

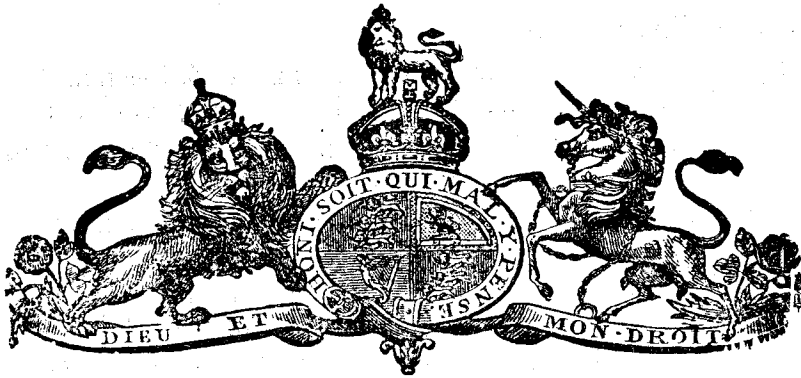
TASMANIA.

THE PUBLIC SERVICE ACT, 1927.

ANALYSIS.

1. Short title.
2. Amendments to 13 Geo. V. No. 25.
 - Section 4.
 - Section 5.
 - Section 6.
 - Salary of Commissioner.
 - Appropriation.
 - New Section 14a.
 - List of officers temporarily out of office.
 - Repeal of Section 16 and substitution of new section.
 - Governor may constitute department.
 - Permanent heads.
 - Public Service and Audit Departments.
 - Alterations.
 - Creation and abolition of offices.
 - Repeal of Parts III. and IV.
 - New Sections 18 to 36k.
 - Divisions of Service.
 - Constitution of Reference Board.
 - Determination of Salaries.
 - Procedure on reference to Board.
 - Salaries of officers.
 - Adjustment of salaries where reduced by determination.
 - Deductions from salaries in certain cases.
 - Admission to service.
 - Appointments.
 - Probation.
 - Period.
 - Extension.
 - Procedure.
 - Effect of annulment.
 - Special probation in certain cases.
 - Penal establishments.
 - Mental hospitals.
 - Age limits on first appointment in certain cases.
 - Commissioner to consult permanent head.
 - Appointments without probation in certain cases.
 - Temporary appointments.
 - Qualification for appointment.
 - Examinations.
 - Promotion or transfer to vacant position.
 - Duty of officer.
 - Qualification for promotion in certain cases.
 - Offences.
 - Minor offences.
 - Offences generally.
 - Investigation of charges.
 - Offences by officers in the Professional Division.
 - Right of appeal.
 - Procedure in respect of offence.
 - Procedure on enquiry and appeal.
 - Suspensions.
 - Criminal offences.
 - Bankruptcy of officer.
 - Offences by temporary employees.
 - New Part V.A.—Sections 39a to 39d.
 - Incapacity of officer.
 - Married women.
 - Abolition of office.
 - Retirement on account of age.
 - Repeal of Sections 41 and 47, and substitution of new sections.
 - New Section 41.
 - Preference to returned soldiers.
 - New Section 47.
 - Reference to Soldiers Board in certain cases.
 - Section 53.
 - Section 54.
 - Repeal of Section 55 and substitution of new section.
 - Limitation of amount payable.
 - Authority for certain payments.
 - Payment of salary.
 - Payment during leave.
 - New Sections 55a to 55d.
 - Power to arrange for performance of work by or for the Commonwealth.
 - Officers not entitled to compensation.
 - Powers upon enquiries.
 - Service of notices, &c.
 - New Section 56a.
 - Recovery of moneys.
 - Repeal of Section 57 and substitution of new Section.
 - Regulations.
3. Repeal of 14 Geo. V. No. 3 and 14 Geo. V. No. 12.

TASMANIA



1927.

ANNO OCTAVO DECIMO

GEORGII V. REGIS.

No. 18.

AN ACT to amend the Public Service Act, ^{A.D.} 1923 [19 September, 1927.] 1927.

BE it enacted by His Excellency the Governor of Tasmania by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

1 This Act may be cited as “ The Public Service Act, 1927.”

Short title.

2 The Public Service Act, 1923, is hereby amended—

I. As to Section Four thereof—

Amendments to
13 Geo. V. No.
25.

(a) By expunging therefrom the definition of “ Board ” :

Section 4.

(b) By inserting at the end thereof the following additional definition—

“ ‘ The Association ’ means the Tasmanian Branch of the Australian Public Servants Association or any similarly constituted association of members of the Public Service of this State formed in lieu thereof or in succession thereto ” :

Public Service.

Section 5 A.D. 1927.

II. As to Section Five thereof—

(a) By expunging Paragraphs x. and xi. of Subsection (1), and substituting therefor the following new Paragraph x.:

“x. Any member of any Board constituted under this Act who is not otherwise an officer”

(b) By inserting after Subsection (2) thereof the following new Subsection (3)—

“(3) From and after the passing of this amending Act, any exemption from the provisions of the Public Service Act granted by the Governor under any other Act shall cease to have effect and no such exemption shall be granted hereafter without the recommendation of the Commissioner.”

Section 6. Salary of
Commissioner
Appropriation.

III As to Section Six thereof by expunging Subsection (9) thereof and substituting therefor the following new Subsection (9)—

“(9) There shall be paid to the Commissioner during the period for which he holds office under this Act a salary at the rate of Eight hundred and fifty Pounds yearly, and the same shall be a charge upon, and be paid out of, the Consolidated Revenue, which, to the necessary extent, is hereby appropriated accordingly.”

New Sec
tion 14a.IV. By inserting after Section Fourteen thereof the following new heading and new section **14a**—*“Supernumerary List.”*List of officers
temporarily out
of office.

“**14a**—(1) The Commissioner shall keep in the records of his office a list of officers who have been removed temporarily from office and whose names have been directed to be placed on such list under the provisions of this Act.

(2) Such list shall be known as the Supernumerary List, and the date of every entry therein shall be recorded therein.

