

2.—(1.) Sections one, two, six and thirty of this Act shall commence on the day on which this Act receives the Royal Assent, and the remaining sections of this Act shall commence on a date to be fixed by Proclamation.^(a)

Commencement of Act.

* * * * *

Sub-sec. (2.) omitted by No. 45, 1934, s. 2 (3.) and 4th Schedule.

3.—(1.) If, within one month after this Act has been in operation for a period of three years or within one month after the expiration of any further period of three years, a requisition for a poll, signed by at least thirty per centum of the owners of wineries or distilleries, is sent to the Minister, a poll shall thereupon be held in the prescribed manner in regard to the question whether the Act shall continue in operation.

Duration of Act.

(2.) If a majority of the owners of wineries or distilleries voting at the poll are opposed to the continued operation of the Act, the Act shall cease to have effect upon a date to be fixed by Proclamation, not being later than one month after the result of the poll has been ascertained.

4. In this Act, unless the contrary intention appears—

Definitions.

“wine” means any wine produced from grapes grown within the Commonwealth;

“winery” means, for the purposes of the requisition of a poll and voting under this Act, an establishment which handled not less than ten tons of grapes for use in the manufacture of wine during the year ended the thirtieth day of June last preceding the poll or election;

“distillery” means, for the purpose of the requisition of a poll and voting under this Act, an establishment which handled not less than ten tons of grapes for use in the manufacture of spirit during the year ended the thirtieth day of June last, preceding the poll or election;

“the Board” means the Wine Overseas Marketing Board constituted under this Act;

“the Fund” means the Wine Export Fund established under this Act.

5.—(1.) For the purposes of this Act, there shall be a Wine Overseas Marketing Board.

Wine Overseas Marketing Board.

(2.) The Board shall consist of—^(b)

(a) one member with commercial experience (in this Act referred to as “the Government representative”) who shall be appointed by the Governor-General as the representative of the Commonwealth Government, and who shall not be directly or indirectly connected with the industry;

(b) two representatives elected to represent co-operative wineries and distilleries;

(c) one representative elected to represent proprietary and privately owned wineries and distilleries in the States of New South Wales and Queensland;

^(a) The remaining sections were proclaimed to commence on 21st June, 1929. See *Gazette*, 1929, p. 1445.

^(b) Cf. footnote (a) (*supra*, p. 1895).

- (d) one representative elected to represent proprietary and privately owned wineries and distilleries in the State of Victoria ;
- (e) two representatives elected to represent proprietary and privately owned wineries and distilleries in the State of South Australia ; and
- (f) one representative elected to represent proprietary and privately owned wineries and distilleries in the State of Western Australia.

(3.) The Governor-General shall not appoint as a Government representative any person who has submitted himself for, and failed to secure, election as a member of the Board.

(4.) The member appointed as the Government representative shall hold office during the pleasure of the Governor-General.

(5.) The election of representatives in pursuance of paragraphs (b), (c), (d), (e) and (f) of sub-section (2.) of this section shall be carried out in such manner as is prescribed.

(6.) Elected members of the Board shall hold office for a period of two years and shall be eligible for re-election.

(7.) An elected member may be removed from office by the Governor-General on the recommendation of the Board.

(8.) On the death, resignation or removal from office of an elected member of the Board, the Governor-General may, on the recommendation of the Board, appoint a person to hold the vacant office for the residue of the term of the elected member.

(9.) The powers conferred on the Board by this Act shall not be affected by reason only of there being a vacancy in the membership thereof.

S. 6 repealed
by No. 45, 1934,
s. 2 (3.) and
4th Schedule.

* * * * *

Incorporation
of Board.

7. The Board shall be a body corporate, with perpetual succession and a common seal, and shall be capable of suing and being sued, and of holding real and personal property.

Deputies of
members.

8.—(1.) The Governor-General may, in respect of each member of the Board, appoint a person to be the deputy of that member.

(2.) A person appointed in pursuance of the last preceding sub-section shall, in the event of the illness or absence of the member of whom he is the deputy, have all the powers of that member during his illness or absence.

(3.) The person appointed to be the deputy of an elected member shall be a person named by the Board.

(4.) No such appointment of a deputy, and no acts done by him as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

Fees and
expenses.

9. The members of the Board, and the deputies of members of the Board while acting as such, shall receive such fees and expenses as are prescribed.

10.—(1.) At the first meeting of the Board, which shall be held at a time and place notified in the *Gazette* by the Minister, the Board shall appoint one of its members to be the Chairman of the Board.

Chairman of
the Board.

(2.) The Chairman of the Board shall hold office until the appointment, in accordance with this section, of a successor and shall be eligible for re-appointment.

(3.) At a meeting of the Board, which shall be held in the month of July of each year, the Board shall appoint a person to be Chairman for the ensuing period of twelve months.

(4.) At any meeting of the Board at which the Chairman is not present the members present shall appoint one of their number to act as chairman at that meeting.

11.—(1.) Subject to this Act, meetings of the Board shall be held at such times and places within the Commonwealth as the Board from time to time determines.

Meetings of
the Board.

(2.) The Chairman of the Board, or any four members thereof, may at any time call a special meeting of the Board.

(3.) At all meetings of the Board four members shall form a quorum.

(4.) At any meetings of the Board the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

(5.) All questions before the Board shall be decided by a majority of votes.

(6.) The Board shall keep a record of its proceedings.

11A.—(1.) There shall be an Executive Committee of the Board consisting of the Chairman of the Board and three members of the Board to be elected annually by the Board.

Executive
Committee
of Board.
Inserted by
No. 48, 1930,
s. 2.

(2.) The Executive Committee shall have such powers and functions of the Board as the Board thinks fit, but the Board may at any time exercise any of its powers and functions notwithstanding the appointment of the Committee.

(3.) At any meeting of the Executive Committee, three members shall form a quorum.

(4.) In the event of the absence of the Chairman of the Board from any meeting of the Executive Committee, the members present at the meeting may elect one of their number to be the Chairman of the meeting.

(5.) At any meeting of the Executive Committee, the Chairman shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

(6.) All questions before a meeting of the Executive Committee shall be decided by a majority of votes.

(7.) In the event of a vacancy occurring in the Executive Committee, the Board may elect one of its members to hold the vacant office for the residue of the term for which the member whose office is vacant was elected.

London
Agency of
Board.

12.—(1.) The Board may constitute an agency of the Board in London (in this Act referred to as "the London Agency").

(2.) The London Agency shall consist of such number of persons as the Board from time to time determines, one of whom shall be appointed by the Governor-General and shall hold office during the pleasure of the Governor-General, and the others shall be appointed by the Board and shall hold office during the pleasure of the Board.

(3.) The London Agency shall keep the Board advised as to current prices of wines, and as to other matters relative to the disposal of wines in England or elsewhere, and generally act as the agent of the Board in accordance with the directions of the Board.

Appointment
of officers.

13.—(1.) The Board may appoint such officers as are necessary to assist the Board in carrying out its functions under this Act.

(2.) Officers appointed in pursuance of this section shall not be subject to the *Commonwealth Public Service Act* 1922-1928^(a) and shall hold office during the pleasure of the Board.

(3.) The salaries and conditions of employment of officers appointed in pursuance of this section shall be as prescribed.

Wine not to be
exported save
in accordance
with
determination
of Board.

14. For the purpose of enabling the Board effectively to control the export and the sale and distribution after export of Australian wine, the Governor-General may by Proclamation prohibit the export from the Commonwealth of any wine except in accordance with a licence issued by the Minister subject to such conditions and restrictions as are prescribed after recommendation to the Minister by the Board.^(b)

Licensing of
traders in
wine.

15.—(1.) Upon the issue of a Proclamation in pursuance of the last preceding section, the Minister may grant to any person desiring to export wine from the Commonwealth a licence to do so.

(2.) A licence under this section shall, subject to this section, be for such period as is specified in the licence and shall be granted upon such terms and conditions as are prescribed.

(3.) Where the Minister is satisfied, on report by the Board, that any person to whom a licence under this section has been granted has contravened or failed to comply with any term or condition upon which the licence was granted, the Minister may cancel the licence.

Penalty for
export in
contravention
of
Proclamation.

16. Any person who—

(a) exports wine from the Commonwealth in contravention of any Proclamation under this Act : or

(b) being the holder of a licence under the last preceding section, contravenes or fails to comply with any term or condition upon which the licence was granted,

shall be guilty of an offence.

Penalty : One hundred pounds.

(a) *Infra* p. 1964.

(b) The exportation (excepting to New Zealand) of any wine, unless in accordance with a licence, was prohibited as from 2nd June, 1930. See *Gazette*, 1930, p. 1109.

Cf. footnote (b) (*supra*, p. 1897).

17. The Board may accept control of any wine placed under its control for the purposes of this Act.

* * * * *

Board may accept control of wine intended for export.

S. 18 repealed by No. 45, 1934, s. 2 (3.) and 4th Schedule.

19.—(1.) After the constitution of the Board, or after such later date as the Minister, on the recommendation of the Board, by notice in the *Gazette*, appoints, a contract for the carriage by sea to any place beyond the Commonwealth of any wine shall not be made except by the Board acting as the agent of the owners of the wine or of other persons having authority to export the wine, or in conformity with conditions approved by the Board.

Contracts for shipment of wine.

(2.) Every contract for the carriage of wine by sea to any place beyond the Commonwealth made otherwise than in accordance with this section shall be void.

(3.) The Collector or other officer of Customs may require any person who, after the date of the constitution of the Board or after such later date as the Minister, on the recommendation of the Board, appoints, exports any wine from the Commonwealth, on making entry thereof under the *Customs Act* 1901-1925^(a) and before the entry has been passed, to satisfy him that the contract for the carriage of the wine has been approved by the Board, and the Collector or other officer of Customs may decline to pass the entry until the person has so satisfied him.

* * * * *

Sub-sec. (4.) omitted by No. 45, 1934, s. 2 (3.) and 4th Schedule.

20.—(1.) The Board shall, with respect to any wine placed under its control, have full authority to make such arrangements and give such directions as it thinks fit for the following matters:—

Particular powers of Board.

- (a) the handling, marketing and storage of the wine;
- (b) the shipment of the wine on such terms and in such quantities as it thinks fit;
- (c) the sale and disposal of wine on such terms as it thinks fit;
- (d) the insurance against loss of any such wine either in the Commonwealth or in transit from the Commonwealth and until disposed of; and
- (e) all such matters as are necessary for the due discharge of its functions in handling, distributing and disposing of the wine.

(2.) For the purpose of securing any advances made to the Board, or, at the request of the Board, to the owners of any wine placed under the control of the Board, the Board shall, by virtue of this Act and without further authority, have full power, on behalf of the owners of the wine, to give security over the wine and to execute all mortgages and other instruments of assurance in the same manner in all respects as if the Board were the legal owners of the wine.

Wine Export
Fund.

21.—(1.) There shall be a Wine Export Fund into which shall be paid out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, all moneys received by a prescribed authority under the *Wine Grapes Charges Act 1929*.^(a)

(2.) Where any account referred to in section twenty-three of this Act is opened, payment into that account of the moneys mentioned in the last preceding sub-section shall be held to be payment into the Fund.

(3.) Income derived from the investment of the Fund shall form part thereof.

(4.) The income of the Fund shall not be subject to taxation by the Commonwealth or a State.

Application of
moneys paid
into Fund.

22. The moneys paid into the Fund shall be applied by the Board as follows :—

(a) In payment of the expenses and other charges incurred by the Board or for which the Board may become liable in the course of its business ;

(b) In payment of the salaries and wages of officers and servants of the Board ;

Amended by
No. 48, 1930,
s. 3.

(c) In payment of travelling allowances, fees or other remuneration to members of the Board or of the London Agency (not being persons permanently employed in the service of the Commonwealth) ;

(d) In investment in any securities of, or guaranteed by, the Government of the Commonwealth or of a State ; and

Added by
No. 48, 1930,
s. 3.

(e) In doing or undertaking any experiment, act, matter or thing which, in the opinion of the Board, is likely to improve the quality or to promote the sale of Australian wine, and in particular in carrying out any arrangement which the Board may enter into with any other Board or Authority constituted to control the sale of products of Australia.

Moneys in
Fund
uninvested
may be
lodged in
bank.

23. Moneys held in the Fund uninvested by the Board may be lodged in an account at call or on fixed deposit, or partly at call and partly on fixed deposit, with the Commonwealth Bank, and while in such bank shall be held to be moneys of the Crown.

Moneys
received by
Board.

24. All moneys received by the Board in respect of the sale of wine or otherwise howsoever (except moneys forming part of the Fund) shall be paid by the Board into a separate account in the Commonwealth Bank.

(a) *Supra*, p. 1931.

25. Cheques drawn on any account referred to in either of the last two preceding sections shall be signed as prescribed. How cheques signed.

26.—(1.) The Board may call upon any person to furnish, within such time as is specified by the Board, such information in relation to the wine industry as is necessary for the purpose of this Act. Power to call for information.

(2.) Any person who, being called upon in pursuance of this section to furnish information in relation to any matter within his knowledge or under his control, fails to furnish the information within the time specified shall be guilty of an offence.

Penalty : One hundred pounds.

27. The accounts of the Board shall be subject to inspection and audit by the Auditor-General for the Commonwealth. Audit.

28.—(1.) The Board in its corporate capacity shall, in all its operations under this Act, be deemed to be the agent of the owners of all wine of which the Board has accepted control, and the mutual rights, obligations and liabilities of the Board and the several owners shall accordingly be determined in accordance with the law governing the relations between principals and agents, save that nothing in this Act shall be construed to limit the power of the Board to exercise, without the authority of the owner of any wine, any power with respect to such wine, which is expressly or by implication conferred on the Board by or under this Act. Liability of Board for its acts.

(2.) The members of the Board shall not be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.

29.—(1.) The Board shall, in the month of July in each year, report to the Minister generally as to the operation of this Act. Annual report.

(2.) A copy of the report of the Board shall be laid on the Table of each House of the Parliament within seven days of its receipt by the Minister, if the Parliament is then sitting, and, if the Parliament is not then sitting, then within seven days of the next meeting of the Parliament.

(3.) The report shall be accompanied by a statement by the Minister regarding the operation of the Act.

30. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular for prescribing penalties not exceeding Fifty pounds for any breach of the Regulations. (a) Regulations.

(a) Cf. footnote (a) (*supra*, p. 1900).

WIRE AND WIRE NETTING ACT 1927-1932.^(a)

Title
amended by
No. 55, 1932,
s. 3.

An Act to provide for the Grant of Financial Assistance to the States and to the Northern Territory for the purpose of supplying Wire and Wire Netting to Settlers.

[Assented to 8th April, 1927.]^(b)

Preamble.
Amended by
No. 55, 1932,
s. 4.

WHEREAS it is expedient to provide for the grant of financial assistance to the several States for the purpose of the supply of wire and wire netting to settlers, and to provide for the supply of wire and wire netting to settlers in the Northern Territory :

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

Short title.
Short title
amended :
No. 32, 1918,
s. 2.

1. This Act may be cited as the *Wire and Wire Netting Act* 1927-1932.^(a)

Commencement.

2. This Act shall be deemed to have commenced on the first day of July, One thousand nine hundred and twenty-six.

Definition.

3. In this Act " wire " means fencing wire and includes barbed wire.

Trust
Account.

4.—(1.) For the purposes of this Act there shall be a Trust Account, known as the Wire and Wire Netting Trust Account, which shall be kept in the books of the Treasury.

(2.) The Account established in pursuance of this section shall be a Trust Account within the meaning of section sixty-two A of the *Audit Act* 1901-1926.^(c)

Payments
to Trust
Account.

5. There shall be payable to the Trust Account such sums as are from time to time appropriated by the Parliament for the purpose.

Agreements
with States.

6. For the purposes of giving effect to this Act in the States, the Minister may enter into agreements with the States in accordance with the form in the Schedule to this Act.

Application of
Act to
Northern
Territory.
Sub-sec. (1.)
amended by
No. 55, 1932,
s. 5.

7.—(1.) For the purposes of giving effect to this Act in the Northern Territory, the Minister may, out of the moneys standing to the credit of the Trust Account, make advances to the Territory for the purchase of wire and wire netting.

(a) The *Wire and Wire Netting Act* 1927-1932 comprises the *Wire and Wire Netting Act* 1927 (No. 15 of 1927) as amended by the *Wire and Wire Netting Act* 1932 (No. 55 of 1932). See Act No. 55, 1932, s. 1.

(b) This is the date of assent to the *Wire and Wire Netting Act* 1927. The *Wire and Wire Netting Act* 1932 was assented to on 28th November, 1932 (deemed to have commenced on the date of the commencement of the *Northern Territory Administration Act* 1931, viz., 12th June, 1931.

(c) *Supra*, p. 195.

(2.) Any wire or wire netting so purchased may be supplied to settlers in the Territory at such price, upon such conditions and security, and subject to such terms as to payment, as are prescribed. Amended by
No. 55, 1932,
s. 5.

(3.) Any moneys received by way of payment for wire and wire netting supplied to settlers in the Territory under this Act shall be paid to the Trust Account. Amended by
No. 55, 1932,
s. 5.

8. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act. Regulations.

THE SCHEDULE.

AN AGREEMENT made the _____ day of _____ One thousand nine hundred and twenty-seven pursuant to the Wire and Wire Netting Act 1927 of the Commonwealth of Australia BETWEEN THE MINISTER OF STATE FOR MARKETS AND MIGRATION OF THE COMMONWEALTH OF AUSTRALIA for and on behalf of the Commonwealth of Australia (in this Agreement referred to as "the Minister" which expression shall where the context so admits or requires be deemed to mean the Minister of State for Markets and Migration for the time being or the Member of the Federal Executive Council for the time being performing the duties of the Minister) of the one part and THE STATE OF (*here insert State*) (in this Agreement referred to as "the State") of the other part :

WHEREAS the State is desirous of receiving from the Commonwealth and the Commonwealth is willing to make to the State an advance for the purpose of purchasing fencing wire (including barbed wire) (in this Agreement referred to as "wire") and wire netting to be supplied to settlers in the State :

NOW THEREFORE IT IS MUTUALLY AGREED as follows :—

1. THE Commonwealth shall advance to the State out of moneys provided by the Parliament of the Commonwealth for the purpose such amounts (not exceeding the amounts required by the State) as the Commonwealth determines for the purchase of wire and wire netting.

2. ALL wire and wire netting to be purchased by the State pursuant to this Agreement shall unless otherwise approved in writing by the Minister be of Australian manufacture.

3. SUBJECT to this Agreement the State shall supply to settlers in the State the wire and wire netting purchased with the amounts so advanced.

4. THE State shall not supply the said wire or wire netting to any settler unless the settler undertakes that he will within twelve months after its receipt by him use the wire or wire netting in the erection upon land owned or occupied by him of rabbit-proof dog-proof or marsupial-proof fences as approved by the State or some authority of the State and for no other purpose.

5. THE State shall use every reasonable endeavour to ensure that every settler fulfils the undertaking given by him in pursuance of the last preceding clause.

6. THE State undertakes to pay to the Commonwealth half-yearly for twenty-five years calculated on each amount advanced under this Agreement—

(a) a contribution to the National Debt Sinking Fund established under the National Debt Sinking Fund Act 1923-1925 or any amendment thereof or to any sinking fund established by the Commonwealth in lieu thereof at the rate of Two per centum per annum of the amount advanced ; and

(b) interest at a rate of One per centum per annum less than that paid by the Commonwealth on the loan out of which the advance is made but not exceeding Four per centum per annum.

THE SCHEDULE—*continued*.

7. (1) SUBJECT to this Agreement the State undertakes that the supply to a settler in the State of any wire or wire netting purchased with any amount advanced under this Agreement shall be upon the condition that the liability of the settler to the State in respect of the wire or wire netting so supplied shall be discharged if the settler pays to the State half-yearly for twenty-five years—

- (a) a sinking fund contribution at the rate of Two per centum per annum of the amount of the value of the wire or wire netting supplied to the settler; and
- (b) interest upon the amount of the value of the wire or wire netting supplied to the settler at a rate not more than One per centum above the rate charged by the Commonwealth to the State upon the amount advanced to the State.

(2) For the purposes of this clause "the amount of the value of the wire or wire netting" shall be deemed to mean the amount paid by the State for the wire or wire netting.

8. WHERE the amount received by the State from settlers in respect of wire or wire netting supplied to the settlers exceeds the amount required to be paid to the Commonwealth by the State in pursuance of clause six of this Agreement the State shall pay the amount of the excess to the credit of a Trust Fund to be utilized during the currency of the agreement for the purpose of purchasing wire and wire netting to be supplied to settlers on the same terms as wire and wire netting purchased with the amounts advanced to the State under this Agreement.

9. IN addition to the payments to be made to the State by settlers as provided in clause seven of this Agreement the State may—

- (i) charge each settler a sum at the rate of One pound (£1) per mile of wire netting supplied to the settler to cover administration expenses and losses;
- (ii) require each settler supplied with wire and/or wire netting on which handling charges at the port or place of entry into the State of such wire and/or wire netting have been incurred by the State to bear a proportion of such handling charges; and
- (iii) require each settler to bear all freight and cartage charges to the settler's land of the wire and/or wire netting supplied to him.

10. IN any case where the State desires that the liability of the settler to the State shall be discharged before the expiration of a period of twenty-five years in order to conform with unexpired terms of leaseholds the conditions of payment by the settler to the State may with the consent in writing of the Minister be varied to the necessary extent. Any such variation shall not however affect the undertaking by the State to pay to the Commonwealth the instalments of interest and sinking fund as provided by clause six of this Agreement.

IN WITNESS whereof the said parties to these presents have hereunto set their hands and seals the day and year above written.

SIGNED SEALED AND DELIVERED by }

for and on behalf of the Commonwealth
in the presence of— }

SIGNED SEALED AND DELIVERED by }

for and on behalf of the State in the
presence of— }

PROMISSORY NOTES. See BILLS OF EXCHANGE.

PROSPECTING.

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PETROLEUM PROSPECTING ACT 1926-1927.^(a)

An Act relating to the Encouragement of Prospecting for Petroleum Oil.

[Assented to 15th February, 1926.]^(b)

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, for the purpose of appropriating the grant originated in the House of Representatives, as follows:—

1. This Act may be cited as the *Petroleum Prospecting Act* 1926-1927.^(a) Short title.
Short title amended;
No. 32, 1918,
s. 2.
2. For the purposes of this Act there shall be established in the books of the Treasury a Trust Account which shall be known as the Prospecting for Petroleum Trust Account and that account shall be a Trust Account for the purposes of section sixty-two A of the *Audit Act* 1901-1924.^(c) Establishment
of Trust
Account.
3. There shall be payable out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, the sum of One hundred and sixty thousand pounds for the purposes of this Act.^(d) Payments
to Trust
Account.
Amended by
No. 16, 1927,
s. 2.
- 4.—(1.) The Minister may apply the moneys standing to the credit of the Trust Account for the purpose of— Application of
Moneys.
Sub-sec. (1.)
substituted by
No. 16, 1927,
s. 3.
 - (a) advances to persons or companies engaged in the search for oil in Australia, Papua, or New Guinea;
 - (b) advances to assist persons, companies, or State or Territorial Governments to make geological surveys in Australia, Papua, or New Guinea;

(a) The *Petroleum Prospecting Act* 1926-1927 comprises the *Petroleum Prospecting Act* 1926 (No. 5 of 1926) as amended by the *Petroleum Prospecting Act* (No. 2) 1926 (No. 31 of 1926) and by the *Petroleum Prospecting Act* 1927 (No. 16 of 1927). See Acts No. 31, 1926, s. 1, and No. 16, 1927, s. 1.

(b) This is the date of assent to the *Petroleum Prospecting Act* 1926. The *Petroleum Prospecting Act* (No. 2) 1926 was assented to on 29th July, 1926, and the *Petroleum Prospecting Act* 1927 on 8th April, 1927.

(c) *Supra*, p. 195.

(d) See also the *Petroleum Prospecting Act* 1928 (*infra*, p. 1944).

- (c) the conduct, either directly or through an agent, of geological surveys in Australia, Papua, or New Guinea ; and
- (d) the conduct, either directly or through an agent, of prospecting operations in the area reserved in Papua for that purpose.

(2.) Any advances under this Act shall be made upon such conditions, and subject to such terms, as are prescribed.

Added by
No. 31, 1926,
s. 2.

(3.) Out of the moneys standing to the credit of the Trust Account there shall be paid such expenditure incurred in the administration of this Act as the Minister approves.

Regulations.

5. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

PETROLEUM PROSPECTING ACT 1928.

No. 8 of 1928.

An Act relating to the Encouragement of Prospecting for Petroleum Oil.

[Assented to 2nd April, 1928.]

Preamble.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, for the purpose of appropriating the grant originated in the House of Representatives, as follows :—

Short title.

1. This Act may be cited as the *Petroleum Prospecting Act* 1928.

Appropriation
of £50,000 for
Petroleum
Prospecting.

2. There shall be payable out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, for the purpose of the Trust Account established under the *Petroleum Prospecting Act* 1926–1927 and known as the Prospecting for Petroleum Trust Account, the sum of Fifty thousand pounds.

PROSPECTING.

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PETROLEUM PROSPECTING ACT 1926-1927.^(a)

An Act relating to the Encouragement of Prospecting for Petroleum Oil.

[Assented to 15th February, 1926.]^(b)

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, for the purpose of appropriating the grant originated in the House of Representatives, as follows:—

1. This Act may be cited as the *Petroleum Prospecting Act* 1926-1927.^(a) Preamble.
Short title.
Short title amended ;
No. 32, 1918,
s. 2.
Establishment
of Trust
Account.
2. For the purposes of this Act there shall be established in the books of the Treasury a Trust Account which shall be known as the Prospecting for Petroleum Trust Account and that account shall be a Trust Account for the purposes of section sixty-two A of the *Audit Act* 1901-1924.^(c) Payments
to Trust
Account.
Amended by
No. 16, 1927,
s. 2.
Application of
Moneys.
Sub-sec. (1.)
substituted by
No. 16, 1927,
s. 3.
3. There shall be payable out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, the sum of One hundred and sixty thousand pounds for the purposes of this Act.^(d)
- 4.—(1.) The Minister may apply the moneys standing to the credit of the Trust Account for the purpose of—
 - (a) advances to persons or companies engaged in the search for oil in Australia, Papua, or New Guinea ;
 - (b) advances to assist persons, companies, or State or Territorial Governments to make geological surveys in Australia, Papua, or New Guinea ;

(a) The *Petroleum Prospecting Act* 1926-1927 comprises the *Petroleum Prospecting Act* 1926 (No. 5 of 1926) as amended by the *Petroleum Prospecting Act* (No. 2) 1926 (No. 31 of 1926) and by the *Petroleum Prospecting Act* 1927 (No. 16 of 1927). See Acts No. 31, 1926, s. 1, and No. 16, 1927, s. 1.

(b) This is the date of assent to the *Petroleum Prospecting Act* 1926. The *Petroleum Prospecting Act* (No. 2) 1926 was assented to on 29th July, 1926, and the *Petroleum Prospecting Act* 1927 on 8th April, 1927.

(c) *Supra*, p. 195.

(d) See also the *Petroleum Prospecting Act* 1928 (*infra*, p. 1944).

- (c) the conduct, either directly or through an agent, of geological surveys in Australia, Papua, or New Guinea ; and
- (d) the conduct, either directly or through an agent, of prospecting operations in the area reserved in Papua for that purpose.

(2.) Any advances under this Act shall be made upon such conditions, and subject to such terms, as are prescribed.

Added by
No. 31, 1926,
s. 2.

(3.) Out of the moneys standing to the credit of the Trust Account there shall be paid such expenditure incurred in the administration of this Act as the Minister approves.

Regulations.

5. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

PETROLEUM PROSPECTING ACT 1928.

No. 8 of 1928.

An Act relating to the Encouragement of Prospecting for Petroleum Oil.

[Assented to 2nd April, 1928.]

Preamble.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, for the purpose of appropriating the grant originated in the House of Representatives, as follows :—

Short title.

1. This Act may be cited as the *Petroleum Prospecting Act* 1928.

Appropriation
of £50,000 for
Petroleum
Prospecting.

2. There shall be payable out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, for the purpose of the Trust Account established under the *Petroleum Prospecting Act* 1926–1927 and known as the Prospecting for Petroleum Trust Account, the sum of Fifty thousand pounds.

PRECIOUS METALS PROSPECTING ACT 1926.

No. 4 of 1926.

An Act relating to the Encouragement of
Prospecting for Precious Metals.

[Assented to 15th February, 1926.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, for the purpose of appropriating the grant originated in the House of Representatives, as follows :—

Preamble.

1. This Act may be cited as the *Precious Metals Prospecting Act* 1926.

Short title.

2. For the purposes of this Act, "precious metals" means gold and silver and such other metal as the Minister, by notice in the *Gazette*, declares to be a precious metal.

Definition of precious metals.

3. For the purposes of this Act there shall be established in the books of the Treasury a Trust Account which shall be known as the Prospecting for Precious Metals Trust Account and that account shall be a Trust Account for the purposes of section sixty-two A of the *Audit Act* 1901-1924.^(a)

Establishment of Trust Account.

4. There shall be payable out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, the sum of Forty thousand pounds for the purposes of this Act.

Payments to Trust Account.

5.—(1.) The Minister may, out of the moneys standing to the credit of the Trust Account, make advances to assist persons or companies engaged in prospecting for precious metals in the Commonwealth.

Advances from Trust Account.

(2.) Of the moneys appropriated for the purposes of this Act, the sum of Fifteen thousand pounds shall be allocated for expenditure in the Northern Territory of Australia and the sum of Twenty-five thousand pounds shall be allocated for expenditure by the States in such proportions as the Minister determines.

(3.) Any advances under this Act shall be made upon such conditions, and subject to such terms, as are prescribed.

6. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

Regulations.

(a) *Supra*, p. 195.

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ARBITRATION (PUBLIC SERVICE) ACT 1911.*

No. 11 of 1911.

An Act relating to the Commonwealth Court of Conciliation and Arbitration and the Public Service of the Commonwealth.

[Assented to 18th December, 1911.]

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.

1. This Act may be cited as the *Arbitration (Public Service) Act 1911*.*

Sections 2-15
repealed by No.
21, 1922, s. 4
and First
Schedule.

Classification of
office of
Industrial
Registrar.

* * * * *

16.—(1.) The office of the Industrial Registrar under the *Commonwealth Conciliation and Arbitration Act 1904-1911*^(a) shall be an office in the Administrative Division of the Public Service and the salary of the office shall have a minimum of six hundred pounds per annum and a maximum of eight hundred and fifty pounds per annum.

(2.) The Industrial Registrar holding office at the commencement of this Act shall be deemed to have been appointed to his office as classified by this section as from the first day of July One thousand nine hundred and eleven at the minimum salary.

(3.) The Industrial Registrar shall receive an annual increment of fifty pounds per annum until the maximum salary of his office is reached, but so that a year shall elapse from the time of his appointment before the first increment becomes payable and a year shall elapse from the time of the last increment becoming payable before another increment becomes payable.

(4.) The Consolidated Revenue Fund is hereby appropriated for the purposes of any payments in pursuance of this section.

* * * * *

Section 17
repealed by No.
21, 1922, s. 4
and First
Schedule.

(a) *Supra*, p. 115.

* Section 11 (5) of the *Arbitration (Public Service) Act 1920-1934* provides that any reference in any Act to the *Arbitration (Public Service) Act 1911* shall be read as a reference to the *Arbitration (Public Service) Act 1920*.

ARBITRATION (PUBLIC SERVICE) ACT 1920-1934.^(a)

An Act relating to the settlement of matters arising out of employment in the Public Service.

[Assented to 7th October, 1920.]^(b)

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. This Act may be cited as the *Arbitration (Public Service) Act* 1920-1934.^(a) Short title.
Short title
amended.
No. 32, 1918,
s. 2.
Commencement.
2. This Act shall commence on a date to be fixed by proclamation.^(c) Definitions.
3. In this Act unless the contrary intention appears—
 - “Organization” means an organization within the meaning of the *Commonwealth Conciliation and Arbitration Act* 1904-1918^(d);
 - “The Arbitrator” means the Public Service Arbitrator appointed in pursuance of this Act;
 - “The Commissioner” means the Public Service Commissioner and includes, in the case of any service not under the *Commonwealth Public Service Act* 1902-1918,^(e) the permanent or executive head of that service;
 - “The Court” means the Commonwealth Court of Conciliation and Arbitration;
 - “The Public Service” includes the Public Service of the Northern Territory and of the Territory for the Seat of Government, and the service of any public institution or authority of the Commonwealth, and includes all persons employed in any such service in any capacity, whether permanently or temporarily, and whether under the *Commonwealth Public Service Act* 1902-1918^(e) or not, but does not include persons employed in the Naval or Military Forces only.
4. Employees in the Public Service, or in any division, class, grade or branch thereof, or in any calling, service, handicraft, occupation, or avocation in the Public Service, or in any division, class, grade, or branch thereof, shall be deemed to be employees in Employees in
Public Service
deemed
employees in
industry.

(a) The *Arbitration (Public Service) Act* 1920-1934 comprises the *Arbitration (Public Service) Act* 1920 (No. 28 of 1920), as amended by the *Arbitration (Public Service) Act* 1928 (No. 1 of 1928), by the *Arbitration (Public Service) Act* 1929 (No. 25 of 1929) and by the *Statute Law Revision Act* 1934 (No. 45 of 1934). See Acts No. 1, 1928, s. 1, No. 25, 1929, s. 1, and No. 45, 1934, s. 1 and First Schedule.

(b) This is the date of assent to the *Arbitration (Public Service) Act* 1920. The *Arbitration (Public Service) Act* 1928 was assented to on 14th March, 1928; the *Arbitration (Public Service) Act* 1929 on 13th December, 1929; and the *Statute Law Revision Act* 1934 on 6th August, 1934.

(c) Proclaimed to commence on 31st March, 1921. See *Gazette*, 1921, p. 489.

(d) *Supra*, p. 115.

(e) Now the *Commonwealth Public Service Act* 1922-1934 (*infra*, p. 1964).

an industry within the meaning of the *Commonwealth Conciliation and Arbitration Act 1904–1918*.^(a)

Organizations of less than 100 employees.

5. An association of less than one hundred employees in an industry in the Public Service may be registered under the *Commonwealth Conciliation and Arbitration Act 1904–1918*^(a) as an organization, if its membership comprises at least three-fifths of all the persons who are employees in that industry in the Public Service.

Appointment of Arbitrator.

6.—(1.) For the purposes of this Act, there shall be a Public Service Arbitrator, who shall be appointed by the Governor-General.

Tenure of Arbitrator.

(2.) The Arbitrator shall be appointed for a term of seven years, and shall be eligible for re-appointment.

Proviso inserted by No. 1, 1928, s. 2.

