



ANNO VICESIMO

ELIZABETHAE II REGINAE

A.D. 1971

No. 14 of 1971

An Act to amend the Public Service Act, 1967-1970

[Assented to 1st April, 1971]

BE 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 as the "Public Service Act Amendment Act, 1970-1971". Short titles.

(2) The Public Service Act, 1967-1970, as amended by this Act, may be cited as the "Public Service Act, 1967-1971".

(3) The Public Service Act, 1967-1970, is hereinafter referred to as "the principal Act".

2. Section 3 of the principal Act is amended—

Amendment of
principal Act,
s. 3—
Parts, etc.

(a) by striking out from the heading relating to Division IV of Part III the figures "39" and inserting in lieu thereof the figures "38a";

and

(b) by striking out from the heading relating to Division V of Part III the figures "46" and inserting in lieu thereof the figures "45a".

3. Section 35 of the principal Act is amended—

Amendment of
principal Act,
s. 35—
Other duties
allowance.

(a) by striking out from subsection (1) the passage "transfer temporarily any Officer from one Office to another" and inserting in lieu thereof the passage "direct that an

Officer perform temporarily duties other than or in addition to the duties on which his classification is based”;

and

- (b) by striking out from subsection (3) the passage “be deemed to entitle an Officer to payment” and inserting in lieu thereof the passage “authorize payment to an Officer”.

Enactment of
ss. 38a and
38b of
principal Act—

4. The following sections are enacted and inserted in Division IV of Part III of the principal Act immediately before section 39:—

Definition of
“appointing
authority”.

38a. In this Division the expression “appointing authority” in relation to a person means—

- (a) where that person has been or is to be appointed to an Office by the Governor, the Governor;

and

- (b) where that person has been or is to be appointed to an Office by the Board, the Board.

Board may
appoint to
certain
Offices.

38b. (1) Subject to this Division, the Board may appoint a person to an Office to which this section applies.

(2) This section shall apply to an Office having an annual salary or, in the case of an Office having limits of annual salary, a lower limit of annual salary equal to or less than the amount for the time being declared for the purpose of this section.

(3) The Governor may by proclamation declare an amount of salary to be an amount of salary declared for the purposes of this section and may by proclamation vary or revoke that declaration.

(4) Nothing in this section shall abrogate, limit or restrict the power of the Governor to appoint a person to an Office.

Amendment of
principal Act,
s. 39—
First
appointment.

5. Section 39 of the principal Act is amended—

- (a) by striking out the word “Governor” and inserting in lieu thereof the passage “appointing authority”;

and

- (b) by striking out the passage “office in the Public Service” and inserting in lieu thereof the passage “Office”.

Amendment of
principal Act,
s. 40—
Admission on
probation.

6. Section 40 of the principal Act is amended—

- (a) by striking out from subsection (2) the word “Governor” and inserting in lieu thereof the passage “appointing authority”;

and

- (b) by striking out from subsection (3) the word "Governor" and inserting in lieu thereof the passage "appointing authority".

7. Section 42 of the principal Act is amended by striking out from subsection (1) the word "Governor" and inserting in lieu thereof the passage "appointing authority".

Amendment of principal Act, s. 42—
Appointment without probation.

8. Section 46 of the principal Act is amended—

- (a) by striking out from subsection (2) the word "Officers" and inserting in lieu thereof the word "persons";

Amendment of principal Act, s. 46—
Vacancy in an office of Permanent Head.

and

- (b) by striking out from subsection (2) the passage "an Officer" and inserting in lieu thereof the passage "a person".

9. Section 53 of the principal Act is amended by inserting after subsection (2) the following subsection:—

Amendment of principal Act, s. 53—
Determination of appeal, etc.

(3) For the purposes of this section, a report referred to in subsection (1) of this section concurred in by not less than two of the persons constituting the Committee shall be deemed to be a report of the Committee.

