

68C. Where—

- (a) an officer dies; or
- (b) the Board has directed, after a consideration of all the circumstances, that an officer shall be presumed to have died on a particular date,

Payment to dependants on death.

Inserted by No. 47, 1966, s. 17.

the Chief Officer may authorize payment to the officer's dependants of an amount equal to the amount, if any, that could have been authorized to be paid to him under the last preceding section or under regulations made in relation to that section if he had ceased to be an officer otherwise than by death on the day on which he died or is to be presumed to have died.²²

68D. Where at any time an officer is or was eligible, by virtue of a determination or order, whether made before or after the commencement of this section, in force under the *Public Service Arbitration Act* 1920-1964, for the grant of leave of absence for recreation additional to the leave for the grant of which he is or was eligible at that time in accordance with section 68 of this Act, the last two preceding sections apply as if the recreation leave credit of the officer at that time were increased by the period of the additional leave for the grant of which he is or was so eligible.²²

Payment in respect of additional recreation leave under Public Service Arbitration Act.

Inserted by No. 47, 1966, s. 17; amended by No. 71, 1973, s. 5.

68E.²² (1) Where a person, being an officer to whom section 68A applies, has been granted leave of absence for recreation by virtue of, or in anticipation of, a recreation leave credit that accrued to him on the first day of January in the year in which he ceases to be an officer, and the period of that leave exceeds that credit as deemed to have been reduced in accordance with that section—

Liability of officers in respect of excess recreation leave in certain cases.

Inserted by No. 47, 1966, s. 17.

Sub-section (1) amended by No. 71, 1973, s. 5; and No. 209, 1973, s. 13.

- (a) if the officer has received salary in respect of any part of that period of leave that is included in the excess—Australia is entitled to recover from the person, as a debt due by him to Australia, the amount of that salary; and
- (b) if the officer has not received salary in respect of any part of that period of leave that is included in the excess—salary is not payable to the officer in respect of that part of that period of leave.

(2) Paragraph (a) of the last preceding sub-section does not apply in relation to an officer who ceases to be an officer by reason of his death.

68F. (1) For the purposes of the last six preceding sections, unless the contrary intention appears—

Interpretation.

Inserted by No. 47, 1966, s. 17.

Sub-section (1) amended by No. 115, 1967, s. 3; and No. 71, 1973, s. 5.

“month” means one of the twelve months of the year;

“salary” has the same meaning as in sub-section (1) of section 73;

“year” means a period of twelve months commencing on the first day of January.

(2) A reference in any of the last six preceding sections to a recreation leave credit shall be read as including a reference to an addition to a recreation leave credit.

Leave of absence to attend proceedings under Public Service Arbitration Act, &c.

Sub-section (1) substituted by No. 22, 1953, s. 8.

69.²⁴ (1) The Chief Officer may grant leave of absence with pay to not more than two representatives of an organization for the purpose of attending proceedings under the *Public Service Arbitration Act* 1920-1952 or proceedings before the Industrial Registrar or a Deputy Industrial Registrar holding office under the *Conciliation and Arbitration Act* 1904-1952.

(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.

Sub-section (3) omitted by No. 105, 1960, s. 16.

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Leave of absence on account of illness or other prescribed cause.

Substituted by No. 46, 1951, s. 14.

70. (1) The Chief Officer may grant leave of absence to an officer, on account of illness or other prescribed cause—

- (a) for a continuous period not exceeding three months; or
- (b) with the approval of the Board, and subject to such conditions as are prescribed, for a continuous period not exceeding twelve months.

Substituted by No. 105, 1960, s. 17; amended by No. 71, 1973, s. 5

(2) If, at the expiration of a period of leave granted to an officer under the last preceding sub-section, the Board is satisfied that the officer is unable to resume his duties, the Board may, if it does not retire him under section 67, grant to the officer leave of absence without pay for a period not exceeding six months.

Sub-section (3) omitted by No. 105, 1960, s. 17.

* * * * *

(4) The regulations may empower a Chief Officer to direct that an officer who is ill shall absent himself from duty and shall comply with such conditions as are prescribed.

Leave without pay. Substituted by No. 46, 1951, s. 14.

Sub-section (1) amended by No. 48, 1951, s. 14; No. 22, 1953, s. 9; No. 47, 1966, s. 18; and No. 209, 1973, s. 13.

71.²⁵ (1) The Board may, on the application of an officer or employee, grant to the officer or employee leave of absence without pay—

- (a) where the absence is for the purpose of enabling the officer or employee to occupy an executive office in an organization (as defined by the *Public Service Arbitration Act* 1920-1950) of employees in the Service and the officer or employee is required to devote the whole of his time to the duties of that office;

(b) where the leave of absence is for the purpose of enabling the officer or employee—

- (i) to pursue a course of studies, or to undertake research, relating to the duties of an office in the Service;
- (ii) to undertake vocational training under Part III of the *Re-establishment and Employment Act* 1945-1951 or under any other scheme of vocational training established by Australia;
- (iii) to engage in employment under Australia or an authority of Australia, not being employment under this Act or employment in relation to which the *Officers' Rights Declaration Act* 1928-1940 applies; or
- (iv) to engage in employment with Commonwealth Hostels Limited, with Commonwealth Brickworks (Canberra) Limited or with any other company that is, for the purposes of this section, declared by the regulations to be a company in which Australia has an interest,

for a period not exceeding twelve months or for such longer period as the Board thinks fit; or

(c) for any other purpose (not being a purpose in respect of which leave may be granted under any other provision of this Act)—for a period not exceeding twelve months.

* * * * *

Sub-section (2)
omitted by
No. 105, 1960,
s. 18.

71A. (1) The Chief Officer shall grant leave of absence to an officer or employee in respect of any period of specified defence service of the officer or employee.

Leave for
specified
defence
service.

(2) The terms and conditions to which any leave granted under this section is subject are the terms and conditions from time to time prescribed as applicable to that leave.

Inserted by
No. 47, 1966,
s. 19.

(3) A grant of leave under this section in respect of a period of specified defence service made after the commencement of that period shall be deemed to have taken effect at the commencement of that period.

(4) The first regulations made prescribing the terms and conditions to which leave granted under this section to officers and employees rendering national service is to be subject shall be deemed to have taken effect on 30th June, 1965.

Amended by
No. 71, 1973,
s. 5.

Leave for
defence
purposes,
&c.

Substituted by
No. 46, 1951,
s. 14.

Sub-section (1)
amended by
No. 13, 1957,
s. 15; and
No. 209, 1973,
s. 13.

72. (1) The Chief Officer may grant leave of absence to an officer or employee—

- (a) to enable the officer or employee to engage in such service as is prescribed in the Defence Force or in the naval, military or air forces of a part of the Queen's dominions (including a British protectorate or a British protected state), of a country allied or associated with Australia for the purposes of defence or of the United Nations; or
- (b) with the approval of the Board, to enable the officer or employee to engage in work or employment which is in the interests of the defence or public safety of Australia or the Territories.

(2) Leave granted under this section is subject to such terms and conditions as are prescribed.

Amended by
No. 105, 1960,
s. 19.

