salary attributable to an Office, direct that the return shall have effect from a day earlier than the day of publication of the return. Retrospective operation of returns.

(2) Where a return referred to in subsection (1) of this section is made in consequence of an application made to the Board, the Board shall not direct that the return shall have effect from a day earlier than the day on which that application was made.

33. (1) Subject to this Division every Officer in relation to whose Office there is for the time being specified under subparagraph (i) of paragraph (a) of subsection (1) of section 31 of this Act an annual increment of salary, and who has complied with any requirement specified under subparagraph (ii) of that paragraph in relation to that Office, shall be entitled to receive such increment of salary until that Officer is receiving the maximum salary fixed by the Board in respect of that Office. Increments.

(2) Notwithstanding anything in subsection (1) of this section, an Officer otherwise entitled to receive an increment shall not receive that increment when the Board is satisfied, on a report from the Permanent Head, that the conduct or diligence of the Officer has not been satisfactory.

(3) On receiving a report referred to in subsection (2) of this section the Board may deprive the Officer concerned of any increment he would otherwise be entitled to receive until it is satisfied, on a report from the Permanent Head, that the conduct and diligence of the Officer is satisfactory.

34. If an officer is appointed to an Office or is appointed to act temporarily in an Office, the Board may direct that the Officer shall be entitled to receive an increment of salary from such time as is fixed by the Board, notwithstanding the fact that the Officer concerned has not held that Office for a year. Accelerated incremental advance.

35. (1) The Board may transfer temporarily any Officer from one Office to another. Other duties allowance.

(2) Subject to subsection (3) of this section, where an Officer performs for more than one week, duties other than duties on which his classification is based, the Board may authorize payment of such allowance to that Officer in respect of those

PART III.
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duties as the Board determines and where the duties so performed constitute the whole or substantially the whole of another Office the allowance so authorized shall be not less than the difference, if any, between the salary of the Officer and the minimum salary payable in respect of that other Office.

(3) Nothing in subsection (2) of this section shall be deemed to entitle an Officer to payment of an allowance under that subsection in respect of any duties performed in consequence of the absence of an Officer on recreation leave.

Allowances and deductions.

36. (1) The Board may—

(a) fix all or any of the following allowances which may be paid to an Officer—

- (i) travelling allowance ;
- (ii) allowance in lieu of quarters ;
- (iii) meal allowance ;
- (iv) living away from home allowance ;
- (v) locality allowance ;
- (vi) allowance in lieu of overtime ;
- (vii) shift work allowance ;
- (viii) allowances for work on public holidays or weekends ;

and

(ix) allowances in respect of any other prescribed matter,

and determine the circumstances or conditions in or under which any such allowance shall be payable ;

and

(b) fix the charges payable by, or deductible from the salary or wages of, an Officer for the following items—

- (i) board ;
- (ii) lodging ;
- (iii) meals ;
- (iv) fuel ;
- (v) light ;
- (vi) water ;
- (vii) power ;
- (viii) rations ;

and

(ix) any other prescribed goods or services, provided by the Government of the State.

(2) An allowance or charge fixed under this section may be expressed to take effect from the day on which it is fixed, from a day before that day or from a day subsequent to that day and shall take effect accordingly.

37. (1) The Board may, in respect of any building or part of a building belonging to or leased by the Crown which is occupied by an Officer as a residence whether as lessee or otherwise, from time to time fix the rent or other payment to be paid by that Officer in respect of that occupation and the Board may direct that any rent or other payment for the time being so fixed shall be deducted from the salary or wages of that Officer.

Buildings
occupied as
residences.

(2) For the purposes of subsection (1) of this section a rent or other payment fixed under subsection (2) of section 32a of the Public Service Act, 1936-1966, shall be deemed to be a rent or other payment fixed under subsection (1) of this section.

38. (1) Any determination by the Governor under section 28 of the Public Service Act, 1936-1966, and in force immediately before the commencement of this Act, shall have effect as if it was a determination under section 30 of this Act.

Saving of
former
determinations,
returns, etc.

(2) Any return made under section 29 or continued in operation under subsection (5) of section 30 of the Public Service Act, 1936-1966, and in force immediately before the commencement of this Act shall, so far as it is within the powers conferred on the Board by subsection (1) of section 31 of this Act, have effect as if it were a return made by the Board under section 31 of this Act.

DIVISION IV.—FIRST APPOINTMENT OF OFFICERS.

DIVISION IV.

39. The Governor shall not appoint a person to an office in the Public Service unless that person—

First appoint-
ment.

- (a) is a British subject ;
- (b) has satisfied the Board by medical examination or otherwise as to his health and physical fitness ;
- and
- (c) has attained any educational or vocational standard prescribed either generally or in relation to an Office or class of Offices.

40. (1) Except as otherwise provided in this Act, every person appointed to the Public Service shall be appointed, in the first instance on probation for a period of six months or such other period, not exceeding in all two years, as the Board may in any particular case from time to time fix.

Admission on
probation.

PART III.

DIVISION IV.

(2) The services of a person appointed on probation in accordance with subsection (1) of this section may be dispensed with by the Governor at any time during his period of probation.

(3) At the conclusion of the period of probation referred to in subsection (1) of this section the Governor shall—

(a) confirm the appointment ;

or

(b) annul the appointment,

of the person concerned.

Annulment of
appointment.

41. No person whose appointment has been annulled under paragraph (b) of subsection (3) of section 40 of this Act shall be eligible for appointment as a probationer at any time within twelve months from the date of that annulment.

Appointment
without
examination or
probation.

42. (1) If in any particular case it appears to the Board that it is desirable or expedient in the public interest to appoint a person to an Office in the Public Service without probation, then the Governor may so appoint that person.

(2) Without limiting the generality of the powers conferred by subsection (1) of this section a person may be appointed under that subsection if—

(a) being a person not in the employ of the Government of the State, the Board is of the opinion that he has sufficient superiority of qualifications and aptitude for the position to be filled to justify his appointment in preference to any Officer who is available for the position ;

(b) he is a person employed in the service of the State otherwise than as an Officer ;

or

(c) he is a person who before or after the commencement of this Act was employed in the service of the State.

Re-appoint-
ment of former
Officers of the
State.

43. Where a person was at any time whether before or after the commencement of this Act appointed or transferred to the employment of the Commonwealth and was at the time of that appointment or transfer, as the case may be, employed permanently in the service of the State, he shall, subject to anything prescribed, be eligible for appointment to an Office without probation.

PART III.
DIVISION IV.

Re-appoint-
ment of
persons who
have resigned
from the
Public Service
to become
candidates at
elections.

44. (1) Where the Board is satisfied that—

(a) a person who was an Officer—

(i) resigned from the Public Service in order to become a candidate for election as a member of a House of Parliament of the State or Commonwealth ;

(ii) was a candidate at the election ;

and

(iii) failed to be elected ;

and

(b) the resignation took effect not earlier than one month before the date on which nominations for the election closed,

the Governor may, on application by that person within two months after the declaration of the results of that election re-appoint that person to the Public Service on the same salary as he had immediately before his resignation.

(2) A person may be re-appointed under this section whether or not he is within the appropriate age limits (if any) prescribed for appointment or possesses the prescribed educational requirement, if any.

(3) A person may be re-appointed under this section without probation.

(4) A person re-appointed under this section shall be deemed to have continued in the Public Service as if he had not resigned but had been on leave of absence without pay granted under section 98 of this Act during the period from the day on which his resignation became effective to and including the day immediately preceding the day on which he was so re-appointed.

45. Notwithstanding anything in any other Act, every appointment to an Office shall be made as provided for in this Act and not by any other person or authority.

Appointment
to Office to be
in accordance
with this Act.

DIVISION V.—FILLING OF VACANT OFFICES.

DIVISION V.

46. (1) When a vacancy occurs in the Office of a Permanent Head the Board may, in the prescribed manner, call for applications for appointment to that vacant Office.

Vacancy in
an Office of
Permanent
Head.

(2) The Governor may, from amongst the Officers making application for appointment to the vacant Office referred to in subsection (1) of this section, appoint an Officer to that vacant Office.

