



ANNO VICESIMO SEXTO

# ELIZABETHAE II REGINAE

A.D. 1977

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## No. 36 of 1977

An Act to amend the Public Service Act, 1967-1975.

[Assented to 8th December, 1977]

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, 1977". Short titles.

(2) The Public Service Act, 1967-1975, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Public Service Act, 1967-1977".

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. Section 81 of the principal Act is amended—

(a) by inserting before the definition of "working week" the following definition:—

"effective service" in relation to an Officer means the period of service of that Officer commencing on and including the day on which that Officer became an Officer and concluding on and including the day on which that Officer ceased to be an Officer and includes any other period of service regarded by the Board as effective service of that Officer but does not include any period of service of that Officer that is regarded by the Board as not being effective service: ;

and

(b) by inserting after the present contents, as amended by this section (which are hereby designated subsection (1) thereof) the following subsection:—

(2) For the purposes of this Division the period of effective service of an Officer shall be deemed to run continuously from the day that the Officer became an Officer or from such earlier day as is fixed by the Board.

Amendment of principal Act, s. 81—  
Definitions applicable to this Division.

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

4. Section 90 of the principal Act is amended—

- (a) by striking out from subsection (1) the word “continuous” first occurring and inserting in lieu thereof the word “effective”;
- (b) by striking out from paragraph (a) of subsection (1) the word “continuous” and inserting in lieu thereof the word “effective”;
- (c) by striking out from paragraph (a) of subsection (1) the passage “or one hundred and eighty days’ leave on half pay”;
- (d) by striking out paragraph (b) from subsection (1) and the word “and” immediately preceding that paragraph and inserting in lieu thereof the following paragraphs and word:—
  - (b) in respect of each year of effective service thereafter, until and including the year of effective service immediately preceding the first year of service to which paragraph (c) of this subsection applies, nine days’ leave on full pay;
  - and
  - (c) in respect of each year of effective service that commences on or after the first day of July, 1975, being the sixteenth year of effective service or any subsequent year of effective service, fifteen days’ leave on full pay.;
- (e) by inserting immediately after subsection (1) the following subsections:—

(1a) For the purpose of calculating the amount of leave of absence by way of long service leave in respect of an Officer whose sixteenth year of effective service or any subsequent year of effective service commenced after the first day of July, 1974, and on or before the thirtieth day of June, 1975, that Officer shall, in respect of that year, be entitled, in lieu of the number of days’ leave to which he would otherwise be entitled, to the number of days’ leave on full pay ascertained in accordance with the following formula:—

$$E = \frac{9D}{365} + \frac{15(365 - D)}{365}$$

where—

E = the number of days’ leave on full pay to which the Officer is entitled, any remaining fraction of half or more of one day being regarded as one day:

D = the number of days in the period commencing on and including the day on which the sixteenth year of effective service or as the case requires subsequent year of effective service of the Officer commenced and concluding on and including the thirtieth day of June, 1975.

(1b) Where pursuant to this section an Officer is entitled to leave of absence on full pay that Officer shall be entitled to leave of absence on half pay in lieu of that first mentioned entitlement for a number of days equal to twice the number of days on full pay to which he would otherwise have been entitled.;

- (f) by striking out from subsection (2) the passage "subsection (1) of";  
 (g) by striking out subsection (3);  
 (h) by striking out subsection (5) and inserting in lieu thereof the following subsection:—

(5) Where an Officer who is entitled to a grant of leave of absence under this section terminates his service or has his service terminated for any reason before he has been granted that leave he shall be paid in lieu of that leave a sum ascertained in accordance with the following formula:—

$$P = (SD) + \left( S \times \frac{AM}{12} \right)$$

where—

P = the amount payable:

S = one three hundred and sixty-fifth of the annual wages or salary of the Officer:

D = the number of days of leave of absence to which the Officer would have been entitled in respect of his complete years of effective service if he had been granted that leave on the day the termination took effect:

A = where the effective service of that Officer in respect of which he is so entitled included a fraction of a year, is the number of days' leave that he would have been entitled to if that fraction were a whole year:

M = where the effective service of that Officer in respect of which he is so entitled included a fraction of a year, is the number of whole months in that fraction, and in any other case is zero.;

and

- (i) by striking out subsection (6).

5. Section 91 of the principal Act is amended—

- (a) by inserting in subsection (1) after the word "Officer" the passage "who became an Officer on or before the commencement of the Public Service Act Amendment Act, 1977";  
 (b) by striking out paragraph (d) from subsection (1) and inserting in lieu thereof the following paragraphs:—  
 (d) resigns on account of her pregnancy;  
 (da) resigns within the period of twelve months following the birth of her child or being a male the child of which he is the father and in either case for the purpose of undertaking the care of that child;  
 (db) having undertaken the care of a child of or over the age of two years, with the intention of adopting that child, resigns within twelve months of so undertaking that care;

or;

Amendment of principal Act, s. 91—

*Pro rata* leave on cessation after five years' service.

- (c) by striking out from subsection (1) the passage “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” and inserting in lieu thereof the passage “shall authorize payment of an amount ascertained by reference to the following formula:—

$$P = (SD) + \left( S \times \frac{9M}{12} \right)$$

where—

P = the amount payable:

S = one three hundred and sixty-fifth of the annual salary or wages payable to that Officer:

D = nine times the number of whole years of effective service served by that Officer:

M = where the effective service of that Officer included a fraction of a year, is the number of whole months in that fraction, and in any other case is zero”;

and

- (d) by striking out subsection (2).

6. Section 92 of the principal Act is repealed and the following sections are enacted and inserted in its place:—

Repeal of  
s. 92 of  
principal Act  
and enactment  
of sections  
in its place—  
Payment for  
*pro rata*  
long service  
leave on  
death.

