
COMMONWEALTH PUBLIC SERVICE.

No. 46 of 1924.

An Act to amend the *Commonwealth Public Service Act 1922*.

[Assented to 20th October, 1924.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1.—(1.) This Act may be cited as the *Commonwealth Public Service Act 1924*. Short title and citation.

(2.) The *Commonwealth Public Service Act 1922* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Commonwealth Public Service Act 1922–1924*.

- Commencement.** **2.** This Act shall commence on a date to be fixed by Proclamation.
- Parts.** **3.** Section three of the Principal Act is amended by inserting therein, after the words "Division 2.—Classification.", the words "Division 2A.—Creation and Abolition of Offices."
- Appointment of Board of Commissioners.** **4.** Section eleven of the Principal Act is amended by inserting, after sub-section (8.) thereof, the following sub-sections :—
 "(8A.) Any two members of the Board shall form a quorum, and, subject to the next succeeding sub-section, shall have all the powers and authority conferred upon the Board by this Act.
 "(8B.) If at any meeting of the Board, at which two members only are present, the members differ in opinion upon any matter, the determination of that matter shall be postponed to a full meeting of the Board."
- Delegation by Board.** **5.** Section sixteen of the Principal Act is amended—
 (a) by inserting therein after the word "powers" (wherever occurring) the words "or functions"; and
 (b) by inserting therein after the word "power" the words "or function".
- Excess officers.** **6.** Section twenty of the Principal Act is amended by inserting therein, after the word "officers", the words "of a particular classification".
- Appeals against classification.** **7.** Section twenty-seven of the Principal Act is amended by omitting sub-section (3.) thereof and inserting in its stead the following sub-sections :—
 "(3.) An appeal under this section shall be considered by a representative of the Board in conference with the Permanent Head, or a representative of the Permanent Head, of the Department concerned, and with the appellant, or, if he so desires, with a nominee (who is an officer) of the Public Service organization to which the appellant belongs, or with an agent (who is the general secretary of that organization or is an officer) of the appellant.
 "(3A.) Upon the conclusion of the conference, the representative of the Board and the Permanent Head, or his representative, shall each furnish the Board with a report, and the appellant (or the nominee or agent) may, if he so desires, make any further representations in writing to the Board.
 "(3B.) Where the appellant does not attend the conference, or is not represented by a nominee or agent, the appeal shall be considered by the representative of the Board and the Permanent Head or his representative, who shall each furnish the Board with a report.
 "(3C.) After consideration of the reports and representations made in pursuance of this section, the Board shall determine the appeal."

8. Section twenty-seven of the Principal Act is amended by inserting at the end thereof the following sub-sections :—

Salaries fixed
under
Arbitration
Determinations.

“(7.) Notwithstanding anything contained in the last preceding sub-section, where the salary allotted to an officer by the classification is less than the salary which that officer would have been entitled to receive, under a determination made under the *Arbitration (Public Service) Act 1920*, at the date of the publication of the approval of the classification of the last classified section of the Commonwealth service, that officer, so long as he occupies the office to which he is assigned by the classification and the salary to which he would be entitled under the classification continues to be less than the said salary which he would have been entitled to receive at the date of the publication of the approval of the classification, shall continue to receive the said higher salary.

“(8.) For the purposes of the last preceding sub-section, the salary which an officer would have been entitled to receive under a determination includes such emoluments as are prescribed.”.

9. Section twenty-eight of the Principal Act is amended by inserting therein, after the word “shall” (first occurring), the words “, subject to sub-section (7.) of the last preceding section,”.

Adjustment of
salaries
following
classification.

10. Before section twenty-nine of the Principal Act, the following heading is inserted :—

Creation and
abolition of
offices.

“ *Division 2A.—Creation and Abolition of Offices.* ”

11. Section twenty-nine of the Principal Act is amended by adding at the end thereof the following sub-section :—

Alterations
of Staff.

“(2.) Where the classification of any office is raised or lowered, the office shall be deemed to be vacant.”.

12. Section thirty-seven of the Principal Act is amended by omitting sub-sections (3.) and (4.) thereof and inserting in their stead the following sub-sections :—

Appointments
to be on
probation.

“(3.) The Board may, at any time during an extended period of probation, upon a report from the Chief Officer, confirm or annul the appointment.

“(4.) Upon the expiration of the extended period of probation of any probationer whose appointment has not been confirmed or annulled under the provisions of the last preceding sub-section, the Board shall, upon a report from the Chief Officer, confirm or annul the appointment.

“(5.) Unless otherwise directed by the Board, annulment of appointment shall take effect from the date on which the probationer ceases to perform the duties of the office.

“(6.) Unless otherwise determined by the Board, no probationer whose appointment has been annulled shall be eligible as a probationer at any time within twelve months from the date of the annulment.”.

Prior service
reckoned as
Commonwealth
service.