PART III.

DIVISION V.

Vacancy in
other office.

47. (1) When a vacancy occurs in an Office other than an Office of Permanent Head the Board may, in the prescribed manner, call for applications for appointment to that vacant Office.

(2) The Board may from amongst the Officers making application for appointment to the vacant Office referred to in subsection (1) of this section, having regard to the relative efficiency of the Officers, nominate an Officer for appointment to the vacant Office.

(3) For the purposes of this Division—

(a) “efficiency” means special qualifications and aptitude for the discharge of the duties of the Office to be filled and, in addition in the case of Offices specified when applications are called for, special qualifications and aptitude for the discharge of the duties of Offices of a higher status than the Office to be filled together in each case with merit and good and diligent conduct ;

(b) “Officer” includes any officer of either House of Parliament or any person under the separate control of the President of the Legislative Council or the Speaker of the House of Assembly or under their joint control, who immediately before his first appointment as such an officer or his first employment as such a person was—

(a) an officer within the meaning of the Public Service Act, 1936-1966 ;

or

(b) an Officer within the meaning of this Act.

Appeals.

48. (1) A nomination made under subsection (2) of section 47 of this Act shall be notified in the prescribed manner and shall be subject to the right of appeal to the Committee.

(2) An appeal under this section shall be made in such form and in such manner and within such time as is prescribed and may be made by any Officer who applied for appointment to the vacant Office and who considers that he is more entitled to appointment to the vacant Office than the Officer nominated under subsection (2) of section 47 of this Act.

**Action when
no appeal
made.**

49. Where no appeal is made within the time prescribed under subsection (2) of section 48 of this Act then the Governor may appoint the nominated Officer to the vacant Office.

**Appointments
Appeal
Committee.**

50. (1) For the purposes of this Act, there shall be an Appointments Appeal Committee which shall consist of a Chairman and two members.

(2) The Chairman, who shall be a special magistrate and one member of the Committee, who shall be an Officer, shall be appointed by the Governor.

(3) The other member of the Committee shall—

(a) be selected by the appellant from amongst the Officers comprising the panel referred to in section 51 of this Act ;

or

(b) where there is more than one appellant and those appellants do not agree on the selection of an Officer in accordance with paragraph (a) of this subsection, be appointed by the Governor from amongst the Officers comprising that panel.

(4) The Chairman and members of the Committee shall receive such allowances as the Governor determines.

51. (1) For the purposes of section 50 of this Act, there shall be constituted a panel consisting of the Officers nominated, in accordance with this section, by each of the recognized organizations.

Constitution
of panel.

(2) Each recognized organization may nominate one Officer and in addition, one Officer for each twenty per centum of the number of Officers for the time being in the Public Service, who are members of the organization.

52. (1) When an appeal has been made in accordance with subsection (2) of section 48 of this Act the Committee shall—

Proceedings
before
Committee.

(a) give or cause to be given to the appellant, the Board and the nominated Officer notice of the time and place where the appeal will be heard ;

(b) hear and consider any relevant evidence, information or argument submitted by or on behalf of the appellant, the Board, the Permanent Head of the Department in which the vacancy occurs and the nominated Officer ;

and

(c) determine the appeal in such manner as it deems just having regard to the relative efficiency of the appellant and the nominated Officer.

(2) An officer of a recognized organization, of which a nominated Officer or appellant is a member, may present evidence or argument on behalf of that nominated Officer or appellant, as the case may be, and an Officer may perform a like function on behalf of the Board or Permanent Head.

PART III.

DIVISION V.Determination
of appeal, etc.

53. (1) At the conclusion of the hearing of an appeal under this Division the Committee shall report to the Board that—

(a) it upholds the appeal and recommends the appointment of the successful appellant named in the report ;

or

(b) it dismisses the appeal.

(2) When a report is made in accordance with subsection (1) of this section the Governor may appoint to the vacant Office the nominated Officer or the successful appellant as the case requires.

Right of
Officers to
decline
nomination,
etc.

54. Any Officer may decline an offer of nomination for appointment without prejudice to his right of future nomination for appointment.

Early vacation
of Office.

55. Where an Officer is absent on leave granted under this Act and the Board is satisfied that, at the conclusion of that leave, the Officer will not resume duty in his Office then the Board may by writing declare that for the purposes of this Act that Office shall be deemed to be vacant and upon that declaration this Act shall apply as if that Office was a vacant Office.

Preservation
of the powers
of the
Governor to
make appoint-
ments other-
wise than
under this
Division.

56. Nothing in this Division shall be construed or held to abrogate or restrict any right or power of the Governor to make an appointment to an Office in the Public Service otherwise than under this Division.

Order for
appointment.

57. (1) The Governor may by order appoint an Officer to an Office classified at not less than the salary or limits of salary applicable to the Office occupied by that Officer immediately before the making of that order.

(2) An Officer shall not refuse or fail to comply with an order made under subsection (1) of this section.

(3) Notwithstanding anything in this Division contained no appeal under this Division shall lie in respect of an appointment made under subsection (1) of this section.

DIVISION VI.

Offences.

DIVISION VI.—DISCIPLINE.

58. If any Officer—

(a) commits a breach of the provisions of this Act or the provisions of any Act which is applicable to the Public Service, to the special position of that Officer or to the duties of that Officer ;

- (b) wilfully disobeys or disregards any lawful order made or given by any person having authority to make or give the order ;
- (c) by word or conduct displays insubordination ;
- (d) is negligent, careless or indolent in the discharge of his duties ;
- (e) is inefficient or incompetent through causes which are within his own control ;
- (f) uses intoxicating liquor or drugs to excess ;
- (g) conducts himself in a disgraceful, improper or unbecoming manner in his official capacity or otherwise ;
- (h) is absent from duty without leave of absence or without reasonable cause (proof of which shall lie upon him) ;
- (i) otherwise than in the discharge of his duties, directly or indirectly discloses to any person information acquired in the course of his duties except by the direction or with the permission of the Minister ;

or

- (j) without the permission of the Minister directly or indirectly and whether anonymously or otherwise, makes any communication or contribution or supplies any information to any newspaper or publication of a similar nature on any matter affecting the Public Service or any Department thereof or the business or the Officers of the Public Service or any Department thereof or on his own Office or his own acts or duties as an Officer,

he shall be guilty of an offence and shall be liable to such punishment as may be determined under section 59 or section 64 of this Act.

59. (1) If the Permanent Head has reason to believe that an Officer may have committed an offence under section 58 of this Act but that the nature of that offence does not require more than an admonition to the Officer concerned, the Permanent Head may call upon that Officer for an explanation and if, after consideration of that explanation, he is of the opinion that the Officer has committed the offence he may admonish the Officer.

Admonition.

(2) An admonition given under subsection (1) of this section shall thereupon be reported in writing to the Board.

(3) Where the Officer concerned is dissatisfied with an action of the Permanent Head under subsection (1) of this section that Officer may, within seven days of being informed of that action, appeal in writing to the Board stating the

PART III.
DIVISION VI.

ground of his dissatisfaction and the Board shall inquire into and consider that appeal and the Board shall—

(a) confirm that admonition ;

or

(b) annul that admonition,

and the decision of the Board shall be final.

(4) Notwithstanding anything in this section, where the Board is of the opinion that the offence in respect of which an admonition was administered under this section should not, in all the circumstances, have been dealt with by way of admonition the Board may—

(a) annul that admonition ;

and

(b) direct the Permanent Head to charge, in accordance with section 60 of this Act, the Officer concerned.

Charges.

60. (1) Where there is reason to believe that an Officer other than a Permanent Head may have committed an offence under section 58 of this Act and the nature of that offence is such that in the opinion of the Permanent Head it should not be dealt with under section 59 of this Act, or the Board has made a direction under paragraph (b) of subsection (4) of section 59 of this Act, then the Permanent Head shall charge the Officer concerned by serving that Officer with a written statement of the particulars of the alleged offence.