(3) The period during which an officer or employee is absent on leave granted under this section shall be deemed, for all purposes, to form part of the period of service or employment of the officer or employee under this Act.

Added by
No. 105, 1960,
s. 19.

(4) This section does not apply in relation to an employee performing duties overseas.

Added by
No. 105, 1960,
s. 19; amended
by No. 71, 1973,
s. 5.

(5) In this section, "overseas" has the same meaning as in section 8B.

Leave of
absence for
service with
other
governments,
universities,
&c.

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

Sub-section (1)
substituted by
No. 114, 1968,
s. 3.

72A.²⁶ (1) Subject to this section, the Board may, on the application of an officer, grant to him leave of absence without pay for the purpose of enabling him to engage, whether in Australia or elsewhere, in—

- (a) employment with the government or an authority of a State or of, or of a part of, a country outside Australia;
- (b) employment in a teaching capacity with a university, college of advanced education or other educational institution; or
- (c) employment with a prescribed institution, organization or body, or an institution, organization or body that is included in a prescribed class of institutions, organizations or bodies.

Substituted by
No. 114, 1968,
s. 3.

(2) Leave shall not be granted under this section, and a period of leave so granted shall not be extended, where, at the end of the leave, or of the extended period, the officer will have been absent on leave under this section for a continuous period of more than twelve months unless the Prime Minister has certified that, in his opinion, the engagement, or further engagement, of the officer in the employment concerned for the period of the grant or extension is in the public interest.²⁷

(2A) The reference in the last preceding sub-section to the Prime Minister shall be read—

Inserted by
No. 114, 1968,
s. 3.

- (a) in relation to an officer of the Department of the Senate—as a reference to the President of the Senate;
- (b) in relation to an officer of the Department of the House of Representatives—as a reference to the Speaker of the House of Representatives; and
- (c) in relation to an officer of the Department of the Parliamentary Library, the Department of the Parliamentary Reporting Staff or the Joint House Department—as a reference to the President of the Senate and the Speaker of the House of Representatives.

(3) If, in the opinion of the Board, it is necessary to fill the office in any Department of an officer who is granted leave under this section, the Board may declare that office to be vacant and, thereupon, the officer shall be deemed to be an unattached officer of the Service.

Added by
No. 43, 1945,
s. 11; amended
by No. 209,
1973, s. 13.

72AA. (1) Where leave of absence without pay is granted to an officer or employee under section 69, 70, 71, 71A or 72A, the Board shall determine whether the period during which the officer or employee is absent on that leave is to form part of his period of service or employment under this Act for any purpose and, if so, the purposes for which it is to form part of his period of service or employment.

Board to determine whether certain leave without pay counts as service.

Inserted by
No. 105, 1960,
s. 21.

Sub-section (1) amended by
No. 47, 1966,
s. 20; and
No. 71, 1973,
s. 5.

(2) Subject to section 75 of this Act, a period during which an officer or employee is absent on leave without pay granted under any of the sections of this Act specified in the last preceding sub-section does not, unless the Board has otherwise determined under this section, form part of his period of service or employment under this Act for any purpose.

Amended by
No. 71, 1973,
s. 5.

72B. (1) If an officer is appointed to be a representative in another country of the Government of Australia, the Board may, on application by the officer, grant to him leave of absence without pay for a period not exceeding the period for which he is necessarily unavailable for employment in the Service in consequence of that appointment.

Leave of absence to officer appointed as representative of the Government of Australia abroad.

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

Inserted by
No. 43, 1945,
s. 12.

Sub-section (1) amended by
No. 209, 1973,
s. 13.

Amended by
No. 209, 1973,
s. 13.

(3) Where an officer is granted leave of absence in pursuance of this section, his office in the Service shall become vacant upon the commencement of the period of that leave of absence, and he shall be an unattached officer of the Service during that period.

Amended by
No. 209, 1973,
s. 13.

(4) Upon the termination of a period of leave of absence granted in pursuance of this section, the unattached officer shall, unless he has been dismissed for misconduct or has attained the maximum age for retirement fixed by this Act, be entitled to be appointed by the Board to an office in the Service of such status and salary as are determined by the Board, having regard to the office previously vacated by him and the period of his appointment as a representative in another country of the Government of Australia.

Furlough.

Sub-section (1)
substituted by
No. 46, 1951,
s. 15; amended
by No. 22, 1953,
s. 10; and
No. 209, 1973,
ss. 10 and 13.

73.²⁸ (1) The Board may grant to an officer who has continued in the Service for not less than ten years leave of absence for a period not exceeding three-tenths of one month on full salary, or three-fifths of one month on half salary, in respect of each year of continuous service.

Inserted by
No. 46, 1951,
s. 15.

(1A) An officer shall not be granted leave of absence under this section for a period exceeding twelve months at any one time.

Substituted by
No. 47, 1966,
s. 21; amended
by No. 71, 1973,
s. 5; and
No. 209, 1973,
ss. 10 and 13.

(2) Where an officer who has continued in the Service for not less than ten years ceases to be an officer otherwise than by death, the Board may, in lieu of the grant to him of leave under sub-section (1), authorize payment to him of a sum not exceeding his salary for a period equal to the period, or the sum of the periods, of leave on full salary that the officer could have been granted under that sub-section if he had not ceased to be an officer.

Amended by
No. 72, 1936,
s. 9; and No. 47,
1966, s. 21.

(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, or, if the Board, after consideration of all the circumstances, directs that the death of an officer so eligible be presumed, 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 ceased to be an officer immediately prior to the date of his death, or, in any case where the Board has directed that the death of the officer be presumed, a date determined by the Board.

Sub-section (4)
omitted by
No. 209, 1973,
s. 10; sub-section
(5) omitted by
No. 22, 1953,
s. 10.

* * * * *

74.²⁸ (1) The Board may grant to an officer who has continued in the Service for not less than four years but less than ten years immediately prior to his ceasing to be an officer on, or subsequent to, his attaining the age of sixty years, leave of absence on full salary as follows—

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

- (a) where the period of service of the officer is not less than four years but is less than eight years—two months; or
- (b) where the period of service of the officer is not less than eight years but is less than ten years—three months.²⁹

Substituted by No. 22, 1953, s. 11.

Sub-section (1) amended by No. 47, 1966, s. 22; and No. 209, 1973, ss. 11 and 13.

(2) Where an officer may be granted leave under the last preceding sub-section, the Board may, in lieu of the grant of that leave, authorize payment to him, upon his ceasing to be an officer, of a sum not exceeding his salary for a period equal to the period of leave that the officer could have been granted under that sub-section.

Substituted by No. 47, 1966, s. 22.

(3) Where an officer who is less than sixty years of age—

- (a) retires from the Service after not less than four years' service but less than ten years' service and satisfies the Board that his retirement is due to ill-health that is permanent; or

Amended by No. 59, 1968, s. 3; and No. 209, 1973, ss. 11 and 13.

- (b)³⁰ is retired from the Service under section twenty of this Act after not less than four years' service but less than ten years' service,

the Board may authorize payment to the officer of a sum not exceeding his salary for a period equal to the period of leave which the officer could have been granted under sub-section (1) of this section if he had attained the age of sixty years.