13. Section forty-eight of the Principal Act is amended by adding, at the end of sub-section (1.) thereof, the following proviso :—

“ Provided that a person appointed to the Commonwealth Service, either before or after the commencement of this Act, who owes his appointment to the passing of a competitive examination, shall not, unless in any particular case the Board otherwise determines, be entitled to have any period of employment which is permanent service or service in a permanent capacity within the meaning of paragraph (a), (b), (c) or (d) of this sub-section reckoned for the purposes of this Act as service in the Commonwealth Service.”.

Allowance to
female officers
on marriage.

14. Section forty-nine of the Principal Act is amended by adding at the end thereof the following sub-section :—

“(3.) There shall be payable to any female officer of not less than five years’ service, who retires, or has since the commencement of this Act retired, from the Commonwealth Service upon her marriage, and who is not eligible for, or has not been granted, leave, or pay in lieu of leave, under section seventy-three or seventy-four of this Act, or under any provision contained in or made under any Act repealed by this Act and substantially corresponding to either of those sections, a sum equivalent to salary in accordance with the following scale :—

Length of Service.	Sum equivalent to salary for—
Not less than five years but less than eight years ..	One month
Not less than eight years but less than twelve years ..	Two months
Not less than twelve years but less than twenty years ..	Three months

15. Section fifty of the Principal Act is repealed and the following section inserted in its stead :—

Promotions.

“ 50.—(1.) Whenever a vacancy occurs in an office in any Division other than the First Division, and in the opinion of the Board it is necessary to fill that vacancy by the transfer or promotion of an officer, the Permanent Head of the Department in which the vacancy occurs may, subject to the provisions of this Act, transfer or promote an officer to fill the vacancy.

“(2.) Where the officer whom it is proposed to transfer is an officer of a Department other than that in which the vacancy occurs, the transfer shall be subject to the approval of the Board.

“(3.) In the selection of an officer for promotion under the provisions of this section, consideration shall be given first to the relative efficiency, and, in the event of an equality of efficiency of two or more officers, then to the relative seniority, of officers available for promotion to the vacancy.

“(4.) In this section ‘efficiency’ means special qualifications and aptitude for the discharge of the duties of the office to be filled, together with merit, diligence and good conduct, and, in the case of an officer who is a returned soldier, includes such efficiency as, in the opinion of the Permanent Head or the Board, as the case may be,

he would have attained but for his absence on active naval or military service.

“(5.) Any promotion made in pursuance of sub-section (1.) of this section shall be provisional and without increased salary pending confirmation of the promotion, and shall be notified in the prescribed manner, and shall be subject to the right of appeal to the Board.

“(6.) An appeal under this section shall be made in such manner and within such time as is prescribed, and may be made by any officer who considers that he is more entitled to promotion to the vacant office than the officer provisionally promoted, on the ground of—

(a) superior efficiency; or

(b) equal efficiency, and seniority.

“(7.) Any appeal under this section shall be forwarded to the Board by the Permanent Head of the Department in which the appellant officer is employed.

“(8.) Upon receipt of the appeal, the Board shall make full inquiry into the claims of the appellant, and those of the officer provisionally promoted, and shall determine the appeal.

“(9.) Where any appeal is upheld by the Board, it shall promote the appellant officer to the vacant office, and cancel the provisional promotion.

“(10.) Where an appeal is disallowed in pursuance of this section, or no appeal is lodged within the prescribed time, the provisional promotion shall be confirmed by the Board, or the Permanent Head, as the case may be.

“(11.) Notwithstanding anything contained in this section, the Board may, at any time after notification has been made of a provisional promotion to a vacant office, and before the promotion has been confirmed, cancel the provisional promotion if the Board is satisfied that the office is unnecessary or can be filled by the transfer of an excess officer, or that in the circumstances the notification or further notification of the vacant office is desirable.

“(12.) The powers of the Board under the last preceding sub-section may be exercised whether an appeal has been made or not.”.

16. Section fifty-one of the Principal Act is repealed.

Transfers.

17.—(1.) Section fifty-five of the Principal Act is amended by inserting, after sub-section (6.) thereof, the following sub-section:—

Offences.

“(6A.) Pending the holding of an election of representatives of Divisions under the provisions of this Act, any officer acting as a divisional representative immediately prior to the commencement of this Act, or where a vacancy occurs in any office of divisional representative, any officer appointed by the Board to fill the vacancy, shall, for the purposes of this section, and subject to the regulations, be deemed to be a representative of a Division, and shall act as the representative of the Division specified by the Board.”.

(2.) This section shall be deemed to have commenced on the date upon which the Principal Act commenced.

Offences by
officer of
First or Second
Division.

18. Section fifty-six of the Principal Act is amended—

- (a) by inserting in sub-section (1.) thereof, after the words “the Minister” the words “, in the case of an officer of the First Division, and the Permanent Head, in the case of an officer of the Second Division,”; and
- (b) by adding, at the end of sub-section (3.) thereof, the words “or the Permanent Head, as the case may be”.

19. Section sixty-four of the Principal Act is repealed and the following section inserted in its stead :—

Attachment
of salaries
of officers.

