



ANNO DECIMO

GEORGI VI REGIS.

A.D. 1946.

No. 30 of 1946.

An Act to amend the Public Service Act, 1936-1945.

[Assented to 10th December, 1946.]

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, 1946". Short titles.

(2) The Public Service Act, 1936-1945, as amended by this Act, may be cited as the "Public Service Act, 1936-1946".

(3) The Public Service Act, 1936-1945, is hereinafter called "the principal Act".

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act. Incorporation.

3. Section 17 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following :— Amendment of s. 17 of principal Act

(1) The salary of the Commissioner holding office at the time of the passing of the Public Service Act Amendment Act, 1946, shall be at the rate fixed by the Governor within three months after that time, and the salary of every subsequent Commissioner shall be at the rate fixed by the Governor at or before the commencement of the Commissioner's term of office. After being so fixed, the salary of the Commissioner shall not be altered during his term of office. Salary of Commissioner.

4. Subsection (2) of section 40 of the principal Act is amended :— Amendment of s. 40 of principal Act—

(a) by striking out the word "Commissioner" in the first and second lines and inserting in lieu thereof "board"; Appointments in special cases.

(b) by striking out the word " his " in the second line and inserting in lieu thereof " its ".

Enactment of
s. 43a of
principal Act.—

5. The following section is enacted and inserted in the principal Act after section 43 thereof :—

Appointments
to Government
Departments.

43a. Notwithstanding any other Act, every appointment to an office in a department shall be made by the Governor or the Minister in accordance with this Act, and not by any other person or authority.

Amendment of
s. 49a of
principal Act—
Temporary
appointments
during war.

6. Section 49a of the principal Act is amended by inserting therein after subsection (1) the following subsection :—

(1a) After the passing of the Public Service Act Amendment Act, 1946, a person who is not employed under this section at the time of such passing, shall not be employed under this section.

Amendment of
s. 50 of
principal Act—
Appointment
of returned
soldiers.

7. Section 50 of the principal Act is amended by striking out subsection (3) and inserting in lieu thereof the following subsection :—

(3) In this section " active service " means service outside Australia or in an area approved by the Governor as a " combat area ", as a full-time paid member of a naval, military or air force of the Commonwealth, or of any country under the dominion of His Majesty, during any war in which the Commonwealth was engaged.

Enactment of
s. 52a of
principal Act—
Appointments
of returned
soldiers.

8. The following section is enacted and inserted in the principal Act after section 52 thereof :—

52a. (1) In this section the expressions " Australian seaman " and " member of a fighting force " have the meanings assigned to them in the War Service (Preference in Employment) Act, 1943.

(2) Whenever a member of a fighting force or an Australian seaman as well as other persons are applicants for an office, the Commissioner shall not recommend a person other than a member of a fighting force or an Australian seaman for appointment to that office, unless the board has certified that in its opinion reasonable and substantial cause exists for not appointing a member of a fighting force or an Australian seaman.

(3) In deciding whether to give a certificate under this section the board shall take into account the matters specified in subsection (2) of section 3 of the War Service (Preference in Employment) Act, 1943.

9. Section 62 of the principal Act is repealed and the following section inserted in lieu thereof :—

Repeal of
s. 62 of
principal Act
and enactment
of other
provisions—
Criminal
offences by
officers.

62. (1) If the Commissioner believes on reasonable grounds that an officer has committed an offence punishable by imprisonment—

- (a) the officer may (subject to paragraph (b) of this section) be dealt with under sections 59, 60 and 61 of this Act ;
- (b) if proceedings are taken in a court against the officer for the offence no proceedings for the offence shall be instituted or continued before the Commissioner or a board of inquiry until the proceedings in the court are disposed of ;
- (c) if in the proceedings in the court the defendant pleads guilty or is found guilty, action may be taken under section 59 or 60 of this Act, as if the officer had been found guilty of the offence by a board of inquiry.

(2) For the purposes of this section the expression “offence punishable by imprisonment” shall mean an offence punishable by imprisonment only, or by imprisonment and fine, or by imprisonment or fine at the option of the court.

10. Section 74 of the principal Act is amended as follows :—

Amendment of
s. 74 of the
principal Act—
Recreation
leave.

- (a) The words “during any one financial year” in the sixth and seventh lines of subsection (1) are struck out and the words “for each financial year during which the officer has been in the public service, and a proportionate period of such leave for any part of a financial year during which the officer has been in the public service” are inserted in lieu thereof ;
- (b) The last six lines of subsection (1) (which lines were inserted by the Public Service Act Amendment Act, 1937) are struck out and the following lines inserted in lieu thereof :—

Where any person employed by the Government of the State, otherwise than as an officer of the public service, is appointed to an office in the public service, his service under the Government before the appointment, if continuous with his service as an officer of the public service, shall be counted as service in the public service for purposes of this subsection.

- (c) The second proviso to subsection (2) is struck out and the following proviso is inserted in lieu thereof—

Provided that, where any person employed by the Government of the State, otherwise than as an officer of the public service, is appointed to an office in the public service, his service under the Government before the appointment, if continuous with his service as an officer of the public service shall, if the Governor so directs, be counted as continuous service in the public service for purposes of this subsection. When such a direction is given any leave of absence granted to the officer on account of ill-health or pressing necessity while he was an employee of the Government of the State and before his appointment as an officer shall for the purpose of computing the leave of absence which may be granted to him under this subsection, be deemed to have been granted to him under this subsection.

Amendment of
s. 75 of
principal Act—
Long leave of
absence.

- 11.** (1) Subsection (1*d*) of section 75 of the principal Act is amended by striking out paragraph (a) thereof and inserting in lieu thereof the following paragraph :—

(a) immediately before the officer resigns or retires from the public service.

- (2) Subsection (8) of section 75 of the principal Act is amended by adding after the word “survived” in the twelfth line the following :—

If the said person died without leaving any dependants, the Governor may pay the said amounts of salary to his personal representatives.

Amendment of
s. 76 of
principal Act—
Rights of
transferred
officers.

- 12.** Section 76 of the principal Act is amended—

- (a) by striking out the word “permanent” in the third line ;
- (b) by inserting after the word “Commonwealth” in the fourth line the words “or of any other State” ;
- (c) by inserting after the word “Commonwealth” in the fifth line the words “or of the other State”.

Amendment of
s. 77 (2) of
principal Act—
Public
holidays.

- 13.** Section 77 of the principal Act is amended by striking out subsection (2) thereof.

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

J. M. NAPIER, Governor's Deputy.