Provided that if the person who is appointed Public Service Arbitrator is, at the time of his appointment, more than fifty-eight years of age, the term of his appointment shall be the period which will expire upon his attaining the age of sixty-five years.

(3.) If any officer of the Commonwealth is appointed Arbitrator, his services as Arbitrator shall, for the purpose of determining all his existing and accruing rights, be counted as public service in the Commonwealth.^(b)

(4.) If any officer in the Public Service of a State is appointed Arbitrator, he shall have the same rights as if he had been an officer of the Department transferred to the Commonwealth and were retained in the service of the Commonwealth.

(5.) In case of the illness, suspension or absence of the Arbitrator, the Governor-General may appoint a person to act as Deputy Arbitrator during such illness, suspension or absence, and the Deputy Arbitrator shall, while so acting, have all the powers and perform all the duties of the Arbitrator.

Sub-section (6.) added by No. 25, 1929, s. 2 : omitted by No. 45, 1934, s. 2 (3.) and Fourth Schedule. Salary and expenses of Arbitrator.

* * * * *

7.—(1.) The salary of the Arbitrator shall be Two thousand pounds a year and the Consolidated Revenue Fund is, to the necessary extent, hereby appropriated accordingly.

(2.) There shall be paid to the Arbitrator, on account of his expense in travelling to discharge the duties of his office, such sums as are considered reasonable by the Governor-General.

Removal or suspension of Arbitrator.

8.—(1.) The Governor-General may remove the Arbitrator from office on an address praying for his removal on the ground of proved misbehaviour or incapacity being presented to the Governor-General by the Senate and the House of Representatives respectively in the same session of the Parliament.

(2.) The Governor-General may suspend the Arbitrator from office for misbehaviour or incapacity.

(a) *Supra*, p. 115.

(b) See also *Officers' Rights Declaration Act 1928–1933* (*infra*, p. 2016).

(3.) A full statement of the grounds of suspension shall be laid before both Houses of the Parliament within seven days after the suspension, if the Parliament is then sitting, or, if the Parliament is not then sitting, within seven days after the next meeting of the Parliament.

(4.) The Arbitrator shall be restored to office unless each House of the Parliament within forty days after the statement has been laid before it, and in the same session, passes an address praying for his removal on the grounds of proved misbehaviour or incapacity.

9. The Arbitrator shall be deemed to have vacated his office if—

Office of
Arbitrator—
how vacated.

- (a) he engages, during his term of office, in any paid employment outside the duties of his office ;
- (b) he becomes bankrupt or insolvent, or applies to take the benefit of any Act or State Act for the relief of bankrupt or insolvent debtors, or compounds with his creditors, or makes an assignment of his salary for their benefit ;
- (c) except on leave granted by the Governor-General, he absents himself from duty for fourteen consecutive days or for twenty-eight days in any twelve months ; or
- (d) he becomes permanently incapable of performing his duties.

10. The Arbitrator shall before proceeding to discharge the duties of his office take an oath or affirmation of allegiance in the form in the Schedule to the Constitution, and also an oath or affirmation in the form following :

Oath or
affirmation of
allegiance and
of office.

I A.B. do swear that I will well and truly serve Our Sovereign Lord the King in the office of Public Service Arbitrator and I will do right to all manner of people according to law without fear or favour affection or ill-will : So help me GOD.

or—

I A.B. do solemnly and sincerely promise and declare that (&c. as above, except the words “ So help me GOD ”).

11.—(1.) An organization of employees in the Public Service shall not be entitled to submit to the Court any claim relating to the salaries, wages, rates of pay, or terms or conditions of service or employment of members of the organization.

Transfer of
cases from
Court to
Arbitrator.

Amended by
No. 45, 1934,
s. 2 (3.), and
Fourth
Schedule.

Sub-sections (2.)
and (3.)
omitted by
No. 45, 1934,
s. 2 (3.) and
Fourth Schedule.

* * * * *

(4.) For the purposes of this Act all awards and orders made by the Court under the *Arbitration (Public Service) Act* 1911, whether before or after the Commencement of this Act, shall be deemed to be determinations made by the Arbitrator under this Act.

(5.) Any reference in any Act to the *Arbitration (Public Service) Act* 1911 shall be read as a reference to this Act.

Power of
Arbitrator to
determine
claims as to
salaries, &c.

12.—(1.) The Arbitrator shall, subject to the provisions of this section, determine all matters submitted to him relating to salaries, wages, rates of pay, or terms or conditions of service or employment of officers and employees of the Public Service.

(2.) Any organization shall be entitled to submit to the Arbitrator by memorial any claim relating to the salaries, wages, rates of pay, or terms or conditions of service or employment of members of the organization.

(3.) The Arbitrator shall forward a copy of the claim to the Commissioner, and to the Minister of any Department of State affected by the claim.

(4.) The Commissioner and the Minister of any Department of State affected by the claim may within the prescribed time lodged, either jointly or separately, any objections they see fit to make to the granting of the claim.

(5.) If any objection is lodged, the Arbitrator shall call a conference, to be presided over by himself, of representatives of the organization and of the Commissioner and of any Minister who has lodged objections to the granting of the claim, and following upon such conference shall, after hearing such evidence (if any) in respect of such matters as have not been agreed to at the conference, as the Arbitrator thinks necessary, determine the claim.

(6.) If no objection is lodged, the Arbitrator shall determine the claim in favour of the claimant organization.

(7.) The Commissioner, or the Minister of any Department of State or any organization affected by any determination of the Arbitrator, may submit to the Arbitrator an application to vary the determination wholly or in part. The Arbitrator shall forward a copy of the application to the organization affected by the application, and to the Minister of the Department of State affected if the application to vary has been made by the Commissioner, or to the Commissioner if the application to vary has been made by the Minister of the Department affected, or to the Commissioner and the Minister of the Department affected by the application, if the application to vary has been made by an organization.

(8.) Any organization or person to which or to whom the Arbitrator has, in pursuance of the last preceding sub-section, forwarded a copy of the application to vary may within the prescribed time lodge any objections it or he sees fit to make to the granting of the application.

(9.) If any objection is lodged, the Arbitrator shall call a conference as provided in sub-section (5.) of this section, and thereupon the provisions of that sub-section shall apply in like manner as if the application to vary the determination were a claim within the meaning of that sub-section.

(10.) If no objection is lodged, the Arbitrator shall determine the application in favour of the organization or the Commissioner or the Minister, as the case may be.

13.—(1.) In relation to every claim or application made to him in pursuance of this Act, the Arbitrator shall act according to equity, good conscience and the substantial merits of the case, without regard to technicalities or legal forms, and shall not be bound by any rules of evidence, but may inform his mind on any matter in such manner as he thinks fit.

Arbitrator to act according to equity and good conscience.

(2.) The Arbitrator shall, at the request of the organization which has submitted a claim or application, or of the Commissioner, or of the Minister of any Department of State who has submitted an application or who is affected by the claim or application of the organization, and may, without such request, appoint two assessors to advise him in relation to the claim or application, and the assessors shall discharge such duties as are directed by the Arbitrator or as are prescribed.

(3.) One of the assessors shall be a person nominated by the organization, and the other a person nominated jointly by the Commissioner and the Minister of each Department of State affected by the claim or application, or, in default of such nomination, appointed by the Governor-General.

14.—(1.) For the purposes of this Act, the Arbitrator shall have power as regards any claim or application submitted to him under this Act—

Powers of Arbitrator.

- (a) to vary any determination, and to re-open any question and to give an interpretation of any determination ;
- (b) to summon any witness before him, and to compel the production before him of books, documents and things for the purpose of reference to such matters only as relate to the matter of the claim or application ;
- (c) to take evidence on oath or affirmation, such evidence unless otherwise ordered by the Arbitrator for reasons affecting the public interest to be taken in public ;
- (d) to allow the amendment of the claim or application ;
- (e) to declare by any order that any term of a determination shall, subject to such conditions, exceptions, and limitations as are declared in the order, be a common rule of the Public Service or of any branch or part of the Public Service ;

Provided that before any common rule is so declared, the Arbitrator shall by notification published in the *Gazette* and in such other publications, if any, as the Arbitrator directs specifying the matter in relation to which it is proposed to declare a common rule, make known that all persons and organizations interested and

desirous of being heard may, on or before a day named, appear or be represented before the Arbitrator; and the Arbitrator shall, in manner prescribed, hear all such persons and organizations so appearing or represented; and

(f) generally to give all such directions and do all such things as the Arbitrator deems necessary or expedient in the premises.

(2.) Any person who, on being summoned as a witness, refuses or fails, without lawful excuse, and after tender of reasonable expenses, to appear in obedience to the summons, or refuses or fails without lawful excuse to be sworn or to make an affirmation or to produce books documents and things which he is lawfully required to produce, or to answer questions which he is lawfully required to answer, shall be guilty of an offence.

Penalty: Fifty pounds.

Reference of
claim or matter
for report.

15. The Arbitrator may refer any claim or application submitted to him under this Act, or any matter arising out of the claim or application, to a person authorized by the Governor-General in that behalf, for investigation and report, and may delegate to that person such of his powers (other than the power to determine the claim or application) as he deems desirable; and the Arbitrator may, on the report, with or without hearing further evidence or argument, or both, determine the claim or application.

Officers to
comply with
determinations.

16. The Commissioner, and the Permanent Heads and Chief Officers of the several Departments of State, and all persons in the Public Service, shall comply with the provisions of any determination of the Arbitrator made under this Act.

Determination
not limited to
claim.

17. In making any determination under this Act, the Arbitrator shall not be restricted to the specific claims made or to the subject matter of the claim, but may include in the determination any matter or thing which the Arbitrator thinks necessary in the interests of the public or of the Public Service.

No costs to
be allowed.

18. No costs shall be allowed in respect of any proceedings under this Act.

No counsel or
solicitor to be
employed.

19. No person or organization shall in any proceeding under this Act be represented by counsel or solicitor.

Determinations
not to be
appealed
against.

20. No determination of the Arbitrator made under this Act shall be challenged, appealed against, reviewed, quashed, or called in question, or be subject to prohibition or mandamus, in any Court on any account whatever.

Determination
to be laid before
Parliament.

21.—(1.) Any determination of the Arbitrator shall be expressed to come into operation as from a date fixed by the Arbitrator, not earlier than after the expiration of thirty days after the determination has been laid before both Houses of the Parliament.

(2.) When a determination has been made under this Act, the Arbitrator shall forthwith send to the Prime Minister and to the Attorney-General a certified copy of the determination.

(3.) The Prime Minister shall, within fourteen days after its receipt, if the Parliament is then sitting, or, if not, then within fourteen days after the next meeting of the Parliament, cause the determination to be laid before both Houses of the Parliament.

22.—(1.) The Arbitrator may make a determination which is not in accord with an award or order of the Court, but, except as provided in this section, is not empowered to make any determination which is not in accord with the laws of the Commonwealth and the regulations made thereunder.

Determination inconsistent with Commonwealth law or regulations.

(2.) The Arbitrator may, where he thinks it proper to do so, make a determination which, in his opinion, is not, or may not be, in accord with a law or regulation of the Commonwealth relating to the salaries, wages, rates of pay, or terms or conditions of service or employment of employees; but in that case he shall send to the Prime Minister, and to the Attorney-General, with the certified copy of the determination, a statement of the laws or regulations of the Commonwealth with which, in his opinion, it is not, or may not be, in accord.

(3.) The Prime Minister shall, within fourteen days after its receipt, if the Parliament is then sitting, or if not then within fourteen days after the next meeting of the Parliament, cause the determination, and the statement (if any) of the Arbitrator, to be laid before both Houses of the Parliament.

(4.) If, before the determination is laid before the Parliament, the Attorney-General advises the Prime Minister that in his opinion the determination is not in accord with any law or regulation of the Commonwealth referred to in the opinion, the Prime Minister shall cause the opinion to be laid, together with the determination, before both Houses of the Parliament.

(5.) If, in the case of a determination accompanied by such a statement of the Arbitrator, or opinion of the Attorney-General, as is above referred to, either House of the Parliament, within thirty days after the determination with the statement or opinion has been laid before both Houses, passes a resolution disapproving the determination, the determination shall not come into operation.

(6.) Except as provided in the last preceding sub-section, but subject to the Constitution, the determination shall, from the expiration of those thirty days or such later period as is specified in the determination, have full force and effect notwithstanding the provisions of any law or regulation of the Commonwealth.

23. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

Regulations.

COMMONWEALTH EMPLOYEES' COMPENSATION ACT 1930.

No. 24 of 1930.

An Act relating to Compensation to Employees of
the Commonwealth for Injuries suffered in
the course of their Employment.

[Assented to 14th August, 1930.]

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.** **1.** This Act may be cited as the *Commonwealth Employees' Compensation Act 1930*.
- Commencement.** **2.** This Act shall commence on a date to be fixed by Proclamation.^(a)
- Repeal.** **3.** The *Commonwealth Workmen's Compensation Act 1912* is repealed:
 Provided that nothing in this section shall affect any right, privilege, obligation or liability acquired, accrued or incurred under that Act prior to the commencement of this Act:
 Provided further that that Act shall continue in force to the extent necessary for the determination of, or the adjudication upon, any such right, privilege, obligation or liability.
- Definitions.** **4.**—(1.) In this Act, unless the contrary intention appears—
 “Commissioner” means the Commissioner for Employees' Compensation;
 “Commonwealth” includes any Territory which is part of the Commonwealth;
 “County Court” means a County Court, District Court, or Local Court of any State, or Territory being part of the Commonwealth, or any Court exercising in any part of the Commonwealth a limited civil jurisdiction and presided over by a Judge or a Police, Stipendiary or Special Magistrate;
 “Dependants” means such of the members of an employee's family as were wholly or in part dependent upon the earnings of the employee at the time of his death, or who would, but for the incapacity due to the accident, have been so dependent; and where the employee—
 (a) being the parent or grandparent of an illegitimate child, leaves the child so dependent upon his earnings; or
 (b) being an illegitimate child, leaves a parent or grandparent so dependent upon his earnings,
 includes such an illegitimate child and parent or grandparent respectively;

^(a) Proclaimed to commence on 10th November, 1930. See *Gazette*, 1930, p. 2230.

"Employee" means any officer who is subject to the *Commonwealth Public Service Act 1922-1930*^(a) and includes any temporary employee and any officer or employee to whom the Governor-General has declared that that Act shall not apply and any person who has entered into or works under a contract of service or apprenticeship with the Commonwealth, whether by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing, but does not include—

(a) an outworker : or

(b) any member of the Naval, Military or Air Forces of the Commonwealth ;

"Member of a family" means wife or husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister, adopted child or mother-in-law ;

"Outworker" means a person to whom articles or materials are given out to be treated or manufactured in his own home or on other premises not under the control or management of the Commonwealth.

5.—(1.) For the purposes of this Act there shall be a Commissioner Commissioner.
for Employees' Compensation.

(2.) The Secretary to the Treasury shall be *ex officio* Commissioner for Employees' Compensation.

6.—(1.) The Commissioner shall have power to examine, hear and determine all matters and questions arising under this Act and the Regulations. Powers and functions of Commissioner.

(2.) The Commissioner may reconsider any such determination and may alter, amend or revoke any such determination.

(3.) In the determination of matters and questions, the Commissioner shall be guided by equity, good conscience and the substantial merits of the case without regard to technicalities or legal precedent and shall not be bound by any rules of evidence.

(4.) In particular, the power of the Commissioner shall extend to determining—

(a) the question whether an injury received by an employee entitles him to compensation under this Act ;

(b) the existence and degree of incapacity for work by reason of injury ;

(c) the permanence of incapacity by reason of injury ;

(d) the degree of diminution of earning capacity by reason of injury ;

(e) the amount of the weekly pay of an employee ;

(f) the existence, for the purposes of this Act, of the relationship of any member of the family of an employee as defined in this Act ; and

(g) the existence and extent of dependency.

Delegation by
Commissioner.

7.—(1.) The Commissioner may by writing under his hand delegate all or any of his powers and functions (except this power of delegation).

(2.) Any delegation by the Commissioner under this section shall be revocable in writing at will and no delegation shall prevent the exercise of any power or function by the Commissioner.

No action
maintainable
against
Commissioner.

8. Subject to section twenty of this Act, no action, suit or proceeding shall be instituted, brought or maintained against the Commonwealth or the Commissioner or any delegate of the Commissioner in respect of any action or determination taken or made under this Act.

Compensation
for personal
injuries to
employees.

9.—(1.) If personal injury by accident arising out of and in the course of his employment is caused to an employee of the Commonwealth, the Commonwealth shall, subject to this Act, be liable to pay compensation in accordance with the First Schedule to this Act :

Provided that—

- (a) the employee shall not be entitled to recover compensation from the Commonwealth or any person or to receive from the Commonwealth any payment in respect of the accident, or in respect of the illness or incapacity arising from the accident, both independently of and also under this Act ; but subject to this paragraph this Act shall not affect any civil liability of the Commonwealth under any other law ;
- (b) if it is proved that the injury to an employee is attributable to his serious and wilful misconduct, any compensation claimed in respect of that injury shall, unless the injury results in death or serious and permanent disablement, be disallowed ;
- (c) in the case of the death of an employee leaving no dependants, no compensation shall be payable under this Act other than for medical attendance and funeral expenses ;
- (d) if it appears that the claimant has a claim against the Commonwealth or any person for compensation or for any payment in respect of the injury under any other law in force in the Commonwealth or any other place, compensation under this Act shall only be allowed upon the claimant undertaking not to claim compensation for the injury under any such law ; and
- (e) where the employee continues in the service of the Commonwealth after the injury, any pay (not including allowances paid in respect of children of the employee) received by him from the Commonwealth shall be deducted from any compensation payable under this Act in respect of the same period.

(2.) If any question arises, in any proceedings under this Act, as to the liability to pay compensation under this Act (including any question as to whether the person injured is an employee to whom this Act applies) or as to the amount or duration of compensation

under this Act, the question shall, subject to the provisions of the First Schedule to this Act, be determined by the Commissioner.

(3.) Any undertaking given in pursuance of paragraph (d) of the proviso to sub-section (1.) of this section shall have effect as a contract between the claimant and the Commonwealth or person, as the case requires, from whom the compensation or payment is claimed.

10.—(1.) Where—

(a) an employee is suffering from any of the diseases mentioned in the first column of the Second Schedule to this Act and is thereby incapacitated from earning full wages at the work at which he was employed ; or

Compensation
to employee
affected by or
dying from
certain
industrial
diseases.

(b) the death of an employee is caused by any of those diseases, and the disease was caused, within twelve months prior to the date of incapacity, by the employment in which the employee was engaged by the Commonwealth, the Commonwealth shall, subject to this Act, be liable to pay to the employee or his dependants compensation in accordance with this Act as if the disease were a personal injury by accident within the meaning of the last preceding section.

(2.) If the Commissioner is satisfied that the employee, at the time of entering the employment of the Commonwealth, wilfully and falsely represented himself as not having previously suffered from the disease, compensation shall not be payable.

(3.) A claimant for compensation under this section shall, if so required, furnish the Commissioner with such information as to the names and addresses of other employers of the employee as the claimant possesses.

(4.) If the disease is of such a nature as is contracted by a gradual process, the Commonwealth shall be entitled to be indemnified by any other employers (if those employers are also liable to pay compensation) who employed the employee during the period of twelve months immediately preceding the incapacity in the employment to which the disease is due, and all questions as to the right to, and amount of, any such indemnity shall in default of agreement be settled by arbitration or by action in any County Court.

(5.) If the employee at the time of, or immediately before, the incapacity was employed in any process mentioned in the second column of the Second Schedule to this Act and produces a certificate from a duly qualified medical practitioner that the disease contracted is the disease or one of the diseases in the first column set opposite the description of the process, that disease shall in the absence of proof to the contrary, be deemed to have been caused by the employment in which the employee was engaged.

11. In addition to any compensation payable by the Commonwealth under this Act to, or in respect of, an employee, the Commonwealth shall pay the cost, not exceeding in any case the sum of One hundred pounds, of such medical, surgical and hospital

Medical
benefits.

treatment in relation to the injury as is, in the opinion of the Commissioner, reasonably necessary.

Compensation
for certain
injuries.

12. Where an employee sustains, by accident arising out of and in the course of his employment, any of the injuries specified in the first column of the Third Schedule to this Act, the compensation payable under this Act shall, when the injury results in total or partial incapacity, be the amount specified in the second column of that Schedule opposite the injury so sustained, less any amount received by the employee under the First Schedule to this Act during any period of his total incapacity arising from his injury.

Maximum
compensation.

13. Notwithstanding anything contained in this Act, an employee shall not, in respect of one accident, except where the injury results in total and permanent incapacity, be entitled to receive as compensation under this Act an amount exceeding Seven hundred and fifty pounds in addition to such expenses as are awarded to him under section eleven of this Act.

Defence
civil
employees.

14. Upon the commencement of this Act, the terms and conditions which may be prescribed by regulation under the *Defence Act* 1903-1927^(a) or under the *Naval Defence Act* 1910-1918^(b) governing the employment of persons in a civil capacity under either of those Acts shall not include provision for the grant of compensation or other benefits in respect of personal injury by accident arising out of and in the course of the employment of such persons and any such provision in force at the commencement of this Act shall be of no effect :

Provided that nothing in this section shall affect any grant of compensation or other benefits made under any such provision prior to the commencement of this Act.

Compensation
under
determination
by Public
Service
Arbitrator.

15. Where in any determination made by the Public Service Arbitrator appointed under the *Arbitration (Public Service) Act* 1920-1929,^(c) provision is made for the grant of compensation or other benefits to employees in respect of personal injury by accident arising out of and in the course of their employment, any employee to whom the determination applies shall not be entitled to compensation or benefits both under the determination and under this Act but may elect to take compensation or benefits either under the determination or under this Act.

Time of taking
proceedings.

16.—(1.) The Commissioner shall not admit a claim for compensation under this Act for an injury unless notice of the accident has been served upon him as soon as practicable after it had happened, and before the employee has voluntarily left the employment of the Commonwealth, and unless the claim for compensation has been made—

- (a) within six months from the occurrence of the accident ; or
- (b) in case of death—within six months after advice of the death has been received by the claimant :

(a) *Supra*, p. 782.

(b) *Supra*, p. 763.

(c) *Supra*, p. 1947.

Provided always that—

- (i) the want of or any defect or inaccuracy in the notice shall not prevent consideration of the claim by the Commissioner if he finds that the Commonwealth is not prejudiced by the want, defect or inaccuracy, or that the want, defect or inaccuracy was occasioned by mistake, absence from Australia or other reasonable cause; and
- (ii) the failure to make a claim within the period above specified shall not prevent consideration of the claim by the Commissioner if he finds that the failure was occasioned by mistake, absence from Australia or other reasonable cause.

(2.) Notice in respect of any injury to which this Act applies shall contain the name and address of the person injured, and a statement in ordinary language of the cause of the injury and the date at which the accident happened.

(3.) The notice may be served by sending it by post in a registered letter properly addressed to the Permanent Head or Chief Officer of the Department or authority in or by which the employee was employed at the time of the accident, or by delivering it at the head office of the Department or authority or to the officer in charge of the work on which the employee was so employed, or in any other prescribed manner.

17. Where the injury for which compensation is payable under this Act was caused under circumstances creating a legal liability in some person other than the Commonwealth to pay damages in respect thereof—

Remedies both against the Commonwealth and a stranger.

- (a) the employee may take proceedings against that person to recover damages and may also make a claim against the Commonwealth for such compensation, but shall not be entitled to recover both damages and compensation; and
- (b) if the employee has received compensation under this Act, the Commonwealth shall be entitled to be indemnified by the person so liable to pay damages, and all questions as to the right to and amount of any such indemnity shall, in default of agreement, be determined by a County Court.

18.—(1.) The Governor-General may appoint any duly qualified medical practitioners to be medical referees for the purposes of this Act.

Medical referees.

(2.) Medical referees shall be paid such fees as are prescribed.

(3.) The fees of medical referees shall be paid out of moneys provided by Parliament for the purpose.

(4.) A medical referee who has been employed as a medical practitioner in connexion with any case by or on behalf of the Commonwealth or an employee, or by any insurers interested, shall not act as a medical referee in that case.

19.—(1.) Where notice has been given of an injury to an employee, or any employee is receiving weekly payments under this Act, any such

Medical examinations.

employee shall, if so required by the Commissioner, submit himself for examination by a medical referee or a medical board consisting of two or more medical referees, and if he refuses to submit himself to such examination, or in any way obstructs the examination, his right to compensation shall be suspended until the examination has taken place.

(2.) Where an employee is required by the Commissioner to submit himself for examination by a medical board, the employee may, within the prescribed period after being so required, nominate a medical practitioner who shall thereupon be one of the members of that board.

(3.) An employee shall not be required to submit himself for medical examination otherwise than in accordance with this Act and the regulations or at more frequent intervals than are prescribed.

(4.) The medical referee, medical practitioner or medical board to whom any matter is referred shall, as prescribed, give a certificate as to the condition of the employee, and his fitness for employment, specifying, where necessary, the kind of employment for which he is fit, and such other information as the Commissioner requires. Any such certificate given by a medical board shall be conclusive evidence as to the matters so certified.

(5.) The cost of conducting any examination required for the purposes of this section, and the expenses incurred by an employee in travelling to and from the place of examination, shall be paid by the Commonwealth.

Appeals.

20. Any person affected by any determination or action of the Commissioner under this Act may, within thirty days of the date of the determination or the taking of the action or within such extended time as the Court upon application in that behalf allows, appeal to a County Court against the determination or action and the Court shall have jurisdiction to hear and determine the appeal, and such appeal may be in the nature of a re-hearing.

Returns as to compensation.

21. The Commissioner shall, as prescribed, furnish to the Minister correct returns specifying—

- (a) the number of injuries in respect of which compensation has been paid under this Act during the previous year;
- (b) the amount of compensation paid during that year; and
- (c) such other particulars as are prescribed

Application of Act to Commonwealth authorities.

22.—(1.) The application of this Act shall extend to employees of such authorities under the Commonwealth as are prescribed.

(2.) Where the application of this Act is extended to employees of an authority under the Commonwealth, liability under this Act to pay compensation in respect of personal injury by accident arising out of and in the course of the employment of those employees shall, unless otherwise prescribed be borne by that authority.

23. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for giving effect to this Act and in particular for prescribing the procedure in regard to the medical examination of injured employees, the manner in which documents are to be furnished or served, and applications made, and the forms to be used for those purposes and as to fees and expenses to be paid for medical examinations and medical treatment. Regulations.

THE SCHEDULES.

THE FIRST SCHEDULE.

Section 9.

SCALE AND CONDITIONS OF COMPENSATION.

(1.) The amount of compensation under this Act shall be—

(a) where death results from the injury—

- (i.) if the employee leaves any dependants wholly dependent upon his earnings, a sum equal to one hundred and fifty six times his weekly pay at the time of the injury, or the sum of Four hundred pounds, whichever of those sums is the larger, but not exceeding in any case Seven hundred and fifty pounds:

Provided that the amount of any weekly payments made under this Act, and any lump sum paid in redemption thereof, shall be deducted from such sum, but so that the amount payable to the dependants upon the death of the employee shall not be less than Two hundred pounds;

- (ii.) if the employee does not leave any such dependants, but leaves any dependants in part dependent upon his earnings, such sum, not exceeding in any case the amount payable under the foregoing provisions, as is considered by the Commissioner to be reasonable and proportionate to the injury to the dependants; and

- (iii.) if he leaves no dependants, the reasonable expenses of his burial, not exceeding Twenty five pounds;

- (b) where total or partial incapacity for work results from the injury, a weekly payment during the incapacity not exceeding two-thirds of the employee's weekly pay at the time of the injury, such weekly payment not to exceed Three pounds ten shillings:

Provided that as respects the weekly payments during total incapacity of an employee who is under twenty-one years of age at the date of the injury, and whose weekly pay is less than Thirty shillings, one hundred per centum shall be substituted for two-thirds of his weekly pay, but the weekly payment shall in no case exceed One pound; and

- (c) where total incapacity for work results from the injury, there shall be added to any amount payable under the foregoing provisions of this Schedule an amount of Seven shillings and Sixpence per week in respect of each child totally or mainly dependent upon the employee at the time of the injury who is under the age of fourteen years, and the payment of that amount shall be continued during such incapacity until the child in respect of whom the payment is received attains the age of sixteen years:

Provided that no payment shall be made under this sub-paragraph in respect of any children of the employee in respect of whom he is receiving any payment by way of child endowment independently of this Act.

THE FIRST SCHEDULE—*continued*.

(2.) For the purposes of the provisions of this Schedule, "Pay" means the salary or daily or weekly wage of the employee at the time of the injury, together with any amount paid as a fixed allowance of a permanent nature in addition to salary or wage but does not include any payment by way of child endowment.

(3.) In fixing the amount of the weekly payment, regard shall be had to any payment, allowance or benefit which the employee may receive from the Commonwealth during the period of his incapacity, and, in the case of partial incapacity, the weekly payment shall in no case exceed the difference between the amount of the weekly pay of the employee before the accident and the weekly amount which he is earning or is able to earn in some suitable employment or business after the accident, but shall bear such relation to the amount of that difference as the Commissioner thinks proper.

(4.) Where an employee has given notice of an accident, he shall, if so required by the Commissioner, submit himself for examination by a duly qualified medical practitioner provided and paid by the Commonwealth, and, if he refuses to submit himself to such examination, or in any way obstructs the same, his right to compensation, and to take or prosecute any proceeding under this Act in relation to compensation, shall be suspended until such examination has taken place.

(5.) The payment in the case of death shall, unless otherwise provided in this Schedule or by the Regulations, be paid to the Commissioner, and the sum so paid shall be invested or applied by the Commissioner, in such manner as he thinks fit, for the benefit of the persons entitled thereto :

Provided that, if so agreed, the payment in case of death shall, if the employee leaves no dependants, be made to his legal personal representative, or, if he has no such representative, to the person to whom the expenses of medical attendance and burial are due.

(6.) Where a weekly payment is payable under this Act to a person under any legal disability, the weekly payment shall be paid during the disability to the Commissioner, and dealt with by him, in such manner as he thinks fit, for the benefit of the person entitled thereto.

(7.) Any question as to who is a dependant, and the amount payable to each dependant, shall be settled by the Commissioner.

(8.) Where there are both total and partial dependants, the Commissioner may allot the compensation partly to the total and partly to the partial dependants.

(9.) Where, on application being made to the Commissioner that, on account of neglect of children on the part of a widow, or on account of the variation of the circumstances of any of the dependants, or for any other sufficient cause, a determination by the Commissioner as to the apportionment amongst the several dependants of any sum paid as compensation, or as to the manner in which any sum payable to any dependant is to be dealt with, ought to be varied, the Commissioner may vary that determination in such manner as he thinks just.

(10.) Any weekly payment may be reviewed by the Commissioner at the request either of the Commonwealth or of the employee and on such review may be ended, diminished or increased, subject to the maximum above provided :

Provided that, where the employee was at the date of the accident under twenty-one years of age and the review takes place more than twelve months after the accident, the amount of the weekly payment may be increased to any amount not exceeding two-thirds of the weekly sum which the employee would probably have been earning at the date of the review if he had remained uninjured, but not in any case exceeding Three pounds.

(11.) Where, in any case other than one of total and permanent incapacity, any weekly payment has been continued for not less than six months, the liability therefor may, at the option of the Commissioner, and with the consent of the employee, but subject to the Regulations, be redeemed by the payment of a lump sum of such an amount as is determined by the Commissioner having regard to the injury and the age and occupation of the employee at the time of the injury and such lump sum may be invested or otherwise applied by the Commissioner for the benefit of the person entitled thereto.

THE FIRST SCHEDULE—*continued*.

(12.) If an employee receiving a weekly payment ceases to reside in Australia, he shall cease to be entitled to receive any weekly payment, unless a medical referee certifies that the incapacity resulting from the injury is likely to be of a permanent nature. If the medical referee so certifies, the employee shall be entitled to receive quarterly the amount of the weekly payments accruing due during the preceding quarter so long as he proves, in such manner and at such intervals as are prescribed, his identity and the continuance of the incapacity in respect of which the weekly payment is payable.

(13.) A weekly payment, or a sum paid by way of redemption thereof, shall not be capable of being assigned, charged or attached, and shall not pass to any other person by operation of law, nor shall any claim be set off against it.

(14.) Where under this Schedule, a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension.

THE SECOND SCHEDULE.

Section 10.

Description of Disease.	Description of Process.
Arsenic, phosphorous, lead, mercury or other mineral poisoning	Any employment involving the use or handling of arsenic, phosphorous, lead, mercury or other mineral, or their preparations or compounds
Anthrax	Woolcombing, woolsorting; handling of hides, skins, wool, hair, bristles or carcasses
Zymotic diseases	Persons employed in a hospital or quarantine station, or in an ambulance brigade
Poisoning by benzol or its homologues or their nitro and amido derivatives (dinitro benzol, anilin and others)	Any process involving the use of benzol or its homologues or their nitro and amido derivatives or their preparations or compounds
Poisoning by carbon bisulphide ..	Any process involving the use of carbon bisulphide or its preparations or compounds
Poisoning by nitrous fumes ..	Any process in which nitrous fumes are evolved
Poisoning by cyanogen compounds ..	Any process in which cyanogen compounds are used
Poisoning by carbon monoxide ..	Any process in which carbon monoxide is used or evolved
Chrome ulceration	Any process involving the use of chromic acid, or bichromate of ammonium, potassium or sodium or their preparations
Dermatitis produced by dust or caustic or corrosive liquids or ulceration of the mucous membranes of the nose or mouth produced by dust	Any industrial process
Ankylostomiasis	Any employment involving exposure to hookworm infestation
Pneumoconiosis	Quarrying or stone crushing or cutting
Nystagmus	Mining, or quarrying, or stone crushing or cutting
Subcutaneous cellulitis of the hand (beat hand)	
Subcutaneous cellulitis over the patella (miner's beat knee)	
Acute bursitis over the elbow (miner's beat elbow)	
Inflammation of the synovial lining of the wrist joint and tendon sheath	

THE THIRD SCHEDULE.
COMPENSATION FOR SPECIFIED INJURIES.