(2) Upon being served with a statement in accordance with subsection (1) of this section the Officer concerned may, within seven days of such service, reply in writing stating whether he admits or denies the truth of the charge and giving any explanation he desires in relation thereto.

(3) If a reply referred to in subsection (2) of this section is not made in accordance with that subsection the Officer concerned shall be deemed to have denied the truth of the charge.

Suspension.

61. (1) Where, in the opinion of the Permanent Head the nature or circumstances of the offence alleged to have been committed are such that the Officer concerned should not continue in the performance of his duties, the Permanent Head may suspend the Officer concerned from Office by serving that Officer with written notice of suspension.

(2) A suspension effected under subsection (1) of this section may be imposed prior to, at the time of or subsequent to the charging of the Officer concerned and may be removed at any time by the Permanent Head.

(3) Unless the Board otherwise directs, an Officer suspended under this section shall be entitled to his salary, wages or allowances in respect of that period of suspension.

(4) Notwithstanding anything in this section on a charge being found or reported not to have been proved, a suspension imposed under this section in respect of that charge shall thereupon be removed and the Officer concerned shall, where the Board has made a direction under subsection (3) of this section, be entitled to receive the salary, wages or allowances that he would have been entitled to receive but for that direction.

62. After considering the charge made in accordance with subsection (1) of section 60 of this Act and the reply and explanation, if any, given by the Officer concerned under subsection (2) of that section and after making such further inquiries and investigation as he considers necessary, the Permanent Head shall—

Consideration
by Permanent
Head.

- (a) if the Officer concerned admits the truth of the charge, report the facts relating thereto, to the Board ;
 - (b) if he is of the opinion that though the Officer denies the truth of the charge on the face of the matter a case has been made against the Officer concerned, report the facts relating thereto to the Board ;
- or
- (c) if he is of the opinion that the charge has not been proved, report the fact to the Board.

63. The Board may—

- (a) on receiving a report under paragraph (a) of section 62 of this Act deal with the Officer concerned under section 64 of this Act ;

and

- (b) on receiving a report under paragraph (b) of section 62 of this Act by hearing determine whether or not the charge is proved and if it finds the charge proved deal with the Officer concerned under section 64 of this Act.

Action by
the Board on
receipt of a
report.

64. (1) Subject to section 66 of this Act, where—

- (a) the officer concerned admits the truth of the charge ;
- or
- (b) the Board finds the charge is proved,

Imposition of
penalties.

then the Board may impose all or any of the following penalties—

- (i) deprive the Officer concerned of his recreation or other leave of absence during, or in respect of a specified period ;

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DIVISION VI.

(ii) if the Officer concerned is already suspended under section 61 of this Act, further suspend that Officer for such period as it thinks fit or in any other case suspend the Officer concerned for such period as it thinks fit and in either case such further suspension or suspension shall have effect to deprive the Officer concerned of his salary, wages or allowances in respect of the period of further suspension or suspension, as the case may be ;

(iii) recommend to the Governor that the Officer concerned be reduced to an Office having a lower salary or limits of salary than the Office he occupies or recommend to the Governor that the Officer concerned be transferred to an Office in another location or recommend that the Officer concerned be so reduced and transferred ;

or

(iv) recommend to the Governor that the Officer concerned be dismissed from the Public Service.

(2) On receiving a recommendation made under paragraph (iii) or paragraph (iv) of subsection (1) of this section the Governor may, subject to section 66 of this Act reduce, transfer or dismiss, as the case requires, the Officer concerned.

Alleged
offences by
Permanent
Head.

65. Where there is reason to believe that an Officer being a Permanent Head may have committed an offence against section 58 of this Act then sections 59, 60, 61, 62, 63 and 64 of this Act shall have effect as if the words "the Minister" were substituted for the words "the Permanent Head" and *mutatis mutandis* the words "Permanent Head" were substituted for the word "Officer".

Appeal to
Tribunal.

66. An Officer aggrieved by a decision of the Board under this Division may within the prescribed time and in the prescribed manner appeal to a Tribunal constituted under section 67 of this Act.

Appointment
of a Tribunal.

67. For the purposes of this Division there shall be a Tribunal consisting of—

(a) a judge or a special magistrate who shall be Chairman ;

(b) a member, being an Officer and not of the Department in which the Officer concerned is or, being suspended, was employed ;

and

(c) a member being a person nominated by the Officer concerned from the persons constituting the panel provided for under section 69 of this Act, appointed by the Governor, for the purpose of the appeal.

68. A member of the Tribunal shall receive such remuneration for his services as the Governor determines, and where the member is an Officer the remuneration so determined shall, if the Governor so directs, be in addition to his salary as an Officer.

Remuneration
for members
of Tribunal.

69. (1) For the purposes of this Division, there shall be a panel consisting of the Officers nominated, in accordance with this section, by each recognized organization.

Constitution
of panel.

(2) Each recognized organization may nominate one Officer and in addition, one Officer for each twenty per centum of the number of Officers for the time being in the Public Service, who are members of the organization.

70. (1) Where an appeal is made in accordance with section 66 of this Act the Tribunal shall—

Inquiry, etc.,
by Tribunal.

(a) fix a time and place for the hearing of the appeal ;
and

(b) at the time and place fixed under paragraph (a) of this subsection or at such other time and place to which it may from time to time adjourn make such inquiry and investigation as it considers necessary and shall determine that—

(i) the appeal is upheld ;

or

(ii) the appeal is dismissed,

and shall make such order as to it seems just and shall, at the request of a party to the proceedings, give reasons for its decision.

(2) Without limiting the generality of the power to make an order under subsection (1) of this section where the appeal is against the severity of the punishment imposed by the Board under section 64 of this Act the order may vary the punishment imposed by the Board under that section by substituting for the punishment imposed any other punishment that the Board is empowered to impose under that section.

71. On an order being made under section 70 of this Act the decision of Board appealed from shall be deemed to be varied in the manner specified in the order.

Effect of
order.

PART III

DIVISION VI.
Representation.

72. (1) The Officer concerned may be represented before the hearing of the Board, or Tribunal, as the case may be, by counsel, solicitor or agent and on a finding that the charge is not proved may be reimbursed with such expenses necessarily incurred as the Governor may, on the recommendation of the Board or Tribunal, approve.

(2) The charging authority may be represented by counsel, solicitor or agent.

(3) In this section the "charging authority" means, the Permanent Head or Minister, as the case requires.

Criminal
offences by
Officers.

73. (1) Subject to subsection (2) of this section where an Officer is charged with a criminal offence, any proceedings which have been commenced under this Division in connection with the facts constituting that offence shall be stayed.

(2) Nothing in subsection (1) of this section shall be deemed to affect any suspension that may have been imposed on an Officer under subsection (1) of section 61 of this Act and a final order or finding of a court other than a finding of guilty shall have effect as a finding or report referred to in subsection (4) of that section.

Convicted
Officer may be
dismissed, etc.
from the
Service.

74. (1) Where an Officer is convicted of a criminal offence, the Board may, if it is of the opinion that it is not in the public interest that the Officer concerned should continue in the Public Service or should not continue in the Office he occupied before he was so convicted, report accordingly to the Governor.

(2) On receiving a report under subsection (1) of this section the Governor may dismiss that Officer from the Public Service or transfer him to another Office.

(3) Where an Officer has been dismissed or transferred under subsection (2) of this section and the conviction referred to in subsection (1) of this section has been subsequently quashed or he has received a pardon or the conviction has been otherwise nullified or he has been released from prison as a result of an inquiry into the conviction, he may be appointed by the Governor, without examination and without probation, to the Public Service at the same classification as he had immediately before that dismissal or transfer.

Hearing in
absence of
Officer.

75. (1) Nothing in this Division contained shall be deemed to prevent the Permanent Head or Board as the case may be, from proceeding in the absence of the Officer concerned when after due inquiry the Permanent Head, or Board as the case

may be, is of the opinion that that absence arises out of the fault of the Officer concerned and an imposition, finding or report, as the case may be, shall not be invalid by reason of the fact that the proceedings took place in the absence of the Officer.