92. (1) Where an Officer, who became an Officer on or before the commencement of the Public Service Act Amendment Act, 1977, and 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 may authorize payment to the dependants or personal representative of that Officer, as the case may be, of an amount equal to the amount that that Officer would have been entitled to if, on the day that he died, he had become entitled to a payment under section 91 of this Act.

(2) Where pursuant to subsection (1) of this section a payment is authorized to be made to the dependants of an Officer, section 97 of this Act shall apply to and in relation to that payment and those dependants as if that payment were a payment under that section.

92a. Where an Officer who has not less than seven years' effective service terminates his service or has his service terminated for any reason before he is entitled to leave under section 90 of this Act then the Board shall authorize payment to that Officer of an amount ascertained by reference to the following formula:—

$$P = (SD) + \left( S \times \frac{9M}{12} \right)$$

where—

P = the amount payable:

S = one three hundred and sixty-fifth of the annual salary or wages of that Officer:

General  
*pro rata*  
provision.

D = nine times the number of whole years of effective service of that Officer:

M = where the effective service of that Officer included a fraction of a year, is the number of whole months in that fraction, and in any other case is zero.

92b. (1) Where an Officer who has not less than seven years' effective service dies before he is entitled to leave under section 90 of this Act then the Board may authorize payment to the dependants or personal representative, as the case may be, of that Officer of an amount equal to the amount that would, pursuant to section 92a of this Act, have been payable to that Officer had his service been terminated on the day that he died.

*Pro rata*  
payment on  
death of  
Officer.

(2) Where pursuant to subsection (1) of this section a payment is authorized to be made to the dependants of an Officer, section 97 of this Act shall apply to and in relation to that payment and those dependants as if that payment were a payment under that section.

7. Section 93 of the principal Act is amended by striking out the word "continuous" five times occurring and inserting in lieu thereof, in each case, the word "effective".

Amendment of  
principal Act,  
s. 93—  
Re-employment  
of certain  
persons.

8. Section 94 of the principal Act is amended by striking out the word "continuous" three times occurring and inserting in lieu thereof, in each case, the word "effective".

Amendment of  
principal Act,  
s. 94—  
Resumption of  
service within  
two years of  
termination.

9. Section 95 of the principal Act is amended by striking out the word "continuous" three times occurring and inserting in lieu thereof, in each case, the word "effective".

Amendment of  
principal Act,  
s. 95—  
Resumption of  
service after  
two years of  
termination.

10. The following section is enacted and inserted in the principal Act after section 97 thereof:—

Enactment  
of s. 97a  
of principal  
Act—

97a. (1) In this section—

Regressed  
Officers.

"notional regressed salary" in relation to a regressed Officer, means the amount determined by the Board pursuant to subsection (2) of this section as the notional regressed salary of that Officer:

"pre-regression period" in relation to a regressed Officer means the period commencing on and including the day on which that Officer became an Officer and concluding on and including the day on which that Officer became a regressed Officer:

“regressed Officer” means an Officer who—

(a) pursuant to section 77 of this Act, or any corresponding previous enactment, has been transferred to an Office having a lower classification than the Office he previously occupied;

or

(b) pursuant to section 78 of this Act, or any corresponding previous enactment, has been transferred on account of his ill health or injury to an Office having a lower classification than the Office he previously occupied:

“regression period” in relation to a regressed Officer means the period commencing on and including the day on which that Officer was regressed and concluding on and including the relevant day:

“relevant day” in relation to a regressed Officer means the day in relation to which any payment to or in respect of that Officer under this section is to be fixed.

(2) For the purposes of this section, the Board may, in relation to a regressed Officer, determine an amount as the notional regressed salary of that Officer being, in its opinion, the amount of annual salary or wages to which that Officer would have been entitled on or immediately before the relevant day had, until the relevant day, he continued in the Office from which he was regressed.

(3) Where, pursuant to this Part, a payment of an amount of money is to be made in relation to a grant, accumulation or prospective accumulation of long service leave to or in relation to a regressed Officer and, in respect of the relevant day, the notional regressed salary of that regressed Officer is greater than the actual salary of that regressed Officer there shall be payable to or in relation to that regressed Officer in lieu of that amount an amount determined by the Board.

(4) In determining an amount for the purposes of subsection (3) of this section the Board shall give effect to the principle that so much of the grant, accumulation or prospective accumulation of long service leave, as the case may be, as is referable to the pre-regression period of the regressed Officer shall reflect the notional regressed salary of the Officer and so much of the grant, accumulation or prospective accumulation of long service leave, as the case may be, as is referable to the regression period of the regressed Officer shall reflect the actual salary of the regressed Officer on the relevant day.

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

**11.** Section 99 of the principal Act is amended by inserting after subsection (1) the following subsection:—

(1a) Where a person referred to in subsection (1) of this section becomes an Officer on or after the commencement of the Public Service Act Amendment Act, 1977, and his service as such an Officer commences within the period of three months immediately following the cessation of his service in a capacity referred to in paragraphs (a) to (e) of that subsection then for the purposes of that subsection his service as an Officer shall be deemed to be continuous with his service in that capacity.

**12. Section 126 of the principal Act is amended—**

(a) by inserting in paragraph (a) of subsection (2) after the passage “section 91” the passage “and section 92a”;

and

(b) by inserting in paragraph (b) of subsection (2) after the passage “section 92” the passage “and section 92b”.

Amendment of  
principal Act,  
s. 126—  
Application  
of certain  
provisions  
of Part III  
to certain  
employees.

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

K. SEAMAN, Governor