“64.—(1.) Where judgment has been given by any Court. against any officer of the Commonwealth or Provisional Service for the payment of any sum of money, the person in whose favour the judgment is given may serve on the Paying Officer of the Department in which the officer is employed a copy of the judgment, certified under the hand of the Registrar or other proper officer of the Court by which the judgment was delivered, and a statutory declaration stating that the judgment has not been satisfied by the judgment debtor, and setting out the amount due by the judgment debtor under the judgment.

“(2.) Upon the service upon him of a copy of a judgment and a statutory declaration in pursuance of this section, the Paying Officer shall as soon as practicable notify the judgment debtor in writing of the service of the copy judgment and statutory declaration, and require him to state in writing, within a time to be specified by the Paying Officer, whether the judgment has been satisfied, and, if so, to furnish evidence in support thereof, and, if the judgment has not been satisfied, to state the amount then due under the judgment.

“(3.) If the officer fails to prove to the satisfaction of the Paying Officer, within the time specified by the Paying Officer, that the judgment has been satisfied, the Paying Officer may from time to time deduct from any moneys due to the officer such sums as are in his opinion necessary to enable the judgment to be satisfied, and shall pay those sums to the judgment creditor :

“Provided that in no case shall a deduction be made which will reduce the amount to be received by the officer to less than Two pounds per week, or to less than one-third of the amount which would, but for the provisions of this section, be payable to the officer.

“(4.) Where more than one judgment and statutory declaration are served upon a Paying Officer in respect of one judgment debtor, the judgments shall be satisfied in the order in which copies of the judgments are served upon the Paying Officer.

“(5.) A payment made to a judgment creditor in pursuance of this section shall, as between the Commonwealth and the officer, be deemed to be a payment by the Commonwealth to the officer.

“(6.) A person to whom any payment has been made in pursuance of this section shall notify the Paying Officer immediately a judgment debt in respect of which the payment was made is satisfied.

Penalty : Fifty pounds or imprisonment for three months.

“(7.) If any payment made in pursuance of this section exceeds the amount due under the judgment, the excess shall be repayable by the judgment creditor to the judgment debtor, and, in default of payment, may be recovered by the judgment debtor from the judgment creditor in any Court of competent jurisdiction.

“(8.) The foregoing provisions of this section shall not apply in relation to any officer of the Commonwealth or Provisional Service whose estate the Paying Officer is satisfied has been sequestrated either voluntarily or compulsorily for the benefit of his creditors, and who has not yet obtained a certificate of discharge.

“(9.) In this section ‘the Paying Officer’ means the officer of a Department who pays to the officer, in relation to whom the expression is used, the salary or wages due to him by reason of his employment in the Commonwealth or Provisional Service.”.

20. Section seventy-six of the Principal Act is amended—

Holidays.

- (a) by omitting from sub-section (3.) thereof the word “three” and inserting in its stead the word “four” ;
- (b) by omitting from that sub-section the word “prescribed” and inserting in its stead the words “authorized by the Board” ;
- (c) by omitting from sub-section (5.) thereof the words “any of the preceding sub-sections” and inserting in their stead the words “sub-section (1.), (2.), or (4.) of this section” ;
- (d) by inserting in sub-sections (5.) and (6.), after the word “salary” (wherever occurring), the words “calculated in the prescribed manner” ;
- (e) by inserting, after sub-section (6.) thereof, the following sub-section :—

“(6A.) Where the attendance and services of any officer of the Department are required during any holiday or half-holiday authorized under the provisions of sub-section (3.) of this section, that officer shall be granted a period off duty in lieu of the holiday or half-holiday, or portion of a holiday, so worked, and the period off duty shall be added to the officer’s next ensuing recreation leave :

Provided that no period off duty in respect of work performed on any holiday shall be less than one half-day.”; and

- (f) by inserting after sub-section (7.) thereof, the following sub-section :—

“(7A.) The Regulations may prescribe that the payment of any amount or the granting of any period off duty in consequence of the attendance and services of an officer during a holiday or a half-holiday, shall be subject to the approval of the Board if the salary of the officer concerned exceeds an amount to be prescribed.”

**Application
of Division.**

21. Section eighty-seven of the Principal Act is amended by inserting before the words "The application of this Division" the words "Subject to the Constitution,".

**Performance of
work outside
Commonwealth
Service.**

22. Section ninety-one of the Principal Act is amended by adding at the end of sub-section (2.) thereof the following words "but an officer shall not take any part in the conduct of the business of the company or society otherwise than by the exercise of his right to vote as a member or shareholder".

Regulations.

23. Section ninety-seven of the Principal Act is amended by omitting paragraph (a) of sub-section (1.) thereof, and inserting in its stead the following paragraph:—

"(a) for determining the amounts or scales of salaries to be paid to officers of the Second, Third and Fourth Divisions in the several Departments, or in any specified Department or part thereof, and for defining the seniority of officers in those respective Divisions;".