* * * * *

Sub-section (3A) omitted by No. 209, 1973, s. 11.

(4) Where, before an officer has completed ten years' service in the Service and either before or after he has attained the age of sixty years—

- (a) the officer dies; or
- (b) the Board, after consideration of all the circumstances, directs that the death of the officer be presumed,

Amended by No. 47, 1966, s. 22; No. 71, 1973, s. 5; and No. 209, 1973, ss. 11 and 13.

the Board may authorize payment to the dependants of the officer of a sum equivalent to the amount of salary which the Board could have authorized to be paid to the officer under sub-section (2) if—

- (c) he had ceased (otherwise than by death) to be an officer on the date of his death or, where the Board has directed that the death of the officer be presumed, on a date determined by the Board; and
- (d) in the case of an officer who had not attained the age of sixty years at that date—he had attained that age.

Sub-section (5)
omitted by
No. 209, 1973,
s. 11.

* * * * *

Inter-
pretation.
Substituted by
No. 115, 1967,
s. 5.

75. (1) The regulations may provide that allowances of specified kinds are to be included in salary for the purposes of either of the last two preceding sections.

(2) The regulations may prescribe the conditions subject to which, or specify the extent to which, payments in accordance with either or both of the last two preceding sections are to include amounts by way of, or in respect of, an allowance of a kind specified in the regulations referred to in the last preceding sub-section, including conditions having effect after the time at which leave of absence commences.

Amended by
No. 209, 1973,
s. 13.

(3) For the purposes of the last two preceding sections,²⁸ the service of an officer in the Service shall be deemed to include, in addition to any service that, by virtue of this Act, is reckoned for the purposes of those sections as service in the Service, any service (not being so reckoned) that would, if the officer were a Commonwealth employee within the meaning of the *Commonwealth Employees' Furlough Act* 1943-1967, be reckoned as part of his period of service for the purposes of that Act.

Furlough
rights of
certain
former
officers of the
Northern
Territory
Public
Service.

Substituted by
No. 47, 1966,
s. 23.

Sub-section (1)
amended by
No. 71, 1973,
s. 5; and
No. 209, 1973,
s. 13.

75A. (1) In this section, "former officer of the Northern Territory Service" means an officer who—

- (a) was appointed to an office in the Commonwealth Service under section 42 of the *Commonwealth Public Service Act* 1922-1941 on 12th June, 1941, and has continued in the Service since that date;
- (b) was, immediately before that date, an officer of the Public Service of the Northern Territory; and
- (c) was, immediately before that date, or could, if he had continued in that service, have become, eligible for the grant of leave by reason of length of service, or for pay in lieu of such leave, under the *Public Service Ordinance* 1928-1941 of that Territory.

Amended by
No. 209, 1973,
s. 13.

(2) Subject to the next succeeding sub-section, the eligibility of a former officer of the Northern Territory Service or his dependants for leave by reason of length of service, or for pay in lieu of such leave, shall be determined—

- (a) by applying the provisions of the last three preceding sections;
or
- (b) by applying the provisions of the *Public Service Ordinance* 1928-1941 of the Northern Territory, and treating the service of the officer in the Service since 12 June 1941, as service in the Public Service of the Northern Territory,

whichever has the more favourable effect in relation to the officer or dependants, and the Board may grant leave, or authorize payment in lieu of leave, accordingly.

(3) The eligibility at any time of an officer, or of the dependants of an officer, for the grant of leave, or pay in lieu of leave, in accordance with this section, is subject to an appropriate deduction in respect of any leave previously granted to the officer by reason of length of service.

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 Service, namely:—

Public
holidays.
Sub-section (1)
amended by
No. 209, 1973,
s. 13.

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.

(3) In addition to the days mentioned in sub-section (1), there may be observed as public holidays or half-holidays in the public offices of Australia, 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.

Amended by
No. 46, 1924,
s. 20; No. 71,
1973, s. 5; and
No. 209, 1973,
s. 13.

(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 Australia or in any part thereof.

Amended by
No. 209, 1973,
s. 13.

(5) The Minister, or the Permanent Head or Chief Officer of a Department, may require the Department, or a part of the Department, to be kept open in the public interest for the whole or part of a day observed as a holiday in pursuance of this section and may require the attendance and services of any officer of the Department on that day.

Substituted by
No. 46, 1951,
s. 17.

(6) An officer shall, in respect of his attendance and services on a holiday, be granted payment of an amount calculated in the prescribed manner, not being less than one-half of a day's salary.

Substituted by
No. 46, 1951,
s. 17.

* * * * *

Sub-section (6A)
omitted by
No. 46, 1951,
s. 17.

Substituted by
No. 46, 1951,
s. 17.

(7) Notwithstanding the provisions of the last preceding subsection, where the hours of duty of an officer are arranged by schedule and his hours of duty for the day immediately before or immediately after a holiday commence or cease, as the case may be, on that holiday, the officer shall, in respect of his attendance and service on the holiday, be paid salary as prescribed.

Sub-section
(7AA) omitted
by No. 22, 1953,
s. 13.

* * * * *

Inserted by
No. 46, 1924,
s. 20; amended
by No. 209,
1973, s. 13.

(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.

Substituted by
No. 105, 1960,
s. 22; amended
by No. 47, 1966,
s. 24; and
No. 209, 1973,
s. 13.

(8) Notwithstanding the preceding provisions of this section, the days to be observed as holidays by an officer stationed in an external Territory may be such days, not exceeding in number the number of holidays that may be observed under the preceding provisions of this section, as the Board, in its discretion, determines.

Substituted by
No. 105, 1960,
s. 22.

(9) This section does not apply to—

- (a) officers stationed at lighthouses or employed on lighthouse ships; or
- (b) officers performing duties overseas.

Added by
No. 105, 1960,
s. 22; amended
by No. 71, 1973,
s. 5.

(10) In this section, “overseas” has the same meaning as in section 8B.

Heading
substituted by
No. 209, 1973,
s. 13.

Division 9—Reciprocal Services of Officers of the Service and State Officers

State officer
not
disqualified
from
employment
in the
Australian
Public
Service.

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 Australian Public Service.

Amended by
No. 209, 1973,
s. 13.

Arrangements
with State
for services
of State
officer.

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 Australia, of any work or services, or of the duties of any office in the Australian Public Service.

Sub-section (1)
amended by
No. 209, 1973,
s. 13.

(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—

Amended by
No. 209, 1973,
s. 13.

- (a) the rate of payment to be made by the Government of Australia for the work or services to be performed or the duties to be executed for Australia 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 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 officer of the Australian Public Service.

- (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.

Amended by
No. 209, 1973,
s. 13.

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

Agreement with State for performance of State duties by officer of the Australian Public Service.

- (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.

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 Australia 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 Australia, in respect to the officer.

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

Amended by
No. 209, 1973,
s. 13.

Division 9A—Appointment and Employment of Certain State Employees

Division 9A inserted by
No. 29, 1945,
s. 5.

81A. In this Division—

“State employee” means any person employed in a State Public Service—

Interpretation.
Inserted by
No. 29, 1945,
s. 5; amended by
No. 71, 1973,
s. 5; and
No. 209, 1973,
s. 13.