(3) At any time within twelve months after the name of any such officer has been placed on such list, the Governor, on the recommendation of the Commissioner, may appoint such officer to any available position in the Service which the Commissioner certifies that such officer is competent to fill.

(4) Any such appointment may be made, if the Commissioner so recommends, without examination or probation.

(5) An officer whose name is in such list owing to the abolition of his previous office, if competent to fill any such vacancy, shall have priority over all other persons for appointment thereto if the office so vacant is not of higher status than the office so abolished.

(6) In a case to which the provisions of Subsection (5) hereof are applicable, it shall not be necessary to notify such vacancy in the Gazette or to call for applications therefor.

(7) An officer shall not be entitled to receive any salary or allowance in respect of the period during which his name remains on the Supernumerary List, but such period shall be reckoned as part of his service.

Public Service.

(8) Upon the expiration of twelve months after the name of an officer has been placed on such list, or upon his appointment to an office as provided by this section, whichever first happens, the entry of such name upon such list shall be cancelled forthwith.”

A.D. 1927.
—

V. By repealing Section Sixteen thereof and substituting the following new Section Sixteen—

Repeal of Section 16 and substitution of new section

“16—(1) The Service shall be divided into such departments as the Governor by regulation may constitute.

Governor may constitute department.

(2) Until otherwise prescribed the several departments of the Service existing at the commencement of this Act shall be deemed to have been constituted under this Act.

(3) Subject to the provisions of Subsection (4) hereof, the holder for the time being of the prescribed office in each department shall be the permanent head thereof.

Permanent heads.

(4) Unless otherwise prescribed, the Commissioner and the Auditor-General respectively shall be deemed to be the respective heads of the departments under their control respectively, and shall have and exercise the same powers and authority in relation thereto as if they were officers.

Public Service and Audit Departments.

(5) The Governor, at any time and from time to time by regulation, may constitute a new department, either by amalgamation or division of existing departments or otherwise as he may think fit, and may abolish any existing department.

Alterations.

(6) The Governor at any time may create a new office in any department, or abolish any existing office.”

Creation and abolition of offices

VI. By repealing Parts III. and IV. thereof comprising Sections Eighteen to Thirty-six inclusive, and substituting therefor the following new Parts III., IV., and IVA. and Sections 18 to 36k—

Repeal of Parts III. and IV. New Sections 18 to 36k.

“ PART III.

DIVISIONS OF SERVICE: DETERMINATION AND ADJUSTMENT OF SALARIES.

Divisions.

“18—(1) The Service shall consist of three divisions, namely—

Divisions of Service.

- The Professional Division.
- The Clerical Division.
- The General Division.

(2) The Professional Division shall include all permanent heads and all legally qualified members of the learned professions and such other officers whose offices the Governor, on the recommendation of the Commissioner, directs shall be placed in that Division.

(3) The Clerical Division shall include all officers not included in the Professional Division whose offices the Governor, on the recommendation of the Commissioner, directs shall be placed in that Division.

(4) The General Division shall include all officers not included in the Professional or Clerical Divisions.

Public Service.

A.D. 1927.

Constitution of
Reference
Board.

“**19**—(1) There shall be constituted for the purposes of this Act a Board to be called “The Reference Board.”

(2) Such Board shall consist of three persons, of whom—

- I. One shall be the Commissioner :
- II. One shall be such fit and proper person as the Governor may determine : and
- III. One shall be an officer nominated by the Council of the Association.

(3) The members appointed as provided by Paragraphs II. and III. of Subsection (2) hereof shall hold office for a term of two years, but shall be eligible for reappointment from time to time for like terms.

(4) If the said Council at any time fails to nominate an officer for appointment as provided by the said Paragraph III. within three weeks after being called upon by the Minister so to do, the Governor may appoint an officer to be such member without such nomination, but a person so appointed shall hold office for one year only.

(5) In the event of any member of the said Board being absent or incapacitated through illness or other cause, or if any such member is personally interested in any matter referred to the said Board, the Governor may appoint a deputy to act for such member during his absence or incapacitation or for the purposes of such reference as the case may be.

(6) No person over seventy years of age shall be appointed as a member of the said Board.

(7) The members of the said Board shall be paid such remuneration as the Governor may determine, and, in the case of a member who is an officer, such remuneration, if the Governor so directs, may be in addition to his salary as such officer.

Determination
of salaries.

“**20**—(1) The Commissioner, as soon as may be after this section comes into force and thereafter at the beginning of each financial year, shall determine the salaries to be paid to all officers respectively.

(2) Upon any new appointment or appointment to a new position in the service, or upon any transfer or promotion of an officer to another position, the Commissioner shall determine the salary to be paid to the person so appointed or the officer so transferred or promoted, as the case may be.

(3) In making every such determination the Commissioner shall have regard to the character, importance, and value of the work performed by, or assigned to, each officer respectively, and to the proficiency of the officer for the performance thereof, and shall consult with the head of the department and take into consideration his views thereon.

(4) Any such determination as aforesaid may be altered from time to time by the Commissioner, as occasion may require, at such times as may be found necessary in order to meet any alteration or change in conditions.

Public Service.

(5) Every general determination made under the provisions of Sub-section (1) hereof shall be published in the Gazette, and, subject to the provisions hereinafter contained, shall take effect as from the first day of the financial year in which it is made. A.D. 1927.

(6) Every special determination made as hereinbefore provided shall be communicated by the Commissioner to the officer thereby affected, and shall take effect from a date to be specified in such communication.

(7) Any officer who is dissatisfied with the determination of the Commissioner in respect of the salary assigned to him may apply to the Commissioner within the prescribed time to refer the same to the Board of Reference.

(8) The Commissioner shall submit such determination to such Board for review, and shall notify such officer (hereinafter in this Part called "the appellant"), of the time and place at which the same is to be reviewed.

(9) The decision of such Board shall be final, and the Commissioner shall make such alteration (if any) in such determination as the Board may direct.

(10) Every determination made under this section shall be submitted to the Governor for his approval.

