

COMMONWEALTH PUBLIC SERVICE.

No. 29 of 1945.

An Act to provide for the appointment to or employment in the Commonwealth Service of certain State Employees, and for other purposes.

[Assented to 16th August, 1945.]

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

Short title
and citation.

1.—(1.) This Act may be cited as the *Commonwealth Public Service Act* 1945.

(2.) Section twenty-three of the *Re-establishment and Employment Act* 1945* is amended by inserting in sub-section (6.), after the word “amended”, the words “by the *Commonwealth Public Service Act* 1945 and”.

(3.) The *Commonwealth Public Service Act* 1922–1943† is in this Act referred to as the Principal Act.

* Act No. 11, 1945.

† Act No. 21, 1922, as amended by No. 46, 1924; No. 41, 1928; No. 19, 1930; No. 21, 1931; No. 72, 1932; No. 38, 1933; Nos. 45 and 46, 1934; No. 72, 1936; No. 41, 1937; No. 72, 1939; No. 88, 1940; No. 5, 1941; and No. 19, 1943.

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

3. Section three of the Principal Act is amended by inserting after the words "Division 9.—Reciprocal Services of Commonwealth and State Officers." the words "Division 9A.—Appointment and Employment of Certain State Employees." Parts.

4. Section thirty-three of the Principal Act is amended by inserting in paragraph (b) of sub-section (1.), before the words "the Board", the words "(except as otherwise provided in this Act)". Admission to Commonwealth Service.

5. After Division 9 of Part III. of the Principal Act the following Division is inserted :—

" Division 9A.—Appointment and Employment of Certain State Employees.

" 81A. In this Division—

Interpretation.

' State employee ' means any person employed in a State Public Service—

- (a) who is performing or has performed in or on behalf of the Department of Labour and National Service duties in relation to any matters with respect to which the Director-General of Man Power exercises or has exercised any function for the purpose of the organization of man power or the placing or rehabilitation of persons in employment or matters related to that organization, placing or rehabilitation or duties in relation to any trades dilution committee constituted under Commonwealth law ;
- (b) who is a member of the Forces within the meaning of section four of the *Re-establishment and Employment Act 1945* and who, in the opinion of the Board, would, but for his being such a member, have been performing in or on behalf of the Department of Labour and National Service the duties referred to in paragraph (a) of this definition ; or
- (c) whose services with the State Public Service have, in the opinion of the Board, become redundant by reason of the establishment of the Commonwealth Employment Service under the *Re-establishment and Employment Act 1945* or of the carrying out of the *Unemployment and Sickness Benefits Act 1944*,

but does not include a person employed in the State Public Service in a temporary capacity who was not so employed immediately prior to the thirty-first day of January, One thousand nine hundred and forty-two ;

'State Public Service' means Public, Railway or other Service of a State, and includes the Service of any authority (other than a local governing authority) constituted by or under the law of the State which is specified by the Board by regulation.

Election of
State
employees.

"81B.—(1.) The Board may from time to time request a State employee to elect, by writing addressed to the Board, within twenty-one days after being so requested or within such further period as the Board within those twenty-one days allows, to be appointed to or employed in the Commonwealth Service under this Division.

"(2.) Any such request shall include particulars of the classification of and the remuneration payable in respect of the proposed appointment or employment.

Appointment of
State officers.

"81C.—(1.) Where a State employee, not being a person employed in a temporary capacity, elects, within the prescribed period, to be appointed under this Division, the Board may appoint that employee to the Commonwealth Service.

"(2.) Every such appointment shall be without examination and without probation and, if the Board thinks fit, the provisions of paragraph (b) of sub-section (1.) of section thirty-three or of section forty of this Act shall not apply in relation to the appointment of any such State employee.

Employment of
State temporary
employees.

"81D.—(1.) Where a State employee, being a person employed in a temporary capacity, elects, within the prescribed period, to be employed under this Division, the Board may employ that employee in the Commonwealth Service.

"(2.) The provisions of sub-sections (1.) and (2.) of section eighty-two of this Act shall not apply in relation to the employment of any such employee.

Preference in
employment not
to apply to
appointment of
State
employees
under this
Division.

"81E.—(1.) The provisions of any law of the Commonwealth providing for preference in any matter relating to the employment of discharged members of the Forces shall not apply in relation to the appointment or employment of State employees under this Division.