10. Section 55 of the principal Act is repealed and the following section is enacted and inserted therein in its place:—

Repeal of s. 55 of principal Act and enactment of section in its place—

55. (1) If the Board is satisfied that—

Interim Offices.

- (a) an Officer is for any reason not available to perform the duties of his Office;

and

- (b) in all the circumstances, that Officer is not likely to become available to perform those duties,

then notwithstanding anything in section 29 of this Act the Board may by notice in writing create an Office, in this section referred to as an "interim Office", of the same designation and classification as that Office.

(2) Subject to this section this Act shall apply to and in relation to an interim Office as if that interim Office were an Office.

(3) So soon as a vacancy occurs in an Office in relation to which an interim Office has been created under this section the occupier of that interim Office may be appointed to that Office without regard being had to the matter contained in sections 46, 47, 48, 49, 52 and 53 of this Act and upon that appointment that interim Office shall be abolished.

(4) If—

(a) the occupant of an Office, in relation to which the interim Office has been created, again becomes available to perform the duties of that Office;

or

(b) the Office in relation to which the interim Office has been created is occupied by a person available to perform those duties otherwise than as is provided for in subsection (3) of this section,

then that interim Office shall thereupon be abolished and the occupier of the interim Office shall cease to be the occupier of the interim Office and shall revert to the Office, if any, he held immediately before he was appointed to that interim Office.

Amendment of
principal Act,
s. 64—
Imposition of
penalties.

11. Section 64 of the principal Act is amended—

(a) by striking out from subsection (1) the word “or” immediately following paragraph (iii) and inserting in lieu thereof the following paragraph:—

(iiia) recommend to the Governor that the salary of the Officer concerned be reduced by a stated amount for a stated period;

or;

(b) by inserting in subsection (2) after the passage “paragraph (iii)” the passage “, paragraph (iiia)”;

(c) by inserting in subsection (2) after the passage “the Governor may,” the passage “notwithstanding anything in any other Act but”;

and

(d) by striking out from subsection (2) the passage “reduce, transfer or dismiss, as the case requires, the Officer concerned” and inserting in lieu thereof the passage “give effect to that recommendation”.

Amendment of
principal Act,
s. 66—
Appeal to
tribunal.

12. Section 66 of the principal Act is amended by inserting after the passage “of the Board” the passage “, other than a decision to make a report referred to in subsection (1) of section 74 of this Act,”.

13. Section 70 of the principal Act is amended by inserting after subsection (2) the following subsection:—

Amendment of
principal Act,
s. 70—
Inquiry, etc.,
by Tribunal.

(3) For the purposes of this Division, a determination, order or other decision of the Tribunal concurred in by not less than two of the persons constituting the Tribunal shall be deemed to be a determination, order or other decision, as the case may be, of the Tribunal.

14. Section 74 of the principal Act is amended—

Amendment of
principal Act,
s. 74—
Convicted
Officer may be
dismissed, etc.,
from the
Service.

(a) by inserting in subsection (1) after the passage “he was so convicted,” the passage “subject to subsection (1a) of this section,”;

and

(b) by inserting after subsection (1) the following subsection:—

(1a) Before making a report pursuant to subsection (1) of this section the Board shall take such steps as are reasonably practicable to bring the substance of the report to the notice of the Officer concerned.

15. Section 82 of the principal Act is amended—

Amendment of
principal Act,
s. 82—
Entitlement to
grant of
recreation
leave.

(a) by inserting in subsection (1) after the figures “64” the passage “and section 86”;

and

(b) by inserting in subsection (1) after the word “service” the passage “the whole of which occurred before the first day of July, 1971, and at the rate of four working weeks for each year of his service the whole or any part of which year occurred after that day”.

16. Section 85 of the principal Act is repealed.

Repeal of
s. 85 of
principal Act.

17. Section 86 of the principal Act is amended by inserting after the present contents thereof (which are hereby designated subsection (1)) the following subsection:—

Amendment of
principal Act,
s. 86—
Closure of
offices, etc.