"**21**—(1) On the hearing of a reference under Section Twenty, the Board shall hear the appellant, if present, and, if the permanent head so desires or the Board requires, the permanent head of the appellant's department. Procedure on reference to Board.

(2) The appellant shall be entitled to be present at the hearing, and if he so desires may be represented by a nominee of the Council of the Association who is an officer, and may adduce evidence, and examine, and cross-examine witnesses.

(3) If the appellant is not present or represented the Board may proceed in his absence.

(4) The appellant may submit a statement in writing in support of his case, and any such statement shall be considered by the Board in making its determination.

(5) Upon the review of a determination, the Board may make such variation in the determination as the circumstances require or may confirm the determination.

(6) If any such variation as aforesaid is made, it shall take effect from the date upon which the determination would have come into force if there had been no review.

(7) The hearing of every reference shall take place, and the decision of the Board thereon be made known at a sitting of the Board at which the appellant shall be entitled to be present or represented.

Salaries.

"**22**—(1) Subject to the provisions of this Act, every officer shall be paid such salary as is assigned to him by the determination for the time being in force. Salaries of officers.

(2) The provisions of Subsection (1) hereof shall not apply to any officer whose salary is fixed by any Act other than this Act.

Public Service.

A.D. 1927.

(3) Until the first determination under this Act is approved by the Governor, every officer shall receive a salary at the same rate as that to which he was entitled when this section came into force.

(4) Where an officer is appointed or assigned temporarily to a position of a higher class than that held by him at the time of such appointment, and performs the duties of such higher position for a period exceeding two months, he shall be paid in respect of the whole of such period the salary assigned to such higher position.

Adjustment of salaries where reduced by determination.

“**23**—(1) In any case in which, at the time any determination under this Act comes into force, an officer is in receipt of a salary exceeding the salary assigned to him by such determination the same shall take effect in respect of such officer in manner following only—

- i. If an office assessed at a salary corresponding to the salary so received by the officer is available or becomes available within a period of twelve months after the gazettal of the determination and in the opinion of the Commissioner the officer is competent to fill that office, the Commissioner may transfer him thereto :
- ii. If no such office which, in the opinion of the Commissioner, the officer is competent to fill is or becomes so available, his salary shall be reduced as from the expiration of the said period of twelve months to the amount so determined as aforesaid :
- iii. If any such reduction is certified by the Commissioner to have been made on the ground only that no such office was available, the officer, notwithstanding such reduction, shall remain eligible for promotion as from the position to which his salary before reduction was incident, and shall be entitled to employment on the class of work to which his previous salary was appropriate as soon as a vacancy occurs therein which, in the opinion of the Commissioner, he is competent to fill in preference to any other officer of the same or a lower class or position whose salary has not been so reduced.

Deductions from salaries in certain cases.

“**24**—(1) In the case of an officer who occupies for the purposes of residence any building or part of a building belonging to or occupied by the State Government or who receives fuel, lighting, or any other fixed allowances of a similar nature, there shall be deducted from the salary payable to such officer under the determination a sum equal to the fair value of all such quarters and allowances.

(2) Such sum as aforesaid shall be determined by the Governor upon the recommendation of the Commissioner.

(3) The amount charged in any such deduction by way of rent for any premises so occupied by such officer shall not exceed in any case one-tenth of his total salary before any such deduction is made.

(4) No deduction whatever shall be made from the salary of any officer except as expressly provided by this Act, or by any Act for the time being in force regulating contributions to any superannuation fund for officers.

Public Service

A.D. 1927.

" PART IV.

APPOINTMENT OF OFFICERS: EXAMINATION AND QUALIFICATION: PROMOTIONS AND TRANSFERS.

Appointments.

" 25 No person shall be admitted to the Service unless—

Admission to service.

- i. He is a natural-born or naturalised British subject :
- ii. The Commissioner is satisfied upon such medical examination as may be prescribed as to his health and physical fitness : and
- iii. He has successfully passed a prescribed examination, except in cases where this requirement may be dispensed with under this Act.

" 26—(1) All appointments in or to the Service shall be made by Appointments. the Governor upon the recommendation of the Commissioner.

(2) Save as in this Act otherwise provided, every appointment of an Probation. officer in the first instance shall be on probation only.

(3) Except where otherwise provided, probationary appointments may Period. be made for any period not exceeding six months, but any such appointment may be terminated by the Commissioner at any time within that period or any extension thereof.

(4) At the expiration of such period of six months the Commissioner, Extension. if upon a report of the permanent head he thinks it desirable so to do, may extend the period of probation for a further term not exceeding six months.

(5) After the expiration of the period of probation the Commissioner, Procedure. upon a report by the permanent head, may annul the appointment or may recommend to the Governor the confirmation of the appointment.

(6) No probationer whose appointment has been annulled as afore- Effect of annul- said shall be eligible for appointment on probation until the expiration ment. of twelve months after such annulment unless the Commissioner otherwise directs.

" 27 No person, whether an officer or not, shall be permanently Special probation appointed to any office, other than an office in the Clerical Division— in certain cases.

- i. In any penal establishment or gaol, or in any institution Penal establish- subject to the provisions of any Act providing for the ment. protection, control, maintenance, or reformation of neglected children : or
- ii. In any mental diseases hospital or institution for mental Mental hospitals. defectives--

unless he has been employed on probation or otherwise, for not less than twelve months in an institution of the same or a similar nature to that in which the appointment is to be made.

Public Service.

A.D. 1927.

Age limits on first appointment in certain cases.

“**28**—(1) Except where otherwise provided, no person who is not an officer and whose age at his last birthday prior to the time when the appointment is to be made is—

- i. In the case of a position in the Clerical Division, less than sixteen or more than twenty-five years: or
- ii. In the case of a position in the General Division, less than sixteen or more than fifty years—

shall be appointed to any such position, except that in the case of a position in the General Division involving special duties, the Governor, on the recommendation of the Commissioner, may appoint a person whose age as aforesaid does not exceed fifty-five years.