Nature of Injury.						Amount Payable.		
						£	s.	d.
Loss of both eyes	..	..	..	..	..	750	0	0
Loss of both hands	..	..	..	..	..
Loss of both feet	..	..	..	..	..
Loss of a hand and a foot	..	..	..	..	..
Total and incurable loss of mental powers, involving inability to work	..	..	..	..	..
Total and incurable paralysis of limbs or mental powers	..	..	..	..	..	675	0	0
Loss of either arm, or of the greater part thereof	..	..	..	..	..
Loss of lower part of either arm, either hand, or five fingers of either hand	..	..	..	..	..
Loss of leg	..	..	..	..	..
Loss of the lower part of a leg	..	..	..	..	..
Loss of a foot	..	..	..	..	..	562	10	0
Loss of one eye, with serious diminution of the sight of the other	..	..	..	..	..	525	0	0
Loss of sight of one eye*	..	..	..	..	..	675	0	0
Loss of hearing	..	..	..	..	..	375	0	0
Complete deafness of one ear	..	..	..	..	..	600	0	0
Loss of a thumb	..	..	..	..	..	200	0	0
Loss of a forefinger	..	..	..	..	..	225	0	0
Loss of part of a thumb	..	..	..	..	..	150	0	0
Loss of little finger, middle finger or ring finger	..	..	..	..	..	112	10	0
Loss of a toe or the joint of a finger	..	..	..	..	..	112	10	0
Loss of a joint of a toe	..	..	..	..	..	90	0	0
	..	..	..	..	..	75	0	0

* For the partial loss of the sight of one eye, there shall be payable such percentage of the amount that would be payable for the total loss of the sight thereof as is equal to the percentage of the diminution of sight.

For the purposes of this Schedule, the loss of a specified part of the body shall be deemed to include—

- (a) the loss of the use of that part; and
- (b) the loss of the efficient use of that part in and for the purposes of his employment;

Provided that in that case a percentage of the prescribed amount payable, equal to the percentage of the diminution of the full efficient use as aforesaid, may be awarded in lieu of the full amount.

COMMONWEALTH PUBLIC SERVICE ACT 1922-1934.^(a)

An Act to consolidate and amend the Law
regulating the Public Service, and for other
purposes. [Assented to 18th October, 1922.]^(b)

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Commonwealth Public Service Act 1922-1934*.^(a)

Short title.
Short title
amended. No.
32, 1918, s. 2.

(a) The *Commonwealth Public Service Act 1922-1934* comprises the *Commonwealth Public Service Act 1922* (No. 21 of 1922), as amended by the *Commonwealth Public Service Act 1924* (No. 46 of 1924), by the *Commonwealth Public Service Act 1928* (No. 41 of 1928), by the *Commonwealth Public Service Act 1930* (No. 19 of 1930), by the *Commonwealth Public Service Act 1931* (No. 21 of 1931), by the *Commonwealth Public Service Act 1932* (No. 72 of 1932), by the *Commonwealth Public Service Act 1933* (No. 38 of 1933), by the *Statute Law Revision Act 1934* (No. 45 of 1934), and by the *Commonwealth Public Service Act 1934* (No. 46 of 1934). See Acts No. 46, 1924, s. 1; No. 41, 1928, s. 1; No. 19, 1930, s. 1; No. 21, 1931, s. 1; No. 72, 1932, s. 1; No. 38, 1933, s. 1; and No. 46, 1934, s. 1.

(b) This is the date of assent to the *Commonwealth Public Service Act 1922*. The *Commonwealth Public Service Act 1924* was assented to on 20th October, 1924 (proclaimed to commence on 15th November, 1924—See *Gazette*, 1924, p. 2715); the *Commonwealth Public Service Act 1928* on 26th September, 1928; the *Commonwealth Public Service Act 1930* on 28th July, 1930; the *Commonwealth Public Service Act 1931* on 7th August, 1931; the *Commonwealth Public Service Act 1932* on 5th December, 1932; the *Commonwealth Public Service Act 1933* on 9th December, 1933; the *Statute Law Revision Act 1934* on 6th August, 1934; and the *Commonwealth Public Service Act 1934* on 6th August, 1934.

THE THIRD SCHEDULE.
COMPENSATION FOR SPECIFIED INJURIES.

Nature of Injury.						Amount Payable.		
						£	s.	d.
Loss of both eyes	750	0	0
Loss of both hands			
Loss of both feet			
Loss of a hand and a foot			
Total and incurable loss of mental powers, involving inability to work			
Total and incurable paralysis of limbs or mental powers	675	0	0
Loss of either arm, or of the greater part thereof			
Loss of lower part of either arm, either hand, or five fingers of either hand			
Loss of leg			
Loss of the lower part of a leg			
Loss of a foot	562	10	0
Loss of one eye, with serious diminution of the sight of the other	525	0	0
Loss of sight of one eye*	675	0	0
Loss of hearing	375	0	0
Complete deafness of one ear	600	0	0
Loss of a thumb	200	0	0
Loss of a forefinger	225	0	0
Loss of part of a thumb	150	0	0
Loss of little finger, middle finger or ring finger	112	10	0
Loss of a toe or the joint of a finger	112	10	0
Loss of a joint of a toe	90	0	0
	75	0	0

* For the partial loss of the sight of one eye, there shall be payable such percentage of the amount that would be payable for the total loss of the sight thereof as is equal to the percentage of the diminution of sight.

For the purposes of this Schedule, the loss of a specified part of the body shall be deemed to include—

- (a) the loss of the use of that part; and
- (b) the loss of the efficient use of that part in and for the purposes of his employment;

Provided that in that case a percentage of the prescribed amount payable, equal to the percentage of the diminution of the full efficient use as aforesaid, may be awarded in lieu of the full amount.

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2. This Act shall commence on a date to be fixed by proclamation.^(a) Commencement.

3. This Act is divided into Parts, as follows :—

Part I.—Preliminary.

Part II.—Composition and Administration of the Public Service.

Part III.—The Commonwealth Service.

Division 1.—Divisions.

Division 2.—Classification.

Division 2A.—Creation and Abolition of Offices.

Division 3.—Salaries of Officers.

Division 4.—Entrance examinations and appointments.

Division 5.—Promotions and transfers.

Division 6.—Offences.

Division 7.—Incapacity of Officers.

Division 8.—Leave of absence and holidays.

Division 9.—Reciprocal services of Commonwealth and State Officers.

Division 10.—Temporary employment.

Division 11.—Returned Soldiers.

Division 12.—Retirement of Officers.

Division 13.—Miscellaneous.

Part IV.—The Provisional Service.

Division 1.—Application of Act to Provisional Service.

Division 2.—Classification and Salaries.

Division 3.—Appointments.

Division 4.—Miscellaneous.

4. The Acts mentioned in the First Schedule to this Act are, to the extent therein expressed, hereby repealed. Repeal.

5.—(1.) The officers appointed under or by virtue of any Act repealed by this Act, and holding office at the commencement of this Act, shall remain in office as if this Act had been in force at the time they were appointed, and they had been appointed hereunder, and this Act shall apply to them accordingly.

Existing
officers,
regulations &c.

(2.) Any persons who, at the commencement of this Act, are temporarily employed under or by virtue of any Act repealed by this Act, shall remain in such employment subject to the provisions of this Act which shall apply to them accordingly.

(3.) All regulations, proclamations and notifications made or published under any Act repealed by this Act, which are in force at the commencement of this Act, shall, except so far as they are inconsistent with this Act, be deemed to have been made or published under this Act, and any references in any such regulations, proclamations or notifications to any enactments repealed by this Act shall be construed as references to the corresponding provisions of this Act.

(4.) Any reference in any Act to the Public Service Commissioner shall be read as a reference to the Board.

(a) Proclaimed to commence on 19th July, 1923. See *Gazette*, 1923, p. 1035.

(5.) Any reference in any Act except this Act to the *Commonwealth Public Service Act 1902*, or to that Act as amended by any subsequent Act, shall be read as a reference to this Act.

Sub-sec. 6
omitted by No.
45, 1934, s. 2 (3),
and Fourth
Schedule.

Persons holding
statutory offices.

* * * * *

6. Where a person has been appointed before the commencement of this Act for a term of years to a statutory office under any Act repealed by this Act, he shall, for the purposes of this Act, be deemed, so long as he continues to be employed in the office (whether during or after the term for which he was appointed) to continue to be an officer of the Commonwealth Service, and the service of that person in that office shall be deemed to be service in the Commonwealth Service

Definitions.

7. In this Act, unless the contrary intention appears—

“Chief Officer” means the chief officer, in a State or part of the Commonwealth, of the Department in connexion with which, or wherein is employed, any officer in connexion with whom, the term is used or is applicable;

“Classification” means the arrangement of officers and positions in classes, and includes the allotment to officers and positions of salaries or limits of salary according to the value of the work;

“Department” means any Department of the Public Service specified in the Second Schedule to this Act and includes any Department at any time established by the Governor-General either in addition to, or in lieu of, any of those Departments, but does not include any Department which is abolished by the Governor-General or in lieu of which another Department is established;

“Division” means a division of the Public Service;

“Officer” means any person employed in any capacity in the Public Service, whether appointed or transferred^(a) thereto before or after the commencement of this Act, but does not include a person temporarily employed;

“Returned Soldier” means any person who enlisted prior to the eleventh day of November, One thousand nine hundred and eighteen and served in the war with satisfactory record in any Expeditionary Force raised under the provisions of the *Defence Act 1903–1918*,^(b) and includes—

(a) a member of the Army Medical Corps Nursing Service who was accepted or appointed by the Director-General of Medical Services for service outside Australia during the war;

(b) any member of the Naval Forces of the Commonwealth who has during the war been on active service outside Australia or on a ship of war;

(a) In construing a similar definition in the *Commonwealth Public Service Act 1902*, the High Court held that “officer” includes officers who were transferred to the Commonwealth with their Departments, as well as those who were transferred individually. *Cousins v. Commonwealth*, (1906) 3 C.L.R. 529; 12 A.L.J.R. 175.

(b) *Supra*, p. 782.

Substituted by
No. 72, 1932,
s. 2.

- (c) any person who, during the war, has been employed as a radio telegraphist in the transport service in connexion with any such Expeditionary Force, and who, while so employed, served in the zone of war; and
- (d) any person who was born in Australia, or resident in Australia within six months prior to enlistment, and who, at any time during the war, served with satisfactory record in a Naval or Military Expeditionary Force raised in the United Kingdom or in any British Dominion;
- "The Arbitrator" means the Arbitrator appointed pursuant to the *Arbitration (Public Service) Act 1920*; ^(a)
- "The Board" means the Board of Commissioners appointed in pursuance of this Act;
- "Appeal Board" means an appeal board appointed under this Act;
- "The Minister" means the responsible Minister of the Crown for the time being administering the Department in which is employed or proposed to be employed the officer or person in connexion with whom the term is used or is applicable;
- "The Permanent Head" means the permanent head of the Department in connexion with which, or in which is employed any officer in connexion with whom, the term is used or is applicable;
- "The Public Service" means the Public Service of the Commonwealth, as defined in section ten of this Act;
- "The Territorial Service" means the Public Service of any Territory under the authority of the Commonwealth, including a Territory governed by the Commonwealth under a mandate;
- "The War" means the war which commenced on the fourth day of August, One thousand nine hundred and fourteen.

7A. Where any Departments specified in the Second Schedule are abolished or any Departments are established in addition to or in lieu of the Departments specified in that Schedule, or an alteration is made in the name of any Department so specified, upon the notification of the fact in the *Gazette*, the Second Schedule shall be deemed to be amended in the following manner:—

Second Schedule
—Departments.
Inserted by
No. 72, 1932,
s. 3.

- (a) where any Department is abolished or another Department is established in lieu of any Department—by the omission of the reference to the Department which has been abolished or in lieu of which another Department has been established;

- (b) where any Department is established either in addition to or in lieu of any Department—by the addition of the name of the Department so established; and
- (c) where an alteration is made in the name of any Department—by a similar alteration of the name of the Department as appearing in that Schedule.

Act not to
apply to certain
officers.

8. Unless otherwise expressly provided, this Act shall not apply to—

- any Justice of the High Court of Australia;
- the High Commissioner;
- the Auditor-General;
- the Public Service Arbitrator;
- the Director of the Commonwealth Institute of Science and Industry;
- the Commonwealth Railways Commissioner or any employee under the *Commonwealth Railways Act 1917*; ^(a)
- the Commissioner of Taxation;
- the Assistant Commissioner of Taxation;
- any person employed in an honorary capacity;
- any officer the right to appoint whom is not vested in the Governor-General or the Board;
- any person remunerated by fees, allowances, or commission only;
- any person employed in the Naval or Military Forces only;
- any officers appointed or employed under the *Australian Soldiers' Repatriation Act 1920* ^(b) or under the *War Service Homes Act 1918–1920*; ^(c) or
- any officer or class of officers, or employee or class of employees, to whom or to which on the recommendation of the Board, the Governor-General declares that the provisions of this Act shall not apply;

Provided that the Board may from time to time as prescribed determine the rates of payment and conditions of employment of any such officer or class of officers, or employee or class of employees.

Officers of the
Parliament.

9.—(1.) Notwithstanding anything contained in this Act—

- (a) all appointments or promotions of officers of the Senate shall be made by the Governor-General on the recommendation of the President of the Senate;
- (b) all appointments or promotions of officers of the House of Representatives shall be made by the Governor-General on the recommendation of the Speaker;
- (c) all appointments or promotions of officers of both Houses of Parliament shall be made by the Governor-General on the joint recommendation of the President and the Speaker; and
- (d) the President or the Speaker or the President and the Speaker as the case may be, may from time to time fix the periods

(a) *Infra*, p. 2086.

(b) *Infra*, p. 2157.

(c) *Infra*, p. 2200.

of recreation leave which may be granted to officers of the Parliament.

(2.) Subject to this section, unless inconsistent with the context, any action or approval required by this Act or the regulations thereunder to be taken or given by the Board may, so far as officers of the Parliament are concerned, be taken or given by the President or the Speaker or the President and the Speaker (as the case may be) in substitution for the Board, and any action required or authorized by this Act or the regulations thereunder to be taken by a Permanent Head or Chief Officer shall or may be taken by the Clerk of the Senate so far as relates to officers of the Senate, and by the Clerk of the House of Representatives so far as relates to officers of that House, and by the Parliamentary Librarian so far as relates to officers of the Parliamentary Library, and by the Principal Parliamentary Reporter so far as relates to officers of the Parliamentary Reporting Staff, and by the Secretary of the Joint House Department so far as relates to officers of that Department.

(3.) Any reference in this Act or the regulations thereunder to the Minister shall so far as the Departments of the Senate, the House of Representatives, the Parliamentary Library, the Parliamentary Reporting Staff, and the Joint House Department are concerned, be read as a reference to the President or the Speaker or the President and the Speaker (as the case may be).

(4.) The officers of the Senate, the officers of the House of Representatives, the officers of the Parliamentary Library, the officers of the Parliamentary Reporting Staff, and the officers of the Joint House Department shall be deemed to constitute separate Departments under this Act.

(5.) The classification of officers and offices of the Parliament shall be made by the President or the Speaker or by the President and the Speaker, as the case may be:

Provided that if the President or the Speaker or the President and the Speaker (as the case may be), by writing addressed to the Chairman of the Board, requests the Board to classify any officers and offices of the Parliament, the Board shall classify those officers and offices in the manner provided in this Act.

(6.) The Governor-General may, on the recommendation of the President or the Speaker or the President and the Speaker (as the case may be), make, in relation to officers of the Parliament, regulations prescribing all matters in relation to which the Board is, by this Act, authorized to make regulations.

(7.) Any regulation made under this Act by the Board shall apply to officers of the Parliament unless and until—

- (a) a regulation is made under the last preceding sub-section inconsistent with, or prescribing matters dealt with in, that first-mentioned regulation; or
- (b) the Governor-General, upon the recommendation of the President or the Speaker or the President and the Speaker (as the case may be), by order, declares that such regulation shall not apply to officers of the Parliament.

PART II.—COMPOSITION AND ADMINISTRATION OF THE PUBLIC SERVICE.

Composition of
Public Service.

10.—(1.) For the purposes of this Act the Public Service shall comprise—

- (a) The Commonwealth Service; and
- (b) The Provisional Service.

(2.) The Commonwealth Service shall include the Departments specified in the Second Schedule to this Act, and any Department of the Commonwealth Service at any time proclaimed by the Governor-General.

(3.) The Provisional Service shall include any Department or branch of the Public Service of a provisional or temporary character which is included by proclamation.

Appointment of
Board of
Commissioners.

11.—(1.) For the purposes of this Act the Governor-General may appoint a Board of Commissioners of three persons, and on the happening of any vacancy in the office of member of the Board the Governor-General shall appoint a person to the vacant office.

(2.) In the making of appointments under the provisions of this section, preference shall be given, other things being equal, to returned soldiers.

(3.) Of the three persons first appointed as members of the Board, one person shall be appointed for a term of five years, one for a term of four years, and one for a term of three years.

(4.) Thereafter each appointment of a member of the Board shall be for a term not exceeding five years.

(5.) Every person who is appointed a member of the Board shall, on the expiration of his term of office, be eligible for re-appointment.

(6.) If any officer of the Commonwealth is appointed a member of the Board, his service as member shall, for the purpose of determining all his existing and accruing rights, be counted as Public Service in the Commonwealth.^(a)

(7.) If any officer in the Public Service of a State is appointed a member of the Board, he shall have the same rights as if he had been an officer of a Department transferred to the Commonwealth and were retained in the service of the Commonwealth.

(8.) In case of the illness, suspension or absence of any member of the Board, the Governor-General may appoint a person to act as the deputy of the member during his illness, suspension or absence, and the deputy shall, whilst so acting, have all the powers and perform all the duties of a member.

Inserted by No.
46, 1924, s. 4.

(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.

Inserted by No.
46, 1924, s. 4.

(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.

(a) See also *Officer's Rights Declaration Act 1928-1933* (*infra*, p. 2010).

(9.) No action or suit shall be brought or maintained against any person who is or has been a member of the Board, for any nonfeasance or misfeasance in connexion with his duties, nor shall any action or suit lie, nor any costs be payable, in respect of any proceeding before the Board or a member thereof.

12.—(1.) The Governor-General shall appoint one of the three members to be the Chairman of the Board, and on the happening of any vacancy in the office of Chairman the Governor-General shall appoint a person to fill that office.

The Chairman
of the Board.

(2.) In the case of the illness, suspension or absence of the Chairman, the Governor-General shall appoint one of the other members to act as Chairman during such illness, suspension or absence.

13.—(1.) The Chairman of the Board shall receive a salary of Two thousand five hundred pounds a year and each of the other members shall receive a salary of Two thousand pounds a year, and the Consolidated Revenue Fund is to the necessary extent hereby appropriated accordingly.^(a)

Salaries and
expenses of
members of the
Board.

(2.) There shall be paid to each member of the Board, on account of his expenses in travelling to discharge the duties of his office, such sums as are considered reasonable by the Governor-General.

13A.—(1.) Notwithstanding anything contained in the preceding provisions of this Part—

Constitution of
Board where
vacancies
exist.

(a) on the happening of any vacancy in the office of member of the Board, the Governor-General may, so long as at least one office of member remains filled, defer for such time as he thinks fit the making of an appointment to the vacant office;

Inserted by
No. 19, 1930,
s. 2.

(b) where a vacancy in the office of a member of the Board remains unfilled, the Board shall, for the purposes of this Act, be deemed to be constituted by the remaining Commissioners or Commissioner.

(2.) Where the Board is constituted of two members and those members differ in opinion on any question requiring the decision of the Board, the Board shall report the matter to the Governor-General, and thereupon the Governor-General may appoint a person to act as Commissioner for the purpose only of the consideration and settlement, at a meeting of the Board, of that question, and for that purpose the person so acting shall have all the powers of a member of the Board.

(3.) Any person appointed under the last preceding sub-section to act as a Commissioner shall not be entitled to receive any remuneration in respect of his services as such Acting Commissioner.

(4.) In the event of the Board being constituted by one Commissioner, that Commissioner shall have all the powers and functions of the Chairman of the Board under the succeeding provisions of this Act.

(a) But see the *Financial Emergency Act 1931-1935* (*supra*, p. 1147).

Removal or
suspension of
member of the
Board.

14.—(1.) The Governor-General may remove any member of the Board from office on an address praying for his removal being presented to the Governor-General by the Senate and the House of Representatives respectively in the same Session of the Parliament.

(2.) The Governor-General may suspend any member of the Board from office for misbehaviour or incapacity.

(3.) A statement of the cause of the suspension shall be laid before both Houses of the Parliament within seven days after the suspension, if the Parliament is then sitting, or, if the Parliament is not then sitting, then within seven days after the next meeting of the Parliament, and if within sixty days thereafter an address is presented to the Governor-General by the Senate and the House of Representatives praying for the restoration of the member to office, the member shall be restored accordingly, but if no such address is so presented the Governor-General may declare the office of the member to be vacant and the office shall thereupon become and be vacant.

Office of
member—how
vacated.

15.—(1.) A member of the Board shall be deemed to have vacated his office if—

- (a) he engages, during his term of office, in any paid employment outside the duties of his office;
- (b) he becomes bankrupt or insolvent, or applies to take the benefit of any Act or State Act for the relief of bankrupt or insolvent debtors, or compounds with his creditors, or makes an assignment of his salary for their benefit;
- (c) except on leave granted by the Governor-General, he absents himself from duty for fourteen consecutive days or for twenty-eight days in any twelve months;
- (d) he becomes permanently incapable of performing his duties.

(2.) If a member of the Board becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Commonwealth, or in any way participates or claims to be entitled to participate in the profit thereof, or in any benefit or emolument arising therefrom, otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons, he shall be guilty of an indictable offence.

Penalty: Five hundred pounds or imprisonment for three years or both.

Delegation by
Board.

Amended by No.
46, 1924, s. 5.

16.—(1.) The Board may, by writing under the hand of each member of the Board, delegate to any member of the Board or to any officer any of the powers or functions of the Board under this Act (except this power of delegation) so that the delegated powers or functions may be exercised by the delegate with respect to the matters or class of matters specified, or the State, part of the Commonwealth, or Territory defined, in the instrument of delegation.

Amended by No.
46, 1924, s. 5.

(2.) Every such delegation shall be revocable in writing at will, and no delegation shall prevent the exercise of any power or function by the Board.

(3.) If in pursuance of any delegation given to him any delegate of the Board makes any recommendation with regard to any Department, the permanent head or a chief officer may request that the recommendation be referred to the full Board, and in that event the recommendation of the delegate shall not be deemed to be a recommendation of the Board unless it is indorsed by the full Board.

17.—(1.) In addition to such duties as are elsewhere in this Act imposed on it, the Board shall have the following duties :— Duties of Board.

(a) to devise means for effecting economies and promoting efficiency in the management and working of Departments by—

- (i) improved organization and procedure ;
- (ii) closer supervision ;
- (iii) the simplification of the work of each Department, and the abolition of unnecessary work ;
- (iv) the co-ordination of the work of the various Departments ;
- (v) the limitation of the staffs of the various Departments to actual requirements, and the utilization of those staffs to the best advantage ;
- (vi) the improvement of the training of officers ;
- (vii) the avoidance of unnecessary expenditure ;
- (viii) the advising upon systems and methods adopted in regard to contracts and for obtaining supplies, and upon contracts referred to the Board by a Minister ; and
- (ix) the establishment of systems of check in order to ascertain whether the return for expenditure is adequate ;

(b) to examine the business of each Department and ascertain whether any inefficiency or lack of economy exists ;

(c) to exercise a critical oversight of the activities, and the methods of conducting the business, of each Department ;

(d) to maintain a comprehensive and continuous system of measuring and checking the economical and efficient working of each Department, and to institute standard practice and uniform instructions for carrying out recurring work ; and

(e) such other duties in relation to the Public Service as are prescribed.

(2.) In relation to all matters specified in the last preceding subsection, other than paragraph (e) thereof, the Board shall in the first place advise the permanent head of the Department of its suggestions or proposals.

(3.) If the permanent head does not concur in or adopt the suggestions or proposals he shall within a reasonable time inform the Board of the reasons therefor.

(4.) Thereupon the Board may, if it thinks fit, make a recommendation, report or suggestion to the Minister administering the Department, and if the recommendation, report or suggestion is not approved or adopted by the Minister within a reasonable time, the Board may report the matter to both Houses of the Parliament either in a special report or in its annual report.

Board to
submit reports
to Governor-
General.

18.—(1.) The Board shall furnish reports or recommendations on all matters required to be dealt with by the Governor-General under this Act or referred to the Board by the Governor-General, and no such matters shall be submitted for the consideration of the Governor-General unless accompanied by a report or recommendation of the Board.

(2.) If the Governor-General does not approve of any recommendation, he may require the Board to furnish a fresh recommendation, which shall be considered and dealt with by the Governor-General.

(3.) If the Governor-General does not approve of the fresh recommendation, a statement of the reasons for not approving shall be laid before both Houses of the Parliament within thirty days of the receipt of the recommendation, if the Parliament is then sitting, and, if not, then within fourteen days of the next meeting of the Parliament.

Powers of
Board.

19.—(1.) The Board may at any time—

- (a) enter any Department for the purpose of carrying out its duties ;
- (b) summon any person whose evidence appears to be material to the determining of any subject of inspection, inquiry, or investigation being conducted by the Board ;
- (c) take evidence on oath ; and
- (d) require the production of documents.

(2.) Any officer who, without reasonable cause, neglects or fails to attend in obedience to the summons, or to be sworn, or to answer questions or produce documents relevant to the subject of the inspection, inquiry or investigation, shall be guilty of an offence against this Act.

(3.) Any person, not being an officer, who, after payment or tender of reasonable expenses, neglects or fails, without reasonable cause, to attend in obedience to the summons, or to be sworn, or to answer questions or produce documents relevant to the subject of the inspection, inquiry or investigation, shall be guilty of an offence.

Penalty : Twenty pounds.

(4.) Nothing in this section shall be construed as compelling a person to answer any question which would tend to criminate him.

Excess
officers.
Amended by No.
48, 1924, s. 6.

20. If at any time the Board finds that a greater number of officers of a particular classification is employed in any Department or Branch of a Department than is necessary for the efficient working of that Department or Branch, any officer whom the Board finds is in excess may be transferred to such other position of equal classification and salary in the Service as the officer is competent to

fill, and if no such position is available the officer may be transferred to a position of lower classification and salary. If no position is available for the officer the Board may retire him from the Public Service.

21.—(1.) The Board shall keep a record of all officers in the Commonwealth Service, showing, with regard to each officer, his age and date of appointment, the office he holds, and his division, class, and salary under this Act. Record of officers.

(2.) The Board shall, in the month of August in each year or as soon as practicable thereafter, forward to the Governor-General, and publish in the *Gazette*, a list of all officers in the Commonwealth Service on the thirtieth day of June in that year, together with the particulars so recorded with regard to the service of each officer.

(3.) The list so published shall be *prima facie* evidence of the information contained therein.

(4.) A copy of such list shall be laid before both Houses of the Parliament within fourteen days of the publication thereof, if the Parliament is then sitting, or, if not, then within fourteen days after the next meeting of the Parliament.

22.—(1.) The Board shall furnish to the Prime Minister, at least once in each year, for presentation to the Parliament, a report on the condition and efficiency of the Public Service, and of the proceedings of the Board, and in that report shall set forth any changes and measures necessary for improving the working of the Public Service, and especially for insuring efficiency and economy therein or in any Department or branch thereof. Annual report to Parliament.

(2.) The Board shall in the report draw attention to any breaches or evasions of this Act which may have come under notice.

PART III.—THE COMMONWEALTH SERVICE.

Division 1.—Divisions.

23. The Commonwealth Service shall consist of four Divisions, that is to say— Divisions of Commonwealth Service.

- The First Division ;
- The Second Division ;
- The Third Division ; and
- The Fourth Division.

24.—(1.) The First Division shall include all Permanent Heads of Departments and such other officers as the Governor-General determines. Composition of respective Divisions.

(2.) The Second Division shall include officers who, under officers of the First Division, are required to exercise executive or professional functions in the more important offices of the Service, and whose offices the Governor-General, on the recommendation of the Board, directs to be included in that Division.

(3.) The Third Division shall include all officers whose offices the Governor-General, on the recommendation of the Board, directs to be included in that Division.

(4.) The Fourth Division shall include all officers not included in the First, Second, or Third Division.

Permanent
Heads.

Amended by
No. 72, 1932,
s. 4.

Proviso inserted
by No. 72,
1932, s. 4.

25.—(1.) The persons for the time being holding the several offices specified in the Third Schedule to this Act, shall be Permanent Heads of Departments.

Provided that where any offices specified in the Third Schedule are abolished or any offices are prescribed in addition to or in lieu of the offices specified in that Schedule, or an alteration is made in the name of any office so specified, upon the notification of the fact in the *Gazette*, the Third Schedule shall be deemed to be amended in the following manner:—

- (a) where any office is abolished or another office is prescribed in lieu of any office—by the omission of the reference to the office which has been abolished or in lieu of which another office has been prescribed;
- (b) where any office is prescribed either in addition to or in lieu of any office—by the addition of the name of the office so prescribed; and
- (c) where an alteration is made in the name of any office—by a similar alteration of the name of the office as appearing in that Schedule.

(2.) The Permanent Head of a Department shall be responsible for its general working, and for all the business thereof, and shall advise the Minister in all matters relating to the Department.

(3.) The Permanent Head may, in any case in which he thinks fit, exercise any or all of the powers conferred by this Act on a Chief Officer, and in that event any reference in this Act to a Chief Officer shall, unless inconsistent with the context, be taken to refer to the Permanent Head.

(4.) The Chairman of the Board, the Auditor-General, and the Commissioner of Taxation shall severally have all the powers of a Permanent Head under the provisions of this Act, so far as relates to the branches of the Service respectively under their direct control.

(5.) A Permanent Head may, in respect of any officers or class of officers of his Department, delegate in writing to an officer all or any of his powers and functions under this Act (except this power of delegation) so that the delegated powers and functions may be exercised by the delegate as fully and effectually as by the Permanent Head.

(6.) Any delegation under this section shall be revocable at will and shall not prevent the exercise of any power or function by the Permanent Head.

Chief Officer.

26.—(1.) The Chief Officers of Departments shall be those persons who for the time being hold the offices which are prescribed as constituting the holders thereof *ex officio* Chief Officers of Departments.

(2.) A Chief Officer of a Department shall have and may exercise and perform under this Act, within such parts of the Commonwealth as are prescribed, such powers, authorities, and duties as are prescribed, or as are assigned to him by the Permanent Head.

(3.) In the absence of a Chief Officer, an officer appointed for the purpose by the Permanent Head shall perform the duties of the Chief Officer, unless it is otherwise directed by the Governor-General, and anything done by that officer shall be as good and effective for all purposes and against all persons whatsoever as if done by the Chief Officer.

(4.) If the Governor-General notifies by proclamation that for the purposes of the administration of any Department any portion of a State or Territory is attached to any adjoining State, the Chief Officer of that Department in that adjoining State shall be the Chief Officer of that Department in the portion so attached.

Division 2.—Classification.

27.

* * * * *

(7.) Where the salary allotted to an officer by the classification made pursuant to section twenty-seven of the *Commonwealth Public Service Act 1922* 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*,^(a) 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.

* * * * *

Division 2A.—Creation and Abolition of Offices.

29.—(1.) The Governor-General may, on the recommendation of the Board, after obtaining a report from the Permanent Head—

- (a) create a new office in any Division in any Department;
- (b) abolish any office in any Department; or
- (c) raise or lower the classification of any office.

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

Classification.

Sub-secs. (1.), (2.), (3.), (3 A.), (3 B.), (3 C.), (4.), (5.) and (6.) omitted by No. 45, 1934, s. 2 (3.), and Fourth Schedule.

Added by No. 46, 1924, s. 8, and amended by No. 45, 1934, s. 2 (3.), and Fourth Schedule.

Added by No. 46, 1924, s. 8.

s. 28 repealed by No. 45, 1934, s. 2 (3.), and Fourth Schedule.

Heading inserted by No. 46, 1924, s. 10. Alterations of Staff.

Added by No. 46, 1924, s. 11.

(a) *Supra*, p. 1947.

*Division 3.—Salaries of Officers.*Salaries of
officers.

30. Except in the case of officers of the First Division, who shall be paid such salaries as are provided in the Appropriation Act, and officers paid at a specified rate by virtue of any other Act, officers shall be paid salaries in accordance with such amounts or scales as are prescribed.

Increments.

31.—(1.) Increments of salary which are prescribed within the limits of a class or in respect to any particular office shall be annual, except where otherwise prescribed, and no increment shall accrue to any salary until the officer in receipt of the salary has received the salary for a period of twelve months.

(2.) The right to receive an increment in any year shall depend upon the good conduct, diligence and efficiency of the officer and the period of attendance for duty during that year.

(3.) If, in the opinion of the Permanent Head, an officer is not entitled to receive an increment, he may issue an order in writing depriving the officer of the increment for such time as the Permanent Head considers justified, and in that event the increment shall, subject to the succeeding provisions of this section, not be paid.

(4.) Any officer affected by any such order may appeal to the Board against the order.

(5.) The Permanent Head shall forward the appeal with a report to the Board, and the Board shall, after full inquiry, determine the appeal.

S. 32 repealed by
No. 45, 1934,
s. 2 (3.), and
Fourth Schedule.

* * * * *

*Division 4.—Entrance Examinations and Appointments.*Admission to
Commonwealth
Service.

33.—(1.) No person shall be admitted to the Commonwealth Service unless—

- (a) he is a natural-born or naturalized British subject;
- (b) the Board is satisfied, upon such medical examination as is prescribed, as to his health and physical fitness;
- (c) (except as hereinafter provided) he has successfully passed the prescribed entrance examination; and
- (d) he makes and subscribes an oath or affirmation in the form in the Fourth Schedule to this Act.

(2.) The Board may from time to time, appoint such examiners as are necessary for the conduct of the prescribed examinations, and may at any time remove any examiners so appointed.

34.—(1.) Separate entrance examinations shall be held in connexion with the Third and Fourth Divisions respectively, and shall be designed to test the efficiency and aptitude of candidates for employment generally or in particular offices in those Divisions, but the educational examination for the Fourth Division shall be of an elementary character.

Entrance
examinations.

(2.) The Board shall, as far as practicable, arrange the times and places of entrance examinations, so that persons shall have reasonable facility for competing at examinations held in the State and locality in which they reside.

(3.) The Board shall from time to time, as entrance examinations are required, give public notice thereof in such manner as is prescribed, stating the number of appointments proposed to be made, the division, class, or position, and salary, and the date and place of examination.

35.—(1.) Any person who at any examination held under this Act personates any candidate, and any candidate who allows himself to be personated, shall be guilty of an offence against this Act.

Personation.

Penalty : One hundred pounds or imprisonment for six months.

(2.) If any person who is convicted of an offence against this section is employed in the Commonwealth Service he may be dismissed therefrom by the Board.

36.—(1.) Any person who, before the time fixed for any particular examination held under this Act—

Improperly
obtaining
examination
papers.

(a) improperly obtains possession of ; or

(b) without authority (proof whereof shall lie upon him) furnishes to any person,

any examination paper, or particulars relating to any examination paper, shall be guilty of an offence.

Penalty : One hundred pounds or imprisonment for six months.

(2.) If any person who is convicted of an offence against this section is employed in the Commonwealth Service, he may be dismissed therefrom by the Board.