- (a) who is performing or has performed in or on behalf of the Department of Labour and National Service duties in relation to any matters with respect to which the

Director-General of Man Power exercises or has exercised any function for the purpose of the organization of man power or the placing or rehabilitation of persons in employment or matters related to that organization, placing or rehabilitation or duties in relation to any trades dilution committee constituted under a law of Australia;

- (b) who is a member of the Forces within the meaning of section 4 of the *Re-establishment and Employment Act* 1945 and who, in the opinion of the Board, would, but for his being such a member, have been performing in or on behalf of the Department of Labour and National Service the duties referred to in paragraph (a) of this definition; or
- (c) whose services with the State Public Service have, in the opinion of the Board, become redundant by reason of the establishment of the Commonwealth Employment Service under the *Re-establishment and Employment Act* 1945 or of the carrying out of the *Unemployment and Sickness Benefits Act* 1944,

but does not include a person employed in the State Public Service in a temporary capacity who was not so employed immediately prior to 31st January, 1942;

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

Election of State employees.
Inserted by No. 29, 1945, s. 5.

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

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

Appointment of State officers.
Inserted by No. 29, 1945, s. 5.

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

Sub-section (2) omitted by No. 105, 1960, s. 23.

* * * * *

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

Employment of State temporary employees.

Inserted by No. 29, 1945, s. 5.

(2) The provisions of sub-sections (1) and (2) of section 82 shall not apply in relation to the employment of any such employee.

Amended by No. 71, 1973, s. 5.

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

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

Inserted by No. 29, 1945, s. 5.

Sub-section (1) amended by No. 209, 1973, s. 13.

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

81F. (1) Subject to sections 20, 31, 55, 56, 62, 63 and 67 and to the provisions of any law providing for a reduction in the remuneration payable to officers of the Service generally, the rate of remuneration of a State employee appointed or employed under this Division shall, while he continues in the Service, be not less favourable than that to which, in the opinion of the Board, he would have been entitled in respect of the normal position which he occupied in the State Public Service immediately prior to his performing the duties referred to in paragraph (a) of the definition of "State employee" in section 81A, or which, in the opinion of the Board, he would have occupied in the State Public Service immediately prior to his being so appointed or employed if he had resumed duty or had remained on duty in the State Public Service, whichever rate of remuneration is the greater.

Remuneration to be not less favourable than State remuneration.

Inserted by No. 29, 1945, s. 5.

Sub-section (1) amended by No. 13, 1957, s. 18; No. 71, 1973, s. 5; and No. 209, 1973, s. 13.

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

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

- (a) permanent service or temporary service, as the case may be, of that employee in the State Public Service (including any service deemed under the law of the State to have been continuous service); and
- (b) in the case of an employee who has performed the duties mentioned in paragraph (a) of the definition of "State employee" in section 81A, his service while he performed those duties,

Prior service reckoned as service in the Australian Public Service.

Inserted by No. 29, 1945, s. 5; amended by No. 13, 1957, s. 19; No. 71, 1973, s. 5; and No. 209, 1973, s. 13.

the service specified in paragraph (a) of this section or the aggregate of the service specified in paragraph (a) and in paragraph (b) of this section, as the case may be, shall be reckoned for the purposes of this Act as service in the Service.

Accrued
recreation
leave.

Inserted by
No. 29, 1945,
s. 5.

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

Preservation
of sick leave
credits.

Inserted by
No. 29, 1945,
s. 5; amended by
No. 71, 1973,
s. 5; and
No. 209, 1973,
s. 13.

81J. A State employee shall, upon his being appointed or employed under this Division, be credited with the sick leave for which he would have been eligible if he had been continuously employed in the Service for the period ascertained in accordance with section 81G less any leave of absence on account of illness granted since the commencement of the service specified in paragraph (a) of that section or since 19th July, 1916, whichever is the later, and before his being so appointed or employed, as the case may be.

Furlough.

Inserted by
No. 29, 1945,
s. 5.

Sub-section (1)
amended by
No. 22, 1953,
s. 14; and
No. 209, 1973,
s. 13.

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

Amended by
No. 71, 1973,
s. 5.

(2) Where any such State employee is granted furlough as provided in sub-section (1) or has been, prior to his being so appointed or employed, granted furlough under the law referred to in that sub-section, the period of the furlough so granted shall be deducted from the period of leave for which he is eligible or in respect of which payment may be authorized under the provisions of section 73 or of section 7 of the *Commonwealth Employees' Furlough Act 1943-1944*.

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

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

Division 9B
inserted by
No. 16, 1946,
s. 4.

81L. In this Division—

Definitions.

“State employee” means a person—

Inserted by
No. 16, 1946,
s. 4; amended by
No. 71, 1973,
s. 5; and
No. 209, 1973,
s. 13.

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

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

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

(iii) who, at the commencement of this section, is a “member of the Forces” as defined in section 4 of the *Re-establishment and Employment Act* 1945 and, in the opinion of the Board, is a person who would have been transferred or whose services would have been loaned in the manner referred to in this paragraph if he had not been such a member on 1st September, 1942; or

(b) whose permanent employment, on 31st August, 1942, was in the Taxation Branch or Taxation Department of a State and who—

(i) was not temporarily transferred to the Commonwealth Service in accordance with the provisions of the *Income Tax (War-time Arrangements) Act* 1942 but, in the opinion of the Board, would have been so transferred but for other employment with the Commonwealth or the State; and

(ii) is, at the commencement of this section, permanently employed by the State;

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

Election of
State
employees.
Inserted by
No. 16, 1946,
s. 4.

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

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

Appointment
of State
officers.
Inserted by
No. 16, 1946,
s. 4.

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

Sub-section (2)
omitted by
No. 105, 1960,
s. 24.

* * * * *

Employment
of State
temporary
employees.
Inserted by
No. 16, 1946,
s. 4.

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

Amended by
No. 71, 1973,
s. 5.

(2) The provisions of sub-sections (1) and (2) of section 82 shall not apply in relation to the employment of any such employee.

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

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

Inserted by
No. 16, 1946,
s. 4.

Sub-section (1)
amended by
No. 209, 1973,
s. 13.

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

Rate of
remuneration.

Inserted by
No. 16, 1946,
s. 4.

Sub-section (1)
amended by
No. 71, 1973,
s. 5; and
No. 209, 1973,
s. 13.

81R. (1) Subject to sections 20, 31, 55, 56, 62, 63 and 67 and to the provisions of any law providing for a reduction in the remuneration payable to officers of the Service generally, the rate of remuneration of a State employee appointed or employed under this Division shall, while he continues in the Service, be not less favourable than the rate of remuneration to which he would have been entitled on 1st July, 1946, in the position which, in the opinion of the Board, would have been his normal position in the State Public Service on that date if—

(a) in the case of a person who was temporarily transferred, or whose services were loaned, to the Commonwealth and who

was employed in the Taxation Department of the Commonwealth on that date—he had resumed duty in the Public Service of a State on that date; and

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

(2) Where a State employee is appointed or employed under this Division at the rate of remuneration to which he would have been entitled in the normal position referred to in the last preceding subsection, he shall be entitled to advance, by the periodical increments (if any) by which he would have been entitled, on 1st July, 1946, to future advancement in that position, to the maximum rate to which he would, on that date, have been entitled to future advancement by those increments.