(2) The provisions of Subsection (1) hereof shall not apply to any person who at any time, whether before or after the passing of this Act, has retired from a permanent salaried office in the Service, and whose retirement was not due to misconduct or incompetence.

(3) In the case of officers in such classes or kinds of employment as the Governor by regulation may direct, the age limits provided by this section may be varied as may be prescribed.

Commissioner to consult permanent head.

“**29** The Commissioner before making any recommendation as to any appointment to, or change in, any department shall consult the permanent head, and shall take into consideration the views of such permanent head thereon.

Appointments without probation in certain cases.

“**30**—(1) In any special case where it appears to be desirable or expedient in the interests of the service to appoint any fit and proper person not in the service to any position in the Professional Division, the Governor, on the recommendation of the Commissioner, may make such appointment and, in any case in which he thinks fit, without examination or probation, if recommended by the Commissioner.

(2) When making any recommendation for the appointment of any such person as aforesaid, the Commissioner shall certify that he has satisfied himself that no officer applicant for such appointment is as capable of filling such position as the person so recommended.

(3) Any person permanently employed in the Public Service of the Commonwealth may be appointed to the Service without examination and, if the Commissioner so recommends, without probation.

(4) Any person who has held a permanent position in the Service, and whose retirement therefrom has not been due to his misconduct or incompetence, may be reappointed to the Service without examination and, if the Commissioner so recommends, without probation.

(5) Any person who at the passing of this Act is employed in the service in a temporary capacity, and at that date has been so employed for a continuous period of seven years, or for different periods aggregating ten years, may be appointed to a permanent position without examination or probation if the Commissioner certifies that such person is competent to perform the duties of such position, notwithstanding that the age of such person exceeds the limits hereinbefore prescribed.

Public Service.

(6) Where an applicant for any position in the Service is permanently employed in any department or branch of the Public Service of the State to which this Act does not apply generally, or in any position under the Parliamentary Privilege Act, 1898, and the Commissioner, subject to such conditions as may be prescribed, after full enquiry certifies that his length of service and proved efficiency in such employment are such as to qualify him for the efficient discharge of the duties of the office for which he is such applicant, the Governor, on the recommendation of the Commissioner, may appoint such applicant without examination or probation.

A. D. 1927.

62 Vict. No. 30.

(7) No such recommendation as is mentioned in Subsection (6) hereof shall be made in the case of an applicant who has been so employed for less than five years, continuously.

“ **31**—(1) Where in respect of any department the Minister, on the report of the permanent head, is of opinion that the work of the department is such as to necessitate temporary assistance, the Minister may authorise the Commissioner to make such temporary appointments as the circumstances may require.

Temporary appointments.

(2) The Commissioner shall keep a register, as may be prescribed, of persons available for temporary employment, and in making any such appointment the Commissioner, subject to the provisions of Section Forty-one, shall select from the persons whose names are on such register the person who in his opinion is best fitted for the duties of the position to be filled, but where qualifications are equal priority shall be given according to priority of date of registration.

(3) If, in the Commissioner's opinion, no person whose name is on such register as aforesaid is capable of performing the duties of the position to be filled, he may appoint some person not so registered.

(4) Every person appointed under the provisions of this section shall be paid a salary at such rate as the Commissioner may determine to be appropriate to the work to be performed by such person.

(5) Save as hereinafter in this Act provided, every temporary appointment shall be for a period not exceeding nine months, and no person shall be so employed for more than nine months in the aggregate within any period of twelve months.

(6) No temporary employee who has been employed for nine months, continuously, or in the aggregate, within any period of twelve months, shall be eligible for reappointment as a temporary employee within six months after the termination of such prior employment

(7) Where a temporary employee has been employed for the full period of nine months, and the Commissioner is satisfied that temporary assistance is still required in the same department, and that no other person equally qualified to perform the required work is available, the Commissioner may extend such period for a further term not exceeding three months.

Public Service.

A.D. 1927.

(8) Upon a report from the permanent head that a temporary employee, who is a returned soldier, has performed the duties of his position satisfactorily, the Commissioner may extend his employment in the same or any other position which he is competent to fill, but so that the total period covered by such employment shall not exceed two years at any one time.

(9) Where persons are employed temporarily for the carrying out of any specific scheme or work, the completion of which may not be effected within the period aforesaid, the appointment of any such person may be made to take effect until such completion is effected if the Commissioner certifies that the circumstances are not such as to justify a permanent appointment.

(10) Any person who has been employed temporarily for a continuous period exceeding twelve months may be granted leave of absence as may be prescribed for recreation or on account of sickness.

(11) The Commissioner or the permanent head may dispense with the services of any temporary employee at any time.

*Examinations and Qualifications.*Qualification for
appointment.

Examinations.

“32—(1) Save as otherwise in this Act provided, no person shall be admitted to any permanent position in the Service —

i. In any division other than the General Division, unless he has passed—

- (a) The Junior Public ;
- (b) The Senior Public ;
- (c) The Intermediate ; or
- (d) The Leaving—

Examination held or to be held by the University of Tasmania or some examination recognised by that body as equivalent to one of those examinations ; or such other examination as may be prescribed : or

ii. In the General Division, unless he has passed one of the examinations enumerated in Paragraph i. hereof or such other examination as may be prescribed either generally or in respect of the particular class or kind of employment in which he is to be engaged.

(2) The provisions of Subsection (1) hereof shall not apply to any person to be employed only as warder, gatekeeper, or caretaker, or in any other capacity of a similar nature, or as a mechanic.

(3) Any such person as is mentioned in Subsection (2) hereof may be appointed to any such position in the General Division without examination if the Commissioner is satisfied as to his fitness for the duties thereof.

Public Service.

(4) Where the duties of any position necessitate any special or technical qualifications, no person shall be appointed thereto unless he has passed a prescribed examination in respect of such qualifications, or some other examination prescribed as equivalent thereto. A.D. 1927.

(5) The Governor from time to time may appoint such examiners as may be required for the purposes of this Act, and may determine the remuneration to be paid to any such person as such examiner.