(2) Notwithstanding anything in subsection (1) of this section contained the Tribunal on good cause being shown by the Officer concerned may vary an imposition, finding or report made in accordance with that subsection.

76. Nothing in this Act shall be construed or held to abrogate or restrict the right or power of the Crown, under any other Act or at common law, to dispense with the services of any Officer or temporary Officer.

Saving of
right of
Crown to
dispense with
services of
Officers.

DIVISION VII.—COMPULSORY TRANSFER, RETIREMENT, ETC.

DIVISION VII.

77. Where the Board finds that there are more Officers engaged in work than is necessary for the efficient and economical performance of that work it shall, in relation to each of those Officers it considers to be in excess of the number required for that performance and who is referred to for the purpose of this section as an "excess Officer"—

Excess
Officers.

(a) recommend to the Governor that the excess Officer be transferred to another Office having a classification equal to the classification of the Office occupied by him and if no such Office is available so recommend that he be transferred to an Office being available having a lower classification than the classification of the Office occupied by him ;

or

(b) in any other case, so recommend that the excess Officer be retired from the Public Service.

78. (1) Where it appears to the Board that an Officer is—

Incapacity,
etc., of Officer.

(a) inefficient or incompetent in the discharge of the duties of his Office ;

(b) unfit to discharge those duties ;

or

(c) otherwise incapable of discharging those duties,

the Board, after making such inquiry as seems to it desirable, may—

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DIVISION VII.

(i) recommend to the Governor that the Officer be retired from the Public Service ;

or

(ii) so recommend that the Officer be transferred to an Office having a classification equal to or lower than the classification of the Office he occupied.

(2) Where a retirement is effected under paragraph (i) of subsection (1) of this section on the ground of injury or illness the date of that retirement may, with the consent of the Officer concerned, be fixed at a date earlier than the recommendation of the Board to retire that Officer.

Power of Governor to transfer or retire.

79. The Governor on receiving a recommendation under and in accordance with this Division may in accordance with the recommendation transfer or retire the Officer to whom the recommendation relates.

Transfer under this Division to take effect forthwith.

80. Notwithstanding anything in Division V of this Part contained an appeal under that Division shall not lie in respect of a transfer under and in accordance with this Division.

DIVISION VIII.

DIVISION VIII.—LEAVE OF ABSENCE.

Definition of "working week", etc.

81. For the purposes of this Division—

"working week" means the number of working days occurring in a calendar week :

and

"working day" means a day on which an Officer is normally required to work.

Entitlement of Officer to a grant of recreation leave.

82. (1) Subject to section 64 of this Act, an Officer is entitled to a grant of recreation leave in accordance with this Division at the rate of three working weeks for each year of his service and that entitlement shall accrue from whole month to whole month.

(2) Where, in the opinion of the Board, special circumstances exist in relation to the work of an Officer, the Board may increase the entitlement to recreation leave under subsection (1) of this section of that Officer by such amount not exceeding one working week as the Board directs.

83. (1) Subject to section 84 of this Act, the Permanent Head shall grant to an Officer—

(a) the recreation leave to which he is entitled in respect of the first year of his service before the expiration of the financial year next following the expiration of that year of service ;

and

(b) the recreation leave to which he is or may become entitled in respect of each subsequent year of service during the financial year within which that subsequent year of service expires.

(2) Where leave is granted under paragraph (b) of subsection (1) of this section before the expiry of the year of service in respect of which the Officer is entitled to that leave and the Officer terminates or has his service terminated before the expiry of that year of service, the Board may require that Officer to pay to the Treasurer of the State a sum calculated by the Board as being the monetary value of leave granted in respect of which service has not been performed by that Officer.

(3) Where an Officer who is entitled in accordance with subsection (1) of section 82 of this Act to recreation leave terminates or has his service terminated before he is granted that leave he shall, unless the Board in a particular case otherwise directs, be paid a sum calculated by the Board as being the monetary value of that leave.

(4) An Officer shall not refuse or fail to take the leave granted to him in accordance with this section.

84. Where in the opinion of the Board the interests of Department or some other special circumstances justify it, the Board may approve the granting of leave to an Officer otherwise than in accordance with subsection (1) of section 83 of this Act in which case the Permanent Head shall grant recreation leave to that Officer in accordance with the directions of the Board.

Accumulation
of leave.

85. A period of leave without pay granted under this Act exceeding one month at any one time shall not, unless the Board otherwise directs, count as service for the purposes of subsection (1) of section 82 of this Act.

Effect of
leave without
pay.

86. The Governor may, by notice published in the *Gazette* in relation to Departments specified in the notice, direct—

Closure of
Offices, etc.

(a) that all or any of the offices of a Department shall be closed to the public ;

or

(b) that all or any of the offices of a Department shall provide a limited service to the public, on the days specified in the notice.

Leave on
account of
sickness, etc.

87. (1) In the case of illness or other pressing necessity the Permanent Head may grant to an Officer in accordance with the prescribed conditions leave of absence with pay in an amount not exceeding the leave standing to the credit of that Officer.

(2) For the purposes of this section, the leave standing to the credit of an Officer, appointed before the commencement of this Act, shall be determined by—

(a) adding to the leave standing to his credit, immediately before the commencement of this Act, pursuant to subsection (2) of section 74 of the Public Service Act, 1936-1966, an accumulation of two working weeks and two working days for each first day of July which occurs after the commencement of this Act ;

and

(b) deducting from the total so obtained the number of working days in respect of which leave has been taken under this section.

(3) For the purposes of this section, the leave standing to the credit of an Officer, appointed after the commencement of this Act, shall be determined by—

(a) in a case where the Officer is appointed after the thirtieth day of June in a year and before the first day of January in the next succeeding year by crediting that Officer with—

(i) one working week and one working day on appointment ;

and

(ii) one working week and one working day on the first day of January next succeeding his day of appointment,

and thereafter two working weeks and two working days for each first day of July which occurs during his period of service ;

and

(b) in a case where an Officer is appointed after the thirty-first day of December in a year and before the first

day of July in the next succeeding year, by crediting that Officer with one working week and one working day on appointment and thereafter two working weeks and two working days for each first day of July which occurs during his period of service,

and in each case deducting from the total so obtained the number of working days in respect of which leave has been taken under this section.

88. Notwithstanding anything in section 87 of this Act, an Officer shall—

Limitation on grant of leave in certain cases.

(a) during his first six months of service not be entitled to a grant of leave under subsection (1) of that section exceeding in the aggregate one working week and one working day ;

and

(b) during the first twelve months of that service not be entitled to such a grant exceeding in the aggregate two working weeks and two working days.

89. In the case of an Officer who was absent on leave without pay in the financial year preceding the first day of July in any year of his service, for a period in the aggregate exceeding one month the amount of leave which shall be credited to him on that first day of July under section 87 of this Act shall be reduced by the proportion that the number of months' absence bears to twelve.

Absent on leave without pay.

90. (1) Subject to section 64 of this Act and this section, an Officer who has had not less than ten years continuous service whether or not portion of that service occurred before the commencement of this Act is entitled to the following leave of absence by way of long service leave—

Long service leave.

(a) in respect of the first ten years of continuous service ninety days leave on full pay or one hundred and eighty days leave on half pay ;

and

(b) in respect of each continuous year's service thereafter nine days' leave on full pay or eighteen days leave on half pay.

(2) The Board shall not grant to an Officer leave under this section in respect of any service in excess of ten years except—

(a) immediately before the Officer resigns or retires from the Public Service ;

(b) after the Officer has completed fifteen years of continuous service ;

or

(b) that all or any of the offices of a Department shall provide a limited service to the public, on the days specified in the notice.

Leave on
account of
sickness, etc.

87. (1) In the case of illness or other pressing necessity the Permanent Head may grant to an Officer in accordance with the prescribed conditions leave of absence with pay in an amount not exceeding the leave standing to the credit of that Officer.