36A.—(1.) Where, in accordance with a notice under section thirty-four of this Act, the Board holds an entrance examination of candidates for appointment to the Third Division of the Public Service, and, in the notice of that examination, states the number of such appointments proposed to be made, persons who are at the date of the examination, graduates of an Australian University may apply to the Board, within such period as is prescribed, for appointment to that Division.

Appointment of
University
graduates.

Inserted by
No. 38,
1933, s. 2.

(2.) Any person applying under this section for appointment to the Third Division of the Public Service, who is not more than twenty-five years of age shall, during such period as is prescribed, be eligible

for appointment to any of the positions proposed to be filled by successful candidates at the examination and the Board may appoint that person to that Division without examination :

Provided that the number of persons who may be appointed, in pursuance of this section, to positions in the Third Division of the Public Service proposed to be filled by candidates at an entrance examination for that Division shall not exceed ten per centum of the number of those positions.

(3.) Any person appointed to the Public Service in pursuance of this section shall be appointed at such commencing salary as is prescribed, but not exceeding the maximum salary of the class to which successful candidates at the examination mentioned in this section may be appointed.

Appointments
to be on
probation.

37.—(1.) Except as hereinafter provided, every person admitted to the Commonwealth Service shall in the first instance be appointed by the Board on probation only, and may be continued on probation for a period of six months, but his services may be dispensed with by the Board at any time during that period.

(2.) After the period of six months on probation has expired, the Board may, upon a report from the Chief Officer, confirm or annul the appointment, or extend the period of probation for a further period, provided that the whole term of probation shall not in any case exceed twelve months.

Substituted
by No. 46,
1924, s. 12.

(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.

Substituted by
No. 46, 1924,
s. 12.

(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.

Added by No.
46, 1924, s. 12.

(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.

Added by No.
46, 1924, s. 12.

(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.

Section 37A,
inserted by
No. 19, 1930,
s. 3, and
repealed by
No. 45, 1934,
s. 2 (3.), and
Fourth Schedule.

* * * * *

Eligibility of
officers of
Permanent
Naval Force
for
appointment.

38. Any person not more than fifty years of age, who has served in the permanent Naval Forces of the Commonwealth for the full period for which he enlisted or engaged, and has a satisfactory record, shall be eligible for appointment by the Board without examination, to any office in the Fourth Division in the Department of Trade and Customs or in the Department of Health.

39. Where the Board reports to the Governor-General that it is not desirable that the examination system shall be applied in relation to an appointment to a specified position, or in relation to appointments to a specified class of positions, in the Fourth Division, the Board may appoint a person without examination to that position, or to a position in that class.

Appointment
without
examination to
Fourth Division.

40.—(1.) No person shall be appointed to the Fourth Division whose age at his last birthday previous to appointment was less than sixteen years, or, except as in the next sub-section provided, more than fifty years.

Age for
appointment.

(2.) In the case of special duties, the Board may extend the age from fifty to fifty-five years.

(3.) Nothing in this section shall be taken to prevent the appointment of persons above the age of fourteen years as messengers, telegraph messengers, or in such other capacities in the Fourth Division as the Board determines.

41. Every person appointed as a telegraph messenger shall cease to be employed in the Commonwealth Service on attaining the age of eighteen years, unless he has, before reaching that age, passed the examination prescribed for promotion.

Employment of
telegraph
messengers.

42. If the Board is satisfied that it is desirable in the interests of the Commonwealth that the appointment be made, the Board may appoint, without examination or probation, any officer of the Territorial Service or the Commonwealth Railways Service to any office in the Commonwealth Service.

Appointment
without
examination.

43.—(1.) The Governor-General may, upon the recommendation of the Board, transfer for a specified period any officer of the Commonwealth Service to an office in the Territorial Service, or any officer of the Territorial Service to an office in the Commonwealth Service.

Temporary
transfer of
Territorial
officers to
Commonwealth
Service.

(2.) Any such transfer shall be regarded as temporary, and shall be made upon such conditions as are determined by the Governor-General.

(3.) Upon the completion of the specified period of transfer the officer shall return to his former Department and to his former office, or to another office in that Department not inferior in status to his former office.

44. Any officer of the Public, Railway, or other Service of a State employed in a permanent capacity, whether appointed thereto before or after the commencement of this Act, may be appointed to the Commonwealth Service by the Board, without examination and, if the Board thinks fit, without probation.

Appointment
of State
officers.

45. Where any officer of the Public, Railway or other Service of a State, whether or not he was an officer of that Service at the date of the establishment of the Commonwealth, was transferred to the Commonwealth Service before the commencement of this Act,

Rights of
transferred
officers.

he shall preserve all his existing and accruing rights,^(a) and shall be entitled to retire from office at the time, and on the pension or retiring allowance, which would be permitted by the law of the State^(b) from which he was transferred, if his service with the Commonwealth were a continuation of his service with the State.

Appointment
of officers
retired from
Commonwealth,
Territorial, or
State Service.

46. Any person having at any time either before or after the commencement of this Act retired from any salaried office, not being of a temporary or casual character, in the Commonwealth or Territorial Service, or in the Public, Railway or other Service of any State, may, if not more than fifty years of age, be appointed by the Board to the Commonwealth Service without examination, and, if the Board thinks fit, without probation.

Appointment
of persons
from outside
Commonwealth
Service.

47.—(1.) If at any time in any special case it appears expedient or desirable in the public interest to appoint to a Division other than the Fourth Division some person who is not in the Commonwealth Service, and who is not eligible under the conditions otherwise

(a) As to what are "existing and accruing rights", see *Bond v. Commonwealth*, (1903) 1 C.L.R. 13. Held by the High Court that section 60* of the *Commonwealth Public Service Act 1902-1918* dealt specially with the rights of officers of Departments of the Public Services of States transferred to the Commonwealth who were retained in the service of the Commonwealth, and that other provisions of that Act which would be inconsistent with the provisions of that section if they were read as applying to transferred officers as well as to other officers of the Commonwealth Public Service should be construed as inapplicable to transferred officers so far as may be necessary to avoid inconsistency. Held, also, that an officer of the Public Service of South Australia who was transferred to the Public Service of the Commonwealth could not lawfully be removed from the Public Service on the ground of age alone apart from incapacity or some other of the specific grounds for removal or dismissal mentioned in the South Australian Civil Service Acts of 1874 and 1881, and that the right of the officer to this conditional life tenure was one of the rights preserved to the officer by section 84 of the Constitution and section 60* of the *Commonwealth Public Service Act 1902-1918*. *Le Leu v. Commonwealth*, (1921) 29 C.L.R. 305; 27 A.L.R. 242. In such a case of unlawful removal the plaintiff's remedy against the Commonwealth is damages for the unlawful termination of his services, and the measure of damages is the same as that in any action for wrongful dismissal. *Lucy v. Commonwealth*, (1923) 33 C.L.R. 229. Held, also, by Knox, C.J., Higgins and Starke, J.J. (Isaacs, J., dissenting), that in estimating those damages the relevant salary was that which the plaintiff was receiving at the date of his removal, and not that which he was receiving when the Department was transferred to the Commonwealth or the maximum salary to which, under the law of South Australia, he could have attained if he had remained in the Public Service of that State. *Ibid.*

The provision of the last paragraph of section 84 of the Constitution relates only to officers in the Public Service of a State who, at the time of their transfer to the Public Service of the Commonwealth, had rights against the State based on continuous employment in the Public Service of the State from a date prior to the establishment of the Commonwealth. *Trower v. Commonwealth*, (1923) 33 C.L.R. 585. *Quære*, per Knox, C.J., whether a larger right exists under section 60* of the *Commonwealth Public Service Act 1902-1911* than under section 84 of the Constitution. *Ibid.*

The chance of promotion from one class to a higher class of an officer in the Civil Service of South Australia at the time when the Department to which he belonged was transferred to the Commonwealth pursuant to section 69 of the Constitution is not, having regard to the conditions contained in section 22 of the *Civil Service Act 1874* (S.A.), an existing and accruing right of that officer within the meaning of section 84 of the Constitution. *Schedlich v. Commonwealth*, (1926) 38 C.L.R. 518; 32 A.L.R. 364.

Held by the High Court, Knox, C.J., Rich and Starke, J.J. (Isaacs and Higgins, J.J., dissenting), that in the case of an officer of the Civil Service of South Australia who was retained in the Public Service of the Commonwealth when the Department in which he was employed was transferred to the Commonwealth, no "right", within the meaning of section 84 of the Constitution, to be required to resign before being removed for incapacity was conferred by section 28 of the *Civil Service Act 1874* (S.A.), and therefore that such an officer might, under section 67 of the *Commonwealth Public Service Act 1922*, be removed from the Public Service without first being required to resign. *Bradshaw v. Commonwealth*, (1925) 36 C.L.R. 585; 31 A.L.R. 441.

* Section 60 of the *Commonwealth Public Service Act 1902-1918* was as follows:—

"(a) Where a Department of the Public Service of a State has become transferred to the Commonwealth, every officer of such Department who is retained in the service of the Commonwealth, or

(b) where any officer in the Public, Railway, or other Service of a State is transferred to the Public Service of the Commonwealth, every officer so transferred,

shall preserve all his existing and accruing rights and shall be entitled to retire from office at the time and on the pension or retiring allowance which would be permitted by the law of the State from which he was transferred if his service with the Commonwealth were a continuation of his service with such State."

(b) Held by the High Court (Rich, Starke, Dixon and Evatt J.J.; McTiernan J., dissenting) that in s. 84 of the Constitution and s. 45 of the *Commonwealth Public Service Act* the words "which would be permitted by the law of the State" refer to the law of the State in force at the time of the transfer. *Pamberton v. The Commonwealth*, (1933) 49 C.L.R. 382; 39 A.L.R. 282; 7 A.L.J. 52.

prescribed for admission to the Commonwealth Service, the Governor-General may, on the recommendation of the Board upon report from the Permanent Head, appoint such person accordingly without examination and, if the Governor-General thinks fit, without probation.

(2.) No such appointment shall be made until the Board has certified that in its opinion there is no officer available in the Commonwealth Service who is as capable of filling the position to which it is proposed that the appointment shall be made. A copy of every recommendation, report, and certificate under this section shall, within fourteen days after the making of the appointment, be laid before both Houses of the Parliament, if the Parliament is then sitting, or, if not, then within seven days of the next meeting of the Parliament.

48.—(1.) Where a person becomes an officer of the Commonwealth Service and his service in the Commonwealth Service is continuous with—

Prior service
reckoned as
Commonwealth
service.

- (a) permanent service in the Public, Railway or other Service of a State;
- (b) permanent service in a Territorial Service or the Commonwealth Railways Service;
- (c) permanent service in a civil capacity in the Department of Defence; or
- (d) service in a permanent capacity in the Naval or Military Forces of the Commonwealth,

the continuous service of that person in any service specified in paragraph (a), (b), (c) or (d) of this sub-section shall be reckoned for the purposes of this Act as service in the Commonwealth Service:

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.

Proviso added
by No. 46,
1924, s. 13.

(2.) Where a person to whom this section applies has been engaged in two or more of the services specified in paragraphs (a), (b), (c) and (d) of the last preceding sub-section, and the periods he was so engaged are continuous with one another, those periods of service shall be deemed to be continuous service for the purposes of this section.

48A. An officer seconded for duty as Private Secretary to a Minister or member of the Federal Executive Council or to the Leader of the Opposition in either House of the Parliament, shall, upon the

Status of
Ministerial
Private
Secretaries.
Inserted by
No. 19, 1930,
s. 4.*

* Section 4 (2.) of the *Commonwealth Public Service Act 1930* (No. 19 of 1930) reads:—"This section shall be deemed to have commenced on the first day of October, One thousand nine hundred and twenty-nine."

termination of his employment in that capacity, be entitled to appointment to an office in the Commonwealth Service of such status and salary as are determined by the Board, having regard to the office held by the officer prior to his being seconded for such duty and to the period and nature of his employment as Private Secretary.

Employment
of married
women.

49.—(1.) No married woman shall be eligible for employment, either permanently or temporarily, in the Commonwealth Service, unless the Board certifies that there are special circumstances which make her employment desirable.

(2.) Every female officer shall be deemed to have retired from the Commonwealth Service upon her marriage, unless the Board certifies that there are special circumstances which make her employment desirable.

Added by No.
46, 1924, s. 14;

(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

Division 5.—Promotions and Transfers.

Promotions.
Substituted
by No. 46,
1924, s. 15.

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.

* * * * *

Section 51
repealed by No.
49, 1924, s. 18.

52.—(1.) The Board may permit any officer to decline an offer of promotion or transfer without prejudice to his right of future promotion or transfer.

Officer may
decline
promotion or
transfer.

(2.) No officer shall refuse compliance with an order of the Board, directing his removal from one position to another of equal or higher status. Disregard or disobedience of any such order shall be deemed to be a breach of the provisions of this Act.

Qualifications
for particular
positions.

53.—(1.) The Board may provide by regulation that transfer or promotion to any specified offices, or promotion from one class to another in any specified offices, shall be dependent upon passing such examination, or upon the possession of such qualifications, as is or are prescribed for such transfer or promotion.

(2.) The Board may appoint examiners for the purpose of carrying out the provisions of this section.

Appointments
to First
Division.

54.—(1.) Subject to the next succeeding sub-section all appointments and promotions in or to the First Division shall be made by the Governor-General on the recommendation of the Board, consideration being given first to the relative efficiency, or in the event of an equality of efficiency of two or more officers, then to the relative seniority of those officers.

(2.) Notwithstanding anything contained in this Act, appointments to any position of Permanent Head may be made by the Governor-General without reference to the Board.

Division 6.—Offences.

Offences.

55.—(1.) An officer (other than an officer in the First or Second Division) who—

- (a) wilfully disobeys or disregards any lawful order made or given by any person having authority to make or give the order; or
- (b) is negligent or careless in the discharge of his duties; or
- (c) is inefficient or incompetent through causes which appear to be within his own control; or
- (d) uses intoxicating liquors or drugs to excess; or
- (e) is guilty of any disgraceful or improper conduct, either in his official capacity or otherwise; or
- (f) commits any breach of the provisions of this Act or any regulations thereunder; or
- (g) having made or subscribed an oath or affirmation in the form in the Fourth Schedule to this Act, does or says anything in violation of that oath or affirmation; or
- (h) has wilfully supplied to any officer or other person acting on behalf of the Commonwealth incorrect or misleading information in connexion with his appointment to the Commonwealth Service,

shall be guilty of an offence, and shall be liable to such punishment as is determined upon under the provisions of this section.

(2.) If the Chief Officer, or any officer prescribed as having power to deal with minor offences, has any reason to believe that an officer has committed a minor offence, he may call upon the officer for an explanation as to the alleged offence, and if, on consideration of the explanation, he is of opinion that the offence has been committed, he may caution or reprimand the offending officer, or fine him a sum not exceeding Five shillings. Any caution, reprimand, or fine by an officer other than the Chief Officer shall be forthwith reported to the

Inserted by
No. 19,
1930, s. 5.

Chief Officer, and where the offence has been punished by a fine, the officer affected may appeal to the Chief Officer within forty-eight hours of the notification to him of the punishment. Upon such appeal the Chief Officer may confirm, annul, or reduce the punishment, and his decision shall be final.

(3.) Where there is reason to believe that an officer (not being an officer of the First or Second Division) has committed an offence, other than a minor offence punishable under the provisions of the preceding sub-section—

- (a) The officer may be charged by the Chief Officer, or any other officer prescribed as having power to lay a charge, and may if it is considered that the charge is of such a serious nature that the charged officer should not continue in the performance of his duty, be suspended by the Chief Officer, or, in emergent cases, by any other officer having power as aforesaid.
- (b) Suspension may be effected prior to or at the time of, or subsequent to, the laying of the charge, and may be removed at any time by the Chief Officer pending determination of the charge, or, in any case where the charge has not been sustained, immediately upon a finding to that effect.
- (c) Upon a charge being laid against an officer, he shall forthwith be furnished with a copy of the charge, and shall be directed to reply forthwith in writing, stating whether he admits or denies the truth of the charge, and giving any explanation he desires in regard thereto. If a reply is not made by the officer within seven days of his receipt of the charge, the officer shall be deemed to deny the truth of the charge.
- (d) If the Chief Officer, after consideration of reports relating to the offence and charge and the reply and explanation, if any, of the officer charged, and any further reports he may consider necessary, is of opinion that the charge has been sustained, he may—
 - (i) fine the officer any sum not exceeding Five pounds; or
 - (ii) reduce his salary; or
 - (iii) reduce him to a lower Division, class or position, and salary; or
 - (iv) transfer him to some other position or locality, which transfer may be in addition to fine or reduction; or
 - (v) recommend to the Board the dismissal of the officer from the Service;

Provided that if the punishment so imposed or recommended by the Chief Officer be other than a fine not exceeding Two pounds or if, in the case of an officer

Proviso amended by
No. 38,
1933, s. 3.

who has been deprived of his salary during suspension, the amount of the fine imposed, together with the amount of salary of which he has been deprived, exceeds Two pounds, the officer may appeal, in such manner and within such time, not less than seven days, as is prescribed, against the decision of the Chief Officer, and the appeal shall be heard by an Appeal Board constituted as hereinafter prescribed.

- (e) If no appeal is made by an officer against a recommendation that he be dismissed, the Board of Commissioners may dismiss the officer or impose any other punishment specified in the last preceding paragraph.

(4.) Appeal may be made on the ground of innocence of the charge, or excessive severity of the punishment, and the Appeal Board may confirm, annul, or vary the decision appealed against by imposing any other punishment specified in the last preceding sub-section, and its decision shall be final, except that in any case where the Appeal Board considers the officer should be dismissed, the case shall be referred by the Chairman of the Appeal Board to the Board of Commissioners, which may dismiss the officer from the Commonwealth Service, or may impose any such other punishment as is prescribed in the preceding sub-section. In the hearing of any appeal against the excessive severity of the punishment the Appeal Board shall take into consideration the previous record of the officer.

Appeal Boards
in relation to
offences.

(5.) An Appeal Board constituted under this section shall comprise—

Amended by
No. 21,
1931, s. 2.

- (a) a Chairman, who shall have the qualifications of a Stipendiary or Police Magistrate, and shall be appointed to the office by the Board of Commissioners, but shall not while sitting as Chairman of an Appeal Board be subject to direction by any person or authority under this Act;
- (b) an officer of the Department to which the appellant belongs (not being an officer concerned in the laying of the charge against the appellant), appointed by the Chief Officer for the purpose of the particular appeal to be heard;
- (c) the officer who is the elected representative of the Division to which the appellant belongs in the State or part of the State in which he performs his duties or an officer appointed in pursuance of sub-section (6.) of this section.

Any two members of an Appeal Board may by consent of the parties concerned exercise all the powers of the Board for investigation and decision.

(5A.) Where a person who is not an officer of the Commonwealth Service is appointed Chairman of an Appeal Board he shall hold office during the pleasure of the Board of Commissioners and shall receive such remuneration, by way of fees, as the Board of Commissioners determines.

Inserted by
No. 21,
1931, s. 2.

(6.) In the case of the illness, absence or suspension of an officer who is the elected representative of the Division to which the appellant belongs, or of there being no elected representative of that Division, or where the Board of Commissioners is of opinion that, by reason of his being personally interested in, or affected by, any matter which is the subject of appeal under this section, it is undesirable that the elected representative should act as a member of an Appeal Board, the Board of Commissioners may appoint another officer of the same Division to act temporarily as a member of an Appeal Board in lieu of an elected representative.

(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.

Inserted by No.
46, 1924, s. 17
(1.).*

(7.) Every member of an Appeal Board shall, before proceeding to perform the duties or exercise the powers of a member of an Appeal Board, take an oath or make an affirmation in the form in the Fifth Schedule to this Act.

(8.) Notwithstanding anything contained in sub-section (5.) of this section, an Appeal Board constituted to hear an appeal by an officer of the Senate or of the House of Representatives, or of both Houses of the Parliament, shall comprise—

- (a) the Permanent Head of a Department nominated by the President or Speaker or the President and Speaker, as the case may be;
- (b) the Permanent Head of a Department nominated by the officers of the Department of the Parliament to which the appellant belongs; and
- (c) the elected representative of the Division to which the appellant belongs in the State or part of the State in which he performs his duties;

Provided that the Permanent Head nominated under paragraph (a) or (b) of this sub-section shall not be the Permanent Head of the Department to which the appellant belongs.

* Section 17 (2.) of the *Commonwealth Public Service Act 1924* (No. 46 of 1924) reads:—"This section shall be deemed to have commenced on the date upon which the Principal Act commenced."

(9.) The members of the Appeal Board constituted in pursuance of the last preceding sub-section shall elect one of their number to be Chairman and any two members of the Board may exercise all the powers of the Board for investigation and decision. The decision of the Board shall be final.

Inserted by
No. 21, 1931,
s. 2.

(9A.) Where, at any meeting of an Appeal Board, the members present are divided in opinion as to any action to be taken by it under sub-section (4.) of this section, the question shall be decided according to the decision of the majority, if there is a majority, and where the members present are equally divided on any such question, the question shall be postponed to a later meeting of the Board.

(10.) Where an officer has been suspended under this section and—

(a) the Chief Officer, after consideration of reports relating to the offence and charge and the reply and explanation, if any, is of opinion that the charge against the officer has not been sustained; or

(b) an Appeal Board finds that the charge against the officer is not proved,

the Chief Officer shall forthwith remove the suspension.

Added by
No. 19, 1930,
s. 5.

(11.) For the purposes of the constitution of an Appeal Board under this section to deal with any appeal by an officer who performs his duties in the Territory for the Seat of Government, and for the purposes of the election of a representative on the Appeal Board of the Division to which the appellant belongs, the Territory for the Seat of Government shall be deemed to be a State.

Offences by
officer of First
or Second
Division

Amended by
No. 45, 1924,
s. 18.

56.—(1.) Where any officer of the First or Second Division is charged by any person with any of the offences mentioned in the preceding section, the Minister, in the case of an officer of the First Division, and the Permanent Head, in the case of an officer of the Second Division, may suspend the officer, and upon such suspension shall forthwith report the charge and suspension to the Board. If the officer does not in writing admit the truth of the charge, the Board shall appoint a Board of Inquiry (consisting of three persons, one of whom shall be the Chairman of the Board of Inquiry, and which shall not include the person by whom the charge was made), which shall inquire into the truth of the charge and shall report to the Board its opinion thereon.

(2.) If any of the charges are admitted, or are found by the Board of Inquiry to be proved, then the Board of Commissioners may make such recommendation as to the punishment or otherwise of the person charged as to the Board seems fit. On receiving such recommendation, the Governor-General may dismiss the officer from the Commonwealth Service, or reduce the officer to a lower Division and salary, or impose such penalty or other punishment as the case demands.

(3.) If the charges are found by the Board of Inquiry not to be proved, the suspension shall be immediately removed by the Minister or the Permanent Head, as the case may be.

57—(1.) Any officer, upon the hearing by a Board of Inquiry or Appeal Board in relation to any charge against him, shall be entitled to be represented by counsel, attorney, or agent, who may examine witnesses and address the Board on his behalf. The charging authority may likewise be represented at such hearing by counsel, attorney, or agent.

Proceedings
before Board
of Inquiry or
Board of
Appeal.

(2.) It shall be the duty of the Board of Inquiry or Appeal Board to make a thorough investigation without regard to legal forms and solemnities, and to direct itself by the best evidence which it can procure or which is laid before it, whether the evidence is such as the law would require or admit in other cases or not.

(3.) If an Appeal Board is of opinion that the appellant officer had no reasonable grounds for appeal, and that the appeal was frivolous or vexatious, it may recommend to the Board of Commissioners that the officer be required to pay such sum as the Appeal Board thinks fit, but not exceeding the cost of the hearing, and the Board may order the appellant to pay such sum or such less amount as it thinks fit, and the sum so ordered shall be recoverable in the manner prescribed for the recovery of fines for breaches of the Act or regulations.

58.—(1.) The Chairman of any Board of Inquiry or Appeal Board may at any time—

Evidence before
Board of Appeal
or Inquiry.

- (a) summon any person whose evidence appears to be material to the determination of any subject of inspection, inquiry, or investigation being conducted by the Board ;
- (b) take evidence on oath ; and
- (c) require the production of documents.

(2.) Any officer who, without reasonable cause, neglects or fails to attend in obedience to the summons, or to be sworn, or to answer questions or produce documents relevant to the subject of the inspection, inquiry, or investigation, shall be guilty of an offence against this Act.

(3.) Any person, not being an officer, who, after payment or tender of reasonable expenses, neglects or fails, without reasonable cause, to attend in obedience to the summons, or to be sworn, or to answer questions or produce documents relevant to the subject of the inspection, inquiry or investigation, shall be guilty of an offence.

Penalty : Twenty pounds.

(4.) Nothing in this section shall be construed as compelling a person to answer any question which would tend to criminate him.

59.—(1.) Where it appears to an Appeal Board that it is undesirable, by reason of the officer charged being stationed in a remote locality, or by reason of expense, inconvenience, or delay, to require the officer or any particular witness to attend before the Appeal Board to give evidence, the Appeal Board may, by order in writing under the hand of the Chairman, appoint some fit and proper person to take the evidence of the officer or witness.

Proceedings
where officer or
witness in
remote locality.

(2.) The person so appointed shall take the evidence of the officer or witness on oath or affirmation, and for the purpose of so doing shall have all the powers of the Chairman of the Appeal Board.

(3.) Any party to the appeal entitled to be represented before the Appeal Board shall be entitled to be represented before any person taking evidence in pursuance of this section.

(4.) The evidence so taken shall be certified under the hand of the person taking it and forwarded to the Appeal Board, and considered by it in connexion with the appeal.

Proceedings on
inquiry or
appeal.

60.—(1.) In any case where a charge against an officer is dealt with by a Board of Inquiry or Appeal Board, a copy of all documents intended to be used at the inquiry shall, where practicable, be furnished to the officer at least seven days before the inquiry is held.

(2.) Where any charge against an officer is dealt with by a Board of Inquiry or Appeal Board, that Board shall have the right to direct that the inquiry shall be held in public or in private.

(3.) In any case where a Board finds that the charge is not proved or upholds the appeal, it may recommend that the reasonable expenses, or any part thereof incurred by the officer in meeting the charges or prosecuting the appeal be paid, the amount of such expenses to be mentioned in the recommendation, and, if approved by the Board of Commissioners, the amount may be paid to the officer.

(4.) Where an officer has been suspended for an offence under this Act, he shall be entitled to receive his salary during the period of suspension, unless he absconds, or unless otherwise ordered by the Board, upon report of the Chief Officer.

Procedure where
address of
officer unknown.

61.—(1.) In the event of the address for the time being of an officer being unknown to the Minister, the Board, Permanent Head, Chief Officer, Board of Inquiry or Appeal Board, as the case may be, all notices, orders, or communications to or for the officer shall be posted to the last-known address of the officer, and compliance with this section shall be deemed a sufficient service on the officer of any such notice, order, or communication.

(2.) Where any such notice, order, or communication relates to any charges made against an officer, then if, within any time specified in the notice, order, or communication, no answer is received by the authority which has asked whether the officer admits the truth of the charges brought against him, the officer shall be deemed to deny the truth of the charges, and the charges may be dealt with in the absence of the officer.

Officer
convicted of
criminal offence.

62.—(1.) Where an officer is charged with having committed any criminal offence against the law of the Commonwealth or of a State, punishable either on indictment or on summary conviction, he may be suspended by an authorized officer.

(2.) If the officer is convicted of the offence by any Commonwealth or State Court, the Board may (whether the officer has been suspended

or not) dismiss him from the Commonwealth Service, or reduce him to a lower Division, class, or position and salary, or reduce his salary, or inflict such other punishment as the case demands.

(3.) Any officer who is so suspended or dismissed shall, unless the Board otherwise directs, not receive any salary from the date upon which or for the period during which, he ceased to perform the duties of his office.

(4.) The Chief Officer may at any time remove the suspension of any officer suspended under this section, whether before or after conviction.

(5.) This section shall not prevent an officer from being dealt with under some other provision of this Act, but an officer shall not be punished under this Act twice in respect of the same offence or matter.

63.—(1.) If the estate of an officer is sequestrated either voluntarily or compulsorily for the benefit of his creditors, the officer shall apply, as soon as he may legally do so, to a Court of Bankruptcy or Insolvency for a certificate of discharge.

Insolvent
officers.

(2.) If it appears to the Court that the applicant has been guilty of fraud, dishonorable conduct, or extravagance, the Court shall direct the Clerk of the Court thereupon to report the same to the Permanent Head or Chief Officer of the Department in which the officer is employed.

(3.) If the officer does not apply as aforesaid for a certificate of discharge, or if he applies, and it appears from the report that the officer has been guilty of fraud, dishonorable conduct, or extravagance, the officer may be dismissed by the Board from the Commonwealth Service, or reduced to a lower Division, class, or position or salary, or punished in such other manner as the case demands.

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.

Attachment of
salaries of
officers.

Substituted
by No. 46,
1924, s. 19.

(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.

Amended by
No. 41, 1928,
s. 2.

(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, or may direct the deduction therefrom of such sums, and shall pay, or direct the payment of, 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.

Substituted by
No. 41, 1928,
s. 2.

(9.) In this section "Paying Officer" means such officer of a Department as the Chief Officer of that Department appoints as Paying Officer for the purposes of this section.

Added by
No. 41, 1928,
s. 2.

(10.) The provisions of this section shall apply—

- (a) to every officer in the Public Service ;
- (b) to every person temporarily employed under this Act ; and
- (c) except in so far as the Governor-General otherwise directs—
to every officer or class of officers, or employee or class of employees, to whom or to which on the recommendation of the Board, the Governor-General has, in pursuance of section eight of this Act, declared that the provisions of this Act shall not apply.

65.—(1.) On receipt of notice of any pecuniary penalty imposed upon, or any order for the payment of money made against, any officer or employee under the authority of this Act, the officer who pays the salary wages or pay of the officer or employee so punished or against whom the order is made, shall deduct from any salary wages or pay payable to the officer or employee the amount of the penalty, or the sum ordered to be paid, as the case may be, unless he is satisfied that payment has been made by the officer or employee.

Deduction of pecuniary penalty from salary.

(2.) The deduction may be made by instalments equal as nearly as practicable to one-fourth of the salary wages or pay due from time to time to the officer or employee.

(3.) All fines and penalties imposed under this Act shall be paid into and form part of the Consolidated Revenue.

66. Any officer or officers of the Commonwealth Service directly fomenting, or taking part in any strike which interferes with or prevents the carrying on of any part of the Public Services or utilities of the Commonwealth shall be deemed to have committed an illegal action against the peace and good order of the Commonwealth, and any such officer or officers adjudged by the Board, after investigation and hearing, to be guilty of such action, shall therefor be summarily dismissed by the Board from the Service, without regard to the procedure prescribed in this Act for dealing with offences under the Act.

Officers taking part in strikes against Government.

Division 7.—Incapacity of Officers.

67. If an officer appears to the Board or the Chief Officer to be inefficient or incompetent or unfit to discharge or incapable of discharging the duties of his office efficiently, the Board may, after report from the Chief Officer, and after investigation into the circumstances, retire the officer from the Commonwealth Service from a date to be specified by the Board.^(a) or may transfer him to some other position, with salary appropriate to such other position.

Incapacity of officers.

Division 8.—Leave of Absence and Holidays.

68.—(1.) The Chief Officer may grant to every officer of his Department leave of absence for recreation for any period or periods not exceeding eighteen days in the whole in each year, exclusive of Sundays and holidays.

Leave of absence for recreation.

(2.) In granting leave of absence for recreation the Chief Officer may, in determining the duration of the leave to be granted in any year to an officer under the last preceding sub-section, take into consideration as is prescribed any prolonged period during which that officer was absent from duty in that year.

^(a) Held by the High Court that, in the case of an officer of the Civil Service of South Australia who was retained in the Public Service of the Commonwealth when the Department in which he was employed was transferred to the Commonwealth, any power of removing him from the Public Service was, by virtue of section 67 of the Constitution and section 67 of the *Commonwealth Public Service Act 1922*, vested in the Commonwealth Public Service Board of Commissioners, not in the Governor-General. Held, also, by Knox, C.J., Rich and Starke, J.J. (Isaacs and Higgins, J.J., dissenting), that in the case of such an officer no "right", within the meaning of section 84 of the Constitution, to be required to resign before being removed for incapacity was conferred by section 28 of the *Civil Service Act 1874* of South Australia, and therefore that such an officer might, under section 67 of the *Commonwealth Public Service Act 1922*, be removed from the Public Service without first being required to resign. *Bradshaw v. Commonwealth*, (1925) 36 C.L.R. 585; 31 A.L.R. 441.

(3.) When the absence of an officer is not sanctioned, he shall forfeit his pay for each day of such absence.

(4.) The period of leave of absence for recreation which may be granted to officers stationed in isolated districts, or whose duties cannot ordinarily be performed within usual regular hours, shall not necessarily be limited to a maximum of eighteen days, but shall be limited as is prescribed.

Leave of
absence to
attend
proceedings
under
Arbitration
(*Public Service*)
Act 1920.

69.—(1.) The Chief Officer may grant leave of absence with pay to not more than two representatives of an organization required to attend any proceeding before the Arbitrator under the *Arbitration (Public Service) Act 1920.*^(a)

(2.) The Chief Officer may grant leave of absence without pay, for such periods as are prescribed, to the representatives of an organization for the purpose of the preparation of evidence for submission on behalf of the organization in any such proceeding.

(3.) The periods during which any officer—

(a) is absent on leave granted pursuant to the last preceding sub-section; or

(b) was, before the commencement of this section, absent on leave without pay in connexion with any proceeding before the Commonwealth Court of Conciliation and Arbitration, or the Arbitrator, to which his organization was a party,

shall for such purposes as are prescribed be included as part of the officer's period of service.

Leave for
illness or
pressing
necessity.

70.—(1.) The Chief Officer, in cases of illness or other pressing necessity, may grant to any officer leave not exceeding three months, and may, with the concurrence of the Board, and on such terms as are prescribed, extend such leave to a period not exceeding twelve months.

(2.) Where in case of illness an officer, who has received extended leave of absence for twelve months, is not so far recovered as to be able to resume his duties, the Chief Officer, with the concurrence of the Board, may grant the officer further leave of absence for a period not exceeding six months. No salary or allowance shall be paid to the officer during such further leave. If at the expiration of such further leave the officer is unable to resume his duties the Board may retire him from the Commonwealth Service, and may direct that the retirement shall have effect as on the date of the expiration of any such further leave.

(3.) Upon report by a duly qualified medical practitioner that an officer is in such a state of health as to constitute him a danger to his fellow officers or the public, the Chief Officer may, subject to the regulations, direct the officer to absent himself from his duties for a specified period, and the officer's absence shall be regarded as leave of absence owing to illness.

(a) *Supra*, p. 1947.

71.—(1.) On the application of any officer, the Board may grant to the officer leave of absence, without pay, for any period not exceeding twelve months. Leave without pay.

