

# COMMONWEALTH PUBLIC SERVICE.

## No. 16 of 1946.

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

[Assented to 3rd May, 1946.]

**B**E 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* 1946. Short title and citation.

(2.) The *Commonwealth Public Service Act* 1922–1945\* 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* 1922–1946.

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 9A.—Appointment and Employment of Certain State Employees.” the words “Division 9B.—Appointment and Employment of Certain State Taxation Employees.” Parts.

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

“Division 9B.—Appointment and Employment of Certain State Taxation Employees.

“81L. In this Division—

‘State employee’ means a person—

Definitions.

(a) who was employed either permanently or temporarily in a State Public Service and—

(i) who, at the commencement of this Act, is on temporary transfer to the Public Service of the Commonwealth in accordance with the provisions of the *Income Tax (War-time Arrangements) Act* 1942–1944; or

(ii) whose services are, at the commencement of this Act, on loan to the Commonwealth by the State for duties connected with the assessment or collection of taxes on income or the collection of tax imposed by the *Entertainments Tax Act* 1942–1944; or

\* Act No. 21, 1922, as amended by No. 46, 1924; No. 41, 1928; No. 19, 1930; No. 21, 1931; No. 72, 1932; No. 33, 1933; Nos. 45 and 46, 1934; No. 72, 1936; No. 41, 1937; No. 72, 1939; No. 88, 1940; No. 5, 1941; No. 19, 1943; and Nos. 11, 29, and 43, 1945

- (iii) who, at the commencement of this Act, is a 'member of the Forces' as defined in section four of the *Re-establishment and Employment Act 1945* and, in the opinion of the Board, is a person who would have been transferred or whose services would have been loaned in the manner referred to in this paragraph if he had not been such a member on the first day of September, One thousand nine hundred and forty-two; or
- (b) whose permanent employment, on the thirty-first day of August, One thousand nine hundred and forty-two, was in the Taxation Branch or Taxation Department of a State and who—
  - (i) was not temporarily transferred to the service of the Commonwealth in accordance with the provisions of the *Income Tax (War-time Arrangements) Act 1942* but, in the opinion of the Board, would have been so transferred but for other employment with the Commonwealth or the State; and
  - (ii) is, at the commencement of this Act, permanently employed by the State;

'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.

"81M.—(1.) The Board may from time to time request a State employee to elect, by writing addressed to the Board, within fourteen days after being so requested or within such further period as the Board within those fourteen 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.

"81N.—(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.

"81P.—(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.

“81Q.—(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.

Preference in  
employment  
not to apply to  
appointment  
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*.

“81R.—(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 the rate of remuneration to which he would have been entitled on the first day of July, One thousand nine hundred and forty-six, in the position which, in the opinion of the Board, would have been his normal position in the State Public Service on that date if—

Rate of  
remuneration.

(a) in the case of a person who was temporarily transferred, or whose services were loaned, to the Commonwealth and who was employed in the Taxation Department of the Commonwealth on that date—he had resumed duty in the Public Service of a State on that date; and

(b) in the case of any other person—he had been a person specified in paragraph (a) of this sub-section and had resumed duty in the Public Service of a State on that date.

“(2.) Where a State employee is appointed or employed under this Division at the rate of remuneration to which he would have been entitled in the normal position referred to in the last preceding sub-section, he shall be entitled to advance, by the periodical increments (if any) by which he would have been entitled, on the first day of July, One thousand nine hundred and forty-six, to future advancement in that position, to the maximum rate to which he would, on that date, have been entitled to future advancement by those increments.

“(3.) For the purpose of this section, ‘remuneration’, in relation to any position, means salary or pay in respect of the performance of duty in that position for the normal hours applicable to the position, and includes such allowances as, in the opinion of the Board, should be regarded as part of the salary or pay applicable, on the first day of July, One thousand nine hundred and forty-six, to that position.

“81s. 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  
Common-  
wealth  
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 been temporarily employed by the Commonwealth during the operation of the *Income Tax (War-time Arrangements) Act 1942*, or of that Act as amended, his service while he was so employed,

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.

Accrued  
recreation  
leave.

"81r. 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.

Preservation  
of sick leave  
credits.

"81u. 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 as a permanent officer in the Commonwealth Service for the period of his continuous employment (including both permanent and temporary) in the service of the State or in the service of the State and of the Commonwealth, less any leave of absence on account of illness granted since the commencement of that period 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.

Furlough.

"81v.—(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 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.

"(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).

Preservation  
of gratuity  
rights.

"81w. A State employee who is appointed under this Division and who, if he had continued in the State Service until retirement from that Service, and had so retired in any particular circumstances, would have been entitled under any law of the State enacted prior

to the commencement of this Act to receive an amount by way of gratuity shall be entitled to receive from the Commonwealth that amount by way of gratuity upon his retirement from the Public Service of the Commonwealth in corresponding circumstances and, in the event of the death of any such employee at any time before such retirement, such amount as would have been payable under the provisions relating to such gratuities of the law of the State to any other person shall be payable by the Commonwealth to that person.

“81x. Where by or under any law, an officer is required to pass any examination or to have any other qualification before being eligible for appointment or promotion to, or advancement in, any office, the conditions under which a State employee who would, if the law or practice of the State in relation to similar offices in the State service applied, have been eligible for appointment or promotion to, or advancement in, that office may be appointed, promoted to, or advanced in, that office, shall, notwithstanding any such law, be as prescribed.”.

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Tests for  
advancement.