



ANNO DECIMO

# GEORGII V REGIS.

A.D. 1919.

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## No. 1385.

An Act to amend the Public Service Act, 1916, and for other purposes.

[Assented to, November 20th, 1919.]

**B**E it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. (1) This Act may be cited alone as the "Public Service Act Amendment Act, 1919." Short titles.
- (2) The Public Service Act, 1916 (hereinafter referred to as "the principal Act"), and this Act may be cited together as the "Public Service Acts, 1916 and 1919."
2. This Act is incorporated with the principal Act, and that Act and this Act shall be read as one Act. Incorporation with principal Act.
3. Subsection (2) of section 17 of the principal Act is amended by adding after the word "declared" in the third line thereof the words "upon the recommendation of the Minister made upon a report from the Commissioner". Amendment of principal Act, s. 17 (2)--  
Departments of the Public Service.
4. Subsection (1) of section 35 of the principal Act is amended so as to read as follows :— Amendment of principal Act, s. 35 (1)—
  - (1) Except as hereinafter provided, every person admitted to the Public Service shall, in the first instance, be appointed on probation only, and may be continued on probation for a period of six months, but the services of any person appointed on probation Admission to Service to be on probation.

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probation may be dispensed with at any time during his probation by the Minister (or by the Governor, if such person was so appointed by the Governor) on the recommendation of the Commissioner made upon a report from the Permanent Head.

*Amendments of Principal Act.*

Amendment of  
ibid., s. 54—

Investigation and  
punishment of  
offences.

5. Paragraphs (d) (e) (f) and (g) of section 54 of the principal Act are amended so as to read as follows:—

(d) After consideration of the charges and the explanation in writing (if any) furnished by the suspended officer, and after such (if any) further investigation as he deems necessary, the Permanent Head—

- i. if he is of opinion that the alleged offences have not been committed, shall forthwith remove the suspension:
- ii. if he is of opinion that the alleged offences, or any of them, have or has been committed, but are or is not of a serious nature, may reprimand or caution the suspended officer and remove the suspension: Provided that if the suspended officer is dissatisfied with any action of the Permanent Head under this subdivision he may, within seven days after such action has been taken, appeal in writing to the Commissioner stating the grounds of his dissatisfaction, and the Commissioner shall thereupon inquire into and consider the appeal and the grounds thereof and the charges, and shall give such decision as he deems just concerning the charges, and the decision of the Commissioner shall be final:
- iii. if he is of opinion that the alleged offences or any of them have or has been committed and are or is of a serious nature, shall forthwith refer the charges or such charge to the Commissioner, and the Commissioner shall thereupon, if he is of opinion that the charges or such charge are or is not of so serious a nature that an investigation thereof should be made by a Board of Inquiry, inquire into and consider the charges or such charge, and shall give such decision as he deems just concerning the charges or such charge: Provided that if the suspended officer is dissatisfied with any action or decision of the Commissioner under this subdivision, he may, within seven days after such action has been taken or such decision has been given, appeal in writing to the Board of Inquiry hereinafter provided for, stating the grounds of his dissatisfaction, and the said Board shall thereupon inquire

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inquire into and consider the appeal and the grounds thereof and the charges or such charge and shall give such decision as it deems just thereon, and the decision of the Board shall be final.

- (e) If the Commissioner is of opinion that such charges or charge are or is of so serious a nature that an investigation thereof should be made by a Board of Inquiry, he shall forthwith refer the charges or such charge to a Board of Inquiry consisting of—
- (1) a Judge of the Supreme Court, or a Special Magistrate, appointed by the Governor for the purpose of the inquiry, who shall be the Chairman ;
  - (2) a member (not being a member of the legal profession), appointed by the Commissioner for the purpose of the inquiry, who shall be an officer of the Public Service, but not of the Department in which the suspended officer is employed ; and
  - (3) an officer of the Division to which the suspended officer belongs, elected by the officers of such Division in such manner as is prescribed by regulation, who shall hold office for such term, and subject to such conditions, as are so prescribed :

Provided that in any case where the officer so elected is himself the suspended officer or is otherwise personally interested in the inquiry, or owing to illness or absence from the State or for any other reason is incapable of acting, the Board of Inquiry shall consist of the members mentioned in subdivisions (1) and (2) hereof, and the officer (if any) of the Division to which the suspended officer belongs who at the last election of an officer of that Division to serve on the Board received the next highest number of votes to the officer elected, or, if such officer is also personally interested in such inquiry or incapable of acting for any such reason as aforesaid, or there is no such officer, such other officer belonging to the said Division as is appointed by the Governor on the recommendation of the Commissioner.