Promotions and Transfers.

“**33**—(1) Where a vacancy occurs in any office, and it is expedient to fill the same by the transfer or promotion of an officer, the Governor, upon the recommendation of the Commissioner, may appoint an officer to fill such vacancy. Promotion or transfer to vacant position.

(2) In making any such recommendation the Commissioner shall have regard to the relative efficiency, or, in the event of equality of efficiency of any two or more officers, to the relative seniority of the officers available for appointment, and before making any such recommendation the Commissioner shall notify the occurrence of such vacancy in manner prescribed.

(3) For the purposes of this section, efficiency shall be construed to mean any special aptitude and qualification for the discharge of the duties of the office to be filled, together with merit and good and diligent work.

(4) This section shall not be construed to limit in any way the powers conferred by Section Thirty-two.

“**34**—(1) No officer whose removal from one position to another of equal or higher status has been directed by the Commissioner in pursuance of this Act shall refuse to comply with such direction, and any officer so refusing shall be guilty of a breach of the provisions of this Act. Duty of officer.

(2) The Commissioner may permit any officer to decline an offer of transfer or promotion, and such officer shall not lose any right to future promotion thereby.

“**35** Transfer or promotion from any specified office or class of offices to another shall be dependent upon the passing of such examinations or the possession of such qualifications as may be prescribed. Qualification for promotion in certain cases.

Public Service.

A.D. 1927.

"PART IV_A.

OFFENCES AND PUNISHMENTS.

Offences.

" 36 Any officer who—

- i. Commits any breach of any of the provisions of this Act :
- ii. Is guilty of any wilful disobedience or disregard of any lawful order made or given by any person having authority to give such order : or
- iii. Is guilty of using intoxicating beverages or drugs to excess : or
- iv. Is guilty of any disgraceful or improper conduct : or
- v. Without the permission of the Minister, makes any communication or contribution directly or indirectly, and whether anonymously or otherwise, to any newspaper or any publication of a like nature, other than a Public Service journal or newspaper issued under the authority of the Association, on any matter affecting his own department, or his own office, or his own acts or duties as an officer : or
- vi. Without authority from the head of his department or from the Minister, or otherwise than in the ordinary course of his duties, divulges any information gained by him in the Public Service—

shall be guilty of an offence, and shall be liable to punishment as hereinafter provided.

Minor offences.

" 36_a—(1) In any case in which the permanent head, or any prescribed officer having power to deal with minor offences, has reason to believe that any officer under his control, not being an officer of the Professional Division, has committed a minor offence, he may require such officer to give an explanation of the offence alleged against him.

(2) If such officer fails or refuses to give such explanation, or if the permanent head or prescribed officer, as the case may be, on consideration of the explanation given to him, considers that the offence has been committed, he may caution or reprimand the offending officer or may impose a fine not exceeding Five Shillings.

(3) Any caution, reprimand, or fine imposed by an officer other than the permanent head shall be reported to the permanent head forthwith by the officer imposing the same.

(4) In the case of a fine by a prescribed officer as aforesaid the offending officer may appeal to the permanent head within forty-eight hours after receiving notification thereof, and upon any such appeal the permanent head may confirm, annul, or reduce the punishment, and his decision shall be final.

Offences generally.

" 36_b In any case in which there is reason to believe that an officer, other than an officer in the Professional Division, has committed an offence, other than a minor offence punishable as provided by Section 36_a—

- i. The permanent head, or any officer prescribed as having power to lay a charge, may charge such officer with such offence :

Public Service.

- ii. Every such charge shall be in writing, and if not made by the permanent head shall be lodged with him : A.D. 1927.
- iii. If the permanent head, or in a case of urgency an officer prescribed as aforesaid, considers that the charge is of such a serious nature that such officer should not continue in the performance of his duties he may suspend such officer therefrom pending the determination of the charge:
- iv. The permanent head may confirm or annul any such suspension imposed by a prescribed officer, and may remove at any time any suspension imposed under this section.

“**36c**—(1) After consideration of the reports relating to any charge under the provisions of Section **36b** and the explanation, if any, of the officer charged, the permanent head may— Investigation of charges.

- i. If he considers that the charge has been sustained, but is not of such a nature as to require reference to the Commissioner, impose upon the offending officer a fine not exceeding Five Pounds or may reprimand or caution such officer : or
- ii. In any other case, refer the charge to the Commissioner with his report thereon.

(2) If the punishment so imposed by the permanent head is a fine exceeding Two Pounds the offender may appeal to the Commissioner, who may confirm, reduce, or annul such punishment, and his decision shall be final.

(3) The Commissioner may hold an enquiry, as hereinafter provided, into any charge so referred to him as aforesaid or may recommend to the Governor the appointment of a special tribunal to enquire into the same.

(4) Upon any such recommendation as aforesaid, the Governor may appoint one or more fit and proper persons as such special tribunal to enquire into such charge, and such tribunal shall report to the Commissioner the result of such enquiry with such recommendation thereon as such tribunal may think proper.

(5) If upon any such enquiry the Commissioner, or such tribunal, finds that the charge has been sustained, the Commissioner may—

- i. Order the offender to pay a penalty not exceeding Twenty Pounds :
- ii. Deprive the offender of his right to leave of absence for recreation during a specified period :
- iii. Reduce the offender to a lower class or grade or transfer him to a lower position :
- iv. Require the offender to resign from the Service : or
- v. Recommend to the Governor that the offender be dismissed from the Service—

according to the gravity of the charge sustained.

(6) In any case in which an officer has been absent from duty without leave, and such absence is not satisfactorily explained, the permanent head or the Commissioner or any such tribunal as aforesaid may order that such officer shall forfeit his salary in respect of the period during which he was so absent.

Public Service.

A.D. 1927.

(7) Subject to the right of appeal as hereinafter provided, if any officer fails to resign from the Service when required by the Commissioner so to do under the provisions of this section, he may be dismissed from the Service by the Governor.

Offences by
officers in the
Professional
Division.