(2) For the purposes of this section, the leave standing to the credit of an Officer, appointed before the commencement of this Act, shall be determined by—

(a) adding to the leave standing to his credit, immediately before the commencement of this Act, pursuant to subsection (2) of section 74 of the Public Service Act, 1936-1966, an accumulation of two working weeks and two working days for each first day of July which occurs after the commencement of this Act;

and

(b) deducting from the total so obtained the number of working days in respect of which leave has been taken under this section.

(3) For the purposes of this section, the leave standing to the credit of an Officer, appointed after the commencement of this Act, shall be determined by—

(a) in a case where the Officer is appointed after the thirtieth day of June in a year and before the first day of January in the next succeeding year by crediting that Officer with—

(i) one working week and one working day on appointment;

and

(ii) one working week and one working day on the first day of January next succeeding his day of appointment,

and thereafter two working weeks and two working days for each first day of July which occurs during his period of service;

and

(b) in a case where an Officer is appointed after the thirty-first day of December in a year and before the first

day of July in the next succeeding year, by crediting that Officer with one working week and one working day on appointment and thereafter two working weeks and two working days for each first day of July which occurs during his period of service,

and in each case deducting from the total so obtained the number of working days in respect of which leave has been taken under this section.

88. Notwithstanding anything in section 87 of this Act, an Officer shall—

Limitation on grant of leave in certain cases.

(a) during his first six months of service not be entitled to a grant of leave under subsection (1) of that section exceeding in the aggregate one working week and one working day ;

and

(b) during the first twelve months of that service not be entitled to such a grant exceeding in the aggregate two working weeks and two working days.

89. In the case of an Officer who was absent on leave without pay in the financial year preceding the first day of July in any year of his service, for a period in the aggregate exceeding one month the amount of leave which shall be credited to him on that first day of July under section 87 of this Act shall be reduced by the proportion that the number of months' absence bears to twelve.

Absent on leave without pay.

90. (1) Subject to section 64 of this Act and this section, an Officer who has had not less than ten years continuous service whether or not portion of that service occurred before the commencement of this Act is entitled to the following leave of absence by way of long service leave—

Long service leave.

(a) in respect of the first ten years of continuous service ninety days leave on full pay or one hundred and eighty days leave on half pay ;

and

(b) in respect of each continuous year's service thereafter nine days' leave on full pay or eighteen days leave on half pay.

(2) The Board shall not grant to an Officer leave under this section in respect of any service in excess of ten years except—

(a) immediately before the Officer resigns or retires from the Public Service ;

(b) after the Officer has completed fifteen years of continuous service ;

(c) immediately after the Officer has taken any leave under this section granted in respect of that first ten years of his service ;

or

(d) where the Board in any particular case approves.

(3) For the purposes of this section the expression continuous service includes, where portion of that service occurred before the commencement of this Act, all service regarded or which would be regarded as continuous service for the purposes of section 75 of the Public Service Act, 1936-1966.

(4) Every day occurring after the commencement of leave granted under this section and before the expiration of the period of that leave shall count as a day of such leave.

(5) Where an Officer who is entitled to leave under this section—

(a) is retired under section 77 of this Act ;

(b) is retired under section 78 of this Act ;

(c) retires or is retired under Division X of this Part ;

or

(d) resigns,

before he has been granted that leave, the Board shall authorize payment to the Officer of the amount of salary he would have received in respect of that leave if he had been granted that leave on the day his resignation or retirement took effect.

*Pro rata long
leave on
retirement,
etc.*

91. (1) Where an Officer who has not less than five years' effective service—

(a) is retired under section 77 of this Act ;

(b) is retired under section 78 of this Act by reason of injury or illness ;

(c) retires or is retired under Division X of this Part ;

(d) being a female, resigns on account of her pregnancy ;

(e) resigns for reasons which, in the opinion of the Board, arise from circumstances beyond his control,

before he or she is entitled to leave under section 90 of this Act, then the Board may authorize payment to that Officer of the monetary equivalent of his or her salary for nine consecutive calendar days for each year of effective service served by that Officer.

(2) For the purpose of this section and section 92 of this Act "effective service" means service which would under this Act count towards a grant of leave under section 90 of this Act.

92. (1) Where an Officer who has not less than five years' effective service, dies before he is entitled to leave under section 90 of this Act then the Board shall authorize payment to the dependants or personal representatives of that Officer, as the case may be, of the monetary equivalent of the Officer's salary for nine consecutive calendar days for each year of effective service served by that Officer.

(2) Section 97 of this Act shall apply to and in relation to a payment required to be made under subsection (1) of this section as if that payment was a payment that the Board was authorized to make under subsection (1) of that section.

93. Where a person before or after the commencement of this Act retires on a pension under section 40 or section 47 of the Superannuation Act, 1926-1967 and is subsequently appointed an Officer his continuous service before that retirement and his continuous service as an Officer shall be aggregated and be regarded as continuous service for the purposes of subsection (1) of section 90 of this Act but where, in respect of the continuous service before his retirement, the Officer has been granted, or received pay in lieu of, leave of a type similar to that provided for by section 90 of this Act, that Officer shall not be entitled to leave under that section in respect of that continuous service before his retirement.

94. Where—

(a) before the commencement of this Act the service of an officer within the meaning of the Public Service Act, 1936-1966, was terminated otherwise than by resignation, dismissal for misconduct or mental or physical incapacity ;

or

(b) after that commencement the service of an Officer is terminated under section 77 or section 78 of this Act,

and he is subsequently appointed an Officer within two years of that termination then his continuous service before that termination in respect of which he has not been granted, or received payment in lieu of, leave of a type similar to that provided for by section 90 of this Act and his continuous service after that appointment shall be aggregated and regarded as continuous service for the purposes of subsection (1) of section 90 of this Act.

PART III.
DIVISION
VIII.

Resumption of
service after
two years of
termination.

95. Where—

(a) before the commencement of this Act the service of an officer within the meaning of the Public Service Act, 1936-1966, was terminated otherwise than by resignation, dismissal for misconduct or mental or physical incapacity ;

or

(b) after that commencement the service of an Officer is terminated under section 77 or section 78 of this Act,

and that officer was again appointed an officer within the meaning of the Public Service Act, 1936-1966, or is appointed an Officer or that Officer is again appointed an Officer and the period between the termination was two years or more and the Board certifies that the appointment was sought and obtained as soon as was, in all the circumstances, reasonable after that termination and that the person concerned has completed not less than ten years continuous service either before that termination or after that appointment then the continuous service of that person before that termination in respect of which he has not been granted, or received payment in lieu of, leave of a type similar to that provided for by section 90 of this Act and after that appointment shall be aggregated and regarded as continuous service for the purposes of subsection (1) of section 90 of this Act.

Part time
Officers.

96. Where an Officer pursuant to an arrangement with his Department does not work on every working day but normally works on at least two days in every week or four days in every fortnight then for the purpose of subsection (1) of section 90 of this Act he shall be deemed to have had—

(a) in respect of the period commencing on the nineteenth day of May, 1930, and concluding on the fourteenth day of May, 1945, one week's service for each six days on which he actually worked ;

and

(b) in respect of the period commencing on the fifteenth day of May, 1945, one week's service for each five days on which he actually worked.

Payment in
respect of
dependants
of deceased
Officers.

97. (1) If an Officer entitled to leave under section 90 of this Act dies—

(a) before the commencement or during the currency of that leave ;

or

(b) before the grant of that leave,
then the Board may in respect of that leave or the unexpired portion of that leave, as the case may be, authorize payment to the dependants of that deceased Officer of the amount of salary that would otherwise have been payable to that Officer if he had resigned on the date of his death.

(2) If the Officer referred to in subsection (1) of this section died without leaving dependants, the Board may authorize payment of the amount of salary referred to in that subsection to his personal representatives.

(3) A question as to—

(a) whether or not there are any dependants in a particular case, or who are the dependants ;

or

(b) what dependant or dependants shall be entitled to the benefit of a payment under subsection (1) of this section and if there is more than one dependant what proportion of that payment shall be made to each dependant,

shall be settled by the Board as it seems fit.