Amended by
No. 71, 1973,
s. 5.

(3) For the purpose of this section, “remuneration”, in relation to any position, means salary or pay in respect of the performance of duty in that position for the normal hours applicable to the position, and includes such allowances as, in the opinion of the Board, should be regarded as part of the salary or pay applicable, on 1st July, 1946, to that position.

Amended by
No. 71, 1973,
s. 5.

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

- (a) permanent service or temporary service, as the case may be, of that employee in the State Public Service (including any service deemed under the law of the State to have been continuous service); and
- (b) in the case of an employee who has been temporarily employed by the Commonwealth during the operation of the *Income Tax (War-time Arrangements) Act* 1942, or of that Act as amended, his service while he was so employed,

Prior service
reckoned as
service in the
Australian
Public
Service.

Inserted by
No. 16, 1946,
s. 4; amended by
No. 209, 1973,
s. 13.

the service specified in paragraph (a), or the aggregate of the service specified in paragraph (a) and in paragraph (b), as the case may be, shall be reckoned for the purposes of this Act as service in the Service.

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

Accrued
recreation
leave.

Inserted by
No. 16, 1946,
s. 4.

81U. A State employee shall, upon his being appointed or employed under this Division, be credited with the sick leave for which he would have been eligible if he had been continuously employed as a permanent officer in the Service for the period of his continuous employment (including both permanent and temporary) in the service of the State or in the service of the State and of the Commonwealth, less any leave of absence on account of illness granted since the commencement of that

Preservation
of sick leave
credits.

Inserted by
No. 16, 1946,
s. 4; amended by
No. 209, 1973,
s. 13.

period or since the nineteenth day of July, One thousand nine hundred and sixteen, whichever is the later, and before his being so appointed or employed, as the case may be.

Furlough.

Inserted by
No. 16, 1946,
s. 4.

Sub-section (1)
amended by
No. 209, 1973,
s. 13.

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

Amended by
No. 71, 1973,
s. 5.

(2) Where any such State employee is granted furlough as provided in sub-section (1) of this section or has been, prior to his being so appointed or employed, granted furlough under the law referred to in that sub-section, the period of the furlough so granted shall be deducted from the period of leave for which he is eligible or in respect of which payment may be authorized under the provisions of section 73 of this Act or of section 7 of the *Commonwealth Employees' Furlough Act* 1943-1944.

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

Preservation of gratuity rights.

Inserted by
No. 16, 1946,
s. 4; amended by
No. 209, 1973,
s. 13.

81W. A State employee who is appointed under this Division and who, if he had continued in the State Service until retirement from that Service, and had so retired in any particular circumstances, would have been entitled under any law of the State enacted prior to the commencement of this Act to receive an amount by way of gratuity shall be entitled to receive from Australia that amount by way of gratuity upon his retirement from the Service in corresponding circumstances and, in the event of the death of any such employee at any time before such retirement, such amount as would have been payable under the provisions relating to such gratuities of the law of the State to any other person shall be payable by Australia to that person.

Tests for advancement.

Inserted by
No. 16, 1946,
s. 4.

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

*Division 9C—Transfer of Employees of Repatriation Commission
and War Service Homes Commissioner*

Division 9c
inserted by
No. 1, 1947, s. 9.

81Y. In this Division—

Definitions.

“date of the transfer” means, in relation to persons holding office or employed, or to employment, under the *Australian Soldiers’ Repatriation Act* 1920-1946¹⁵ or the *War Service Homes Act* 1918-1946,¹⁶ a day to be fixed by Proclamation³¹ as the day upon which the service of the Repatriation Commission or the service of the War Service Homes Commissioner, as the case may be, shall be transferred to the Commonwealth Service; and

Inserted by
No. 1, 1947, s. 9;
amended by
No. 71, 1973,
s. 5.

“employee” means a person to whom section 81Z applies.

81Z. (1) Every person who—

Transfer of
employees of
Repatriation
Commission
and War
Service
Homes
Commis-
sioner.

(a) immediately before the date of the transfer is employed under section 22 of the *Australian Soldiers’ Repatriation Act* 1920-1946¹⁵ or under section 15 of the *War Service Homes Act* 1918-1946;¹⁶ or

(b) has been employed in a permanent capacity under section 22 of the *Australian Soldiers’ Repatriation Act* 1920-1946¹⁵ but is, immediately before the date of the transfer, holding an office specified in section 8, 13, 15 or 55 of that Act,

Inserted by
No. 1, 1947, s. 9.
Sub-section (1)
amended by
No. 71, 1973,
s. 5.

shall, by force of this section, be transferred to the Commonwealth Service.

(2) Where the Chairman of the Repatriation Commission or the War Service Homes Commissioner certifies to the Board that an office specified in the certificate was, immediately before the date of the transfer, a classified office in the service of the Repatriation Commission or of the War Service Homes Commissioner, as the case may be, the office so specified shall, as from that date, become an office in the Service in the Division corresponding to the Division in which it was classified in the service in which it was formerly an office, and shall have allotted to it, subject to this Act, the same salary or limits of salary as were allotted to it in that last-mentioned service.

Amended by
No. 209, 1973,
s. 13.

(3) Where a certificate under the last preceding sub-section in respect of any office certifies that, immediately before the date of the transfer, a person specified in the certificate was the occupant of that office, that person shall, as from that date, become the occupant of that office in the Service and shall, subject to this Act, be entitled to receive salary at the rate applicable to him immediately before the date of the transfer.

Amended by
No. 209, 1973,
s. 13.

Amended by
No. 209, 1973,
s. 13.

(4) A permanent employee to whom paragraph (a) of sub-section (1) applies, but to whom sub-section (3) does not apply, shall, subject to this Act, as from the date of the transfer, be an unattached officer in the Service with the same classification as he had, immediately before the date of the transfer, in the service from which he is transferred.

Amended by
No. 209, 1973,
s. 13.

(5) A person to whom paragraph (b) of sub-section (1) applies shall, as from the date of the transfer, become, subject to this Act, an unattached officer in the Service with the classification which, in the opinion of the Board, he would have had as an officer in the service of the Repatriation Commission if he had not been appointed to an office referred to in that paragraph.

Sub-section (6)
omitted by
No. 105, 1960,
s. 25.

* * * * *

Amended by
No. 209, 1973,
s. 13.

(7) A temporary employee who is transferred by virtue of sub-section (1) shall, as from the date of the transfer, become a temporary employee in the Service and shall, subject to this Act, be entitled to receive salary or wages at the rate applicable to him immediately before the transfer.

(8) For the purposes of this section, any reference to the occupant of an office shall not include a person temporarily occupying, or temporarily performing the duties of, that office.

Prior service
reckoned as
service under
this Act.

Inserted by
No. 1, 1947, s. 9;
amended by
No. 209, 1973,
s. 13.