“**36d**—(1) In any case in which an officer in the Professional Division is charged by any person with an offence, the Minister may suspend such officer if in his opinion the circumstances so require, and shall report such charge and the suspension thereon, if any, to the Governor.

(2) The Governor thereupon may appoint a special tribunal, as provided by Section **36c** to enquire into such charge, and such tribunal shall report to the Governor the result of such enquiry with such recommendation thereon as it may think proper.

(3) Every such charge shall be made in writing, and if not made by the Minister shall be lodged with him.

(4) If upon any such enquiry such tribunal finds that the charge has been sustained, the Governor may—

- i. Dismiss the offender from the Service :
- ii. Reduce the offender to a lower division and salary :
- iii. Impose a penalty not exceeding Fifty Pounds : or
- iv. Impose such lesser punishment as the circumstances of the case may demand.

Right of appeal.

“**36e**—(1) Any officer who is dissatisfied with any decision, determination, or recommendation of the Commissioner, or of a special tribunal under this Part (not being a decision under Subsection (2) of Section **36c**) may appeal therefrom in manner prescribed.

(2) Any such appeal may be upon the ground of innocence of the charge or of the severity of the punishment inflicted or recommended as the case may be.

Procedure in
respect of offence.

“**36f**—(1) When any charge is made against an officer under the provisions of Section **36b** or Section **36d**, a copy of the charge shall be furnished by the Commissioner or the Minister, as the case may require, to the officer charged.

(2) Such officer shall be directed to reply in writing to such charge forthwith, stating whether he admits or denies the truth of such charge with such explanation of the matter as he may desire to make.

(3) If such officer fails so to reply within seven days after receiving such charge, he shall be deemed to deny the truth thereof.

(4) If such officer in such reply admits such charge, he may be punished in the same manner in every respect as if such charge had been found upon enquiry to be sustained.

(5) In any case in which an enquiry is held into such charge, the officer charged shall be furnished where practicable with a copy of all documents intended to be used at such enquiry seven days before the holding thereof.

Public Service.

36g—(1) Upon the holding of any enquiry under this Part by the Commissioner or by a special tribunal in relation to any charge against an officer, and upon the hearing of any appeal in respect thereof, such officer as well as the person making the charge shall be entitled to be represented by counsel, attorney, or agent, who may adduce evidence and examine and cross-examine witnesses respectively on behalf of the party so represented.

A.D 1927.

Procedure on
enquiry and
appeal.

(2) It shall be the duty of the tribunal holding such enquiry or hearing such appeal to make a full and thorough investigation without regard to legal forms and solemnities and to direct itself by the best evidence it can procure or which is laid before it, whether the evidence is such as would be admissible in a court of law or not.

(3) In any appeal under this Part, if the Board is of opinion that the appellant officer had no reasonable grounds for appeal and that the same is frivolous or vexatious, it may recommend that the appellant be ordered to pay such sum, not exceeding the cost of the appeal, as the Board thinks fit.

(4) If the Board finds that the charge against the appellant is not proved, or upholds the appeal, it may recommend the payment to the appellant of such sum for or towards his reasonable expenses of meeting the charge and prosecuting the appeal as the Board may specify, and the same, if the Governor approves, may be paid to the appellant.

(5) The tribunal holding any enquiry, or hearing any appeal under this Act, may order the same to be held in public or in private.

“36h—(1) Where an officer is suspended, he shall not be paid any salary during the period of his suspension in respect of such period.

Suspensions

(2) An officer who is charged with an offence and acquitted shall receive his full salary in respect of the period, if any, during which he was suspended.

(3) When the suspension imposed on an officer who admits, or is found guilty of, an offence is removed, he shall receive his salary in respect of the period during which he was suspended, subject to any order which may be made for the forfeiture of the whole or any part of such salary by way of punishment for such offence.

(4) The suspension imposed in respect of an offence on an officer, a charge against whom has been finally determined, shall be forthwith removed, except where he is punished by dismissal or is required to resign.

(5) The Minister at any time may remove the suspension imposed on any officer.

“36i—(1) If an officer is charged with a crime as defined by the Criminal Code, the Minister, if in his opinion the circumstances so require, may suspend such officer.

Criminal offences.
14 Geo. V. No. 69.

(2) If such officer is convicted upon such charge, he shall forfeit his office and thereupon shall cease to perform his duties or receive his salary under this Act, notwithstanding any punishment which may be inflicted upon him under any other law in respect of such offence.

Public Service.

A.D. 1927.

Bankruptcy of
officer.

36j—(1) If an officer becomes bankrupt or takes any proceedings under any law relating to bankruptcy for liquidation by arrangement or composition with his creditors, he shall report such matter to the Commissioner forthwith.

(2) Such officer shall apply as soon as he may legally do so to the court having cognisance of such matter for a certificate of discharge.

(3) If in such proceedings it appears to such court that such officer has been guilty of fraud, dishonourable conduct, or wilful extravagance, the court shall direct the proper officer thereof to report the same to the Commissioner.

(4) If such officer fails to make application as provided by Subsection (2) hereof, or upon receipt of any such report as aforesaid, the Commissioner may deal with such officer as provided by Subsection (5) of Section Forty-seven in respect of offences.

Offences by
temporary
employees.

“**36k** If the Commissioner or the permanent head, after such enquiry as may be necessary, is satisfied that any temporary employee has committed any breach of any of the provisions of this Act, he may impose upon the offender any of the punishments which he might impose upon an offending officer, or, if he thinks the circumstances so require, may dispense with the services of such employee.”

New Part VA.
Sections 39a to
39d.

VII. By inserting after Part V. thereof the following new Part VA. comprising Sections **39a** to **39d** inclusive—

“ PART VA.

RETIREMENT FROM SERVICE.

“**39a**—(1) If, upon a report from the Minister or permanent head or otherwise and after making a personal investigation, the Commissioner is satisfied that an officer—

Incapacity of
officer.