"(2.) In this section, 'member of the Forces' has the same meaning as in Division 2 of Part II. of the *Re-establishment and Employment Act 1945*.

Remuneration
to be not
less favourable
than State
remuneration.

"81F.—(1.) Subject to sections twenty, thirty-one, fifty-five, fifty-six, sixty-two, sixty-three and sixty-seven of this Act and to the provisions of any law providing for a reduction in the remuneration payable to officers of the Commonwealth Service generally, the rate of remuneration of a State employee appointed or employed under this Division shall, while he continues in the Commonwealth Service, be not less favourable than that to which, in the opinion of the Board, he would have been entitled in respect of the normal position which he occupied in the State Public Service immediately prior to his performing the duties referred to in paragraph (a) of the definition of 'State employee', or which, in the opinion of the Board, he would have occupied in the State Public Service immediately prior to his being so appointed or employed if he had resumed duty or had remained on duty in the State Public Service, whichever rate of remuneration is the greater.

“(2.) For the purposes of this section, ‘remuneration’ means salary or pay and includes such allowances as, in the opinion of the Board, should be regarded as having formed part of the salary or pay of the officer or employee in his normal position in the State Public Service.

“81G. Where a State employee is appointed or employed under this Division and his service in the Commonwealth Service is continuous with—

Prior service
reckoned as
Commonwealth
service.

- (a) permanent service or temporary service, as the case may be, of that employee in the State Public Service (including any service deemed under the law of the State to have been continuous service); and
- (b) in the case of an employee who has performed the duties mentioned in paragraph (a) of the definition of ‘State employee’, his service while he performed those duties, the service specified in paragraph (a) of this section or the aggregate of the service specified in paragraph (a) and in paragraph (b) of this section, as the case may be, shall be reckoned for the purposes of this Act as service in the Commonwealth Service.

“81H. A State employee appointed or employed under this Division shall preserve his eligibility for the grant of leave of absence for recreation which had accrued immediately prior to his being so appointed or employed.

Accrued
recreation
leave.

“81J. A State employee shall, upon his being appointed or employed under this Division, be credited with the sick leave for which he would have been eligible if he had been continuously employed in the Commonwealth Service for the period ascertained in accordance with section eighty-one G of this Act less any leave of absence on account of illness granted since the commencement of the service specified in paragraph (a) of that section or since the nineteenth day of July, One thousand nine hundred and sixteen, whichever is the later, and before his being so appointed or employed, as the case may be.

Preservation of
sick leave
credits.

“81K.—(1.) Where a State employee was, immediately prior to his being appointed or employed under this Division, entitled to, or eligible for, the grant of furlough or pay in lieu of furlough (including pay to his dependants on his death) after a period of continuous service (being less than twenty years) specified in the law of the State in which he was employed, he or his dependants, as the case may be, shall, after the expiration of that period of continuous service, be entitled to or eligible for, a grant of furlough or pay in lieu of furlough for a period equal to the period to or for which he would have been entitled or eligible if he had continued to be employed in the State Public Service and his service with the Commonwealth were reckoned as service in the State Public Service.

Furlough.

“(2.) Where any such State employee is granted furlough as provided in sub-section (1.) of this section or has been, prior to his being so appointed or employed, granted furlough under the law

referred to in that sub-section, the period of the furlough so granted shall be deducted from the period of leave for which he is eligible or in respect of which payment may be authorized under the provisions of section seventy-three of this Act or of section seven of the *Commonwealth Employees' Furlough Act 1943-1944*.

“(3.) For the purposes of this section, ‘furlough’ includes long leave of absence, long service leave, extended leave and any other leave of absence in the nature of furlough (howsoever referred to).”.

6. After section eighty-two of the Principal Act the following section is inserted in Division 10 of Part III. :—

Continuation of
employment of
temporary
employees

“82A. A person, not being a State employee as defined in section eighty-one A of this Act, who was, immediately prior to the commencement of this section, holding office as an employee under regulation ten of the National Security (Man Power) Regulations, shall for all purposes of this Act be deemed to be a person temporarily employed under section eighty-two of this Act and the period of his continuous service under that regulation immediately prior to such commencement shall be deemed to be temporary service in the Commonwealth Service.”.