(4) In this section the expression—

“dependants” means members of the family of the Officer who were wholly or in part dependant on the earnings of that Officer at the time of his death :

“members of the family” includes wife or husband, parents, grandparents, step-parents, children, grandchildren, step-children, brothers, sisters, half-brothers and half sisters.

98. (1) The Board may, if it is of the opinion that special circumstances justify it so doing, grant to an Officer special leave with pay for a period not exceeding three working weeks in any one year or special leave without pay for a period determined by the Board. Special leave.

(2) Where a grant of leave under subsection (1) of this section is made on account of sickness which, in the opinion of the Board, was caused by war service the limitation of three weeks expressed in that subsection shall not apply to and in relation to that leave.

(3) The Board may in the case of special leave without pay granted in accordance with subsection (1) of this section determine for what purposes, if any, that leave shall count as service.

PART III.
DIVISION
VIII.

Rights of
transferred
Officers.

99. (1) Where a person becomes an Officer and his service, whether before or after the commencement of this Act, as such is continuous with his service as—

- (a) an officer of the Public Service of the Commonwealth;
- (b) an officer of the Public Service of another State or a Territory of the Commonwealth;
- (c) an employee of the Council of the South Australian Institute of Technology;
- (d) an employee of the State otherwise than as an Officer;
- or
- (e) an employee of an organization specified by proclamation, which the Governor is hereby empowered to make for the purposes of this paragraph,

for the purposes of section 82, section 87 and section 90 of this Act his service in the capacity referred to in this subsection to the extent directed by the Board, shall be regarded as service as an Officer.

(2) In giving a direction under subsection (1) of this section the Board shall take into account—

- (a) the length of the service in the capacity referred to in that subsection;
- (b) the amount of leave similar to that provided for in section 82, section 87 or section 90 of this Act, as the case may be, taken by the Officer during the service referred to;

and

- (c) the amount of leave that would have been attributable to the service referred to if he had remained in that service for such period as would have entitled him to be granted leave of absence of a kind similar to that referred to in section 82, section 87 or section 90 of this Act.

Employees of
Group Laundry
and Central
Linen Service.

100. For the purposes of section 99 of this Act an employee of a hospital approved by the Minister for the purposes of section 76aa of the Public Service Act, 1936-1966, or by the Board for the purposes of this section who, on or after the first day of November, 1965, became an employee of the Government of the State at the Group Laundry and Central Linen Service of the Hospitals Department and whose service as such an employee was continuous with his service as an employee of that hospital shall be deemed to be an Officer having service with an organization prescribed under paragraph (e) of that section.

101. For the purposes of this Division the continuity of service of an Officer shall not be deemed to be broken by absence on leave with pay or, unless the Board otherwise directs, by absence on leave without pay.

Continuity of Service.

DIVISION IX.—COMMONWEALTH AND STATE OFFICERS.

DIVISION IX.

102. The fact that any person is an officer of the Public Service of the Commonwealth shall not thereby disqualify him from performing the duties of an Office in the Public Service.

Service in the Commonwealth not to disqualify for State service.

103. (1) The Governor may arrange with the Governor-General of the Commonwealth for the performance, by an officer of the Public Service of the Commonwealth, of any work or service, or for the executing of duties of any Office in the Public Service.

Discharge of State functions by Commonwealth Officer.

(2) In the case of an arrangement under subsection (1) of this section the Governor may by agreement with the Governor-General or otherwise make arrangements for determining—

- (a) the rate of payment to be made by the Government of the State to the Government of the Commonwealth in respect of the service performed or the work done ;
- and
- (b) any matters which may require to be adjusted with respect to the performance of those services or the execution of that work.

104. Where an Officer performs duties for the Commonwealth Government, the Governor may, by agreement with the Governor-General of the Commonwealth or otherwise, make arrangements for determining—

Discharge of Commonwealth functions by Officer.

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

PART III.**DIVISION IX.**

Arrangements for the performance of work or services for the Commonwealth.

105. The Governor may, at the request of the Governor-General of the Commonwealth, authorize and cause any work or service 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—

(a) the rate of payment to be made by the Government of the Commonwealth for the performance of that work or service ;

and

(b) any matters which may require to be adjusted with regard to the performance of that work or service.

DIVISION X.**DIVISION X.—RETIREMENT OF OFFICERS.**

Retirement of Officers.

106. Every Officer—

(a) in the case of a male Officer, having attained the age of sixty years shall be entitled to retire from the Public Service but may, subject to this Act, continue in the Public Service until he attains the age of sixty-five years ;

or

(b) in the case of a female Officer, having attained the age of fifty-five years shall be entitled to retire from the Public Service but may, subject to this Act continue in the Public Service until she attains the age of sixty years.

Continuation of Officer's service.

107. (1) Where an Officer being a male attains the age of sixty-five years or being a female attains the age of sixty years and in the opinion of the Board it is in the interests of the State that the Officer should continue in the performance of the duties of his Office and the Officer is able and willing to do so, the Board may approve the Officer continuing in Office for a period not exceeding twelve months otherwise every Officer on attaining the age of sixty-five years being a male or sixty years being a female, as the case may be, shall retire from the Public Service.

(2) Notwithstanding anything in this Act, where by proclamation under section 127 of this Act all or any of the provisions of this Division are applied to a Clerk of the Legislative Council or a Clerk of the House of Assembly then the reference to the Board in subsection (1) of this section shall be read as reference to—

(a) in the case of the application to a Clerk of the Legislative Council, the President of the Legislative Council ;

and

(b) in the case of the application to a Clerk of the House of Assembly, the Speaker of the House of Assembly.

PART IV.

PART IV.

TEMPORARY OFFICERS.

108. (1) Whenever in the opinion of the Board the prompt dispatch of business of a Department renders assistance necessary, and the Board is unable to arrange for such assistance from other Departments the Board may engage temporarily such temporary Officers as appear to it to be best qualified for the work.

Temporary employment.

(2) Subject to any determination of the Board under section 110 of this Act the services of a temporary Officer may be dispensed with at any time by the Permanent Head or the Board.

109. The continuous employment of a temporary Officer employed or deemed to be employed under section 108 of this Act whether in one Department or in more than one Department shall not extend beyond the end of the first or any succeeding year of that employment unless the Board certifies that the continued employment of that temporary Officer beyond the end of that first or succeeding year is necessary.

Limitation on period of employment.

110. (1) Subject to this section the terms and conditions of employment including rates of pay of a temporary Officer shall be as determined by the Board.

Terms and conditions of employment.

(2) A determination under subsection (1) of this section may apply all or portion of this Act to a temporary Officer as if that temporary Officer was an Officer and this Act or that portion shall have effect accordingly.

(3) Division VIII of Part III of the Act shall apply to and in relation to a temporary Officer as if he was an Officer.

111. A person who, immediately before the commencement of this Act was employed under section 49 of the Public Service Act, 1936-1966, in the public service as defined by that Act shall be deemed to be employed as a temporary Officer.

Persons temporarily employed under previous Act.

112. (1) Notwithstanding anything in this or any other Act, the Board may engage as a temporary Officer a person who—

Temporary employment of over-age persons.

(a) being a male has attained the age of sixty-five years ;

or

(b) being a female has attained the age of sixty years.

(2) Subject to this section, this Part shall apply to and in relation to a temporary Officer employed in accordance with subsection (1) of this section.

(3) A temporary Officer employed in accordance with subsection (1) of this section—

(a) shall not be eligible to be granted leave under section 90 of this Act ;

(b) shall not continue to be employed under this Part after attaining—

(i) in the case of a male, the age of seventy years ;

or

(ii) in the case of a female, the age of sixty-five years ;

(c) shall, if receiving a pension under the Superannuation Act, 1926-1967 subject to that Act continue to receive that pension during his or her employment.

(4) A person who, immediately before the commencement of this Act, was employed under section 49a of the Public Service Act, 1936-1966 in the public service as defined by that Act shall be deemed to have been employed as a temporary Officer under this Part in accordance with this section.

No delay in
filling of
vacancies.

113. The powers conferred on the Board by this Part shall not be exercised so as to prevent or delay the making of permanent appointments to Offices.