Provided that this section shall not apply to any application made by an officer for leave of absence for the purpose of service with the League of Nations, or with the Government of the United Kingdom, or of any State of the Commonwealth, or of any British Dominion, Colony or Dependency. Inserted by No. 19, 1930, s. 6.

(2.) The period during which any officer is absent on leave granted pursuant to this section shall not, unless otherwise ordered by the Board, for any purpose be included as part of the officer's period of service.

72.—(1.) Leave of absence may be granted to any officer who has enlisted in, or been appointed to, any Expeditionary Force raised under the provisions of the *Defence Act* 1903-1918,^(a) or has entered into an agreement with the Minister of Defence to serve as a munitions worker, whether within or beyond Australia, and the duration of such leave shall not, unless the Board otherwise directs, exceed the period of service of the officer with the Expeditionary Forces, or as a munitions worker, as the case may be. Leave for military or naval purposes.

(2.) Leave of absence for a period, which shall not, unless the Board otherwise directs, exceed twelve months, may be granted to any officer who is called up, in pursuance of the *Defence Act* 1903-1918,^(a) for active service in Australia or for active service in the Naval Forces.

(3.) Leave of absence granted under this section shall be without pay, except for such period as may, under some other provision of this Act or regulations, be granted with pay.

(4.) The period during which any officer is absent on leave granted pursuant to this section shall for all purposes be included as part of the officer's period of service.

72A.—(1.) If the League of Nations, or the Government of the United Kingdom, or of any State of the Commonwealth, or of any British Dominion, Colony or Dependency requests that the services of an officer be made available to the League of Nations or to that Government, the Board may, on application by the officer, grant to him leave of absence without pay, not exceeding a period of three years, for that purpose. Leave of absence for service with other Governments, &c.

Inserted by No. 19, 1930, s. 7.

(2.) The period during which any officer is absent on leave granted pursuant to this section shall not, unless otherwise ordered by the Board, for any purpose be included as part of the officer's period of service.

73.—(1.) When an officer has continued in the Commonwealth Service for at least twenty years, the Board may grant to him leave of absence for a period not exceeding one month and a half on full Furlough.

(a) *Supra*, p. 782.

salary or three months on half salary, in respect of each completed five years of continuous service :

Provided that an officer shall not be granted leave of absence to exceed a continuous period of twelve months at any one time :

Provided further that in the case of any person becoming an officer of the Commonwealth Service after the commencement of this Act, the service which shall be taken into account for the purposes of this section shall not include any service in a temporary capacity.

Amended by No.
46, 1934, s. 2.

(2.) When an officer who has continued in the Commonwealth Service for at least twenty years is retiring from the Commonwealth Service, the Board may authorize payment to him upon retirement of a sum equivalent to the salary for a period of leave not exceeding that which the officer could have been granted under the last preceding sub-section.

(3.) Upon the death of any officer who at the date of his death was eligible under this section for the grant of leave of absence, the Board may authorize payment to the dependants of the officer of a sum equivalent to the amount of salary which would, under this section, have been granted to the officer had he retired immediately prior to the date of his death.

(4.) Notwithstanding anything contained in this section—

(a) there shall not be granted under this section, in respect of the service of any officer, leave of absence or pay on retirement or death exceeding in the whole twelve months on full salary or its equivalent ;

(b) except upon the retirement of an officer under sections eighty-five or eighty-six of this Act, leave of absence for recreation shall not be granted under section sixty-eight of this Act in respect of the year in which leave of absence granted under this section commences, and if leave of absence for recreation has been granted in the year in which leave of absence granted under this section commences, it shall be regarded as part of the period of leave of absence granted under this section :

Provided that the total period of leave of absence for recreation which may, under this paragraph, be withheld, or regarded as part of the period of leave of absence granted under this section, during any officer's period of service, shall not exceed the period of leave of absence for recreation which may be granted in respect of one year of service ; and

(c) the official conduct record of an officer shall be taken into consideration in determining whether the whole or any portion of the leave of absence or pay provided in this section may be granted.

(5.) This section shall be deemed to have commenced on the thirtieth day of November, One thousand nine hundred and nineteen.

74.—(1.) The Board may grant to any officer, whose period of service is less than twenty years, who is not eligible for furlough under the last preceding section, immediately prior to his retirement from the Commonwealth Service on, or subsequent to, his attaining the age of sixty years, leave of absence on full salary for a period not exceeding that appropriate to his service as specified in the following scale :—

Extended leave or pay in lieu to officers not entitled to furlough.

Service.	Leave.
16 years and less than 20 years	5 months
12 years and less than 16 years	4 months
8 years and less than 12 years	3 months
4 years and less than 8 years	2 months.

(2.) In lieu of leave in accordance with the last preceding sub-section the Board may authorize payment to an officer, eligible for leave in pursuance of that sub-section, upon his retirement from the Commonwealth Service, of a sum equivalent to the salary for a period of leave not exceeding that which the officer could have been granted under that sub-section.

(3.) Where an officer, who is less than sixty years of age, retires from the Commonwealth Service after less than twenty years' service, and produces to the Board satisfactory evidence that his retirement is due to ill-health and that such ill-health is permanent and is not due to misconduct or to causes within his own control, the Board may authorize payment to the officer of a sum equivalent to the salary for a period of leave not exceeding that for which, had he attained the age of sixty years, he would have been eligible under sub-section (1.) of this section.

(4.) In the event of the death of an officer before he has completed twenty years' service in the Commonwealth Service and either before or after he has attained the age of sixty years, the Board may authorize payment to the dependants of the officer of a sum equivalent to the salary for the period of leave which the officer would have received had he been eligible for, and granted, leave of absence under sub-section (1.) of this section.

(5.) The official conduct record of an officer shall be taken into consideration in determining whether the whole or any portion of the leave of absence or pay provided in this section may be granted.

75. For the purposes of the last two preceding sections, salary includes such emoluments as are prescribed.

Definition of salary.

76.—(1.) The following days, or any days prescribed under the law of any State to be observed in lieu thereof in that State, shall be observed as holidays in the Commonwealth Service, namely :—

Public holidays.

first day of January,
twenty-sixth day of January,
Christmas day and the following day,

Good Friday and the following Saturday and Monday, the anniversary of the birthday of the Sovereign, the twenty-fifth day of April, and any day proclaimed by the Governor-General or required by any Act to be observed in lieu of any of the said days.

(2.) Whenever any of the said days, except the twenty-fifth day of April, falls upon a Sunday, the next following Monday shall be observed as a holiday in the public offices in lieu of such Sunday.

Amended by
No. 46, 1924,
s. 20.

(3.) In addition to the days mentioned in sub-section (1.) of this section, there may be observed as public holidays or half-holidays in the public offices of the Commonwealth, or in any part thereof, such additional days or half-days, not exceeding in the whole, in the case of any office, four days in any one calendar year, as are authorized by the Board.

(4.) The Governor-General may by proclamation at any time for any special occasion appoint, in addition to the days hereinbefore named, any specified day or half-day to be observed as a holiday or half-holiday in the public offices of the Commonwealth or in any part thereof.

Amended by
No. 46, 1924,
s. 20.

(5.) The Minister of a Department, or the Permanent Head or Chief Officer thereof, may require the Department, or any part thereof, to be kept open in the public interest for the whole or any portion of a holiday observed in pursuance of sub-section (1.), (2.), or (4.) of this section, and may require the attendance and services of any officer of the Department during that holiday; but in that case that officer shall be granted an amount equal to a day's salary calculated in the prescribed manner if a full day's attendance has been required, and a proportionate amount if less than a full day's attendance has been required:

Provided that no proportionate payment shall be less than one-half day's salary calculated in the prescribed manner:

Provided further that an officer of the Parliament shall not be entitled, under this sub-section, to payment in respect of work performed on such holiday.

Amended by
No. 46, 1924,
s. 20.

(6.) Where the hours of duty of any officer are arranged by schedule, and the attendance and services of that officer are required during any holiday observed in pursuance of this section, that officer shall not be entitled to receive in respect of his attendance and services during that holiday an amount greater than a full day's salary calculated in the prescribed manner.

Inserted by
No. 46, 1924,
s. 20.

(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.

(7.) The Regulations may prescribe that the performance, by an officer on a holiday, of duty commencing at or after a prescribed hour of commencement, or terminating at or before a prescribed hour of termination, shall not be deemed to be performance of duty on a holiday.

(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.

Inserted by
No. 45, 1924,
s. 20.

(8.) This section shall not apply to officers stationed at light-houses or employed on lighthouse steamers.

Division 9.—Reciprocal Services of Commonwealth and State Officers.

77. The fact that any person is an officer of the Public Service of a State shall not disqualify him from also executing the duties of an office in the Commonwealth Service.

State officer
not disqualified
from
Commonwealth
employment.

78.—(1.) The Governor-General may arrange with the Governor in Council of any State for the performance or execution by an officer in the Public Service of the State, for the Government of the Commonwealth, of any work or services, or of the duties of any office in the Commonwealth Service.

Arrangements
with State for
services of
State officer.

(2.) In any such case, the Governor-General may, by agreement with the Governor in Council of the State or otherwise, make arrangements for determining—

- (a) the rate of payment to be made by the Government of the Commonwealth for the work or services to be performed or the duties to be executed for the Commonwealth by the officer ; and
- (b) any matters which may require to be adjusted with regard to the performance of the work or services, or the execution of the duties, by the officer.

79. Where an officer of the Commonwealth performs some duties for the Government of a State, the Governor-General may, by agreement with the Governor in Council of the State or otherwise, make arrangements for determining—

Performance of
State duties by
Commonwealth
officer.

- (a) the rate of payment to be made by the Government of such State for the services performed for the State by the officer ; and
- (b) any matters which may require to be adjusted with regard to the performance of the duties by the officer.

80 The Governor-General may, at the request of the Governor in Council of a State, authorize and cause any work or services to be performed for the Government of the State ; and the Governor-General

Agreement with
State for
performance of
State duties by
Commonwealth
officer.

may, by agreement with the Governor in Council of a State or otherwise, make arrangements for determining—

- (a) the rate of payment to be made by the Government of the State for the performance of the work or services; and
- (b) any matters which may require to be adjusted with regard to the performance of the work or services.

Arrangements
with State as to
pension, &c.,
where officer
employed in
dual capacities.

81. In any case arising under any of the last four preceding sections the Governor-General may, by agreement with the Governor in Council of the State concerned or otherwise, make arrangements for determining, in respect of any officer so employed on behalf of the Commonwealth and of a State, the respective shares of each Government in any pension, retiring allowance, or allowance to dependants which may become payable, under the laws of the State or of the Commonwealth, in respect to the officer.

Division 10.—Temporary Employment.

Temporary
employment.

82.—(1.) Whenever the Chief Officer is of opinion that temporary assistance is necessary, he shall advise the Board accordingly.

(2.) If the Board is satisfied that such assistance is required, the Board shall select, in such manner as is prescribed, from the register of applicants for temporary employment, such persons who are available as appear to be best qualified for the work :

Provided that where no suitable person is available from the register of applicants for temporary employment the Board may authorize the employment of any person suitable for the work to be performed.

(3.) Any such persons shall be paid at such rate as is determined by the Board as being applicable to the work to be performed (not being less than a rate within the limits of payment prescribed for permanent employees for similar work), and shall be entitled to the same public holidays as permanent employees.

(4.) Except where otherwise expressly provided, any such person may be employed for any period not exceeding three months, and if necessary may, with the sanction of the Board, be employed at the end of that period for another further period not exceeding three months; but shall not be so employed for more than six months in any twelve months, except upon the certificate of the Board that temporary assistance is still necessary, and that no other suitable person is available for the work to be performed.

(5.) Except where otherwise expressly provided, no person who has been temporarily employed in any Department for at least six months continuously or for at least six months in the whole in any twelve months shall, on the termination of his employment, be eligible for temporary employment in the Commonwealth Service during the six months next following such termination :

Provided that this sub-section shall not apply to persons temporarily employed in the Department of the Senate, the House of Representatives, the Parliamentary Library, or the Parliamentary Reporting Staff, or in the Joint House Department.

(6.) The services of any person temporarily employed may be dispensed with at any time by the Chief Officer.

(7.) Competitive examinations may be held by the Board for ascertaining the qualifications of persons applying for employment temporarily in the compilation of any census, or for the performance of any work of a Department requiring the services of temporary employees for a prolonged period, and the Board may authorize the employment of the successful competitors for such work for a period not exceeding two years.

(8.) Any person temporarily employed for a continuous period extending beyond twelve months may be granted by the Chief Officer leave of absence for recreation, or on account of illness, on such terms and conditions as are prescribed.

Division 11.—Returned Soldiers.

83.—(1.) Notwithstanding anything contained in this Act, a returned soldier whose name is enrolled in the prescribed register for temporary employment shall, if competent for the work required, be considered for temporary employment in priority to any person who is not a returned soldier.

Temporary
employment of
returned
soldiers.

(2.) Upon report from the Chief Officer that a returned soldier temporarily employed has satisfactorily performed his duties, the Board may extend his employment for such time as temporary assistance is still required.

(3.) Where the employment of a returned soldier has been terminated owing to temporary assistance not being further required, he shall be eligible for further employment at any time after the termination of his previous temporary employment.

84.—(1.) In the making of appointments to the Commonwealth Service from among persons who have successfully passed the prescribed examination, the Board shall give preference to returned soldiers.

Permanent
appointment of
returned
soldiers.

(2.) In making any appointments under section thirty-eight, thirty-nine, or forty-seven of this Act preference shall, subject to competency, be given to returned soldiers.

(3.) In notifying any proposed examination for admission to the Commonwealth Service, the Board may specify that any particular examination shall be restricted to returned soldiers.

(4.) Notwithstanding anything contained in this Act, the Board may by regulations prescribe that any returned soldier who has passed an examination specified in the regulations, whether competitive or otherwise, conducted by an University or other public examining body in any part of the British Dominions, shall be deemed to have passed a prescribed examination conducted by examiners appointed under this Act.

(5.) Returned soldiers shall be eligible as candidates for the prescribed examination for admission to the Third Division at any age under fifty-one years, and if successful at the examination may be appointed to such class at such salary within the limits of the class as the Board determines.

(6.) Returned soldiers who have passed any prescribed examination for admission to the Public Service for which the maximum age fixed for candidates at the date of examination exceeds sixteen years shall be eligible for appointment to the Public Service at any time before they attain the age of fifty-one years.

(7.) Notwithstanding anything contained in this Act, a returned soldier who prior to enlistment was dismissed from the Commonwealth Service or whose resignation was enforced may be appointed by the Board, and if the Board thinks fit the appointment may be without probation.

(8.) Notwithstanding anything contained in this Act, a returned soldier may be appointed to the Commonwealth Service, although not free from physical defects due to service in the war, if it is certified by a medical practitioner approved by the Board that the soldier is free from such physical defects as would incapacitate him for the efficient discharge of the duties of the position to which he is to be appointed.

Proviso added
by No. 46, 1934,
s. 3.

Provided that if, in addition, the medical practitioner certifies that any physical defect of the returned soldier is likely to prevent continuance of efficient service up to the age of 60 years, the returned soldier shall not, if appointed to the Commonwealth Service, be deemed to be an employee within the meaning, and for the purposes, of the *Superannuation Act 1922-1934*.^(a)

(9.) In the making of appointments to positions in the Commonwealth Service of a non-clerical nature the order of preference to returned soldiers shall be as follows:—

- (a) returned soldiers temporarily employed in the Commonwealth Service who have passed the prescribed examination;
- (b) returned soldiers employed under the *Australian Soldiers' Repatriation Act 1920*^(b) or under the *War Service Homes Act 1918-1920*^(c) who have passed the prescribed examination;
- (c) returned soldiers who have been temporarily employed continuously for not less than two years, but have not passed the prescribed examination, and in respect of whom the Chief Officer certifies that their duties have been performed in a satisfactory manner:

Provided that any such appointment shall be to a position the duties of which are similar to those which the returned soldier has been performing; and

- (d) returned soldiers not employed in the Commonwealth Service or under the *Australian Soldiers' Repatriation Act 1920*^(b) or the *War Service Homes Act 1918-1920*^(c) who have passed the prescribed examination.

(a) *Infra*, p. 2019.

(b) *Infra*, p. 2157.

(c) *Infra*, p. 2200.

Division 12.—Retirement of Officers.

85.—(1.) Every officer having attained the age of sixty years shall be entitled to retire from the Commonwealth Service if he desires so to do; but any such officer may (unless retired as hereinafter provided) continue in the Service until he attains the age of sixty-five years.

Retirement of officers.

(2.) If any officer continues in the Service after he has attained the age of sixty years, he may at any time before he attains the age of sixty-five years be retired from the Service by the Board, or, in the case of an officer of the First Division, by the Governor-General.^(a)

86. When an officer has attained the age of sixty-five years and in the opinion of the Board it is desirable in the interests of the Commonwealth that the officer should continue in the performance of the duties of his office, and the officer is able and willing to do so, the Board may direct the officer to continue in his office for a fixed time not exceeding twelve months, otherwise every officer on attaining sixty-five years of age shall retire from the Service.

Officer may be continued in Service.

87. Subject to the Constitution, the application of this Division shall extend to officers to whom section forty-five of this Act applies.^(a)

Application of Division.
Amended by No. 46, 1924, s. 21.

Division 13.—Miscellaneous.

88. Where by any Act, Order in Council, rule, regulation by-law, contract, or agreement any duty, obligation, right, or power is imposed or conferred upon any officer in His Majesty's Service (other than a Minister or judicial officer) in his capacity as such officer, that duty, obligation, right, or power may be performed or exercised by any officer directed by the Governor-General to perform and exercise the duties, obligations, rights, and powers of the first-mentioned officer during his temporary absence or incapacity, in the same manner and to the same extent in all respects as it might have been performed or exercised by the first-mentioned officer, and everything so done under the provisions of this section shall be as good and effectual for all purposes, and against all persons whatsoever, as if done by the first-mentioned officer.

Performance of duties of officer in absence.

89.—(1.) If the whole or part of a building belonging to or occupied by the Commonwealth is occupied for the purpose of residence by an officer, the Board may direct that a fair and reasonable sum, not exceeding ten per centum of the salary of the officer, shall be chargeable as rent for such occupancy, and the amount of that sum may be deducted from the salary of the officer:

Rent chargeable for quarters.

Provided that where any such building is occupied by an officer solely as a residence without an incidental obligation of supervision or general control by the officer over *personnel* or property, the officer

Amended by No. 19, 1930, s. 8.

(a) Held by the High Court that section 74 of the *Commonwealth Public Service Act 1902-1918*, which provided that every officer shall retire on attaining the age of sixty-five years, must be read as applying only to those officers who had not a right preserved to them by section 84 of the Constitution and section 60 of the *Commonwealth Public Service Act 1902-1918* to remain in the service after attaining the age of sixty-five years. *Leu v. Commonwealth*, (1921) 29 C.L.R. 305; 27 A.L.J. 242.

Cf. footnote (a) to section 45, *supra*, p. 1952.

occupying the premises shall pay such rent, and be subject to such conditions of occupancy, as are determined by the Minister in charge of the Department controlling the premises.

(2.) In calculating for any purpose the rate of salary of any officer, the amount deducted as rent shall be deemed and taken to be part of his salary.

(3.) If an officer is appointed to an office with which residential quarters are provided, he shall be chargeable with the rent for the quarters, and, unless otherwise directed by the Chief Officer, shall occupy the quarters.

(4.) The Chief Officer may permit the officer to make an arrangement with any other officer for the occupancy of the quarters by that other officer, at a rent not exceeding ten per centum of the salary of the first-mentioned officer.

(5.) The amount fixed by the Board as rental deduction upon an officer assuming occupancy of quarters shall not be increased during the period of his occupancy by reason of his advancement in salary otherwise than by promotion.

Payments to
officers.

90.—(1.) Nothing in this Act shall authorize the expenditure of any greater sum out of the Consolidated Revenue Fund, by way of payment of any salary, than is from time to time appropriated by the Parliament for the purpose.^(a)

(2.) Where money has been appropriated by the Parliament in any year for the salaries of officers in any division, if during the year for which the appropriation has been made any vacancy occurs in the division and is not filled, the Governor-General may apply the money so appropriated to the payment of any officer in a lower position in the same or a lower division.

(3.) Payments of money to officers, other than for salary or prescribed transfer or travelling allowances or expenses, or other prescribed allowances, shall be made only under the authority of the Board.

Performance of
work outside
Commonwealth
Service.

91.—(1.) Except with the express permission of the Board, which permission may at any time be withdrawn, no officer shall—

- (a) accept or continue to hold an office in or under the Government of any State, or in or under any public or municipal corporation; or
- (b) accept or continue to hold or discharge the duties of, or be employed in a paid office in connexion with, any banking, insurance, mining, mercantile, or other commercial business, whether carried on by any corporation, company, firm or individual; or

(a) Held by the High Court that section 78 of the *Commonwealth Public Service Act 1902*, the words of which were similar to those of this section, had no operation upon the "existing rights" declared by section 84 of the Constitution to be preserved. *Bond v. Commonwealth*, (1908) 1 C.L.R. 13. Nor was it an answer to a claim for damages for wrongful dismissal from the service. *Williamson v. Commonwealth*, (1907) 5 C.L.R. 174; 14 A.L.R. 1. But where a claim to a higher salary depends on the *Commonwealth Public Service Act* and not on the Constitution, it is a fatal objection to the claim if Parliament has not provided any money for the payment of a higher salary. *Cousins v. Commonwealth*, (1906) 3 C.L.R. 529; 12 A.L.R. 175.

- (c) engage in or undertake any such business, whether as principal or agent ; or
- (d) engage or continue in the private practice of any profession occupation or trade, or enter into any employment, whether remunerative or not, with any person, company or firm who or which is so engaged ; or
- (e) accept or engage in any remunerative employment other than in connexion with the duties of his office or offices under the Commonwealth.

Amended by
No. 19, 1930,
s. 9.

(2.) Nothing herein contained shall be deemed to prevent an officer from becoming a member or shareholder only of any incorporated company, or of any company or society of persons registered under any Act in any State or elsewhere 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.

Amended by
No. 46, 1924,
s. 22.

92.—(1.) Every appointment, promotion, transfer, retirement, or dismissal of an officer made by the Board, a Permanent Head or a Chief Officer, as the case may be, under this Act, shall for all purposes have the same force and effect as if made by the Governor-General.

Effect of
appointments
and promotions
by Board,
Permanent
Head or
Chief Officer.

(2.) Notice of every appointment, promotion, retirement, or dismissal of officers, and of all Orders in Council or proclamations under this Act, shall be published in the *Gazette*.

93. Any officer who has been a member of any Expeditionary Force raised under the provisions of the *Defence Act* 1903-1918,^(a) and who, except in pursuance of leave granted under this Act or the Acts repealed by this Act, is absent from duty for twelve months subsequent to his ceasing to be a member of that Force shall be deemed to have forfeited his office upon the expiration of that period of twelve months.

Forfeiture of
office on
absence without
leave.

94.—(1.) If after inquiry a Royal Commission appointed under the *Royal Commissions Act* 1902-1912^(b) to inquire into the origin of birth and parentage of persons in the Public Service or employ makes a report to the Governor-General expressing the opinion that the service of any person in the Public Service or employ should not be continued, the Governor-General may dismiss the person from the Public Service or employ.

Dismissal of
officer of enemy
origin.

(2.) If the Board, after inquiry, reports to the Governor-General that, in its opinion, the continuance of any person in the Public Service or employ is detrimental to the public safety or the defence of the Commonwealth, the Governor-General may dismiss the person from the Public Service or employ.

(3.) No person who is dismissed from the Commonwealth Public Service or employ in pursuance of this section shall be entitled to make any claim against the Commonwealth by way of compensation or otherwise in respect of his dismissal.

(a) *Supra*, p. 782.

(b) *Infra*, p. 2269.

(4.) This section shall be deemed to have commenced on the first day of May, One thousand nine hundred and eighteen.

Repayment of deductions on account of assurance.

95. Where, under any Act repealed by this Act deductions have been made from the salary of any person unable to assure his life as required by that repealed Act, and have been invested and accumulated by an officer or authority appointed in pursuance of that repealed Act, those deductions shall remain so invested and accumulated for the purposes and subject to the conditions prescribed in the repealed Act :

Provided that any such person may at any time prior to his retirement, by notice in writing to the officer or authority by whom the deductions are invested or accumulated, require the total amount deducted from his salary together with interest accumulated thereon to be repaid to him and the officer or authority shall repay that amount and interest to that person accordingly.

S. 96 repealed by No. 45, 1934, s. 2 (S.), and Fourth Schedule.

Regulations.

* * * * *

97.—(1.) The Board may, with the approval of the Governor-General, make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular for the following, namely :—

Substituted by No. 46, 1924, s. 22.

- (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 ;
- (b) for prescribing the commencing salary of probationers and providing for rates of commencing salary, according to the age of appointment and qualifications prescribed for appointment ;
- (c) for prescribing the conditions under which officers of a Division may be transferred to any specified office or offices in another Division, and fixing a maximum age for such transfers ;
- (d) for prescribing or regulating the character and standard of competitive entrance examinations, the manner of holding those examinations, the minimum and maximum age of candidates, and for registering, in the order of merit, the names of all persons who have qualified at such examinations, and of those candidates who, having so qualified, may be appointed to fill subsequent vacancies arising within a prescribed period ;
- (e) for prescribing or regulating the conditions under which persons shall be selected for appointment to the Service where appointment may be made without examination ;

- (f) for prescribing courses of study for which recognition may be given by the Board ;
- (g) for prescribing the rates of salaries for female officers in any specified offices in the Commonwealth Service ;
- (h) for regulating the procedure of Boards of Inquiry and Appeal Boards ;
- (i) for prescribing the method of electing representatives of officers of the Third and Fourth Divisions on Appeal Boards and for the division of any State into districts for such purpose, and for specifying that any portion of a State or Territory shall for the purpose of electing a representative be regarded as part of an adjoining State or of a district in that adjoining State ;
- (j) for regulating and determining the scales or amounts to be paid to officers for transfer or travelling allowances or expenses, or allowances in lieu of quarters, or for living in localities where the climatic conditions are severe, or at isolated stations, or in places where, owing to their situation, the cost of living is exceptionally high, and providing for the relief and transfer of officers employed for the prescribed period, in any such locality, or for the partial reimbursement of the cost of conveyance of those officers, their wives, and families when those officers are travelling on recreation leave ;
- (k) for regulating the duties and conduct of officers ;
- (l) for prescribing the form of register of applicants for temporary employment, and the mode in which it shall be kept, and the mode of selecting persons therefrom, and for regulating generally the terms and conditions of temporary employment ;
- (m) for regulating the hours of attendance of officers, and the keeping and signing of records of attendances, or prescribing other methods of recording attendances ;
- (n) for regulating the granting of leave of absence to officers and temporary employees of the Commonwealth Service ;
- (o) for regulating the performance of extra services and payment therefor, and for payment of examiners ;
- (p) for fixing the maximum or minimum age of persons who may be appointed to any particular Division, or class, or position ;
- (q) for providing for notification to the Board of punishments inflicted on officers by virtue of this Act or the regulations thereunder, and for keeping records thereof :

Provided that nothing in the regulations shall authorize the keeping, for more than two years, of the record of any punishment which does not exceed a fine of five shillings ;

- (r) for regulating the notification of vacancies by the Board and the method of applying for such vacancies ;
- (s) for regulating the method of lodging appeals of officers against provisional promotion, deprivation of increment, or punishment ;
- (t) for requiring officers to take oaths or affirmations of secrecy in relation to the matters coming to their knowledge in the course of their employment, and for prescribing the form of such oaths or affirmations ;
- (u) for determining the dates, times, or periods of time at or within which shall be done all things or acts required or permitted by this Act to be done, and in respect of which no dates, times, or periods of time are specifically provided ;
- (v) for prescribing, where there is no provision or no sufficient provision in this Act, in respect to any matter or thing necessary to give effect to this Act, in what manner and form the want of provision or insufficient provision shall be supplied.

(2.) Regulations made pursuant to the foregoing provisions of this Act may be made either generally or with respect to any particular case or class of cases, and when made by the Board, and approved by the Governor-General, shall have full force and effect ; and such regulations shall be laid before both Houses of the Parliament within seven days after approval by the Governor-General, if the Parliament is in session and actually sitting, or if not in session or not actually sitting, then within seven days after the commencement of the next session or sitting.

PART IV.—THE PROVISIONAL SERVICE.

Division 1.—Application of Act to Provisional Service.

Application of
Act.

98.—(1.) Unless otherwise expressly provided, this Act shall not apply to the members of the Repatriation Commission or the War Service Homes Commissioner or to such other person as is prescribed.

(2.) The provisions of this Part, except section one hundred thereof, shall be limited in their application to officers employed in the administrative or executive sections of Departments or branches of the Provisional Service.

(3.) All appointments under this Part shall be provisional and temporary.

(4.) Nothing in this Part shall be deemed to confer any right of permanent employment in the Service or to confer in any way a right of transfer from the Provisional Service to the Commonwealth Service.

Division 2.—Classification and Salaries.

99. For the purpose of determining the rates of salary payable to officers in the Provisional Service, the Board may from time to time classify the positions in such Service, and may consider any written representations submitted by any officer who is dissatisfied with the salary or scale of salary allotted to the position occupied by him. Classification.

100. All disputes arising as to salaries, wages, rates of pay, allowances, hours of duty, and general conditions of employment of officers and employees of the Provisional Service shall be dealt with by the Arbitrator, in accordance with the *Arbitration (Public Service) Act 1920*.^(a) Method of settling disputes as to salaries, &c.

101.—(1.) Increments, which may be prescribed, shall be annual, and no increment, other than by promotion, shall accrue to any officer until the officer in receipt of the salary has received it for a period of twelve months. Increments.

(2.) The right to receive an increment in any year shall depend upon the good conduct, diligence and efficiency of the officer to whose salary the increment is attached and the period of his attendance for duty during that year, and if in the opinion of the prescribed responsible officer, the officer is not entitled thereto, the responsible officer may issue an order in writing to deprive the officer of the increment for such time as is considered justified, and in that event the increment shall not be paid.

102.—(1.) If the Board finds that any officer is receiving remuneration greater or less than the value of the work performed, or that the staff employed in any Department or branch is in excess of the reasonable requirements of the Department or branch, the Board shall furnish a report to the Minister accordingly, with recommendations for any alterations considered necessary. Report in case of excess staff.

(2.) If the Minister is unwilling to adopt any such recommendation, it shall be laid before both Houses of the Parliament with the reasons for non-adoption.

Division 3.—Appointments.

103. Notwithstanding the provisions of any other Act, all appointments to the Provisional Service other than to positions of a casual character shall be made by the Board and at such salary as it determines. Appointments to Provisional Service.

104. Returned soldiers shall, in respect to consideration of qualifications and claims for appointment, have priority over all other applicants. Preference to returned soldiers.

105.—(1.) All appointees shall hold their offices during pleasure. Tenure of appointments.

(a) *Supra*, p. 1047.

(2.) If in the opinion of the prescribed responsible officer any officer is incompetent or otherwise unsatisfactory, his services may be dispensed with by the responsible officer, or by the Board.

Appointments
of Common-
wealth officers
to Provisional
Service.

106.—(1.) Any officer of the Commonwealth Service who, either before or after the commencement of this Act becomes an officer of the Provisional Service, shall not thereby be required to resign from the Commonwealth Service, but may be granted leave of absence for the period of his employment in the Provisional Service, and the leave of absence so granted shall for all purposes be included as part of the officer's period of service in the Commonwealth Service.

(2.) Upon the termination of the employment in the Provisional Service of any such officer, who has not been dismissed for misconduct, he shall be entitled to re-appointment to a position in the Commonwealth Service with such advancement in status and salary, beyond those held and received by him in that Service immediately prior to his appointment to the Provisional Service, as the Board in the circumstances thinks just.

(3.) In determining the status and salary to which the officer shall be advanced on re-appointment to the Commonwealth Service, the Board shall take into consideration the time (if any) which the officer served on naval or military service and the period of his service in the Provisional Service.

(4.) Notwithstanding anything contained in the last preceding section, an officer to whom this section applies shall be entitled to be dealt with, as regards offences, in the same manner as is provided by section fifty-six of this Act.

Division 4.—Miscellaneous.

Payments to
officer.

107. Payments of money to officers other than for salary or prescribed transfer, or travelling allowances or expenses, or other prescribed allowances, shall be made only under the authority of the Board.

Regulations.

108.—(1.) The Board may, with the approval of the Governor-General, make regulations for the carrying out of any of the provisions of this Part, and generally for the administration of the Provisional Service.

(2.) Regulations made pursuant to this Part may be made generally or with respect to any particular case or class of cases, and when made by the Board, and approved by the Governor-General, shall have full force and effect; and such regulations shall be laid before both Houses of the Parliament within seven days after approval by the Governor-General if the Parliament is in session and actually sitting, or if not in session or not actually sitting, then within seven days of the commencement of the next session or sitting.

SCHEDULES.

FIRST SCHEDULE.

REPEAL OF ACTS.

Acts Affected.	Extent of Repeal.
<i>Commonwealth Public Service Act 1902</i>	The whole
<i>Commonwealth Public Service Amendment Act 1903</i>	The whole
<i>Commonwealth Public Service Act 1909</i>	The whole
<i>Commonwealth Public Service Act 1911</i>	The whole
<i>Commonwealth Public Service Act 1913</i>	The whole
<i>Commonwealth Public Service Act 1915</i>	The whole
<i>Commonwealth Public Service Act 1916</i>	The whole
<i>Commonwealth Public Service Act 1917</i>	The whole
<i>Commonwealth Public Service Act 1918</i>	The whole
<i>Arbitration (Public Service) Act 1911</i>	The whole, except sections one and sixteen.

SECOND SCHEDULE.

DEPARTMENTS.

The Department of the Senate.
 The Department of the House of Representatives.
 The Department of the Parliamentary Library.
 The Department of the Parliamentary Reporting Staff.
 The Joint House Department.
 The Prime Minister's Department.
 The Department of the Treasury.
 The Attorney-General's Department.
 The Department of the Interior.
 The Department of Defence.
 The Department of Trade and Customs.
 The Department of Commerce.
 The Department of Industry.
 The Department of External Affairs.
 The Postmaster-General's Department.
 The Department of Health.

Second
 Schedule
 amended by
 No. 72, 1932,
 s. 6.

THIRD SCHEDULE.

PERMANENT HEADS OF DEPARTMENTS.

The Clerk of the Senate.
 The Clerk of the House of Representatives.
 The Parliamentary Librarian.
 The Principal Parliamentary Reporter.
 The Secretary of the Joint House Department.
 The Secretary to the Prime Minister's Department.
 The Secretary to the Department of the Treasury.
 The Secretary to the Attorney-General's Department.
 The Secretary to the Department of the Interior.
 The Secretary to the Department of Defence.
 The Comptroller-General of Customs.
 The Secretary to the Department of Commerce.
 The Secretary to the Department of Industry.
 The Secretary to the Department of External Affairs.
 (a) The Secretary to the Postmaster-General's Department.
 The Director-General of Health.