- (f) If any of the charges is admitted, or is found by the Commissioner or the Board of Inquiry to be proved, the Minister may—
1. deprive the suspended officer of his annual or other leave of absence during, or in respect of, a specified period, or
  11. further suspend such officer for such period as he thinks fit, or
  111. according

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iii. according to the gravity of the offence, reduce such officer to a lower class or grade, or subdivision of a class or grade, with a corresponding reduction in salary or other remuneration, or transfer him to some other office, or both so reduce and transfer him, or

iv. dismiss such officer from the Public Service, or require him to resign within a specified time (in which case he may be dismissed by the Minister unless he so resigns): Provided that, in the case of any office as to which it is so prescribed by regulation, the power to dismiss or call upon any officer to resign shall not be exercised except with the previous approval of the Governor;

and the suspended officer, however dealt with under this paragraph, shall not, unless otherwise ordered by the Governor, be entitled to any salary or wages in respect of the period of his suspension.

(g) If none of the charges is admitted, and the Commissioner or the Board of Inquiry report that no charge is found to be proved, the suspension shall be removed by the Minister upon his being supplied with the report of the Commissioner or the Board, and the suspended officer shall be reinstated in his office without any loss of salary or wages in respect of the period of his suspension.

Amendment of *ibid.*,  
s. 56—

Provisions as to inquiry by Board.

6. Section 56 of the principal Act is amended by inserting the words "or the Board of Inquiry" after the word "Commissioner" wherever such word occurs in the said section.

Amendment of  
*ibid.*, s. 59 (1)—

Services of incapable officer may be dispensed with.

7. Subsection (1) of section 59 of the principal Act is amended by adding at the end thereof the following proviso:—

Provided that in the case of any office as to which it is so prescribed by regulation, the power to call upon an officer to retire from the Public Service shall not be exercised except with the previous approval of the Governor.

Amendment of  
*ibid.*, s. 68—

Provision for long leave of absence.

8. Section 68 of the principal Act is amended by adding at the end thereof the following subsection:—

(8) The provisions of section 74 shall not apply to any officer to whom long leave of absence has been granted under this section and who is on long leave of absence, if the Governor is satisfied that such officer intends upon the expiry of his long leave of absence to retire from the Public Service.

Amendment of  
*ibid.*, s. 74 (1)—  
Officer engaging in private employment.

9. Subsection (1) of section 74 of the principal Act is amended by inserting after the word "Minister" in the second line thereof the words "given upon the recommendation of the Commissioner".

*Additional*

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10. Until the holding of the first election under subdivision (3) of paragraph (e) of section 54 of the principal Act (as enacted by this Act), the Board of Inquiry shall consist of the members mentioned in subdivisions (1) and (2) of the said paragraph (e), and an officer of the Public Service whose duties are similar in character to the duties of the suspended officer, appointed by the Governor on the recommendation of the Commissioner for the purpose of the inquiry.

Provision for constitution of Board of Inquiry pending classification of Service into Divisions.

11. (1) Notwithstanding anything contained in the principal Act, the Governor may appoint to any office in the Public Service any person who has been on active service and who has been temporarily employed for a period of not less than six months in any Department of the Public Service, subject to the following conditions:—

Returned soldiers temporarily employed may be appointed to permanent offices in Public Service.

(a) That the Permanent Head of the Department certifies that such person is of good character and satisfactorily performs his duties; and

(b) That the Commissioner is satisfied that such person is competent to perform the duties of such office.

(2) The provisions of this Act as to age at the time of appointment, and as to examinations for appointment, shall not apply to persons appointed under this section, nor shall the provisions as to probation apply except in cases where the Governor directs that such provisions shall apply.

(3) In this section "active service" means service outside Australia in the war with Germany which commenced on the fourth day of August, nineteen hundred and fourteen, and with any of the Allies of Germany in that war, as a member of—

(a) the Australian Imperial Force or the Royal Australian Navy; or

(b) His Majesty's Army or Navy; or

(c) any naval or military force raised in any country forming part of His Majesty's Dominions for service in such war outside the country wherein such force is raised.

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

H. L. GALWAY, Governor.