81ZA. Service of an employee—

- (a) as a permanent officer or temporary employee in the service from which he is transferred during a continuous period immediately preceding the date of the transfer; or
- (b) which, under the law applicable to his service immediately before the date of the transfer, was deemed to be, or was treated as, permanent or temporary service in the service from which he is transferred,

shall be reckoned for the purposes of this Act, as permanent or temporary service, as the case may be, in the Service.

Accrued
recreation
and sick
leave.

Inserted by
No. 1, 1947, s. 9;
amended by
No. 209, 1973,
s. 13.

81ZB. An employee shall preserve his eligibility for the grant of leave of absence for recreation or during illness which had accrued immediately before his transfer to the Service.

*Division 9D—Transfer to the Commonwealth Service of certain
Employees of the Commonwealth*

Division 9D
inserted by
No. 35, 1948,
s. 6.

81ZC. In this Division—

“employee” means a person to whom section 81ZD applies;

“the date of transfer” means the date on which this Division comes into operation.³²

Definitions.

Inserted by
No. 35, 1948,
s. 6; amended by
No. 71, 1973,
s. 5.

81ZD. (1) Every person who, immediately before the date of transfer—

Transfer of
employees.

(a) was employed under section 63 of the *Defence Act* 1903-1947 in a civil capacity for any purpose in connexion with the Defence Force or in any factory established in pursuance of that Act;

Inserted by
No. 35, 1948,
s. 6.

(b) was employed under section 41 of the *Naval Defence Act* 1910-1934 in a civil capacity in connexion with any service auxiliary to Naval Defence or any works or establishments under that section;

Sub-section (1)
amended by
No. 71, 1973,
s. 5.

(c) was employed under section 10 of the *Supply and Development Act* 1939-1948; or

(d) was employed under paragraph (b) of regulation twelve of the National Security (Munitions) Regulations,

shall, by force of this section and subject to, and with such exceptions as are specified in, the following provisions of this section, be transferred to the Commonwealth Service.

(2) Nothing in the last preceding sub-section shall cause to be transferred to the Commonwealth Service any employee—

Amended by
No. 71, 1973,
s. 5.

(a) whose employment in a civil capacity is in connexion with any service auxiliary to Naval Defence or any works or establishments under section 41 of the *Naval Defence Act* 1910-1934, unless his employment or class of employment is declared by the Board by notice published in the *Gazette* to be of a civil administrative or civil clerical nature; or

(b) whose employment is under section 10 of the *Supply and Development Act* 1939-1948 or paragraph (b) of regulation twelve of the National Security (Munitions) Regulations, unless the Board directs that the employment is of such a nature that it should be performed by an officer or employee subject to the *Commonwealth Public Service Act* 1922-1948.

(3) Where the Permanent Head of the Department of Defence, of the Department of the Navy, of the Department of the Army, of the Department of Air or of the Department of Supply and Development certifies to the Board that an office specified in the certificate was, immediately before the date of transfer, a permanent office under the *Defence Act* 1903-1947, the *Naval Defence Act* 1910-1934, the *Air Force Act* 1923-1941, the *Supply and Development Act* 1939-1948 or the

Amended by
No. 209, 1973,
s. 13.

National Security (Munitions) Regulations, as the case may be, which should, by virtue of the preceding provisions of this section, be transferred to the Commonwealth Service, the office so specified shall, as from that date, become an office in the Service in the Division corresponding to the Division in which it was included in the service in which it was formerly an office, and shall have allotted to it, subject to this Act, the same salary or limits of salary as were allotted to it in that last-mentioned service.

Amended by
No. 209, 1973,
s. 13.

(4) Where a certificate under the last preceding sub-section in respect of any office certifies that, immediately before the date of transfer, a person specified in the certificate was the occupant of that office, that person shall, as from that date, become the occupant of that office in the Service and shall, subject to this Act, be entitled to receive salary at the rate applicable to him immediately before that date.

Amended by
No. 209, 1973,
s. 13.

(5) A permanent employee to whom sub-section (1) applies, but to whom sub-section (4) does not apply, shall, subject to this Act, as from the date of transfer, be an unattached officer in the Service with the same classification as he had immediately before that date in the service from which he is transferred.

Sub-section (6)
omitted by
No. 105, 1960,
s. 26.

* * * * *

Amended by
No. 209, 1973,
s. 13.

(7) A temporary employee who is transferred by virtue of sub-section (1) shall, as from the date of transfer, become a temporary employee in the Service and shall, subject to this Act, be entitled to receive salary or wages at the rate applicable to him immediately before that date.

(8) For the purposes of this section, any reference to the occupant of an office shall not include a person temporarily occupying, or temporarily performing the duties of, that office.

Prior service
reckoned as
service under
this Act.

Inserted by
No. 35, 1948,
s. 6; amended by
No. 209, 1973,
s. 13.

81ZE. Service of an employee—

- (a) as a permanent officer or temporary employee in the service from which he is transferred during a continuous period immediately preceding the date of transfer; or
- (b) which, under the law applicable to his service immediately before the date of transfer, was deemed to be, or was treated as, permanent or temporary service in the service from which he is transferred,

shall be reckoned for the purposes of this Act, as permanent or temporary service, as the case may be, in the Service.

81ZF. An employee shall preserve his eligibility for the grant of leave of absence for recreation or during illness which had accrued immediately before the date of transfer.

Accrued recreation and sick leave.

Inserted by No. 35, 1948, s. 6.

81ZG. (1) The Board may appoint to the Commonwealth Service without examination and without probation any temporary employee transferred to the Commonwealth Service by virtue of sub-section (1) of section 81ZD, who, at the date of transfer—

Appointment of ex-employees of Melbourne Harbour Trust, to Commonwealth Service.

(a) had been continuously employed under the *Naval Defence Act* 1910-1934 from a date not later than 28 October 1942; and

(b) was, immediately prior to the last-mentioned date, employed under the *Melbourne Harbour Trust Act* 1928 of the State of Victoria (in this section referred to as “the State Act”) on administrative, clerical or associated office duties in or in connexion with the Williamstown Dockyard.

Inserted by No. 35, 1948, s. 6.

Sub-section (1) amended by No. 71, 1973, s. 5; and No. 209, 1973, s. 13.

(2) The Board shall not make an appointment under this section unless it is satisfied that, if the Williamstown Dockyard continued to be conducted under the State Act, the employee would, subject to good conduct, diligence and efficiency, have been retained in employment as specified in paragraph (b) of the last preceding sub-section until attaining the age of sixty-five years in the case of a male employee or sixty years in the case of a female employee.

(3) The salary on appointment of any person appointed under this section shall be as determined by the Board, but, subject to this Act, shall not be less than the salary to which he was entitled under the *Naval Defence Act* 1910-1934 in the position which, in the opinion of the Board, was his normal position under that Act.

(4) Where a person appointed under this section has had a prior period of service under the *Melbourne Harbour Trust Act* 1928 of the State of Victoria and the total period of service of that person under that State Act, under the *Naval Defence Act* 1910-1934 and under this Act is continuous, the prior period of service of that person under that State Act shall be taken into account for the purposes of sections 73, 74 and 75 of this Act.

Amended by No. 71, 1973, s. 5.