(2) Where in consequence of the publication of a notice under subsection (1) of this section an Officer, who but for that publication would be required to work on any of the days specified in the notice, is not required so to work, unless the Board directs otherwise, that Officer shall be deemed to have been granted, pursuant to section 83 of this Act, one working days recreation leave for each of those days on which he is not so required to work.

Amendment of
principal Act,
s. 87—
Leave on
account of
sickness, etc.

18. Section 87 of the principal Act is amended by striking out subsection (2) and inserting in lieu thereof the following subsections:—

(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 calculated as follows:—

(a) where the amount of leave granted during the prescribed period exceeded the annual allowance by deducting the amount by which the leave so granted exceeded the annual allowance from the accumulated credit of that Officer;

and

(b) where the amount of leave granted during the prescribed period did not exceed the annual allowance, by adding the difference between the amount of the leave so granted and the annual allowance to the accumulated credit of the Officer,

and in either case by adding to the total so arrived at, on each first day of July which occurs after the commencement of this Act, the annual allowance and deducting from that total as from time to time ascertained the number of working days in respect of which leave has been granted under this section.

(2a) In subsection (2) of this section—

“annual allowance” in relation to an Officer, means an amount equal to two working weeks and two working days, except in the case of an Officer appointed on or after the first day of January, 1968, where, in relation to that portion of that Officer’s service which occurred before the thirtieth day of June, 1968, the expression means an amount equal to one working week and one working day:

“accumulated credit” in relation to an Officer, means an amount of leave expressed in working days that would have stood to the credit of the Officer on the thirtieth day of June, 1967, calculated in accordance with the practice which then obtained and as if the passage “not exceeding sixteen weeks in the case of officers whose continuous service does not exceed ten years, and” and the passage “in the case of officers whose continuous service exceeds ten years” did not appear in subsection (2) of section 74 of the Public Service Act, 1936-1966”:

“leave granted during the prescribed period” in relation to an Officer, means the amount of leave granted pursuant to subsection (2) of section 74 of the Public Service Act, 1936-1966, during the period commencing on and including the first day of July, 1967, and concluding on and including the twenty-eighth day of February, 1968, expressed as working days.

19. Section 89 of the principal Act is repealed.

Repeal of
s. 89 of
principal Act.

20. Section 90 of the principal Act is amended—

Amendment of
principal Act,
s. 90—
Long Service
leave.

(a) by striking out subsection (2) and inserting in lieu thereof the following subsections:—

(2) The Board may on the application of an Officer grant to that Officer all or portion of the leave to which that Officer is entitled pursuant to subsection (1) of this section subject to such conditions as may be imposed by the Board relating to—

- (i) the time at which that leave may be granted;
and
- (ii) the minimum period of that leave which may be granted at any one time.

(2a) Where a period of leave on half pay is granted pursuant to subsection (2) of this section for the purposes of this Act the first half of that leave shall be deemed to be leave with pay and the remaining half of that leave shall for those purposes be deemed to be leave without pay granted in accordance with section 98a of this Act.;

(b) by inserting in subsection (5) after the passage “to the Officer of” the passage “a lump sum equal to”;
and

(c) by inserting after subsection (5) the following subsection:—

(6) Where an Officer is dismissed, the Board may, having regard to the circumstances of his dismissal, authorize payment to that Officer of an amount equal to all or portion of the lump sum to which pursuant to subsection (5) of this section, the Officer would have been entitled if he had resigned and his resignation had taken effect on the day on which his dismissal took effect.

Repeal of
s. 96 of
principal Act
and enactment
of section in
its place—

Leave in
respect of
service
other than
full-time
service.

21. Section 96 of the principal Act is repealed and the following section is enacted and inserted in its place:—

96. (1) In this Division a reference to service (other than such a reference in this section) in relation to an Officer shall be read as a reference to full-time service of that Officer.