Third
 Schedule
 amended by
 No. 72, 1932,
 s. 6.

(a) By the *Statute Law Revision Act 1934* (s. 2 (3) and Fourth Schedule) the designation of the Permanent Head of the Postmaster-General's Department was altered to "the Director-General of Posts and Telegraphs." Pursuant to s. 25 of this Act this Schedule is therefore deemed to be amended accordingly. See *Gazette*, 1934, p. 1623.

PUBLIC SERVICE—

FOURTH SCHEDULE.

OATH.

I, A. B., do swear that I will be faithful and bear true allegiance to the King, and will loyally as in duty bound uphold the Constitution of the Commonwealth of Australia established under the Crown of the United Kingdom. SO HELP ME, GOD!

AFFIRMATION.

I, A. B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to the King, and will loyally as in duty bound uphold the Constitution of the Commonwealth of Australia established under the Crown of the United Kingdom.

FIFTH SCHEDULE.

OATH.

I, A. B., do swear that I will well and truly serve our Sovereign Lord the King as a member of the Appeal Board constituted under the *Commonwealth Public Service Act 1922* for the purpose of the appeal made by (here insert name of appellant) [or in the case of the Chairman or elected representative of the Division to which the appellant belongs as a member of any Appeal Board constituted under the *Commonwealth Public Service Act 1922* of which I may be a member] and that I will perform the duties and exercise the powers imposed or conferred upon me as such member without fear or favour affection or ill-will. SO HELP ME, GOD!

AFFIRMATION.

I, A. B., do solemnly and sincerely affirm and declare that I will well and truly serve our Sovereign Lord the King as a member of the Appeal Board constituted under the *Commonwealth Public Service Act 1922* for the purpose of the appeal made by (here insert name of appellant) [or in the case of the Chairman or elected representative of the Division to which the appellant belongs as a member of any Appeal Board constituted under the *Commonwealth Public Service Act 1922* of which I may be a member] and that I will perform the duties and exercise the powers imposed or conferred upon me as such member without fear or favour affection or ill-will.

COMMONWEALTH SALARIES ACT 1907.

No. 7 of 1907.

An Act relating to the Taxation by the States of Salaries and Allowances paid by the Commonwealth.^(a)

[Assented to 8th October, 1907.]

Preamble.

WHEREAS it is expedient that Parliament should allow the salaries of officers of the Commonwealth, and the allowances of Members of the Parliament, earned in any State, to be subject to taxation in common with other salaries earned in the State:

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

Short title.

1. This Act may be cited as the *Commonwealth Salaries Act 1907*.

(a) Held by the High Court that this Act is an effective grant to the States of authority to impose upon Commonwealth officers taxation in respect of their salaries, subject to the conditions stated in this Act. *Chaplin v. Commissioner of Taxes for South Australia*, (1911) 12 C.L.R. 375; 17 A.L.J.R. 422.

PUBLIC SERVICE—

FOURTH SCHEDULE.

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I, A. B., do swear that I will be faithful and bear true allegiance to the King, and will loyally as in duty bound uphold the Constitution of the Commonwealth of Australia established under the Crown of the United Kingdom. SO HELP ME, GOD!

AFFIRMATION.

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FIFTH SCHEDULE.

OATH.

I, A. B., do swear that I will well and truly serve our Sovereign Lord the King as a member of the Appeal Board constituted under the *Commonwealth Public Service Act 1922* for the purpose of the appeal made by (here insert name of appellant) [or in the case of the Chairman or elected representative of the Division to which the appellant belongs as a member of any Appeal Board constituted under the *Commonwealth Public Service Act 1922* of which I may be a member] and that I will perform the duties and exercise the powers imposed or conferred upon me as such member without fear or favour affection or ill-will. SO HELP ME, GOD!

AFFIRMATION.

I, A. B., do solemnly and sincerely affirm and declare that I will well and truly serve our Sovereign Lord the King as a member of the Appeal Board constituted under the *Commonwealth Public Service Act 1922* for the purpose of the appeal made by (here insert name of appellant) [or in the case of the Chairman or elected representative of the Division to which the appellant belongs as a member of any Appeal Board constituted under the *Commonwealth Public Service Act 1922* of which I may be a member] and that I will perform the duties and exercise the powers imposed or conferred upon me as such member without fear or favour affection or ill-will.

COMMONWEALTH SALARIES ACT 1907.

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[Assented to 8th October, 1907.]

Preamble.

WHEREAS it is expedient that Parliament should allow the salaries of officers of the Commonwealth, and the allowances of Members of the Parliament, earned in any State, to be subject to taxation in common with other salaries earned in the State:

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

Short title.

1. This Act may be cited as the *Commonwealth Salaries Act 1907*.

(a) Held by the High Court that this Act is an effective grant to the States of authority to impose upon Commonwealth officers taxation in respect of their salaries, subject to the conditions stated in this Act. *Chaplin v. Commissioner of Taxes for South Australia*, (1911) 12 C.L.R. 375; 17 A.L.J.R. 422.

2. The taxation by a State, in common with other salaries earned within the State, of—

Taxation by
States of
Commonwealth
salaries.

- (a) the official salaries^(a) of officers of the Commonwealth residing in the State earned in the State after the commencement of this Act; and
- (b) the allowances and salaries, paid after the commencement of this Act, of Members of the Parliament elected in the State and of Ministers of State for the Commonwealth, and the Presiding Officer and Chairman of Committees of each House of the Parliament, all being respectively Members of the Parliament elected in the State,

shall not, if the taxation is not at a higher rate or to a greater extent than is imposed on other salaries of the same amount earned in the State, be deemed—

- (c) to be an interference with the exercise of any power of the Commonwealth, or
- (d) to be inconsistent with any Act by or in pursuance of which the salary is fixed or made payable.

Provided that nothing in this Act shall be deemed to authorize the taxation by a State—

- (i.) of the salary of an officer of the Commonwealth, unless the officer resides, and the salary is earned, in that State; or
- (ii.) of the allowance or salary of a Member of the Parliament, or of a Minister of State, or of the Presiding Officer or Chairman of Committees of either House of the Parliament, unless he is a Senator or Member of the House of Representatives elected in that State.

Provided further that Members of the Parliament, Ministers of State for the Commonwealth, and the Presiding Officer and Chairman of Committees of each House of the Parliament shall be deemed to have resided in and earned the whole of their allowances or salaries within the State in which they were elected.

3. This Act shall not apply to the salary of the Governor-General.

Salary of
Governor-
General.

(a) The travelling allowance of an official in the Commonwealth Public Service resident away from his home is not part of his "official salary" within the meaning of the *Commonwealth Salaries Act 1907*, and is therefore not subject to the payment of State income tax. *Campbell v. Commissioner of Taxes*, (1920) 16 Tas. L.R. 28.

OFFICERS' RIGHTS DECLARATION ACT 1928-1933.^(a)

An Act Relating to the Rights of Officers.

[Assented to 22nd June, 1928.]^(b)

Preamble.

WHEREAS under various Acts of the Parliament of the Commonwealth provision is made for the preservation or retention by officers of their existing and accruing rights, or concerning the determination of their existing or accruing rights :

AND WHEREAS it is desirable that the rights in question should be definitely declared :

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

Short title.

Short title
amended, No.
32, 1918, s. 2.

Commencement.

1. This Act may be cited as the *Officers' Rights Declaration Act 1928-1933*.^(a)

2. This Act shall commence on a date to be fixed by Proclamation.^(c)

Application of Act.

3. This Act applies to each officer in relation to whose employment provision is made by an Act and section specified in the Schedule—

- (a) for the preservation or retention of his existing and accruing rights ; or
- (b) concerning the determination of his existing or accruing rights.

Definitions.

4. In this Act, unless the contrary intention appears—

- “ Commonwealth authority ” means an authority which has been created (including an officer whose office has been created) by an Act specified in the Schedule ;
- “ employment ” means employment as, or as a member of, or by, a Commonwealth authority ;
- “ employed ” has a meaning corresponding to that of employment ;
- “ officer ” means an officer employed as, or as a member of, or by, a Commonwealth authority, who immediately prior to his employment was an officer of the Public Service of the Commonwealth ;

(a) The *Officers' Rights Declaration Act 1928-1933* comprises the *Officers' Rights Declaration Act 1928* (No. 16 of 1928), as amended by the *Officers' Rights Declaration Act 1933* (No. 19 of 1933). See Act No. 19, 1933, s. 1.

(b) This is the date of assent to the *Officers' Rights Declaration Act 1928*. The *Officers' Rights Declaration Act 1933* was assented to on 18th November, 1933.

(c) Proclaimed to commence on 28th June, 1928. See *Gazette*, 1928, p. 2058.

“the Minister” means the Minister to whose Department the Commonwealth authority, in relation to which the expression is used, is attached for administrative purposes.

5.—(1.) The rights which, by virtue of any of the Acts and Sections specified in the Schedule, an officer, to whom this Act applies, preserves or retains upon his employment are hereby declared to be the rights in respect of—

Rights
preserved or
retained.

- (a) leave on the ground of illness ;
- (b) long service leave or pay in lieu thereof (including pay to dependants on the death of the officer) ;
- (c) superannuation ;
- (d) child endowment ; and
- (e) in the case of female officers, payment on marriage,

to which from time to time he would be entitled if he had remained an officer of the Public Service of the Commonwealth, and had not been employed within the meaning of this Act :

Provided that an officer may, within three months after the commencement of his employment, or, in the case of an officer employed at the commencement of this Act, within three months after the commencement of this Act, elect, by notice in writing to the Commonwealth authority, or, in the case of an officer who is, or is a member of, the authority, to the Minister, to be subject to the rules and regulations of the Commonwealth authority as to rights in lieu of the rights specified in this section, in which event he shall not preserve or retain rights as an officer of the Public Service :

Provided further that, in the case of an officer who, at the commencement of this Act, is employed and does not so elect—

- (f) any such leave or pay in lieu thereof as he has had during his employment, and prior to the commencement of this Act, shall be deemed to have been granted to him as an officer of the Public Service ; and
- (g) he shall, if he is contributing under the rules or regulations of the Commonwealth authority for superannuation purposes, discontinue those contributions, and contribute only as an officer of the Public Service.

(2.) In the case of an officer employed by a Commonwealth authority other than the Commonwealth, the rights declared by this section shall be rights against that authority :

Provided that, if the officer does not elect as provided in the last preceding sub-section, the Commonwealth authority shall be liable to repay to the Commonwealth part of any contributions made by the Commonwealth in respect of superannuation allowance to the officer, such part being calculated according to the proportion which the

period of the officer's employment as, or as a member of, or by, the Commonwealth authority bears to the total period of employment of the officer by the Commonwealth and as, or as a member of, or by, the Commonwealth authority.

(3.) Nothing in this section shall affect the superannuation rights of any person who became an officer of the Commonwealth Bank prior to the commencement of this Act, and who immediately prior to his employment by the Commonwealth Bank was an officer of the Public Service of the Commonwealth.

Officer to be
unattached
during
employment.

6.—(1.) An officer who is employed as, or as a member of, or by, a Commonwealth authority at or after the commencement of this Act shall, during his employment, be deemed to be an unattached officer of the Public Service of the Commonwealth.

(2.) Subject to this Act, an unattached officer shall, during the period of his employment, preserve rights in respect of the matters mentioned in paragraphs (a), (b), (c), (d) and (e) of sub-section (1.) of the last preceding section, and the period of his employment shall, for all purposes, be included as part of his period of service as an officer of the Public Service of the Commonwealth.

(3.) Upon the termination of his employment an unattached officer who has not been dismissed for misconduct or who has not attained the maximum age for retirement fixed by the *Commonwealth Public Service Act 1922-1924*,^(a) shall be entitled to appointment to an office in the Public Service of such status and salary as are determined by the Public Service Board of Commissioners, having regard to the office in the Public Service previously vacated by the officer and the period of his employment.

Regulations.

7. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

THE SCHEDULE.

Schedule
amended by
No. 19, 1933,
s. 2.

Arbitration (Public Service) Act 1920, s. 6.
Commonwealth Bank Act 1911-1927, ss. 16A, 35Q.
Commonwealth Public Service Act 1922-1924, s. 11.
Development and Migration Act 1926, ss. 11, 15.
Income Tax Assessment Act 1922-1927, s. 42.
Land Tax Assessment Act 1910-1927, ss. 5, 44A.
Northern Australia Act 1926, ss. 13, 14, 39.
Northern Territory (Administration) Act 1910-1933, ss. 17, 17A, 17B.
Science and Industry Research Act 1920-1926, s. 14A.
Seat of Government (Administration) Act 1924-1926, s. 12.
Superannuation Act 1922-1924, s. 62.

(a) *Supra*, p. 1964.

SUPERANNUATION ACT 1922-1934.^(a)

An Act to provide Superannuation Benefits for Persons employed by the Commonwealth and to make provision for the families of those persons.

[Assented to 18th October, 1922.]^(b)

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Superannuation Act 1922-1934*.^(a)

Short title.
Short title
amended;
No. 32, 1918,
s. 2.

2.—(1.) This Act shall, except where otherwise provided, commence on a date to be fixed by proclamation.^(c)

Commencement.

(2.) The date so fixed is, in this Act, referred to as “the commencement of this Act”.

3. This Act is divided into Parts, as follows:—

Parts.
Amended
No. 45, 1924,
s. 3, and by
No. 22, 1930,
s. 2.

Part I.—Preliminary.

Part II.—The Superannuation Fund.

Part III.—Contributions.

Division 1.—Contributions by Employees.

Division 2.—Scale of Units.

Division 3.—Scale of Contributions by Employees.

Division 4.—Contributions by the Commonwealth.

Division 5.—General Provisions as to Contributions.

(a) The *Superannuation Act 1922-1934* comprises the *Superannuation Act 1922* (No. 33 of 1922), as amended by the *Superannuation Act 1924* (No. 45 of 1924), by the *Superannuation Act 1930* (No. 22, of 1930), by the *Financial Emergency Act 1931* (No. 10 of 1931) and by the *Statute Law Revision Act 1934* (No. 45 of 1934). See Acts No. 45, 1924, s. 1; No. 22, 1930, s. 1; No. 10, 1931, s. 23; and No. 45, 1934, s. 1 and First Schedule.

(b) This is the date of assent to the *Superannuation Act 1922*. The *Superannuation Act 1924* was assented to on 20th October, 1924 (proclaimed to commence on 23rd October, 1924; see *Gazette* 1924, p. 2043); the *Superannuation Act 1930* on 9th August, 1930; the *Financial Emergency Act 1931* on 17th July, 1931 (Part III., which effected the amendments to the *Superannuation Act 1922-1930*, proclaimed to commence on 20th July, 1931—see *Gazette*, 1931, p. 1195); and the *Statute Law Revision Act 1934* on 6th August, 1934.

(c) Proclaimed to commence on 20th November, 1922. See *Gazette*, 1922, p. 2067.

Part IV.—Pensions and Benefits.

Division 1.—Retirement on Pension.

Division 2.—Grant of Pensions and Benefits.

Division 3.—Break-down Pensioners.

Division 4.—Existing Pension Rights.

Division 5.—Existing Assurance Policies.

Part IVA.—Military and Air Forces.

Division 1.—General.

Division 2.—Contributions.

Division 3.—Pensions and Benefits.

Part V.—The Superannuation Board.

Part VI.—Miscellaneous.

Interpretation,

4.—(1.) In this Act, unless the contrary intention appears—

“Actuary” means a Fellow or Associate of the Institute of Actuaries (London), or a Fellow or Associate of the Faculty of Actuaries (Edinburgh), or any other person of whose actuarial knowledge and experience the Governor-General approves ;

Inserted by
No. 22, 1930,
s. 3.

“Children” includes children adopted by a contributor or by a pensioner who has been a contributor and dependent on him at the time of his death ;

Amended by
No. 22, 1930,
s. 3.

“Contributor” means an employee who is or has been contributing under this Act ;

“Department” means any Department under the administration of a Minister of State for the Commonwealth ;

“Employee” means a person employed in a permanent capacity by the Commonwealth, who is by the terms of his employment required to give his whole time to the duties of his employment, but does not include a Justice of the High Court or a Judge of any other Court created by the Parliament ;

“Salary” means salary or wages, and includes the value of allowances such as allowances for rent, house allowed rent free, light, fuel, rations, and fees allowed regularly as emoluments of office, but does not include bonuses, overtime payments, or allowances for forage, equipment, climatic disadvantages, cost of living or travelling expenses ;

Amended by
No. 45, 1924,
s. 4.*

“Service” means service under, or employment by, the Commonwealth and, in relation to any qualifying period of employment, includes—

(a) continuous service as a member of the Permanent Naval, Military or Air Forces of the Commonwealth ; and

* Sub-section (2.) of section four of the *Superannuation Act 1924* is as follows :—

“(2.) This section shall be deemed to have commenced upon the date of the commencement of the Principal Act.”

- (b) where an employee is transferred from the service of a State or Territory to the service of the Commonwealth, such permanent service of the employee under the State or Territory as is continuous with his service under the Commonwealth;

“The Board” means the Superannuation Board constituted by this Act; Amended by
No. 22, 1930,
s. 3.

“The Fund” means the Superannuation Fund established under this Act;

“The maximum age for retirement” means the age of sixty-five years, or, in the case of a contributor the age for whose retirement is fixed by law at an earlier age than sixty-five years, the age so fixed.

(2.) References in this Act to the retirement of an employee upon his attaining the age of sixty-five years shall include the case of an employee whose retirement takes place on the day before he attains the age of sixty-five years. Amended by
No. 22, 1930,
s. 3.

(3.) Where an employee has been or is appointed, whether before or after the commencement of this Act, for a term of years to a statutory office under the Commonwealth, he shall, for the purposes of this Act, be deemed, so long as he continues to be employed in the office (whether during or after the expiration of the term for which he was appointed) to continue to be an employee, and the cessation of his employment by the Commonwealth (otherwise than by retrenchment, discharge, dismissal or resignation) shall be deemed to be retirement within the meaning of this Act, and, if it takes place at an earlier age than sixty-five years, be deemed to be, within the meaning of section twenty-nine of this Act, the retirement of a contributor the age for whose retirement is fixed by law at an earlier age than sixty-five years.

(3A.) Notwithstanding anything contained in the last preceding sub-section, if an employee who is the holder of a statutory office notifies in writing to the authority administering the Act under which he was appointed, that he does not desire re-appointment at the expiration of the term for which he was appointed, the notice shall, unless— Added by
No. 22, 1930,
s. 3.

- (a) he has attained the age of sixty years, or, being a contributor in accordance with Part IVA. of this Act, has attained the age of fifty-five years; or

- (b) he has attained the age for retirement fixed by law,

be deemed to be resignation within the meaning of this Act.

Member of
Naval Forces.
Inserted by
No. 45, 1924,
s. 6.

4A. Upon the commencement of this section no person who is a member of the Naval Forces of the Commonwealth shall be entitled to contribute for or receive pension under this Act:

Provided that this section shall not affect any pension granted prior to the commencement of this section:

Added by
No. 22, 1930,
s. 4.

Provided further that this section shall not apply to any member of the Naval Forces of the Commonwealth who, upon the commencement of this section, was a contributor, and who, on or before the thirtieth day of September, One thousand nine hundred and twenty-five, elected to continue his contributions.

PART II.—THE SUPERANNUATION FUND.

Establishment
of the Fund.

5.—(1.) There shall be a Superannuation Fund, into which shall be paid the contributions of employees and payments by the Commonwealth under this Act; and from which shall be paid the benefits provided for in this Act.

(2.) Income derived from the investment of the fund shall form part thereof.

(3.) The income of the fund shall not be subject to taxation by the Commonwealth or a State.

Investment of
fund.

6. The fund shall, as far as practicable, be invested by the Board—

- (a) in securities of the Commonwealth;
- (b) in securities of the States;
- (c) in loans to local governing bodies in Australia;
- (d) upon mortgage of land in Australia of an estate of inheritance in fee simple or on mortgage of leasehold interests in such land; or
- (e) in any other manner for the time being allowed by any Act or State Act for the investment of trust funds in Australia.

Moneys
uninvested may
be lodged with
Treasurer or in
bank.

7. Moneys held uninvested by the Board may be lodged either at call or on fixed deposit, or partly at call and partly on fixed deposit with the Treasurer or with the Commonwealth Bank, or with any other prescribed bank, and while in such bank shall be held to be moneys of the Crown.

How cheques
signed.

8. Cheques drawn on the account in any such bank shall be signed as prescribed by the regulations.

Audit.

9. The accounts relating to the fund shall be audited by the Auditor-General.

Borrowing.

10. The Board may borrow for, and the Treasurer may lend to, the fund, moneys not exceeding two-thirds of the amount of, and on the security of, moneys of the fund invested in Government securities.

Quinquennial
investigation
by an actuary.

11.—(1.) An investigation as to the state and sufficiency of the fund shall be made at the expiration of each period of five years after the commencement of this Act.

(2.) The investigation shall be made by an actuary appointed by the Board.

(3.) The actuary shall report to the Board the result of his investigation, and shall state whether any reduction or increase is necessary in the rates of contributions payable to the fund or in the proportion payable by the Commonwealth in respect of any pension and, where the fund is found to be more than sufficient to provide for the benefits which are a charge upon the fund, he shall also state what additional benefits (if any) could, in his opinion, be provided out of the surplus.

Amended by
No. 22, 1930,
s. 5.

PART III.—CONTRIBUTIONS.

DIVISION 1.—*Contributions by Employees.*

12.—(1.) Every employee shall (except as otherwise provided in this Act) contribute to the fund from such date (not being more than six months after the commencement of this Act) as the Governor-General notifies in the *Gazette*, or, in the case of an employee whose employment commences after the date so notified, from the date of the commencement of his employment.

Commencement
and cessation of
contributions.

(2.) In respect of units of pension the initial contributions in respect of which have been made prior to the commencement of this sub-section the following provisions shall apply:—

Substituted by
No. 22, 1930,
s. 5.

(a) the contributions of a contributor shall, subject to the next succeeding paragraph, cease to be paid when he ceases to be employed in the Service, or immediately after the last fortnightly payment before the anniversary of his initial contribution next preceding the attainment by him of the maximum age for retirement, whichever first happens; and

(b) in the case of a contributor whose initial payment is made within twelve months before he attains the maximum age for retirement, twenty-six contributions at the fortnightly rates applicable to the contributor shall be made before pension in respect of superannuation shall become payable.

(2A.) In respect of units of pension the initial contributions in respect of which are made after the commencement of this sub-section the following provisions shall apply:—

Inserted by
No. 22, 1930,
s. 6.

(a) the contributions of a contributor shall, subject to the next succeeding paragraph, cease to be paid when he ceases to be employed in the Service, or, in respect of each unit or part thereof, immediately after the last fortnightly payment before the anniversary of his initial contribution in respect thereof next preceding the attainment by him of the maximum age for retirement, whichever first happens; and

- (b) in the case of a contributor whose initial payment in respect of any unit or part thereof is made within twelve months before he attains the maximum age for retirement, twenty-six contributions at the fortnightly rates applicable to the contributor in respect of that unit or part thereof shall be made before pension in respect of superannuation as regards that unit or part shall become payable.

Inserted by
No. 22, 1930,
s. 6.

(2B.) For the purposes of the last two preceding sub-sections the initial contribution of an employee in respect of any additional unit or part thereof for which he has elected to contribute shall be deemed to have been made on the date as from which the contribution became payable.

Inserted by
No. 22, 1930,
s. 6.

(2c.) A contributor—

- (a) who elects, or is called upon, to retire on or after attaining the age of sixty years, or
- (b) whose maximum age for retirement is fixed at an earlier age than sixty-five years, but not less than sixty years, and who retires on attaining the age so fixed,

may, notwithstanding anything contained in this section contribute, in a lump sum, or in such smaller sums and at such periods as the Board approves, the actuarial equivalent of the amount necessary to complete his payments to the fund up to a later age (not exceeding the age of sixty-five years).

Inserted by
No. 22, 1930,
s. 6.

(3.) An employee or pensioner—

- (a) who has completed his contributions up to the anniversary of his initial contribution next preceding the attainment by him of the maximum age for retirement; and
- (b) whose salary has been increased, subsequent to but from a date prior to the cessation of his contributions, to a higher salary group in column one of the scale contained in sub-section (1.) of section thirteen of this Act than the salary group in which it fell prior to the increase,

may elect to contribute such an amount as will provide additional units of pension but so that the total number of units shall not exceed the number specified in column two of section thirteen of this Act opposite to that higher salary group:

Provided that in respect of those units twenty-six contributions at the rate applicable to the maximum age for retirement shall be made before pension in respect of superannuation shall become payable and upon the payment of those contributions the pension shall become payable as from the date of retirement.

DIVISION 2.—*Scale of Units.*

13.—(1.) Subject to this Act, contributions by an employee shall be in respect of units of pension as defined in section twenty-eight of this Act and the number of units in respect of which an employee shall contribute shall have relation to the salary of the employee in accordance with the following scale:—

Scale of units
of pension.

COLUMN ONE.				COLUMN TWO.			
Where the Annual Salary of the Employee—				The Employee shall contribute the Amount necessary to provide Units of Pension, as under—			
£		£				Per annum. £	
Does not exceed ..		130		Two units, equivalent to a pension of		52	
Exceeds 130 and does not exceed 156		156		Two and a half units, equivalent to a pension of		65	
" 156 "		208		Three units, equivalent to a pension of		78	
" 208 "		260		Four units		104	
" 260 "		312		Five units		130	
" 312 "		364		Six units		156	
" 364 "		416		Seven units		182	
" 416 "		468		Eight units		208	
" 468 "		520		Nine units		234	
" 520 "		572		Ten units		260	
" 572 "		624		Eleven units		286	
" 624 "		676		Twelve units		312	
" 676 "		728		Thirteen units		338	
" 728 "		780		Fourteen units		364	
" 780 "		832		Fifteen units		390	
" 832 ..		..		Sixteen units		416	

(2.) An employee whose salary does not exceed Two hundred and eight pounds per annum may elect to contribute additional units or half units to make up a total number of two and a half, three or four units.

(3.) Where an employee enters the service after the commencement of this Act, and at the time of such entry is not less than forty years of age, the Board may, upon application by the employee, reduce the number of units in respect of which he shall contribute and any contributions paid by him, prior to such reduction, in respect of units in excess of the reduced number shall be credited as payments for paid-up pensions to be actuarially calculated, or refunded to him, as the Board determines.

Amended by
No. 22, 1930,
s. 7.

(4.) If the salary of a contributor is increased, and by reason of that increase falls within a higher salary-group in column one of the scale contained in sub-section (1.) of this section than the salary-group in which it fell prior to the increase, the following provisions shall apply to the contributor:—

Amended by
No. 22, 1930,
s. 7.

- (a) if he has attained the age of forty years, or was at the commencement of this Act an employee not less than thirty years of age, he may increase the amount of his contribution to an amount not exceeding the sum which will provide units of pension to the number specified in column two opposite to that higher salary-group; and

- (b) in all other cases, he shall increase the amount of his contribution to such a sum as will provide units of pension to the number so specified,

and any such increased contribution shall be payable as from the date upon which payment of salary at the increased rate is approved, or from the date upon which such increased salary becomes payable, whichever is the later :

Provided that, where such date does not fall on a pay day, contributions shall commence on the next following pay day.

(5.) An employee who is, at the commencement of this Act, not less than thirty years of age, shall not in any case be compelled to contribute for more than two units, but may, within three months after the date notified in pursuance of sub-section (1.) of section twelve of this Act, elect to take the benefit of this sub-section, and thereupon the following provisions shall apply to him :—

- (a) he may elect within the said three months to contribute, at the rates prescribed for the age of thirty, for two, two and a half, three or four units ; and
- (b) if the period of his continuous service under the Commonwealth, or under the Commonwealth and any State, is not less than ten years, he may elect within the said three months to contribute at the rate appropriate to his age as provided in the Schedules to this Act for units additional to those contributed for under the last preceding paragraph :

Provided that the total number of units contributed for by any such employee shall not exceed the number of units prescribed for the salary-group to which, according to the scale contained in sub-section (1.) of this section, he belongs, or the number of four units, whichever is the greater :

Proviso added
by No. 45, 1924,
s. 7.

Provided further that, where an employee satisfies the Board that he has failed to make an election under paragraph (a) of this sub-section within the time specified in that paragraph owing to circumstances not within his own control, the employee may—

- (c) contribute for two units, as at the rate for the age of thirty, as from the commencement of his contributions under this Act ; and
- (d) elect, within such further time as is prescribed, to contribute as at the rate for the age of thirty, for additional units so that the total number of units for which he contributes at that rate is either two and a half, three or four units.

(6.) An employee who is, at the commencement of this Act, not less than thirty years of age, and who has not elected to take the benefit of the last preceding sub-section, may elect to contribute for

any number of units, not being less than two, and not exceeding the number prescribed for the salary-group to which, according to the scale contained in sub-section (1.) of this section, he belongs.

(7.) An employee who has exercised any power of election in pursuance of either of the last two preceding sub-sections, shall pay, as from the date notified in pursuance of sub-section (1.) of section twelve, his contributions for the units for which he has elected to contribute :

Provided that, where the employee exercises a power of election within a further prescribed time, the employee shall pay, as from the first day of the month in which he makes the election, his contributions for the units for which he has so elected to contribute.

Proviso added by No. 45, 1924, s. 7.

14. Where an employee satisfies the Board that adequate provision has been made for himself and family, the Board may exempt him from contributing for more than two units of pension.

Provision where adequate provision made by employee.

15. Where the salary of a contributor is or has been reduced from one salary group to another salary-group, the Board may, upon application by the contributor, reduce the number of units in respect of which he shall contribute to the number appropriate to the salary-group to which his salary has been reduced, and any contributions paid by him, prior to such reduction, in respect of units in excess of the reduced number shall be credited as payments for paid-up pension to be actuarially calculated or be refunded to him, as the Board determines.

Employee reduced in salary. Substituted by No. 10, 1931, s. 25.

DIVISION 3.—*Scale of Contributions by Employees.*

16. The amount of contribution which shall be paid by an employee shall, except where otherwise provided in this Act, be based upon—

Contributions according to scale graduated by age at commencement.

- (a) the number of units or half-unit of pension in respect of which the employee contributes ;
- (b) sex ; and
- (c) the age at which the employee commences to contribute for each unit or half-unit,

and shall be in accordance with the tables of contributions prescribed by or under this Act.

16A.—(1.) A contributor who is less than sixty years of age, and to whom Part IVA. of this Act does not apply, may, within six months after the commencement of this section, and an employee who becomes a contributor after the commencement of this section may, within six months from the date of the commencement of his employment, elect to contribute at such rates specified in the Third or Fourth Schedule to this Act as are applicable.

Election to contribute for full pension at sixty years of age. Inserted by No. 45, 1924, s. 6.

(2.) Where an employee, who is a contributor at the date of the commencement of this section, elects to contribute at rates specified in the Third or Fourth Schedule to this Act, the rates at which he shall contribute shall, where he has previously elected under subsection (5.) of section thirteen of this Act to contribute for units at the rates prescribed for the age of thirty, be, in respect of those units, the rate prescribed in the Third or Fourth Schedule for the age of thirty, and, in respect of other units, shall be at the rate in those Schedules which is appropriate to his age at the date he elects under this section.

(3.) Any contributor who makes an election in accordance with this section shall be entitled, upon retirement on attaining the age of sixty years, to receive full pension according to the number of units for which he was contributing at the time of his retirement.

(4.) For the purposes of this Act the maximum age for retirement of a contributor who makes an election under this section shall be sixty years.

(5.) Where a contributor who has made an election under this section does not retire upon attaining the age of sixty years, he shall not be required to make contributions after attaining that age and shall not be entitled to receive pension until retirement.

(6.) Such adjustment of contributions as is, in the opinion of the Board, necessary on account of the application to a contributor of the rates of contribution specified in the Third or Fourth Schedule to this Act may be made by the Board.

Tables of
contributions
in Schedules.
Amended by
No. 22, 1930,
s. 9.

17.—(1.) During the five years next following the commencement of this Act, and until other tables of contributions are prescribed as hereinafter provided, the tables of contributions for men and women according to ages, set out in Schedules I. to IV. (inclusive) to this Act, shall be in force.

Quinquennial
adjustment of
rates.

(2.) As soon as practicable after the expiration of each period of five years from the commencement of this Act, the Governor-General may, upon the recommendation of the Board, prescribe tables of contributions, which shall, subject to the approval of both Houses of the Parliament, take effect from a date to be fixed by Proclamation, and remain in force until other tables are prescribed under this subsection.

DIVISION 4.—*Contributions by the Commonwealth.*

Payments by
Commonwealth
where
contributions by
employee are
at rate for age.

18. In respect of each unit or portion of a unit of pension paid from the fund on the basis of a contribution corresponding to the rate prescribed for the age of the employee at the date upon which he commenced to pay the contribution, a sum equal to one-half of the payment so made shall be paid by the Commonwealth to the fund.

19.—(1.) In respect of each unit or portion of a unit of pension paid from the fund on the basis of a contribution corresponding to the rate prescribed for an age younger than that of the employee at the date upon which he commenced to pay the contribution, a sum, ascertained in the manner provided in this section, shall be paid by the Commonwealth to the fund.

Payments by Commonwealth where contributions by employee are not at rate for age.

(2.) To determine the sum payable in each case by the Commonwealth under this section, the rate of contribution actually payable by the employee shall be subtracted from twice the rate prescribed for the age of the employee at the date upon which he commenced to pay the contribution, and the ratio of this difference to twice the rate so prescribed shall be computed. This ratio shall represent the fraction of the pension payment so made to be paid by the Commonwealth to the fund.

(3.) Where a pension calculated in accordance with this Act is less than the prescribed minimum, and where this Act provides that the prescribed minimum shall be paid, the amount necessary to bring the pension up to the minimum shall be paid by the Commonwealth to the fund in addition to the sums payable by the Commonwealth under the last preceding section and the foregoing provisions of this section.

20.—(1.) Payments by the Commonwealth to the fund for the purposes of this Act shall be made from the Consolidated Revenue Fund, which is hereby appropriated accordingly.

Payments from Consolidated Revenue Fund.

(2.) The payments shall be made in such manner and at such periods as are prescribed.

DIVISION 5.—General Provisions as to Contributions.

21. A contributor who is on leave of absence, either with or without pay, shall pay his contributions during or in respect of the period of leave, as for a period of service, without reduction.

Employees on leave of absence.

22. The contributions of contributors shall be deducted from their salaries at each payment of salaries, and shall be paid, without deduction for postage, forwarding, or exchange, to the Board :

Manner of payment—Deduction from wages or salaries.