(5) For the purposes of sub-section (1), the Board may, from time to time, request an employee who comes within the class of employees specified in that sub-section to elect, by writing addressed to the Board, within fourteen days after being so requested or within such further period as the Board within those fourteen days allows, to be appointed to the Commonwealth Service under this section and any such request shall include particulars of the classification of, and the remuneration payable in respect of, the proposed appointment.

Amended by No. 71, 1973, s. 5.

Amended by
No. 209, 1973,
s. 13.

(6) The provisions of any law of Australia providing for preference in any matter relating to the employment of discharged members of the Forces shall not apply in relation to the appointment of any person under this section.

Division 9E
inserted by
No. 75, 1948,
s. 5.

Division 9E—Transfer to the Commonwealth Service of certain employees of the Commonwealth Council for Scientific and Industrial Research

Definitions.

Inserted by
No. 75, 1948,
s. 5; amended by
No. 71, 1973,
s. 5.

81ZH. In this Division—

- “classified office” means a position to which an appointment has been made under section 14A of the Act;
- “employee” means a person to whom section 81ZJ of this Act applies;
- “the Act” means the *Science and Industry Research Act 1920-1945*;
- “the Council” means the Commonwealth Council for Scientific and Industrial Research;
- “the date of transfer” in relation to the persons employed in any transferred work, means the date specified in the notice by the Governor-General under section 81ZI of this Act in respect of that transferred work;
- “transferred work” means any work or class of work specified by the Governor-General in a notice by him under section 81ZI of this Act.

**Declaration
by
Governor-
General as to
certain work.**

Inserted by
No. 75, 1948,
s. 5.

81ZI. The Governor-General may, from time to time, by notice published in the *Gazette*, declare that any work or class of work specified in the notice which is being performed under the control of the Council is work which should, on and from a date specified in the notice, be performed under the control of such Department of State of the Commonwealth as is specified in the notice and, on and from that date, that work shall accordingly be performed under the control of the Department so specified.³³

**Transfer of
employees.**

Inserted by
No. 75, 1948,
s. 5.

Sub-section (1)
amended by
No. 71, 1973,
s. 5.

81ZJ. (1) A person who—

- (a) was appointed under section 14A of the Act; or
- (b) was employed under section 14B of the Act,

being a person who was, immediately prior to the date of transfer, engaged on transferred work, shall, by force of this section but subject to this Act—

- (i) be transferred on that date to the Commonwealth Service; and
- (ii) be employed in the Department specified in the notice relating to that transferred work.

(2) Where the Chairman of the Council certifies to the Board that an office specified in the certificate was, immediately prior to the date of

transfer, a classified office in the service of the Council and that the duties of that office consisted of transferred work, the office so specified shall, on that date, become an office in the Commonwealth Service in the Department specified in the notice in respect of that transferred work and shall have allotted to it, subject to this Act, the same salary or limits of salary as were allotted to it in the service of the Council.

(3) Where a certificate under the last preceding sub-section in respect of any office certifies that, immediately prior to the date of transfer, a person specified in the certificate was the occupant of that office in the service of the Council, that person shall, on that date and subject to this Act—

- (a) become the occupant of that office in the Commonwealth Service; and
- (b) be entitled to receive salary at the rate applicable to him immediately prior to the date of transfer.

* * * * *

Sub-section (4)
omitted by
No. 105, 1960,
s. 27.

(5) A temporary employee who is transferred to the Commonwealth Service by virtue of sub-section (1) shall, on the date of transfer, become a temporary employee in the Commonwealth Service and shall, subject to this Act, be entitled to receive salary or wages at the rate applicable to him immediately prior to that date.

Amended by
No. 209, 1973,
s. 13.

(6) For the purposes of this section, any reference to the occupant of an office shall not include a person temporarily occupying, or temporarily performing the duties of, that office.

81ZK. Service of an employee—

- (a) as a permanent officer or temporary employee in the service from which he is transferred during a continuous period immediately prior to the date of transfer; or
- (b) which, under the law applicable to his service immediately prior to the date of transfer, was deemed to be, or was treated as, permanent or temporary service in the service from which he is transferred,

Prior service
reckoned as
service under
this Act.

Inserted by
No. 75, 1948,
s. 5; amended by
No. 209, 1973,
s. 13.

shall be reckoned, for the purposes of this Act, as permanent or temporary service, as the case may be, in the Service.

81ZL. An employee shall preserve his eligibility for the grant of leave of absence for recreation or during illness which had accrued immediately prior to his transfer to the Commonwealth Service.

Accrued
recreation
and sick
leave.

Inserted by
No. 75, 1948,
s. 5.

Division 10—Temporary Employment

Temporary
employment.
Sub-section (1A)
inserted by
No. 105, 1960,
s. 28.

82. (1A) Subject to this section, a Chief Officer of a Department may employ persons in a temporary capacity in the Department.

(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.

Substituted by
No. 13, 1957,
s. 21; amended
by No. 71, 1973,
s. 5.

(4) Subject to sub-section (7), the continuous employment of a person in a temporary capacity, whether in one Department or in more than one Department, shall not extend beyond the end of the first or any succeeding year of that employment unless the Board certifies in writing that the continued employment of that person beyond the end of that first or succeeding year is necessary.³⁴

Sub-section (5)
omitted by
No. 13, 1957,
s. 21.

* * * * *

(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.

* * * * *

Sub-sections (9), (9A) and (10) omitted by No. 209, 1973, s. 13.

(11) Sub-sections (2), (7), (9) and (10) do not apply in relation to the employment of persons in a temporary capacity to perform duties overseas and sub-sections (3), (4) and (8) do not apply in relation to employees performing duties overseas.

Added by No. 105, 1960, s. 28; amended by No. 71, 1973, s. 5.

(12) In relation to the employment of persons to perform duties overseas, the power of a Chief Officer under sub-section (1A) is exercisable only with the approval of the Board.

Added by No. 105, 1960, s. 28; amended by No. 209, 1973, s. 13.

(13) In this section, "overseas" has the same meaning as in section 8B.

Added by No. 105, 1960, s. 28; amended by No. 71, 1973, s. 5.

82AA. (1) Where the services of an employee who is a contributor to the Superannuation Fund established under the *Superannuation Act* 1922-1973 or to the Provident Account established under Part IVB of that Act are dispensed with by the Chief Officer on the ground that the employee has been guilty of conduct that, if he were an officer, would have constituted an offence specified in sub-section (1) of section 55, the Chief Officer shall give to that employee written notice that his services have been so dispensed with and shall specify in the notice the ground on which, and the date upon which, his services were dispensed with.

Dismissal of temporary employees.

Inserted by No. 84, 1947, s. 6.

Sub-section (1) substituted by No. 209, 1973, s. 13.

(2) A person whose services have been dispensed with in accordance with the last preceding sub-section may appeal, in such manner and within such time (not being less than seven days) as are prescribed, against the decision of the Chief Officer and the appeal shall be heard by an Appeal Board which shall consist of—

Amended by No. 13, 1957, s. 22; and No. 71, 1973, s. 5.