- i. Is unfit to discharge, or incapable of discharging, the duties of his office efficiently : or
- ii. Is not discharging the duties of his office efficiently or satisfactorily, or in the best interests of the State : or
- iii. Is not qualified either temperamentally or otherwise for the efficient and satisfactory performance of the duties of his office : or
- iv. Is not conducting the duties of his office in an efficient and satisfactory manner—

it shall be lawful for the Governor, on the recommendation of the Commissioner, to transfer such officer to some other position in the Service ; or to direct that his name be placed on the Supernumerary List ; or to call upon him to retire from the Service within a time to be specified.

(2) If any officer so called upon to retire does not retire within the time so specified, he may be dismissed from the Service by the Commissioner.

Public Service

“**39b**—(1) No married woman shall be employed either permanently or temporarily in the Service unless the Commissioner certifies in any special case that there are special circumstances rendering her employment desirable. A.D. 1927. Married women.

(2) Every female employee who marries after appointment to any position shall be deemed thereupon to have retired unless the Commissioner certifies as provided by Subsection (1) hereof, that the retention of her services is desirable.

“**39c**—(1) Upon the abolition of any office under the provisions of this Act, the Governor, upon the recommendation of the Commissioner, may transfer the officer holding such office to some other position in the Service; or may direct that his name may be placed on the Supernumerary List; or may call upon such officer to retire from the Service. Abolition of office.

(2) Any officer failing to retire when so required may be dismissed by the Commissioner.

(3) Every such retirement or dismissal may be directed to take effect from the date of the abolition of such office.

“**39d** Every officer shall retire from the Service upon attaining the age of seventy years.” Retirement on account of age.

VIII. By repealing Sections Forty-one and Forty-seven thereof and substituting therefor respectively the following new sections—

“**41**—(1) The Commissioner shall keep in the register prescribed by Section Thirty-one a separate list for returned soldiers, and shall enrol therein the name of every returned soldier who shall make application for temporary employment in the Service. Preference to returned soldiers.

(2) A returned soldier whose name is enrolled in such register as aforesaid, if capable of performing the work required, shall be considered for appointment for temporary employment in priority to any person who is not a returned soldier.

(3) Any returned soldier applicant who fulfils the requirements of the regulations made under this Part and is competent to discharge the duties of a vacant office shall be entitled to appointment to such office in priority to any person other than a person better qualified than such soldier to perform such duties.

(4) The age limits prescribed by Section Twenty-eight of this Act shall not apply to returned soldiers.

(5) The provisions of Subsection (3) hereof shall not apply to a returned soldier who is not married as against any applicant who is married.

“**47**—(1) In any case in which a returned soldier has applied for appointment to a vacant position and to which the provisions of Subsection (3) of Section Forty-one hereof apply, the Commissioner before recommending the appointment of any male person who is not a returned soldier shall refer to the Soldiers Board— Reference to Soldiers Board in certain cases.

i. The application of the returned soldier applicant: and

ii. The application of the applicant who is not a returned soldier— respectively who in the opinion of the Commissioner is best fitted to fill such position. New Section 47.

Repeal of Sections 41 and 47 and substitution of new sections. New Section 41.

Public Service.

A.D. 1927.

(2) Such Board thereupon shall be called together by the Commissioner and shall consider such applications and shall be entitled to obtain from the Commissioner all information in his possession in any way relating thereto.

(3) The Commissioner shall communicate to such Board all such information as aforesaid as the Board may require, and such Board shall furnish to the Commissioner a report upon such applications within fourteen days after the date for which they were so called together or within such further time, not exceeding fourteen days as the Commissioner may think necessary.

(4) The Commissioner, before making any recommendation for an appointment to such vacant position, shall consider the report so furnished to him.

(5) If no such report as aforesaid is furnished to the Commissioner within the time hereinbefore provided, the Commissioner may proceed to make such recommendation as he may think proper.

(6) Except where otherwise provided the Commissioner shall call for applications for every vacant position.

(7) The provisions of this section shall not apply to any vacancy which it is proposed to fill by the appointment of a person under the age of twenty-one years, or to any vacancy caused by the transfer of an officer for departmental reasons, and not for the purpose of promotion."

Section 53.

IX. By deleting from the fourth and fifth lines of Paragraph v. of Subsection (1) of Section Fifty-three thereof the words "Secretary to the Public Service" and substituting therefor the words "an officer of the."

Section 54.

X. By deleting from Section Fifty-four thereof—

- i. The words "under the age of sixty-five years" in the first line of Subsection (1); and
- ii. The words "one-half of" in the fifth and sixth lines of Paragraph III. of Subsection (4).

XI. By repealing Section Fifty-five thereof and substituting therefor the following new Section Fifty-five—

"**55**—(1) Nothing in this Act shall be construed to authorise the payment out of the Consolidated Revenue for the salaries of officers of any greater amount than is appropriated by Parliament for that purpose.

(2) Payments to officers other than for salary or for overtime, or prescribed transfer or travelling allowances or expenses, or other prescribed allowances shall be made only on the authority of the Governor.

(3) Payment for overtime shall be made only on the authority of the Minister in accordance with such conditions as may be prescribed.

(4) From the first day of January, one thousand nine hundred and twenty-eight salaries of officers shall be payable, except as may be otherwise prescribed in special cases or classes of cases, on such day in every alternate week, and in such manner, as may be prescribed.

Repeal of
Section 55
and substi-
tution of
new section.

Limitation of
amount payable.

Authority for
certain payments.

Payment of
salary.

Public Service

(5) An officer, if he so desires, may be paid at the commencement of any period of leave of absence granted to him for recreation or on account of long service, or of illness, his salary in full in respect of the whole of such period. A.D. 1927.
—
Payment during
leave.

(6) Where an officer dies after being granted leave of absence, and before receiving the full amount of the salary payable in respect of the period of leave so granted, such salary to the extent to which the same is unpaid at the date of his death shall be paid to his dependants."

XII. By inserting therein after Section Fifty-five, as hereby enacted, the following new headings and new Sections **55a** to **55d** inclusive—

New Sections
55a to
55d.