Provided that where a contributor is on leave of absence through illness, either without* pay or at less than full pay, the Board may, upon his application, permit the contributions falling due during his absence to be paid by him in such smaller sums, and at such periods, as the Board approves.

PART IV.—PENSIONS AND BENEFITS.

DIVISION I.—Retirement on Pension.

23. Every contributor shall be entitled to a pension on his retirement on or after attaining the maximum age for retirement.

Age of compulsory retirement.

24. A contributor who is retired on the ground of invalidity or of physical or mental incapacity to perform his duties shall be entitled to a pension.

Break-down retirement.
Amended by No. 45, 1924, s. 2.

Retrenchment
and discharge.

25. The compulsory termination of the service of a contributor for the reason that his service or position is not necessary, or for the reason that the work for which he was engaged is finished, or for the reason that the quantity of work has diminished and has rendered necessary a reduction in the number of employees—

- (a) shall be deemed to be “retrenchment” if the contributor has been in the service for not less than ten years; and
- (b) shall be deemed to be “discharge” if the contributor has been in the service for less than ten years.

Dismissal.

26. Compulsory termination of the service of a contributor, however expressed, other than—

- (a) retirement on pension as provided in this Act; or
- (b) retirement through invalidity or physical or mental incapacity; or
- (c) retrenchment, or discharge,

shall be deemed to be dismissal, for the purposes of this Act.

Resignation.

27. Voluntary termination of service (however expressed) by a contributor who is not entitled to retire on pension shall be deemed to be resignation.

DIVISION 2.—Grant of Pensions and Benefits.

Pension unit.

28.—(1.) The sum of twenty-six pounds per annum shall be the unit of pension.

(2.) The minimum amount of pension to any contributor shall except where this Act requires a pension to be actuarially determined, be two units, and the minimum amount of pension to the widow of a contributor or pensioner shall be one unit.

Amount of
pension on
retirement.
Amended by
No. 45, 1924,
s. 10.

29. Subject to this Act, a contributor shall, upon retirement, be entitled to receive a pension according to the number of units for which he was contributing at the time of his retirement:

Provided that any contributor—

- (a) who has attained the age of sixty years and elects, or is called upon to retire before attaining the maximum age for retirement; or
- (b) the age for whose retirement is fixed by law at an earlier age than sixty-five years, who retires on attaining the age so fixed,

shall as from the date of his retirement be entitled to a pension which is the actuarial equivalent of the contributions made or to be made by him and of the share of pension payable by the Commonwealth and accruing to him under this Act.

30. Where a contributor is retired on the ground of invalidity or physical or mental incapacity to perform his duties, he shall—

Retirement through invalidity—amount of pension.

(a) if the invalidity or incapacity is not due to his own fault, be entitled to the full pension for which he was contributing at the time of his retirement; and

Amended by No. 45, 1924, s. 11.

(b) if the invalidity or incapacity is due to his own fault, be entitled to a pension which is the actuarial equivalent of the contributions made by him up to the time of his retirement;

Provided that, where a female contributor who has been retired on the ground of invalidity or physical or mental incapacity to perform her duties, is married after retirement and becomes restored to health, the Board may cancel the pension and thereupon it shall cease to be payable:

Provisions added by No. 22, 1930, s. 10.*

Provided further that, in the event of a recurrence of the infirmity which was the cause of her retirement she shall be entitled to pension at a rate not less than the amount of the pension on which she was retired.

31.—(1.) On the death of a male contributor before retirement, pension shall be paid to his widow as follows:—

Pension to widow and children on death of contributor.

(a) during her own life, one half of the pension for which her husband was contributing at the time of his death:

Provided that if she remarries, her pension under this paragraph shall thereupon cease and determine; and

(b) in respect of each of her or the contributor's children (except children of her remarriage) who are under the age of sixteen years, a pension at the rate of Thirteen pounds per annum until the age of sixteen years has been attained.

(2.) On the death of the widow of any such male contributor, pension shall, in addition to the pension payable in pursuance of paragraph (b) of the last preceding sub-section, be payable, in respect of each of the children of the widow or of the male contributor (except children of her remarriage) who are under the age of sixteen years, at the rate of Thirteen pounds per annum until the age of sixteen years has been attained.

Added by No. 22, 1930, s. 11.†

(3.) The amount of the additional pension shall be payable from the fund without contribution by the Commonwealth.

Added by No. 22, 1930, s. 11.†

32.—(1.) On the death of a male pensioner, pension shall be paid to his widow as follows:—

Pension to widow and children on death of pensioner after retirement.

(a) during her own life, one half of the pension payable to her husband at the time of his death, or pension at the rate of Twenty-six pounds per annum whichever is the greater:

* Sub-section (2.) of section 10 of the *Superannuation Act 1930* is as follows:—

"(2.) This section shall be deemed to have commenced upon the date of the commencement of the *Superannuation Act 1922*."

† Sub-section (2.) of section 11 of the *Superannuation Act 1930* is as follows:—

"(2.) This section shall be deemed to have commenced on the first day of July One thousand nine hundred and twenty-seven."

Provided that if she remarries, her pension under this paragraph shall thereupon cease and determine; and

- (b) in respect of each of her or the pensioner's children (except children of her remarriage) who are under the age of sixteen years, a pension at the rate of Thirteen pounds per annum until the age of sixteen years has been attained.

Inserted by
No. 22, 1930,
s. 12.*

(2.) On the death of the widow of any such male pensioner, pension shall, in addition to the pension payable in pursuance of paragraph (b) of the last preceding sub-section, be payable, in respect of each of the children of the widow or of the male pensioner (except children of her remarriage) who are under the age of sixteen years, at the rate of Thirteen pounds per annum until the age of sixteen years has been attained.

Inserted by
No. 22, 1930,
s. 12.*

(3.) The amount of the additional pension shall be payable from the fund without contribution by the Commonwealth.

Amended by
No. 22, 1930,
s. 12.*

(4.) Notwithstanding anything contained in this section, where a pensioner marries after his retirement from the service, pension shall not, upon the death of the pensioner, be payable to the widow or in respect of the children of that marriage.

Pension to
orphans on
death of
contributor or
pensioner.

Amended by
No. 22, 1930,
s. 13.†

33.—(1.) On the death of a male contributor or of a male pensioner, whose wife is dead or divorced, and who leaves children of himself or of his wife who are under the age of sixteen years and who were dependent upon him at the time of his death, there shall be paid to the guardian of the children, to be used for their support and education, a pension at the rate of Twenty-six pounds per annum in respect of each child until the child attains the age of sixteen years.

Added by
No. 22, 1930,
s. 13.†

(2.) Payment of one-half of the pension payable in pursuance of this section shall be made from the fund without contribution by the Commonwealth.

Refund of
contributions
on death of
contributor.

Substituted by
No. 22, 1930,
s. 14.‡

34. Where a contributor, who is unmarried or is a widower without children under the age of sixteen years, dies before retirement, the contributions made by him shall be paid to his personal representatives, or, failing them, to such persons (if any) as the Board determines.

(2.) This section shall apply in the case of any such contributor who died on or after the fifth day of January One thousand nine hundred and twenty-three.

Employee
attaining
maximum age
before
commencement
of contributions
and retiring
after passing
of Act.

35.—(1.) An employee who—

- (a) has been in the service for at least ten years, and
(b) has attained the maximum age for retirement at any time before the date notified in pursuance of sub-section (1.) of section twelve of this Act,

* Sub-section (2.) of section 12 of the *Superannuation Act 1930* is as follows:—

"(2.) This section shall be deemed to have commenced on the first day of July One thousand nine hundred and twenty-seven."

† Sub-section (2.) of section 13 of the *Superannuation Act 1930* is as follows:—

"(2.) This section shall be deemed to have commenced on the first day of July One thousand nine hundred and twenty-seven."

‡ Sub-section (2) of section 14 of the *Superannuation Act 1930* is as follows:—

"(2) this section shall apply in the case of any such contributor who died on or after the fifth day of January, One thousand nine hundred and twenty-three."

shall on retirement, at any time after the passing of this Act, be entitled to a pension in accordance with salary as set out in section thirteen of this Act, but not exceeding four units, without paying any contribution to the fund :

Provided that, if the maximum age for retirement is less than sixty-five years, the pension payable under this section shall be the actuarial equivalent of such pension payable as from the age of sixty-five years.

(2.) A pension under this section shall be payable from the date of retirement of the employee, and shall carry widow's and children's benefits in accordance with this Act.

(3.) Until the establishment of the Superannuation Fund under this Act, the pension shall be paid from the Consolidated Revenue Fund, and, upon the establishment of the Superannuation Fund, the pension shall be paid from that fund, and the payments from that fund shall be repaid from the Consolidated Revenue Fund.

(4.) This section shall come into operation on the day on which this Act receives the Royal assent.

36.—(1.) An employee who, on or after the thirty-first day of December, One thousand nine hundred and twenty, and before the passing of this Act, has been retired, or permitted to retire, and who at the time of his retirement—

(a) had been in the service for at least ten years ; and

(b) had attained the maximum age for retirement,

shall be entitled to a pension in accordance with salary as set out in section thirteen of this Act, but not exceeding four units, without paying any contribution to the fund :

Provided that, if the maximum age for retirement is less than sixty-five years, the pension payable under this section shall be the actuarial equivalent of such pension payable as from the age of sixty-five years.

(2.) A pension under this section shall be payable only from the passing of this Act, and shall carry widow's and children's benefits in accordance with this Act.

(3.) Until the establishment of the Superannuation Fund under this Act, the pension shall be paid from the Consolidated Revenue Fund, and, upon the establishment of the Superannuation Fund, the pension shall be paid from that fund, and the payments from that fund shall be repaid from the Consolidated Revenue Fund.

(4.) This section shall come into operation on the day on which this Act receives the Royal assent.

37.—(1.) An employee who, on or after the thirty-first day of December, One thousand nine hundred and twenty, and before the commencement of this Act, has been retired or permitted to retire on the ground of invalidity or physical or mental incapacity to perform

Employee
attaining
maximum age
and retiring
on or after 31st
December, 1920,
and before
passing of Act.

Employee
retiring after
31st December,
1920, and before
commencement
of this Act,
through
break-down.

his duties, and who, at the time of his retirement, had served for at least ten years, shall be entitled to a pension in accordance with salary as set out in section thirteen of this Act, but not exceeding four units, without paying any contribution to the fund.

(2.) A pension under this section shall be payable from the passing of this Act, or from the retirement of the employee, whichever is the later, and shall carry widow's and children's benefits in accordance with this Act.

(3.) Until the establishment of the Superannuation Fund under this Act the pension shall be paid from the Consolidated Revenue Fund, and, upon the establishment of the Superannuation Fund, the pension shall be paid from that fund, and the payments from that fund shall be repaid from the Consolidated Revenue Fund.

(4.) This section shall come into operation on the day on which this Act receives the Royal assent.

Pensions to widow and children where officer of ten years' service dies after 31st December, 1920, and before commencement of contributions.

38.—(1.) Where any employee who has been in the service for at least ten years has died or dies on or after the thirty-first day of December, One thousand nine hundred and twenty, and before the date notified in pursuance of sub-section (1.) of section twelve of this Act, pension shall be paid to his widow as follows :—

(a) during her own life, one half of the pension in accordance with salary as set out in section thirteen of this Act, but not exceeding two units :

Provided that if she remarries her pension under this paragraph shall thereupon cease and determine ; and

(b) in respect of each of her or the employee's children (except children of her remarriage) who are under the age of sixteen years, a pension at the rate of Thirteen pounds per annum until the age of sixteen years has been attained.

(2.) Pensions under this section shall be payable from the passing of this Act, or from the death of the employee, whichever is the later.

(3.) Until the establishment of the Superannuation Fund under this Act, the pension shall be paid from the Consolidated Revenue Fund, and, upon the establishment of the Superannuation Fund, the pension shall be paid from that fund, and the payments from that fund shall be repaid from the Consolidated Revenue Fund.

(4.) In this section "salary" means the rate of salary received by the employee immediately prior to his death.

(4A.) Notwithstanding anything contained in this section, where an employee had any right referred to in section fifty-one of this Act, and any payment has been made as an act of grace, in respect of the death of the employee, to the widow of that employee, there shall be deducted from the pension payable to the widow

Inserted by No. 45, 1924, s. 12.*

* Sub-section (2.) of section twelve of the *Superannuation Act 1924* is as follows :—

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

under this section such amount of pension as is the actuarial equivalent of the payment so made, but so that the pension shall not be reduced below one unit.

(5.) This section shall come into operation on the day on which this Act receives the Royal assent.

39.—(1.) In the event of the retrenchment of a contributor, he shall be entitled to receive the contributions paid by him, and the contributions to the fund which would have been made by the Commonwealth if the Commonwealth had, during the period throughout which the contributor had been contributing to the fund, been making such periodical contributions to the fund as are necessary to provide for the share of pension payable by the Commonwealth in respect of that contributor; and within one month after his retrenchment he may choose to receive payment either in the form of a lump sum or as a pension.

Retrenchment of contributor—choice of benefits.

Sub-section (1.) substituted by No. 22, 1930, s. 15.

(2.) In default of such choice the Board shall determine in which form payment shall be made.

(3.) Where an employee, who has been retrenched and is in receipt of a pension, re-enters the service the following provisions shall apply :—

- (a) the pension shall not cease to be payable; and
- (b) he shall contribute as provided in Part III. of this Act, but shall not be entitled to claim any further benefit in respect of his previous service.

(4.) Where an employee who has been retrenched and has received payment in the form of a lump sum under this section re-enters the service, he shall contribute as provided in Part III. of this Act but shall not be entitled to claim any further benefit in respect of his previous service.

40.—(1.) Where a contributor resigns or is dismissed or discharged from the service there shall be paid to him the amount of the actual contributions paid by him under this Act, irrespective of the cause of his resignation, dismissal, or discharge.

Resignation, dismissal or discharge of contributor—refund of contributions.

(2.) Where any employee, who has resigned or been dismissed or discharged and has received a refund of the amount of his contributions, re-enters the service, he shall contribute as provided in Part III. of this Act, but shall not be entitled to claim any further benefit in respect of his previous service.

41.—(1.) Where a male pensioner deserts his wife, the wife may, from time to time, apply to any court of competent jurisdiction, and, on proof of such desertion, the court may order the payment, during such period as it thinks desirable, of pension, in accordance with the provisions contained in section thirty-two of this Act, as if the pensioner were dead. The Board shall comply with any such order, and shall discontinue payment of pension to the pensioner during the period mentioned in the order.

Desertion by male pensioner of wife or child.

(2.) Where a pensioner, whose wife is dead or divorced, deserts any of his children who are dependent on him, the guardian of the children, or the Board, may apply to any court of competent jurisdiction, and, on proof of the desertion, the court may order the payment, during such period as it thinks desirable, of pension in accordance with the provisions contained in section thirty-three of this Act, as if the pensioner were dead. The Board shall comply with any such order, and shall discontinue payment of pension to the pensioner during the period mentioned in the order.

Imprisonment
of male
pensioner.

42. Where a male pensioner is sentenced to imprisonment for any period exceeding one month, payment of his pension under this Act shall be discontinued during the period of his imprisonment; and

(a) if his wife is alive, she shall, during that period, be entitled, in accordance with the provisions contained in section thirty-two of this Act, as if the pensioner were dead, to pension for herself and for children who were dependent upon the pensioner, unless the Board is satisfied, after making such inquiry as it thinks fit, that payment to the wife is undesirable; or

(b) if his wife is dead or divorced, pensions for children dependent upon the pensioner shall, during that period, be payable in accordance with the provisions contained in section thirty-three of this Act as if the pensioner were dead.

Insanity of male
pensioner.

43.—(1.) Where a male pensioner is detained as a patient in a hospital for the insane, the Board may cause his pension, or any part thereof, to be paid, during the period of detention, to his wife if alive, or if his wife is dead or divorced, to some person for the use of such of the children of himself or of his late wife as are under the age of sixteen years, in such proportion as the Board thinks fit.

Insanity of
female
pensioner.

Added by
No. 22, 1930,
s. 16.

(2.) Where a female pensioner is detained as a patient in a hospital for the insane, the Board may cause her pension, or any part thereof, to be paid, during the period of detention, to some person, in such proportion as the Board thinks fit, for the use of such of the children of the pensioner, or of her late husband, as are under the age of sixteen years.

Imprisonment
of female
pensioner.

44. Where a female pensioner is sentenced to imprisonment for any period exceeding one month, payment of her pension under this Act shall be discontinued during the period of her imprisonment:

Provided that any pension payable to her in respect of children shall be payable under section thirty-three of this Act.

Payments to
children.

45.—(1.) Where pensions in respect of children are payable under this Act to a widow, the pensions shall, if the widow dies, be payable to the guardians of the children.

(2.) Notwithstanding anything contained in this Act, any money payable out of the fund in respect of a child under the age of sixteen years may, at the discretion of the Board, be paid to the guardian of the child or expended by the Board for the benefit of the child.

46.—(1.) Except where otherwise provided in this Act, a pension shall be payable during the life of the person entitled thereto.

Pensions payable for life except in case of children.

(2.) Pensions in respect of children shall be payable until they attain the age of sixteen years or die before attaining that age.

46A. Upon the death of a contributor, or of a pensioner who has been a contributor, there shall be payable to his personal representatives from the fund the sum of Five pounds in respect of each unit of pension, and a proportionate part of Five pounds in respect of a fraction of unit of pension, for which he has contributed :

Cash benefit on death of contributor or pensioner.

Inserted by No. 22, 1930, s. 17.^a

Provided that in respect of the death of a person who was—

(a) a contributor for limited purposes under section fifty-three of this Act ; or

(b) an officer contributing under Part IVA. of this Act,

the amount payable under this section in respect of each unit of pension for which he was contributing shall be such sum as bears to the sum of Five pounds the same proportion as the benefits for which he was contributing bear to the full benefits provided under this Act.

47.—(1.) Pensions shall be paid in fortnightly instalments.

Payment of pension instalments.

(2.) In order to ascertain the amount of an instalment of a pension covering a period of a fortnight the annual pension shall be divided by twenty-six.

Substituted by No. 45, 1924, s. 13.

48. Except where otherwise provided in this Act, in any case where in this Act provision is made for the pension of a person to be actuarially determined, any pension under this Act to his widow in respect of her own life shall be one half of the amount so actuarially determined, but not less than one unit.

Value of widow's pension.

48A. Where in the opinion of the Board payment of pension, refund of contributions or other benefit under this Act should be made to a person other than the pensioner or beneficiary, the Board may, subject to this Act, authorize payment to such person accordingly.

Payment to person other than the pensioner.

Inserted by No. 22, 1930, s. 18.

DIVISION 3.—*Break-down Pensioners.*

49.—(1.) Any pensioner who is in receipt of a pension under section thirty or thirty-seven of this Act shall, for the purposes of this Act, be deemed to be on leave of absence without pay, and shall not be required to contribute in respect of the period of that leave.

Break-down pensioner to be deemed to be on leave.

* Sub-section (2.) of section 17 of the *Superannuation Act 1930* is as follows :—

"(2.) This section shall be deemed to have commenced on the first day of July One thousand nine hundred and twenty-seven and shall continue in force until the thirtieth day of June One thousand nine hundred and thirty-three and thereafter until a date to be notified by the Governor-General in the *Gazette* upon which date it shall cease to have effect."

Notwithstanding the fact that he is deemed to be on leave of absence, his office or position shall be held to be vacant, and may be filled by the appointment thereto of some other person.

(2.) In the event of the re-employment in the service of a person who has retired on a pension under section thirty or thirty-seven of this Act, the period during which he was retired shall not, for the purposes of this Act, be deemed to be a break in the continuity of his service.

(3.) Any such pensioner shall submit himself for medical examination as and when required by the Board, and if he makes default in complying with such requirement, the pension shall cease to be payable to him so long as he continues in default.

Pensioner restored to health may be recalled to service.

Amended by No. 22, 1930, s. 19.

Amended by No. 22, 1930, s. 19.

50.—(1.) If, in the opinion of the Board, the health of any pensioner to whom a pension under section thirty or thirty-seven of this Act is being paid, has become so restored as to enable him to perform his duties, the Board shall so inform a prescribed authority with a view to suitable employment being found for the pensioner.

(2.) If suitable employment is offered to him, at a salary not less than two-thirds of his salary at the time of his retirement, or at such salary as is agreed upon between him and a prescribed authority, the Board may cancel the pension and thereupon it shall cease to be payable.

(3.) In the event of the recurrence of his infirmity, any contributor who has been re-employed in the service shall be entitled to pension at a rate not less than the amount of the pension on which he was first retired.

Added by No. 22, 1930, s. 19.

(4.) If, in the opinion of the Board—

(a) the health of any pensioner, to whom a pension under section thirty or thirty-seven of this Act is being paid, has become so restored as to enable him to perform his duties; or

(b) the degree of invalidity or incapacity in relation to civil employment of any pensioner to whom a pension is being paid under section sixty N, sixty O or sixty R is less than ten per centum,

and suitable permanent employment under the Commonwealth cannot be offered to him, but the pensioner is engaged in temporary employment under the Commonwealth, or in other employment, at a remuneration not less than two-thirds of his salary at the time of his retirement, the Board may suspend the pension, and thereupon it shall cease to be payable so long as he continues in such employment.

Added by No. 22, 1930, s. 19.

(5.) In the event of the recurrence of the infirmity of the pensioner, or in the event of his ceasing to be so engaged in temporary employment under the Commonwealth or in other employment, he shall, from the date of such recurrence, or cessation of such employment, be entitled to pension at the same rate as that on which he was retired from the Service.

50A.—(1.) Where a pensioner, other than a pensioner who has been retired on the ground of infirmity or retrenchment, is employed or re-employed by the Commonwealth and his employment or re-employment commences after the commencement of this section, so much of the pension as is attributable to the contribution payable by the Commonwealth shall be cancelled during the period of employment.

Re-employment
of pensioner.
Inserted by
No. 22, 1930,
s. 20.

(2.) Where a pensioner, part of whose pension has been cancelled under the preceding sub-section, becomes a contributor upon employment or re-employment, he shall be entitled to receive on retirement such proportions of both pensions which have been contributed for by him or on his behalf as are attributable to the respective contributions made by him or on his behalf and in addition to such proportion of pension as is attributable to the contribution payable by the Commonwealth under this section.

(3.) Notwithstanding anything contained in this Act, the Commonwealth shall, in respect of pensions payable to any person under the last preceding sub-section and to the widow and children of any such person, be liable to contribute only in respect of the pension of which the proportion attributable to contributions by the Commonwealth is the greater.

DIVISION 4.—*Existing Pension Rights.*

51. Notwithstanding anything contained in this Act, an employee, not being a person to whom Part IVA. of this Act applies, who has a vested or contingent right to a pension, superannuation allowance, or gratuity under any other Act (not including the *Australian Soldiers' Repatriation Act 1920-1921*^(a)) or State Act shall not be required or permitted to contribute for units of pension under this Act, except in pursuance of the provisions of this Division, nor shall pension under this Act be payable to or in respect of any such employee except in pursuance of those provisions:

Rights under
State Acts not
prejudiced.

Amended by
No. 45, 1924,
s. 14.

Provided* that this section shall not prevent the payment of pensions to widows and children who would, but for this section, be entitled to receive pension under section thirty-eight of this Act.

52.—(1.) Any employee referred to in section fifty-one of this Act, who—

* * * * *

(b) has any right, referred to in section fifty-one of this Act, which is, under section fifty-seven or fifty-eight of this Act, commutable for new rights in respect of a less number of units than would be applicable under this Act,

Employee under
65 years at
commencement
of contributions
may elect to
come under this
Act for the
difference.

Paragraph (a)
omitted by
No. 22, 1930,
s. 21.

may, within the prescribed time, elect to come under this Act for the purpose of the difference.

* This proviso was added by paragraph (b) of sub-section (1.) of section fourteen of Act No. 45 of 1924, and sub-section (2.) of that section is as follows:—

"(2.) The amendment contained in paragraph (b) of this section shall be deemed to have commenced upon the date of the commencement of the Principal Act."

(a) *Infra*, p. 2157.

(2.) For the purpose of determining such less number of units (including where necessary a fraction of a unit) the new rights shall be the actuarial equivalent of the rights specified in section fifty-one of this Act, and, in calculating that actuarial equivalent, all the benefits provided by this Act shall be taken into account.

(3.) If an employee elects under sub-section (1.) of this section, to come under this Act for the purpose of the difference, this Act shall, for the purpose of that difference, apply as if he were an employee not having any rights under section fifty-one of this Act, subject to the following qualifications:—

(a) the contributions shall not be in respect of more than the difference;

(b) for the purpose of the adjustment of the difference, the contributions shall, where necessary, be in respect of a fraction of a unit;

Amended by
No. 22, 1930,
s. 21.

(c) where the contributions are in respect of a fraction of a unit, the contributions and any pension or benefit in respect of the fraction of a unit shall be proportionate thereto;

(d) the contributions shall be payable as from the first day of the month in which the employee elects as provided in this section; and

Added by
No. 22, 1930,
s. 21.

(e) the contributions for additional units shall be payable as from the date upon which payment of salary at the increased rate is approved or from the date upon which such increased salary becomes payable, whichever is the later:

Provided that, where such date does not fall on a pay day, contributions shall commence on the next following pay day.

Substituted by
No. 45, 1924,
s. 15.

(4.) For the purposes of this section "the difference" means the difference between the actuarial value, as at the date an employee comes under this Act, of the benefits by way of pension or retiring allowance to which the employee is then entitled by virtue of his rights under some other Act or State Act and the benefits which would, were he not entitled to those rights, be applicable, from time to time, under this Act.

Added by
No. 45, 1924,
s. 15, and
amended by
No. 22, 1930,
s. 21.

(5.) Where an employee has elected, under sub-section (1.) of this section, to come under the Act for the purpose of the difference, no variation in the difference shall be made unless the employee elects, within the time prescribed for the purposes of this sub-section, to come under the Act for the purposes of the difference as defined in the last preceding sub-section.

53.—(1.) Any employee referred to in section fifty-one of this Act—

* * * * *

(b) who has a right referred to in section fifty-one of this Act; and

(c) who has not the right to elect under the last preceding section, or who, having that right, does not exercise it,

Where employee does not so elect, he may come under Act for limited purposes.

Paragraph (a) omitted by
No. 22, 1930,
s. 22.

may, within the prescribed time, elect to come under this Act for the limited purpose of—

- (d) a pension for his widow ;
- (e) a pension after his death for his children, under the age of sixteen years, until attainment of that age, or death, whichever first happens ; or
- (f) pension rights for both widow and children as specified in the last two preceding paragraphs.

(2.) If the employee elects to come under this Act for a limited purpose, this Act shall apply for that limited purpose as if he were an employee not having any of the rights specified in section fifty-one of this Act, subject to the following conditions :—

- (a) the contributions shall, in the case of a pension for the widow, be in respect of one, or one and a half, or two units, and in the case of a pension for a child, in respect of a half unit, and shall be in accordance with such rates as are prescribed ;
- (b) there shall not be any right except to a pension for the widow or for children, or for both widow and children, as the case may be ; and
- (c) the contributions shall be payable as from the first day of the month in which the employee elects to come under this Act for the limited purpose.

54.—(1.) Any employee, referred to in section fifty-one of this Act, who, at or after the passing of this Act and before the date notified in pursuance of sub-section (1.) of section twelve of this Act—

- (a) has attained the maximum age for retirement, or is an invalid, or is unable, by reason of physical or mental incapacity, to continue to perform his duties, and
- (b) has been in the service for at least ten years, and
- (c) has a right referred to in section fifty-one of this Act which is commutable as provided in section fifty-seven or fifty-eight of this Act for new rights in respect of a less number of units than four commencing at the age of sixty-five years,

shall come under this Act for the purpose of the difference between that less number of units and four, without contribution :

Provided that, if the maximum age for retirement is less than sixty-five years, the pension payable under this section shall be the actuarial equivalent of such pension payable as from the age of sixty-five years.

(2.) For the purpose of determining such less number (including where necessary a fraction of a unit) the new rights under paragraph (c) of the last preceding sub-section shall be the actuarial equivalent of the rights specified in section fifty-one, and, in calculating that actuarial equivalent, all the benefits provided by this Act shall be taken into account.

Employee
obtaining
maximum age
after passing
of Act
and before
commencement
of contributions.

(3.) For the purposes of this section this Act shall, notwithstanding section fifty-one, apply, subject to the following conditions :—

- (a) the employee shall not be entitled to a pension under this section of more than the difference ; and
- (b) for the purpose of adjustment to the difference, the pension may be a pension of or including a fraction of a unit.

(4.) Sub-sections (2.) and (3.) of section thirty-five of this Act shall apply to any pension payable under this section.

(5.) This section shall come into operation on the day on which this Act receives the Royal assent.

Employee retiring on or after 31st December, 1920, and before passing of Act, through attainment of maximum age for retirement or ill-health.

55.—(1.) Any employee referred to in section fifty-one of this Act who, on or after the thirty-first day of December, One thousand nine hundred and twenty, and before the passing of this Act, had been retired, or permitted to retire, and who, at the time of retirement—

- (a) had attained the maximum age for retirement, or was an invalid, or was unable, by reason of physical or mental incapacity, to continue to perform his duties ; and
- (b) had been in the service for at least ten years ; and
- (c) had, on retirement, a right referred to in section fifty-one of this Act, which if this Act had been in force, would have been commutable, as provided in section fifty-seven or fifty-eight of this Act, for new rights in respect of a less number of units than four commencing at the age of sixty-five years,

shall come under this Act for the purpose of the difference between that less number of units and four, without paying any contribution to the fund :

Provided that, if the maximum age for retirement is less than sixty-five years, the pension payable under this section shall be the actuarial equivalent of such pension payable as from the age of sixty-five years.

(2.) Sub-sections (2.) and (3.) of the last preceding section, and sub-sections (2.) and (3.) of section thirty-six of this Act, shall apply to any pension payable under this section.

(3.) This section shall come into operation on the day on which this Act receives the Royal assent.

Employees who have retired before passing of Act and who at the time of the passing are again employed.

56.—(1.) Any employee referred to in section fifty-one of this Act, who, before the passing of this Act, had retired or been permitted to retire, and who, at the time of retirement, had a right referred to in section fifty-one of this Act, which, if this Act had been in force, would have been commutable for new rights in respect of a less number of units than four commencing at the age of sixty-five years, and

who, at the time of the passing of this Act, is re-employed in the service, and who again retires or is permitted to retire, and who, at the time of his second retirement—

(a) has attained the maximum age for retirement, or is an invalid, or is unable, by reason of physical or mental incapacity, to continue to perform his duties; and

(b) has been in the service for at least twenty years,

shall come under this Act for the purpose of the difference between that less number of units and four :

Provided that, if the maximum age for retirement is less than sixty-five years, the pension payable under this section shall be the actuarial equivalent of such pension payable as from the age of sixty-five years.

(2.) Where the employee had attained the maximum age for retirement at the date notified in pursuance of sub-section (1.) of section twelve of this Act, or his second retirement occurs prior to that date, no contribution shall be payable to the fund.

(3.) Sub-sections (2.) and (3.) of section fifty-four, and sub-sections (2.) and (3.) of section thirty-six of this Act shall apply to any pension payable under this section.

(4.) This section shall come into operation on the day on which the Act receives the Royal assent.

57.—(1.) Any employee who has a right to a pension or superannuation allowance referred to in section fifty-one of this Act (not being a right to a pension under the *Australian Soldiers' Repatriation Act 1920-1921*) may at any time within twelve months after the commencement of this Act, make application to the Board to transfer that right to the Board, and to receive, in respect of the transferred right, a grant by the Board of such new rights of pension for himself, his widow, and children, as are agreed upon between himself and the Board, subject to the actuary of the Board certifying that the new rights are the actuarial equivalent of his transferred right.

Employee having pension rights under other law may exchange his rights for any equivalent under this Act.

(1A.) Where an employee has transferred his right to the Board in accordance with sub-section (1.) of this section, the new rights of pension shall be such as are agreed upon between himself and the Board, subject to the actuary of the Board certifying that the new rights are the actuarial equivalent of the transferred right as at the date of the commencement of this sub-section.

Inserted by No. 22, 1930, s. 23.

(1B.) Where any employee, referred to in sub-section (1.) of this section, failed to transfer his right to the Board within the time specified in that sub-section, he may, within twelve months after the commencement of this sub-section, make application to the Board to transfer that right to the Board and to receive a grant of new rights of pension in accordance with sub-section (1.) of this section.

Inserted by No. 22, 1930, s. 23.

Inserted by
No. 22, 1930,
s. 23.

(1c.) A person, having such a right as is referred to in sub-section (1.) of this section, who became or becomes an employee after the commencement of this Act, may, within twelve months after the commencement of this sub-section, or of the commencement of his employment, whichever is the later, make application to the Board to transfer that right to the Board and to receive a grant of new rights of pension in accordance with sub-section (1.) of this section.

(2.) Where any agreement is made under this section, the employee shall contribute to the fund to the extent to which he was contributing in respect of his right prior to its being transferred under this section.

(3.) When any benefit becomes payable under any agreement under this section it shall be paid by the Board from the fund, and the fund shall be recouped as prescribed from the Consolidated Revenue Fund for all such payments less the actuarial equivalent of the contributions made under the last preceding sub-section.

Employee
having right
to refund
or gratuity
under other
law may
exchange
his rights for
an equivalent
under this Act.

Amended by
No. 45, 1934,
s. 2 (3.) and
Fourth Schedule.

Inserted by
No. 22, 1930,
s. 24.

58.—(1.) Any employee who, under any other Act or State Act has a vested or contingent right to a refund of contributions with or without interest, or a gratuity, or both refund and gratuity, may, at any time within twelve months after the commencement of this Act, apply to the Board to transfer his right to the Board, and upon such transfer he shall be entitled to receive, in respect of his transferred right, a grant by the Board of such rights of pension under this Act for himself, his widow, and children, as is agreed upon between himself and the Board, subject to the actuary of the Board certifying that the new rights are the actuarial equivalent of the transferred right.

(1A.) Where an employee has transferred his right to the Board in accordance with sub-section (1.) of this section, the new rights of pension shall be such as are agreed upon between himself and the Board, subject to the actuary of the Board certifying that the new rights are the actuarial equivalent of the transferred right as at the date of the commencement of this sub-section.

Inserted by
No. 22, 1930,
s. 24.

(1B.) Where any employee, referred to in sub-section (1.) of this section, failed to transfer his right to the Board within the time specified in that sub-section, he may, within twelve months after the commencement of this sub-section, make application to the Board to transfer that right to the Board and to receive a grant of new rights of pension in accordance with sub-section (1.) of this section.

Inserted by
No. 22, 1930,
s. 24.

(1c.) A person, having such a right as is referred to in sub-section (1.) of this section, who became or becomes an employee after the commencement of this Act, may, within twelve months after the commencement of this sub-section, or of the commencement of his employment, whichever is the later, make application to the Board to transfer that right to the Board and to receive a grant of new rights of pension in accordance with sub-section (1.) of this section.