PART V.

PART V.

MISCELLANEOUS.

114. Nothing in this Act shall be read or construed as affecting the operation of the War Service (Preference in Employment) Act, 1943.

Application of War Service (Preference in Employment) Act, 1943.

115. (1) Where the Board is of the opinion that an organization being an association registered under Division VI of Part II of the Industrial Code, 1920-1966 represents the interests of a significant number of Officers, then the Board may by notice published in the *Gazette* declare that organization to be a recognized organization for the purposes of this Act.

Recognized organization.

(2) Where the Board is of the opinion that an organization declared by notice under subsection (1) of this section no longer represents the interests of a significant number of Officers it may by a like notice declare that organization not to be a recognized organization for the purposes of this Act and thereupon that organization shall cease to be a recognized organization for the purposes of this Act and a member of a panel constituted under section 51 of this Act or a panel constituted under section 69 of this Act nominated by that organization shall thereupon cease to be such a member.

(3) Any recognized organization shall have the right to make submissions to the Board on any matter arising out of or in relation to the exercise or performance of any power or function of the Board under this Act and the Board shall consider any submission so made.

(4) For the purposes of this Act, the Public Service Association of South Australia Incorporated shall be deemed to be a recognized organization.

116. Where in or by any Act, order-in-Council, proclamation, rule, regulation, by-law, contract or agreement any duty, obligation, right or power is imposed or conferred upon any Officer as such that duty, obligation, right or power may during the temporary absence or incapacity of that Officer be performed by any Officer directed by the Governor, Board or Permanent Head as the case requires to perform and exercise the duties, obligation, rights and powers of that absent or incapacitated Officer in the same manner and to the same extent in all respects as they might have been respectively performed by that absent or incapacitated Officer and everything done under the provisions of this section shall be good and effectual for all purposes and against all persons whatsoever as if done by the absent or incapacitated Officer.

Performance of duties, etc. of Officer in his absence.

117. (1) An Officer having any grievance relating to his employment, or affected by any report or recommendation made by a Permanent Head may, where no other remedy is

Grievances.

provided in this Act or in any other Act, and in such manner and within such time as are prescribed appeal to the Board.

(2) An appeal under this section shall be considered as prescribed by the Board and the Board shall thereupon give its decision on the appeal.

(3) An officer of a recognized organization, of which the Officer referred to in subsection (1) of this section is a member, may present evidence or argument on behalf of the Officer.

No compensa-
tion in con-
sequence of
operation of
Act.

118. No Officer shall be deemed to be entitled to any compensation by reason of any reduction of his salary or other remuneration or any alteration of the limits of his salary or any alteration in the scale of his allowances or expenses made by or under the Acts repealed by this Act or by this Act or any Act amending this Act.

Officer not to
engage in
duties
unconnected
with his Office.

119. (1) Except pursuant to an arrangement authorized by Division IX of Part III of this Act or with the permission of the Board which permission may at any time be withdrawn, no Officer shall—

- (a) accept or continue to hold office in or under the Government of the Commonwealth ;
 - (b) accept or continue to hold or discharge the duties or to be employed in a paid office in connection with any banking, insurance, mining, mercantile or other commercial business whether the same is carried on by a corporation, company, firm or individual ;
 - (c) engage in or undertake any such business whether as principal or agent ;
 - (d) engage or continue in the private practice of any profession, trade or business or enter into any employment whether remunerative or not with any person, company or firm who or which is so engaged ;
- or
- (e) accept or engage in any remunerative employment other than in connection with the duties of his Office or Offices.

(2) Nothing in subsection (1) of this section contained shall be deemed to prevent an Officer from becoming a member or shareholder only of an incorporated company, or of any company or society of persons registered under an Act of this State or elsewhere.

(3) For the purposes of this section, the permission of a Minister given under and in accordance with the provisions of section 72 of the Public Service Act, 1936-1966 shall be deemed to be the permission of the Board given under subsection (1) of this section.

120. Where an officer is adjudicated bankrupt, makes a composition for the benefit of his creditors for less than one hundred cents in the dollar, applies to take the benefit of any law in force in the State for the relief of bankrupt or insolvent debtors or makes any assignment of his salary for the benefit of his creditors, he shall make full disclosure of those facts to the Board.

Disclosures regarding bankruptcy to be made to the Board.

121. Where an Officer becomes in any way interested whether financially or otherwise, otherwise than in the course of his duty, in any contract or agreement made by or on behalf of the State he shall make full disclosure of that interest to the Board.

Interests in contracts to be disclosed to Board.

122. (1) No action or suit shall be brought or maintained against any person or body for a misfeasance or non-feasance in connection with the carrying out or attempted carrying out of any provisions of this Act or of an Act repealed by this Act.

No action to lie in respect of discharge of the Act, etc.

(2) Except in so far as expressly provided in this Act no action, suit or other proceeding shall lie nor shall any costs be payable in respect of any proceeding before the Board or delegate thereof, the Permanent Head or delegate thereof, Tribunal or Committee.

123. (1) Any decision of the Board under this Act relating to salaries or conditions of service shall be subject to—

Operation of Industrial Code not affected.

- (a) any award of the Industrial Commission of South Australia ;
- and
- (b) any agreement filed under the Industrial Code, 1920-1966.

(2) Nothing in this Act contained shall be construed as affecting the operation of the Industrial Code, 1920-1966.

124. (1) All public holidays shall be observed as holidays in the Public Service.

Holidays in the Public Service.

(2) The Governor may by proclamation at any time declare any day or part of a day to be a holiday in the Public Service, in addition to the days mentioned in subsection (1) of this section.

(3) The Board may require a Department or a part of a Department to be kept open in the public interest for the whole or part of a holiday in the Public Service and the Permanent Head may require the attendance and service of an Officer on that day.

PART V.

Notice to
Officers whose
address is
unknown.

125. (1) In the event of the address for the time being of an Officer being unknown to the Board, Permanent Head or Minister, as the case may be, all notices, orders, communications to or for that Officer may be posted to the last known address of that Officer and a notification of that posting published in the *Gazette*.

(2) Compliance with subsection (1) of this section shall, for the purposes of this Act, be deemed a sufficient service of the notice, order or communication on that Officer.

Application of
long service
leave provisions
to all persons
in employ of
State.

126. Notwithstanding anything in or under this or any other Act, so much of the provisions of Division VIII of Part III of this Act as relates to and in relation to a grant of long service leave under section 90 of this Act shall apply to and in relation to all persons in the employ of the State otherwise than as Officers or temporary Officers as if their service in that employment was service as an Officer unless in the conditions of their employment leave of a type similar to long service leave under that section is provided for.

Application of
section 106 of
this Act.

127. (1) Notwithstanding anything in or under this or any other Act, the Governor may by proclamation apply all or portion of Division X of Part III of this Act to a person or class of persons in the employ of the State otherwise than as Officers and thereupon that section shall apply to the employment of that person or those persons as if that employment was as an Officer.

(2) Notwithstanding anything in subsection (1) of this section the Board may approve the employment of a person who—

(a) has been retired ;

or

(b) would have been retired,

in consequence of a proclamation under that subsection, on such conditions as may be specified in the approval.

Employment
of coverage
persons in the
temporary
employment
of the State.

128. (1) Notwithstanding anything in this or any other Act, the—

(a) South Australian Railways Commissioner ;

or

(b) the Minister of Education,

may employ temporarily any person who—

(c) being a male, has attained the age of sixty-five years ;

or

(d) being a female, has attained the age of sixty years,

in the service of the South Australian Railways or as a teacher in the Education Department as the case may be.

- (2) A person employed under subsection (1) of this section—
- (a) shall be paid at the rates determined from time to time by the South Australian Railways Commissioner or the Minister of Education, as the case may be, as being applicable to the class of work performed ;
 - (b) shall not in the case of a person employed in the service of the South Australian Railways Commissioner be eligible for a grant of leave under section 90 of this Act ;
 - (c) shall if receiving a pension under the Superannuation Act, 1926-1967 subject to that Act continue to receive that pension during that employment ;
 - (d) shall if employed as a teacher in the Education Department not be employed in a position higher than that of temporary assistant ;
- and
- (e) shall not continue in that employment after attaining—
 - (i) in the case of a male, the age of seventy years ;
 - or
 - (ii) in the case of a female, the age of sixty-five years.