(2) For the purposes of this Division, the service of an Officer shall not be regarded as full-time service unless that Officer is, in the terms of his employment, required to give his full time to the duties of his Office and the determination by the Board of the question whether an Officer is, or is not, in the terms of his employment, required to give his full time to the duties of his Office, shall be final.

(3) Notwithstanding anything in this Division, the Board may by notice in writing direct that all or any of the provisions of this Division shall apply with such modifications as are specified in the notice to and in relation to service, whether occurring before or after the commencement of this Act, of an Officer that is not full-time service and those provisions shall apply and have effect accordingly.

(4) For the purpose of subsection (3) of this section “modification” includes the omission or addition of a provision or the substitution of a provision for another provision.

(5) A notice under subsection (3) of this section may be expressed to apply to the service that is not full-time service of—

- (a) a particular Officer;
- (b) an Officer of a class of Officers;
- or
- (c) Officers generally,

and shall apply and have effect accordingly.

Repeal of
s. 98 of
principal Act
and enactment
of ss. 98 and
98a in its
place—

Special leave.

22. Section 98 of the principal Act is repealed and the following sections are enacted and inserted in its place:—

98. (1) The Board may—

- (a) grant to an Officer special leave with pay for any period not exceeding three weeks in any one year;
- (b) grant to an Officer on account of sickness which, is in the opinion of the Board, caused by war service, special leave with pay for any period not exceeding the period (if any) prescribed for the purposes of this paragraph:

or

(c) recommend to the Governor that an Officer be granted special leave with pay or part pay for such period and upon such conditions as are specified in the recommendation.

(2) The Governor may grant the special leave referred to in paragraph (c) of subsection (1) of this section in accordance with the recommendation referred to in that paragraph.

(3) Special leave granted under this section shall be in addition to any other leave that an Officer may be entitled to under this Act.

98a. (1) The Board may grant to an Officer leave without pay for any period. Leave without pay.

(2) Subject to this Act, the Board may determine for what purposes, if any, and to what extent, if any, leave to which this subsection applies, shall be counted as service for the purposes of this Act.

(3) Subsection (2) of this section shall apply to and in relation to—

(a) leave without pay granted pursuant to the Public Service Act, 1936, as amended;

(b) leave without pay granted pursuant to section 98 of this Act as in force before the commencement of the Public Service Act Amendment Act, 1970-1971;

and

(c) leave without pay granted pursuant to this section.

(4) Nothing in this section shall affect any determination of—

(a) the Board made before the commencement of the Public Service Act Amendment Act, 1970-1971;

(b) the Public Service Board constituted under the Public Service Act, 1936, as amended;

and

(c) the Public Service Commissioner under the Public Service Act, 1936, as amended,

in relation to the matters referred to in subsection (2) of this section and such a determination shall be as valid and effectual as if it were a determination by the Board under this section.

23. Section 99 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “and section 90” and inserting in lieu thereof the passage “, sections 90 to 95 (inclusive) and section 97”;

Amendment of principal Act, s. 99—
Rights of transferred Officers.

(b) by inserting in subsection (1) after the passage "extent directed by the Board" the passage "and subject to such conditions as may be imposed by the Board";

(c) by inserting in paragraph (b) of subsection (2) after the passage "referred to" the passage "in paragraphs (a) to (e) inclusive of that subsection";

and

(d) by inserting immediately after paragraph (b) of subsection (2) the following paragraph:—

(ba) any payment made to the Officer in circumstances analogous to those referred to in sections 90 and 91 of this Act, in respect of the service referred to in paragraphs (a) to (e) inclusive of that subsection;.

Amendment of
principal Act,
s. 123—
Operation of
Industrial Code
not affected.

24. Section 123 of the principal Act is amended by striking out from subsection (2) the word "Act" and inserting in lieu thereof the word "section".

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

J. W. HARRISON, Governor.