(2.) Payment shall be made to the Board from the Consolidated Revenue Fund of such sums as would but for this section have been payable to the employee in respect of the right transferred by him to the Board.

DIVISION 5.—*Existing Assurance Policies.*

59. Notwithstanding anything contained in any Act, it shall not be compulsory for any employee to assure his life, or to continue in force any policy of assurance on his life effected before the commencement of this Act, and any policy held by the Commonwealth for the purposes of any Act relating to the Public Service shall be placed at the disposal of the employee.

Assurance policies may be continued or discontinued at option of contributor.

60.—(1.) Any employee whose life is assured at the commencement of this Act may, with the consent of the Board, transfer the policy (if unencumbered) to the Board or to a person approved by the Board and request the Board to continue the payment of the premiums under the policy.

Transfer of policies to Board.

(2.) Where a transfer is made under the last preceding sub-section the Board shall duly pay the premiums, and, on the maturity of the policy, shall pay to the employee or to his personal representatives to be administered as part of his estate, any sums received on the policy, less the amount of the premiums paid by the Board with compound interest thereon at the rate of four per centum per annum from the respective dates of payment.

(3.) Where an employee desires that his policy be re-transferred to him before maturity, or resigns or retires from the Service, the Board may, on receipt of a request for re-transfer, or upon his resignation or retirement, re-transfer the policy to the employee upon payment to the Board of the amount of premiums paid by the Board, with compound interest thereon at the rate of four per centum per annum from the respective dates of payment.

Added by No. 22, 1930, s. 25.

PART IVA.—MILITARY AND AIR FORCES.*

DIVISION 1.—*General.*

Heading inserted by No. 45, 1924, s. 16.

60A. In this Part, unless the contrary intention appears—

“officer” means a commissioned officer of the Permanent Air Force ;

Definitions inserted by No. 45, 1924, s. 16, and amended by No. 22, 1930, s. 27.

“employee” means a member of the Permanent Military Forces, and includes a warrant or non-commissioned officer or man of the Permanent Air Force, but does not include any warrant or non-commissioned officer holding an honorary commission.

60B. This Part shall apply to and in respect of employees and officers and not otherwise.

Application of Part.

Inserted by No. 45, 1924, s. 16, and amended by No. 22, 1930, s. 26.

* Part IVA was inserted in the Act by the *Superannuation Act* 1924, s. 16.
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Transfer of contributors to this Part.

Inserted by No. 45, 1924, s. 16, and amended by No. 22, 1930, s. 26.

Amended by No. 22, 1930, s. 26.

60c.—(1.) Upon the commencement of this Part, an officer shall not be required or permitted to contribute for units of pension under this Act, except in pursuance of the provisions of this Part, nor shall pension under this Act be payable to or in respect of any such officer except in pursuance of those provisions.

(2.) Where any officer is, at the commencement of this Part, contributing in pursuance of any other provisions of this Act, he shall, upon that commencement, cease to so contribute, and such adjustments in his contributions shall be made as the Board determines.

(3.) An employee who is, prior to the commencement of this Part, a contributor under this Act shall not be required or permitted to contribute for units of pension under this Part nor shall pension be payable under this Part to or in respect of that employee unless, within three months after the commencement of this Part, he elects to contribute under this Part.

(4.) An employee, who is not, prior to the commencement of this Part, a contributor under this Act, shall not be required or permitted to contribute for units of pension under this Act, except in pursuance of the provisions of this Part, nor shall pension under this Act be payable to or in respect of that employee, except in pursuance of those provisions.

(5.) Where an employee, to whom sub-section (3.) of this section applies, makes an election in pursuance of that sub-section, the Board may, upon the commencement of his contributions under this Part, make such adjustments in relation to his contributions as the Board determines.

DIVISION 2.—Contributions.

Application of Part III.

Inserted by No. 45, 1924, s. 16, and amended by No. 22, 1930, s. 26.

60d. Employees and officers shall, subject to this Part, be liable and entitled to contribute in accordance with Part III. of this Act for units of pension under this Act, and, for the purpose of determining the rights and obligations of those employees and officers in respect of contributions for units of pension, Part III. shall, subject to this Part, apply in relation to contributions by those employees and officers:

Provided that an officer shall not become a contributor under this Part unless he makes an election in accordance with the next succeeding section.

Right of officers to elect to contribute.

Inserted by No. 45, 1924, s. 16, and amended by No. 22, 1930, s. 26.

60e.—(1.) An officer who is serving at the commencement of this Part shall not be compelled, but may, within three months of that commencement, elect, to contribute in accordance with this Part.

(2.) An officer who is appointed after the commencement of this Part may, within three months of the date he is appointed, elect to contribute in accordance with this Part and thereupon his contributions shall commence as from the date of his appointment.

(3.) Where an employee who is a contributor under this Part becomes an officer, he shall cease to contribute as an employee and shall receive a refund of his prior contributions, and may, within three months after becoming an officer, elect to contribute according to the scale of contributions prescribed in respect of officers and thereupon—

Amended by
No. 22, 1930,
s. 26.

(a) his right to pension or benefits under this Act shall, as from the date he became an officer, be those provided in this Part in respect of an officer; and

(b) his contributions in pursuance of this paragraph shall commence as from the date he became an officer.

60F.—(1.) Any reference in Part III. to the commencement of this Act shall, in the application of the provisions of that Part to employees and officers who are contributors under this Part, be read as a reference to the commencement of this Part.

Commencement
of Part and
contributions
thereunder.

Inserted by
No. 45, 1924,
s. 16, and
amended by
No. 22, 1930,
s. 26.

(2.) The Governor-General may notify in the *Gazette* a date (not being later than six months after the commencement of this Part) upon which the contributions of an employee or officer engaged prior to the commencement of this section shall commence, and that date shall, in the application of Part III. to that employee or officer, be substituted for the date notified in pursuance of sub-section (1.) of section twelve of this Act.

60G. Paragraph (b) of sub-section (2.) of section twelve of this Act shall not apply to employees or officers who are contributors under this Part.

Contributors
retiring on or
after 60 years
of age.

Inserted by
No. 45, 1924,
s. 16 : amended
by No. 22, 1930,
s. 26, and by
No. 45, 1934,
s. 2 (3.) and
Fourth Schedule.

Tables of
contributions.

Inserted by
No. 45, 1924,
s. 18.

Amended by
No. 22, 1930,
s. 26.

60H.—(1.) In the application of section seventeen of this Act to contributions by employees who are contributors under this Part the reference to Schedules I. and II. shall be read as a reference to Schedules III. and IV. to this Act.

(2.) The contributions by officers who are contributors under this Part shall be according to such rates as are prescribed.

DIVISION 3.—*Pensions and Benefits.*

60I. The provisions of Part IV. of this Act shall, subject to this Part, apply in relation to the pensions and benefits of employees and officers.

Application of
Part IV.

Inserted by
No. 45, 1924,
s. 18, and
amended by No.
22, 1930, s. 26.

Added by
No. 22, 1930,
s. 28.

(2.) In the application of Part IV. under the last preceding sub-section, sections forty-nine and fifty of this Act shall be read as if the words "or thirty-seven" (wherever occurring) were omitted, and the words "thirty-seven, sixty N or sixty o" were inserted in their stead.

60J. Pension shall not be payable under this Act to, or in respect of, an officer who is a contributor except—

Pensions for
officers.

Inserted by
No. 45, 1924,
s. 16.

Amended by
No. 22, 1930,
s. 26.

(a) a pension for himself upon retirement upon the ground of invalidity or physical or mental incapacity to perform his duties not due to his own fault; and

- (b) a pension to his widow and children upon his death while in the service or while he is in receipt of a pension under this Act.

Pensions not payable in addition to compensation.
Inserted by No. 45, 1924, s. 16.

60K. Pension shall not be payable under this Part to, or in respect of, any person to whom compensation upon retirement or discharge has been paid under the *Defence Retirement Act 1922*:

Provided that this section shall not apply to any person who, having received such compensation upon retirement or discharge, is re-appointed to the service and becomes a contributor.

Added by No. 22, 1930, s. 29.

(2.) Pension shall not be payable under this Part to, or in respect of, any person who absents himself without leave or becomes a deserter and who, during such period of absence or desertion, attains the maximum age for retirement or becomes incapacitated or dies.

Deferred pay.
Inserted by No. 45, 1924, s. 16.

Amended by No. 22, 1930, s. 26.

60L.—(1.) Where any pension or benefit, not being a refund of contributions, is granted to an officer or to the widow or children of an officer, the officer or his widow or children, as the case may be, shall cease to be entitled to receive any payment in the nature of deferred pay which, apart from this section, would have been payable under any other Act or under any regulations under an Act, and the amount of that deferred pay shall, upon the grant of the pension or benefits be paid into the Consolidated Revenue Fund.

Amended by No. 22, 1930, s. 26.

(2.) Where any payment in the nature of deferred pay is paid, under any other Act or under any regulations under an Act, to or in respect of an officer, no pension or benefit under this Act shall be paid to or in respect of that officer.

Amount of pension on retirement.
Inserted by No. 45, 1924, s. 16.

60M. Subject to this Act, a contributor shall, upon retirement, be entitled to receive a pension according to the number of units for which he was contributing at the time of his retirement:

Provided that any contributor—

- (a) who has attained the age of fifty-five years and elects, or is called upon, to retire before attaining the age of sixty years; or
- (b) the age for whose retirement is fixed by law at an earlier age than sixty years, who retires on attaining the age so fixed,

shall, as from the date of his retirement,—

- (c) be entitled to a pension which is the actuarial equivalent of the contributions made or to be made by him and of the share of pension payable by the Commonwealth and accruing to him under this Act; or

- (d) if he contributes in a lump sum or in such smaller sums and at such periods as the Board approves, the actuarial equivalent of the amount necessary to complete his payments to the fund up to the age of sixty years, be entitled to a pension which is the actuarial equivalent of pension for retirement as at sixty years of age.

60N. Where a contributor under this Part is retired on the ground of invalidity or physical or mental incapacity to perform his duties, he shall—

Retirement through invalidity—amount of pension.

Inserted by No. 45, 1924, s. 16.

- (a) if the invalidity or incapacity is not due to his own fault, be entitled to the full pension for which he was contributing at the time of his retirement; and
- (b) if the invalidity or incapacity is due to his own fault, be entitled to a refund of his contributions.

60O.—(1.) Where an officer or employee is retired upon the ground of invalidity or physical or mental incapacity to perform his duties and the invalidity or incapacity is, in the opinion of the Board, of an extent which constitutes a less degree than fifty per centum of total incapacity in relation to civil employment, the officer or employee shall not be entitled to pension except in accordance with this section.

Partial incapacity.

Inserted by No. 45, 1924, s. 16.

Amended by No. 22, 1930, s. 26.

(2.) An officer or employee to whom this section applies may upon retirement—

Amended by No. 22, 1930, s. 26.

- (a) receive such amount of pension as is proportionate to the degree of his incapacity in relation to civil employment; or
- (b) if, within two months of his retirement, he so elects—receive payment in the form of a lump sum of such amount as is the actuarial equivalent of his contributions and of the share of pension payable by the Commonwealth and accruing to him under this Act.

(2A.) Should the degree of incapacity of an officer or employee in receipt of pension under the last preceding sub-section be increased after retirement, he may receive such pension as is determined by the Board as being proportionate to the degree of his increased incapacity, and payment of the pension at the increased rate shall be made from such date as is specified by the Board:

Inserted by No. 22, 1930, s. 30.

Provided that, where the Board determines that the degree of incapacity is not less than fifty per centum, he shall, as from such date as is specified by the Board, be entitled to the full pension for which he was contributing at the time of his retirement.

(3.) Where an officer or employee, who is in receipt of a pension under paragraph (a) of the last preceding sub-section, dies from any disease which, in the opinion of the Board, was the cause of his retirement, pension shall be payable to his widow at the rate of one-half of the pension for which the officer or employee was contributing at the time of his retirement.

Amended by No. 22, 1930, s. 26.

60P.—(1.) Section thirty-five of this Act shall not apply so as to entitle an employee who was a contributor under this Act, or an officer, to receive a pension.

Application of section 35.

Inserted by No. 45, 1924, s. 16.

Amended by No. 22, 1930, s. 26.

(2.) In the application of section thirty-five of this Act to employees—

- (a) the date referred to in paragraph (b) of sub-section (1.) shall be deemed to refer to the date notified in pursuance of sub-section (2.) of section sixty F of this Part;
- (b) the reference to the passing of this Act shall be read as a reference to the commencement of this Part;
- (c) any reference to the age of sixty-five years shall be read as a reference to the age of sixty years.

Application of
section 36.
Inserted by
No. 45, 1924,
s. 16.

60Q. In the application of section thirty-six of this Act to employees—

- (a) any reference to the passing of this Act shall be read as a reference to the commencement of this Part; and
- (b) any reference to the age of sixty-five years shall be read as a reference to the age of sixty years.

Application of
section 37.
Inserted by
No. 45, 1924,
s. 18.
Amended by
No. 22, 1930,
s. 26.

60R.—(1.) Section thirty-seven of this Act shall not apply so as to entitle—

- (a) an employee who was a contributor under this Act or who was retired on the ground of invalidity or incapacity which was, in the opinion of the Board, of an extent which constituted a less degree than fifty per centum of total incapacity in relation to civil employment; or

(b) an officer,
to receive a pension.

(2.) In the application of section thirty-seven of this Act to employees the references to the commencement of this Act and to the passing of this Act shall be read as references to the date notified in pursuance of sub-section (2.) of section sixty F of this Act.

Application of
section 38.
Inserted by
No. 45, 1924,
s. 16.
Amended by
No. 22, 1930,
s. 26.

60S.—(1.) Section thirty-eight of this Act shall not apply—

- (a) so as to entitle the widow or children of an officer to receive a pension; or
- (b) in respect of an employee who was a contributor under this Act.

(2.) In the application of section thirty-eight of this Act to employees—

- (a) the reference to sub-section (1.) of section twelve of this Act shall be read as a reference to sub-section (2.) of section sixty F of this Act; and
- (b) the reference to the passing of this Act shall be read as a reference to the commencement of this Part.

60SA. Where an officer or employee is retired on the ground of invalidity or physical or mental incapacity to perform his duties, or dies in the Service, and the invalidity or incapacity or death is due to accident while the officer or employee is engaged in flying operations, the pension payable under this Act shall be paid from the Superannuation Fund, and the payments from that Fund shall be repaid from the Consolidated Revenue Fund.

Source of pension of officer or employee.
Inserted by No. 22, 1930, s. 31.

60T. The provisions of Division 4 of Part IV. of this Act shall, as from the commencement of this Part, cease to apply in relation to persons who are employees and officers.

Application of Division 4 of Part IV.

Inserted by No. 45, 1924, s. 16, and amended by No. 22, 1930, s. 26.

Heading amended by No. 22, 1930, s. 32.

Constitution of Board.

Amended by No. 22, 1930, s. 33.

PART V.—THE SUPERANNUATION BOARD.

61.—(1.) There shall be a Superannuation Board, which shall consist of three members, who shall be appointed by the Governor-General, and one of whom shall be a contributor elected by contributors in the manner specified by the Minister by notice published in the *Gazette*.

(2.) The Governor-General shall appoint one of the members of the Board to be the president of the Board.

(3.) One of the members of the Board shall be an actuary.

62.—(1.) The members of the Board shall be appointed for a period not exceeding seven years, and any member shall be eligible for reappointment.

Term of office.
Amended by No. 22, 1930, s. 34.

(2.) If any officer of the Public Service of the Commonwealth is appointed a member of the Board, his service as member shall, for the purpose of determining his existing and accruing rights, be counted as public service in the Commonwealth.^(a)

(3.) If any member of the Public Service of a State is appointed a member of the Board, he shall have the same rights as if he had been an officer of a Department transferred to the Commonwealth and were retained in the service of the Commonwealth.

63. Where a member of the Board dies or otherwise vacates his office, the Governor-General may appoint a person to fill the vacancy, and such appointment shall be for the remainder of the term of the vacant office.

Extraordinary vacancies—appointments to fill.

64. In the case of the illness, suspension, or absence of the president or any member of the Board, the Governor-General may appoint a deputy to act for the president or member during his illness, suspension, or absence, and every deputy so appointed shall, while so acting, have all the powers and authority of the president or member, as the case may be.

Temporary appointments.

(a) See also *Officers' Rights Declaration Act 1928-1933* (*supra*, p. 2016).

Removal of
members of
Board.

65.—(1.) A member of the Board may be suspended from his office by the Governor-General for misbehaviour or incompetence.

(2.) Upon the suspension of a member the Minister shall cause a full statement of the grounds of suspension to be laid before both Houses of the Parliament within seven days after the suspension, if the Parliament is in session, and if the Parliament is not in session, then within seven days after the commencement of the next session.

(3.) A member of the Board suspended under this section shall be restored to office unless each House of the Parliament, within twenty-one days after the time when the statement was laid before it, passes a resolution requesting the Governor-General to remove the member from office, and upon the passage of the resolution the member shall be removed by the Governor-General accordingly.

Vacation of
office.

66. A member of the Board shall be deemed to have vacated his office if he—

(a) becomes bankrupt or insolvent, or applies to take the benefit of any Act or State Act for the relief of bankrupt or insolvent debtors, or compounds with his creditors, or makes an assignment of his salary or remuneration for their benefit ;

(b) being president, absents himself from duty for a period of fourteen consecutive days, or for twenty-eight days in any twelve months, without leave first granted by the Governor-General, or, being a member other than the president, absents himself, without leave first granted by the Governor-General, from three consecutive meetings of which reasonable notice has been given to him personally or in the ordinary course of post ;

(c) becomes permanently incapable of performing his duties ;

(d) resigns his office by writing under his hand addressed to the Governor-General ; or

(e) being a member elected by contributors ceases to be a contributor.

Amended by
No. 22, 1930,
s. 35.

Added by
No. 22, 1930,
s. 35.

President of
the Board.

67.—(1.) The president shall be the permanent administrative officer of the Board, shall preside at its meetings, and shall have a deliberative vote.

(2.) The president shall devote the whole of his time to the duties of his office.

Remuneration
of president
and other
members.

68. The president and other members of the Board shall be paid such remuneration respectively as the Governor-General from time to time determines.

69. Two members of the Board shall constitute a quorum for the purpose of transacting the business of any meeting of which notice has been given personally or by post to all the members.

Quorum.

70.—(1.) Where the voting on any question is equal, the question shall be postponed until the next meeting of the Board, and notice of the question, and of the fact that the voting was equal, shall be given in the notice calling the next meeting.

Where voting equal.

(2.) If the voting at the next meeting is again equal, the question shall be postponed to a full meeting of the Board.

71.—(1.) The Board shall be a body corporate, having perpetual succession and a common seal.

Incorporation of Board.

(2.) The seal of the Board shall not be attached to any document except on resolution of the Board, and shall be authenticated by the signatures of two members of the Board and of the secretary.

72. The Board may, by resolution under seal, authorize the president to determine such matters as are specified in the resolution, and may at any time in like manner revoke such authority.

Delegation of power to president.

73. The staff of the Board shall be appointed under and be subject to the provisions of any Act for the time being in force relating to the Public Service of the Commonwealth, and shall include a secretary and an actuary, or an officer who is both secretary and actuary.

Staff.

74.—(1.) The cost of the administration of this Act shall be paid out of moneys appropriated from time to time by the Parliament for the purpose.

Cost of management.

(2.) The moneys received and paid under this section, and the accounts in connexion therewith, shall be kept, as part of the Public Accounts, separately from the moneys and accounts of the fund.

75. The Board shall in each year submit to the Minister, to be laid before both Houses of the Parliament, a report dealing with the general administration and working of this Act.

Annual report to Parliament.

PART VI.—MISCELLANEOUS.

76.—(1.) This Act shall apply to any officer of the Commonwealth Bank of Australia—

Application of Act to certain officers of Commonwealth Bank, &c.

(a) who immediately prior to his becoming an officer of the Bank was an officer of the Commonwealth Public Service and was appointed to the service of the Bank prior to the passing of this Act; and

(b) who is not eligible for a pension from the superannuation fund of the Bank,

in like manner as if he had remained an officer of the Commonwealth Public Service.

Added by
No. 45, 1924,
s. 17.*

(2.) This Act shall apply to any officer of the Australian Commonwealth Line of steamers—

(a) who, immediately prior to his becoming an officer of the Line, was an officer of the Commonwealth Public Service; and

(b) who was a contributor under this Act,

in like manner as if he had remained an officer of the Commonwealth Public Service.

Question as to
invalidity, &c.,
determined by
Board on
Medical Officer's
report.

77. Whenever any question arises under this Act as to whether a contributor is an invalid, or is physically or mentally incapable of performing his duties, and whether the invalidity or incapacity is due to his fault, the question shall be determined by the Board (whether before or after the retirement of the contributor) upon a report from a Medical Officer appointed for the purposes of this Act :

Proviso added
by No. 45,
1924, s. 18.

Provided that upon receipt of an adverse report by the Board, and before a determination is arrived at the contributor shall have the right to a second medical report from a doctor mutually agreed upon by the contributor and the Board :

Proviso added
by No. 45,
1924, s. 18.

Provided further that, where the contributor is one to whom Part IVA. of this Act applies, the Board may determine the question upon a joint report from the medical officer appointed for the purposes of this Act and a medical officer attached to the branch of the Commonwealth Service in which the contributor is employed.

Settlement of
disputes.

78.—(1.) Any dispute under this Act shall be determined in the first place by the Board :

Provided that any person aggrieved by a decision of the Board may appeal to the High Court constituted by a single Justice of that Court.

(2.) The decision of the Court shall be final and conclusive and without appeal.

Returns.

79.—(1.) The Board may at any time require the Commonwealth to furnish such returns with respect to its employees as the Board decides, and may at any time require any employee to furnish such information as the Board deems necessary for the purpose of any investigation in connexion with the fund.

* Sub-clause (2.) of section seventeen of the *Superannuation Act 1924* is as follows :—

“(2.) This section shall be deemed to have commenced upon the date of the commencement of the *Principal Act*.”

(2.) Any employee who, without reasonable excuse (proof whereof shall lie with him), fails to furnish the information required of him under this Act shall be guilty of an offence.

Penalty : Ten pounds.

80. Pensions and other benefits under this Act shall not be in any way assigned or charged or passed by operation of law to any person other than the pensioner or beneficiary, and any moneys payable out of the fund on the death of an employee or beneficiary shall not be assets for the payment of his debts or liabilities :

Assignment
of pensions.

Provided that nothing in this section shall prevent the making of an order in the nature of a garnishee order against any instalment of a pension payable to a person who has been an employee.

81. The Board may recover contributions under the Act in any court of competent jurisdiction.

Power to
recover.

82. The Governor-General may, on the recommendation of the Board, make regulations, not inconsistent with this Act, prescribing all matters required or permitted to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular :—

Regulations.

(a) for prescribing in respect of contributors suffering from invalidity or physical or mental incapacity to perform their duties, all or any of the following matters :—

- (i) conditions of retirement ;
- (ii) pensions or other benefits ;
- (iii) provisions for cancellation of pensions or other benefits ; and
- (iv) conditions of compulsory re-employment ;

(b) for prescribing the data in respect of mortality, conjugal condition, dependent children, invalidity, and rate of interest to be employed in determining actuarial equivalents for the purposes of this Act, and for prescribing the incidence on the several benefits of the commutations involved in determining such actuarial equivalents ;

(c) where under this Act an employee may make any election or choice, and the time within which it may be made is not stated in the Act, for prescribing the time within which it must be made and the conditions upon which it may be made ; and

(d) for prescribing penalties not exceeding Fifty pounds for an offence against the regulations.

PUBLIC SERVICE—

THE SCHEDULES.

SCHEDULE I.

RATES OF CONTRIBUTION TO BE PAID FORTNIGHTLY BY MALE MEMBERS, BASED
ON A RETIRING AGE OF 65.

Age next Birthday at Entry.	First £52 Pension to Member; £26 to Widow; £13 to Each Child to age 16.	Subsequent Increments, £52 Pension to Member; £26 to Widow.	Age next Birthday at Entry.	First £52 Pension to Member; £26 to Widow; £13 to Each Child to age 16.	Subsequent Increments, £52 Pension to Member; £26 to Widow.
	£ s. d.	£ s. d.		£ s. d.	£ s. d.
16 ..	0 2 3	0 2 0	41 ..	0 7 6	0 6 10
17 ..	0 2 4	0 2 1	42 ..	0 7 10	0 7 3
18 ..	0 2 6	0 2 2	43 ..	0 8 4	0 7 9
19 ..	0 2 7	0 2 4	44 ..	0 8 9	0 8 2
20 ..	0 2 9	0 2 5	45 ..	0 9 3	0 8 9
21 ..	0 2 11	0 2 7	46 ..	0 9 10	0 9 4
22 ..	0 3 1	0 2 8	47 ..	0 10 6	0 10 0
23 ..	0 3 3	0 2 10	48 ..	0 11 2	0 10 8
24 ..	0 3 5	0 3 0	49 ..	0 12 0	0 11 6
25 ..	0 3 7	0 3 2	50 ..	0 12 11	0 12 5
26 ..	0 3 9	0 3 4	51 ..	0 13 11	0 13 6
27 ..	0 3 11	0 3 5	52 ..	0 15 1	0 14 8
28 ..	0 4 1	0 3 7	53 ..	0 16 5	0 16 1
29 ..	0 4 3	0 3 9	54 ..	0 18 0	0 17 8
30 ..	0 4 6	0 3 11	55 ..	0 19 10	0 19 6
31 ..	0 4 8	0 4 2	56 ..	1 2 1	1 1 9
32 ..	0 4 11	0 4 4	57 ..	1 4 10	1 4 6
33 ..	0 5 1	0 4 6	58 ..	1 8 4	1 8 0
34 ..	0 5 4	0 4 9	59 ..	1 13 0	1 12 9
35 ..	0 5 7	0 5 0	60 ..	1 19 7	1 19 3
36 ..	0 5 10	0 5 3	61 ..	2 9 6	2 9 2
37 ..	0 6 2	0 5 6	62 ..	3 6 2	3 5 10
38 ..	0 6 5	0 5 10	63 ..	4 19 9	4 19 4
39 ..	0 6 9	0 6 2	64 ..	10 1 7	10 0 10
40 ..	0 7 1	0 6 6	65 ..	10 5 7	10 4 10

SCHEDULE II.

RATES OF CONTRIBUTION TO BE PAID FORTNIGHTLY BY FEMALE MEMBERS, BASED
ON A RETIRING AGE OF 65.

Age next Birthday at Entry.	Contribution for £52 pension.	Age next Birthday at Entry.	Contribution for £52 pension.	Age next Birthday at Entry.	Contribution for £52 pension.
	£ s. d.		£ s. d.		£ s. d.
16 ..	0 1 4	36 ..	0 4 0	56 ..	0 18 10
17 ..	0 1 5	37 ..	0 4 3	57 ..	1 1 5
18 ..	0 1 6	38 ..	0 4 6	58 ..	1 4 8
19 ..	0 1 7	39 ..	0 4 9	59 ..	1 8 11
20 ..	0 1 8	40 ..	0 5 1	60 ..	1 15 0
21 ..	0 1 9	41 ..	0 5 5	61 ..	2 4 2
22 ..	0 1 10	42 ..	0 5 9	62 ..	2 19 6
23 ..	0 2 0	43 ..	0 6 2	63 ..	4 10 6
24 ..	0 2 1	44 ..	0 6 7	64 ..	9 4 7
25 ..	0 2 2	45 ..	0 7 1	65 ..	9 8 3
26 ..	0 2 4	46 ..	0 7 7		
27 ..	0 2 5	47 ..	0 8 2		
28 ..	0 2 7	48 ..	0 8 10		
29 ..	0 2 9	49 ..	0 9 7		
30 ..	0 2 10	50 ..	0 10 5		
31 ..	0 3 0	51 ..	0 11 5		
32 ..	0 3 2	52 ..	0 12 6		
33 ..	0 3 4	53 ..	0 13 8		
34 ..	0 3 7	54 ..	0 15 2		
35 ..	0 3 9	55 ..	0 16 10		

THE SCHEDULES—continued.

SCHEDULE III.

RATES OF CONTRIBUTION TO BE PAID FORTNIGHTLY BY MALE MEMBERS FOR UNITS OF PENSION BASED ON A RETIRING AGE OF 60.

Added by
No. 45, 1924,
s. 19.

Age next Birthday at Entry.				Retiring Age of 60 Years.	
				First £52 Pension to Member; £26 to widow; £13 to each child to Age 16.	Subsequent increments £52 pension to Member; £26 to widow.
				£ s. d.	£ s. d.
16	..	..	..	0 2 7	0 2 4
17	..	..	..	0 2 9	0 2 6
18	..	..	..	0 2 11	0 2 7
19	..	..	..	0 3 1	0 2 9
20	..	..	..	0 3 3	0 2 11
21	..	..	..	0 3 5	0 3 1
22	..	..	..	0 3 7	0 3 3
23	..	..	..	0 3 10	0 3 5
24	..	..	..	0 4 1	0 3 8
25	..	..	..	0 4 3	0 3 10
26	..	..	..	0 4 6	0 4 0
27	..	..	..	0 4 8	0 4 3
28	..	..	..	0 4 11	0 4 6
29	..	..	..	0 5 2	0 4 8
30	..	..	..	0 5 5	0 4 11
31	..	..	..	0 5 9	0 5 2
32	..	..	..	0 6 0	0 5 5
33	..	..	..	0 6 4	0 5 9
34	..	..	..	0 6 8	0 6 1
35	..	..	..	0 7 1	0 6 5
36	..	..	..	0 7 5	0 6 9
37	..	..	..	0 7 11	0 7 2
38	..	..	..	0 8 4	0 7 8
39	..	..	..	0 8 10	0 8 2
40	..	..	..	0 9 5	0 8 9
41	..	..	..	0 10 0	0 9 4
42	..	..	..	0 10 8	0 10 0
43	..	..	..	0 11 5	0 10 9
44	..	..	..	0 12 4	0 11 8
45	..	..	..	0 13 4	0 12 8
46	..	..	..	0 14 5	0 13 9
47	..	..	..	0 15 8	0 15 1
48	..	..	..	0 17 2	0 16 6
49	..	..	..	0 19 0	0 18 4
50	..	..	..	1 1 2	1 0 6
51	..	..	..	1 3 9	1 3 2
52	..	..	..	1 7 0	1 6 5
53	..	..	..	1 11 3	1 10 8
54	..	..	..	1 16 10	1 16 3
55	..	..	..	2 4 8	2 4 1
56	..	..	..	2 16 6	2 15 11
57	..	..	..	3 16 4	3 15 7
58	..	..	..	5 16 1	5 15 2
59	..	..	..	11 16 0	11 14 5
60	..	..	..	12 0 8	11 19 1

THE SCHEDULES—*continued*.

SCHEDULE IV.

Added by
No. 45, 1924,
s. 19.

RATES OF CONTRIBUTION TO BE PAID FORTNIGHTLY BY FEMALE MEMBERS BASED
ON A RETIRING AGE OF 60.

Age next Birthday at Entry.				Contribution for £52 Pension.	Age next Birthday at Entry.				Contribution for £52 Pension.
				£ s. d.					£ s. d.
16	..	..	..	0 1 9	38	..	..	0 6 4	
17	..	..	..	0 1 11	39	..	..	0 6 10	
18	..	..	..	0 2 0	40	..	..	0 7 4	
19	..	..	..	0 2 1					
20	..	..	..	0 2 2	41	..	..	0 7 11	
					42	..	..	0 8 6	
21	..	..	..	0 2 4	43	..	..	0 9 2	
22	..	..	..	0 2 5	44	..	..	0 10 0	
23	..	..	..	0 2 7	45	..	..	0 10 11	
24	..	..	..	0 2 9					
25	..	..	..	0 2 11	46	..	..	0 12 0	
					47	..	..	0 13 2	
26	..	..	..	0 3 1	48	..	..	0 14 7	
27	..	..	..	0 3 3	49	..	..	0 16 3	
28	..	..	..	0 3 5	50	..	..	0 18 3	
29	..	..	..	0 3 7					
30	..	..	..	0 3 10	51	..	..	1 0 9	
					52	..	..	1 3 10	
31	..	..	..	0 4 1	53	..	..	1 7 9	
32	..	..	..	0 4 4	54	..	..	1 13 0	
33	..	..	..	0 4 7	55	..	..	2 0 4	
34	..	..	..	0 4 11					
35	..	..	..	0 5 2	56	..	..	2 11 5	
					57	..	..	3 9 11	
36	..	..	..	0 5 7	58	..	..	5 7 1	
37	..	..	..	0 5 11	59	..	..	10 19 1	
					60	..	..	11 2 9	

TRANSFERRED OFFICERS' PENSIONS ACT 1934.

No. 34 of 1934.

An Act to provide for the Payment of Allowances to certain Transferred Officers, the Rates of whose Pensions or Retiring Allowances are affected by Financial Emergency Measures.

[Assented to 4th August, 1934.]

Preamble.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, for the purpose of appropriating the grant originated in the House of Representatives, as follows:—

Short title.

1. This Act may be cited as the *Transferred Officers' Pensions Act* 1934.

2. In this Act, unless the contrary intention appears.—

Definitions.

“index-numbers” means the index-numbers published from time to time by the Commonwealth Statistician as indicating the purchasing power of money ;

“transferred officer” or “officer” means a person who, having been transferred from the public service of a State to the public service of the Commonwealth, is entitled to retire, or has retired, from office on the pension or retiring allowance permitted by the law of the State as if his service with the Commonwealth were a continuation of his service with the State.

3.—(1.) Where the rate of the pension or retiring allowance payable by the Commonwealth to any transferred officer is calculated by reference to the salary received by that officer during a period prior to the date of his retirement, and the salary of that officer was, at any time during that period, reduced under or in accordance with the provisions of Part II. of the *Financial Emergency Act* 1931, or of that Part as subsequently amended, there shall be payable to that officer an allowance equal to the amount by which the pension or retiring allowance payable to him is less than the pension or retiring allowance which would have been so payable to him if his salary had not been so reduced.

Allowances to transferred officers.

(2.) All such allowances shall be payable out of the Consolidated Revenue Fund which is hereby appropriated accordingly.

(3.) In ascertaining, for the purposes of sub-section (1.) of this section, the amount by which the salary of an officer has been reduced, the amount of any reduction effected in consequence of a variation in the index-numbers shall be excluded.

(4.) The amount to be excluded in pursuance of the last preceding sub-section shall be as certified by the Treasurer.

4. This Act shall have effect in relation to any payment of pension or retiring allowance made after the commencement of this Act ; but, where any such payment is of a periodical nature, and relates wholly or in part to a period prior to that commencement, this Act shall not apply to so much of the payment as relates to that period.

Application of Act.