(3) The powers conferred by this section shall not be used so as to prevent or delay the making of appointments to vacancies occurring in offices and positions in the service of the Railways Commissioner or the Education Department as the case may be.

129. Where the Governor or a Minister has power (express or implied) under this or any Act to fix the remuneration of any person employed in the service of the State, the Governor or the Minister shall also have power unless the Act expressly provides to the contrary—

Power of Governor or Minister in relation to certain salaries.

- (a) to vary the remuneration so fixed ;
- and
- (b) to declare that the rate of remuneration so fixed or varied shall come into operation on the day on which it is so fixed or varied or on any day before or after that day.

130. (1) The Governor may, on the recommendation of the Board, make such regulations as may be necessary or convenient for carrying into effect the provisions and objects of this Act

Regulations.

including (but without limiting the generality of the foregoing) regulations for the purpose of—

- (a) prescribing the powers and functions of the Board in relation to the Public Service and regulating the performance by the Board of its powers and functions ;
- (b) regulating the appointment of Officers ;
- (c) facilitating the working of the Public Service ;
- (d) prescribing the conditions under which Officers may be appointed to prescribed Offices or prescribed classes of Offices ;
- (e) prescribing the form of and regulating exemptions from, medical examinations ;
- (f) for regulating the holding and control of examinations and the payment of examiners ;
- (g) for regulating the duties of Officers and the mode in which those duties shall be performed and for regulating the conduct of such Officers ;
- (h) for prescribing the mode of registering applicants for temporary employment and of selecting persons for appointment from applicants so registered ;
- (i) for regulating the hours of attendance of Officers and the keeping and signing of records of attendances or prescribing other methods of recording attendance ;
- (j) for regulating any matter connected with the employment of Officers ;
- (k) for regulating the granting of leave of absence ;
- (l) for regulating the performance by and payment to Officers for extra services ;
- (m) for fixing the maximum or minimum ages of persons who may be appointed to a specified Office or class of Office ;
- (n) for determining the dates, times, or periods of time at or within which shall be done any 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 ;
- (o) for notifying vacancies and the method of applying for appointment to fill vacancies ;
- (p) for prescribing the allowances to be paid to witnesses for their attendances and expenses ;

- (q) for regulating all matters in connection with proceedings before the Board, the Tribunal or the Committee ;
- (r) for prescribing where there is no provision in this Act, or no sufficient provision, in respect of any matter or thing necessary to give effect to this Act, in what manner or form the want or insufficiency of provision shall be met ;
- and
- (s) for the continuing in force of regulations made under an Act repealed by this Act to the extent that those regulations are not inconsistent with this Act.

(2) A regulation made under this Act shall not be invalid on the ground that it relates to events, things or circumstances which occurred before the passing of this Act.

(3) Any regulation made under this Act may be made to apply either generally or with respect to any particular case or class of cases, or any particular Office or Officer or class of Office or Officers, or the Officers in any particular place.

131. The moneys required for the purposes of this Act shall, except where express provision is made in this Act for any such moneys, be paid out of moneys provided by Parliament for such purposes.

**Moneys
required for
purposes of
Act.**

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

J. M. NAPIER, Governor's Deputy.

THE SCHEDULES.

Section 5.

FIRST SCHEDULE.

- Public Service Act, 1936.
- Public Service Act Amendment Act, 1937.
- Public Service Act Amendment Act (No. 2), 1937.
- Public Service Act Amendment Act, 1938.
- Public Service Act Amendment Act, 1940.
- Public Service Act Amendment Act, 1941.
- Public Service Act Amendment Act, 1942.
- Public Service Act Amendment Act, 1945.
- Public Service Act Amendment Act, 1946.
- Public Service Act Amendment Act, 1947.
- Public Service Act Amendment Act, 1948.
- Public Service Act Amendment Act, 1949.
- Public Service Act Amendment Act, 1950.
- Public Service Act Amendment Act, 1951.
- Public Service Act Amendment Act, 1952.
- Public Service Act Amendment Act, 1953.
- Public Service Act Amendment Act, 1954.
- Public Service Act Amendment Act (No. 2), 1954.
- Section 10 and section 11 of the Statutes Amendment (Public Salaries) Act, 1955.
- Section 5 of the Statutes Amendment (Public Salaries) Act, 1957.
- Section 3 of the Statutes Amendment (Long Service Leave) Act, 1958.
- Public Service Act Amendment Act, 1958.
- Section 6 of the Statutes Amendment (Public Salaries) Act, 1959.
- Section 6 of the Statutes Amendment (Public Salaries) Act (No. 2), 1960.
- Section 7 of the Statutes Amendment (Public Salaries) Act, 1965.
- Public Service Act Amendment Act, 1965-1966.
- Section 6 of the Statutes Amendment (Public Salaries) Act, 1967.

Section 25 (1).

THE SECOND SCHEDULE.

First Column.	Second Column.
Electoral Department	Returning Officer for the State
Government Reporting Department.....	Director
Chief Secretary's Department	Under Secretary
Department of the Public Actuary	Public Actuary
Audit Department	—
Government Printing Department	Government Printer
Police Department.....	—
Prisons Department	Comptroller of Prisons
Hospitals Department.....	Director General of Medical Services
Department of Public Health	Director General of Public Health
Department of the Public Service Board.	—
Attorney-General's Department	Secretary
Crown Solicitor's Department.....	Crown Solicitor
Parliamentary Draftsman's Department	Parliamentary Draftsman
Public Trustee Department	Public Trustee
Supreme Court Department	Master
Local Courts Department	Local Court Judge
Adelaide Magistrate's Court Department	Chief Summary Magistrate
Registrar-General of Deeds Department .	Registrar-General of Deeds
Department of Aboriginal Affairs	Director of Aboriginal Affairs
Department of Social Welfare	Director of Social Welfare
Premier's Department.....	Secretary
Treasury Department	Under Treasurer

THE SECOND SCHEDULE—*continued.*

First Column.	Second Column.
Superannuation Department	—
Motor Vehicles Department	Registrar of Motor Vehicles
Agent-General in England Department .	—
Land Tax Department	Commissioner of Land Tax
Stamp and Succession Duties Department	Commissioner of Stamps and Succession Duties
Immigration, Publicity and Tourist Bureau Department	Director
Department of Lands	Director of Lands
Botanic Garden Department	Director
Minister of Works Department	Secretary
Engineering and Water Supply Depart- ment	Director and Engineer-in-Chief
Public Buildings Department	Director
Public Stores Department	Chief Storekeeper
Minister of Education Department	Secretary
Education Department	Director-General of Education
Libraries Department	State Librarian
Museum Department	Director
Art Gallery Department	Director
Department of Labour and Industry ...	Secretary for Labour and Industry
Minister of Agriculture Department	Secretary
Agriculture Department	Director of Agriculture
Agricultural College Department	Principal
Produce Department	General Manager
Woods and Forests Department	Conservator of Forests
Department of Fisheries and Fauna Con- servation	Director of Fauna Conservation and Director and Chief Inspector of Fisheries
Chemistry Department	Director of Chemistry
Mines Department	Director of Mines
Department of Marine and Harbors ...	Director of Marine and Harbors
Department of Minister of Transport ...	Secretary
Department of Minister of Local Govern- ment and Roads	Secretary
Highways and Local Government Depart- ment	—

THE THIRD SCHEDULE.

Section 26 (1).

First Column.	Second Column.
Auditor-General	Audit Department
Commissioner of Police	Police Department
Chairman of the Public Service Board ..	Department of the Public Service Board
President of the South Australian Super- annuation Fund Board	Superannuation Department
Agent-General	Agent-General in England Department
Commissioner of Highways and Director of Local Government	Highways and Local Government Depart- ment