Performance of Work by or for the Commonwealth.

"**55a**—(1) The Governor may enter into an agreement with the Governor-General of the Commonwealth for— Power to arrange
for performance
of work by or
for the Common-
wealth.

- i. The performance for the State by any person employed in the Public Service of the Commonwealth of any work or services, or the duties of any office in the Service: or
- ii. For the performance for the Commonwealth by an officer of any work or services, or the duties of any office in the Commonwealth Public Service.

(2) In any such agreement the Governor may make such arrangements as may be required—

- i. For determining the rate of payment to be made by the State or by the Commonwealth, as the case may be, in respect of the performance of such work, services, or duties: and
- ii. The adjustment of any matters requiring adjustment in relation thereto.

Compensation Not Payable.

"**55b** No person shall be entitled to make any claim against the State, by way of compensation or otherwise, in respect of anything done in accordance with the provisions of this Act, whereby such person is dismissed from the service, or his services are dispensed with, or his office is abolished or his salary is reduced. Officers not
entitled to
compensation.

Powers of Tribunals.

"**55c**—(1) Upon any enquiry or appeal held under the provisions of this Act, the Commissioner or any person appointed by the Governor to hold such enquiry or the Board, as the case may be, shall have and may exercise all the powers and authority conferred upon persons holding enquiries on commission by Division II. of Part II. of the Evidence Act, 1910. Powers upon
enquiries.

(2) No person called as a witness upon any such enquiry or appeal shall be compelled to answer any question tending to incriminate such person.

1 Geo. V. No. 20.

Public Service.

A.D. 1927.

Service of
notices, &c*Service of Notices and Documents.*

“**55d**—(1) Any notice, order, or document requiring to be served on any person for the purposes of this Act may be served by post on such person.

(2) If the address for the time being of any such person is unknown any such notice, order, or document may be posted to the last known address of such person, and notice of any such posting shall be published in the Gazette, and the same shall be deemed to have been duly served on such person.”

New Sec-
tion 56a.

XIII. By inserting therein after Section Fifty-six the following new heading and new Section **56a**—

*“ Recovery of Moneys.*Recovery of
moneys.

“**56a**—(1) In any case where an order is made under the provisions of this Act for the payment by an officer of any fine or other sum of money or for the forfeiture of any salary, the Commissioner shall give notice thereof to the Treasurer forthwith.

(2) Upon receipt of such notice the Treasurer shall deduct the amount of the fine or sum of money so ordered to be paid or forfeited from the salary of such officer as hereinafter provided.

(3) If such amount as aforesaid exceeds one-fourth of the amount of salary payable to such officer at the prescribed day for payment of salaries next after the receipt of such notice, such deduction as aforesaid shall be made from successive payments of the salary of such officer, so that no such deduction shall exceed such one-fourth as aforesaid, but this provision shall not apply to an officer who has been dismissed or retired from the Service.

(4) If any such fine or sum of money or any part thereof respectively remains unpaid when such officer has ceased to be an officer, the amount thereof so unpaid shall be a debt due to the Crown, and may be recovered in any court of competent jurisdiction by the Commissioner or by any person authorised on that behalf by the Treasurer.”

Repeal of
Section 57
and sub-
stitution of
new Section.

XIV. By repealing Section Fifty-seven thereof and substituting therefor the following new Section Fifty-seven :—

“ Regulations.

Regulations.

“**57**—(1) The Governor from time to time, on the recommendation of the Commissioner, may make such regulations as may be necessary or desirable for giving effect to the provisions of this Act, and in any such regulations may prescribe, subject to the provisions of this Act—

i. The times for and the mode, manner, and forms of, and the conditions applicable to, applications for, and appointments to, vacant positions in the Service:

ii. The conditions applicable to the transfer of officers in the Service, whether within the same division or from one division to another:

Public Service.

- iii. The rates and amounts of payments to officers for overtime work, travelling expenses, and allowances, transfer expenses and allowances, and any other allowances that may be thought necessary, and the conditions applicable thereto respectively :
- iv. The duties of officers, the hours of their attendance, and the conditions relating thereto :
- v. The conditions applicable to the granting of leave of absence to officers and providing for and regulating the granting of such leave for the purpose of military or naval training and to temporary employees :
- vi. The rates and amounts of payments to officers in respect of extra services according to the nature of the services and the class or grade of the officer performing it :
- vii. When, where, and in what manner examinations under this Act shall be held, the conditions relating thereto, and the fees, if any, payable by candidates in respect thereof :
- viii. The cases in which, and the manner in which, the Commissioner may require any officer to give security for the faithful performance of the duties of his office ; the amounts thereof ; and the mode of taking the same :
- ix. Where required, the procedure of the Board of Appeal or of any person or tribunal holding any enquiry under this Act : and
- x. All other matters and things required under this Act to be prescribed, or which it may be found necessary or convenient to prescribe.

(2) Any such regulation may be made to apply generally or to any particular case or class of cases, and either throughout the State or in some particular locality.

(3) Any such regulation may impose a penalty not exceeding Ten Pounds for the breach of any regulation so made.

(4) No regulation under this section shall be made, altered, or rescinded until the expiration of fourteen days after the publication of a notification in the Gazette of the intention to make, alter, or rescind the same.

(5) The Commissioner shall publish such notification as aforesaid, and in cases where the proposed regulation, alteration, or rescission is not set forth in full in such notification, any officer may inspect the same at the office of the Commissioner at any time within such fourteen days.

(6) The Governor, on the recommendation of the Commissioner, may direct that any rules or regulations made under the provisions of any other Act in relation to any department or branch of the Service shall be embodied in and printed with the regulations made under this section.

Public Service.

A.D. 1927.
—

(7) Every officer, upon application to the Commissioner therefor, shall be entitled to a copy of this Act and of all regulations made thereunder free of charge."

Repeal of 14
Geo. V. No. 3
and 14 Geo. V.
No. 12.

3 The Public Service Act (No. 2), 1923, and the Public Service Act (No. 3), 1923, are hereby repealed.