- (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 who shall not, while sitting as Chairman of an Appeal Board, be subject to any direction by any person or authority under this Act;
- (b) an officer of the Department in which the appellant was employed, appointed by the Chief Officer for the purpose of the particular appeal to be heard; and
- (c) subject to the next succeeding sub-section, the officer who, by virtue of paragraph (c) of sub-section (5) of section 55, would be the appropriate elected officer to be a member of an Appeal Board under that section in the case of an appeal under that section by an officer—
 - (i) included in the Division in which an officer performing duties similar to those which the appellant was required to perform would be included; and
 - (ii) performing his duties in the place in which the appellant was required to perform his duties.

Substituted by
No. 13, 1957,
s. 22.

(2A) In the case of the illness, absence or suspension of the elected officer referred to in paragraph (c) of the last preceding sub-section, or where there is no such elected officer or the Board is of opinion that, by reason of the elected officer being personally interested in, or affected by, a matter which is the subject of the appeal, it is undesirable that he should act as a member of the Appeal Board, the Board may appoint an officer of the appropriate Division to act temporarily as a member of the Appeal Board in lieu of an elected officer.

Amended by
No. 71, 1973,
s. 5.

(3) An appeal may be made on the ground—

- (a) that the appellant is not guilty of the conduct specified in the notice given to him under sub-section (1); or
- (b) that the appellant is so guilty but that the conduct does not justify the decision to dispense with his services.

Amended by
No. 47, 1966,
s. 30.

(4) The Appeal Board may confirm or annul the decision appealed against or vary the decision by imposing a fine not exceeding Ten dollars and the decision of the Appeal Board shall be final.

Amended by
No. 71, 1973,
s. 5.

(5) On the hearing of an appeal on the ground specified in paragraph (b) of sub-section (3), the Appeal Board shall take into consideration the previous record of the appellant.

Amended by
No. 209, 1973,
s. 13.

(6) Where the Appeal Board annuls the decision appealed against or varies the decision of the Chief Officer by imposing a fine, the person whose services have been dispensed with shall be reinstated as from the date from which his services were dispensed with without a break in the continuity of his service but he shall not, unless otherwise ordered by the Appeal Board, be entitled to receive salary in respect of the period between the date from which his services were dispensed with and the date upon which the Appeal Board decided the appeal.

(7) Where at any meeting of an Appeal Board the members present are divided in opinion as to any action to be taken 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.

Amended by
No. 71, 1973,
s. 5; and
No. 209, 1973,
s. 13.

(8) Subject to this Act, the provisions of sections 57, 58, 59, 60 and 61 shall, *mutatis mutandis*, apply to an appeal under this section.

Continuation
of
employment
of temporary
employees.

Inserted by
No. 29, 1945,
s. 6; amended by
No. 71, 1973,
s. 5; and
No. 209, 1973,
s. 13.

82A. A person, not being a State employee as defined in section 81A, who was, immediately prior to the commencement of this section, holding office as an employee under regulation ten of the National Security (Man Power) Regulations, shall for all purposes of this Act be deemed to be a person temporarily employed under section 82 and the period of his continuous service under that regulation immediately prior to such commencement shall be deemed to be temporary service in the Service.

82B.³⁵ (1) Notwithstanding anything contained in section 82, if the Board is satisfied that any person who was temporarily employed in any Department—

- (a) resigned from that employment in order to become a candidate for election as a member of any House of the Parliament of Australia or of a State;
- (b) was a candidate at the election; and
- (c) failed to be elected,

and that the resignation was effective not earlier than one month prior to the date on which nominations for the election closed, the Board may, upon application by that person within two months after the declaration of the result of the election, employ him in the same or in a similar capacity with the same rate of pay as that payable to him immediately prior to the date upon which his resignation took effect.

(2) A person so employed shall be deemed to have continued in temporary employment in the Service as if the period of his employment in pursuance of this section and the unbroken period of his employment immediately prior to the date upon which his resignation took effect were a continuous period of temporary employment.

Temporary employment of persons who have resigned to become candidates at elections.

Inserted by No. 43, 1945, s. 15.
Sub-section (1) amended by No. 209, 1973, s. 13.

Amended by No. 209, 1973, s. 13.

* * * * *

Section 83 repealed by No. 11, 1945, s. 23.
Division II (section 84) repealed by No. 105, 1960, s. 29.

Division 12—Retirement of Officers

85. (1) Every officer having attained the age of sixty years shall be entitled to retire from the Service if he desires so to do; but any such officer may, unless he is retired in pursuance of sub-section (2), continue in the Service until he attains the age of sixty-five years.

Retirement of officers.
Sub-section (1) amended by No. 209, 1973, s. 13.

(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.

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 Australia 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.
Amended by No. 209, 1973, s. 13.

Section 87
repealed by
No. 105, 1960,
s. 30.

* * * * *

Division 13—Miscellaneous

Performance
of duties of
officer in
absence.

Sub-section (1)
amended by
No. 47, 1966,
s. 26.

88. (1) 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 the officer holding an office in Her Majesty's Service (other than the office of a Minister or a judicial office), 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 while the first-mentioned officer is absent or not available to perform his duties or during a vacancy in the office, 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.

Added by
No. 71, 1973,
s. 3.

(2) Where an office referred to in sub-section (1) is an office in a Department, an officer temporarily performing the duties of that office under this Act may perform or exercise any duty, obligation, right or power that he would have been able to perform or exercise if the Governor-General had given a direction to him under sub-section (1) in relation to that office.

Rent
chargeable
for quarters.
Sub-section (1)
amended by
No. 19, 1930,
s. 8; and
No. 209, 1973,
s. 13.

89. (1) If the whole or part of a building belonging to or occupied by Australia 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:

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 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.

(6) This section does not apply in relation to a building or residential quarters situated outside Australia and the Territories.

Added by No. 105, 1960, s. 31; amended by No. 47, 1966, s. 27; and No. 209, 1973, s. 13.

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.

Payments to officers.

(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.

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

Performance of work outside the Service.

(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

Sub-section (1) amended by No. 19, 1930, s. 9; and No. 209, 1973, s. 13.

(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

(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 Australia.

Amended by
No. 46, 1924,
s. 2; No. 43,
1945, s. 16; and
No. 209, 1973,
s. 12.

(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 law in any State or elsewhere.

Substituted by
No. 209, 1973,
s. 12.

(3) Notwithstanding sub-section (1), an officer may act as a director of a company or incorporated society—

- (a) with the permission of the Board under sub-section (4) and in accordance with the conditions, if any, to which that permission is subject; or
- (b) in accordance with the requirements of the duties of his office or otherwise on behalf of Australia,

but not otherwise.

Added by
No. 209, 1973,
s. 12.

(4) The Board may, in such cases or circumstances, and subject to such conditions (if any), as are prescribed, grant to an officer, in writing, permission to act as a director of a company or incorporated society and may include in the permission such conditions, or further conditions, if any, as the Board thinks necessary.

Added by
No. 209, 1973,
s. 12.

(5) The Board shall not, under sub-section (4), grant permission to an officer to act as a director of a company or incorporated society unless it is satisfied that there will not be, or appear to be, any conflict between the duties of his office and the duties of the directorship.

Added by
No. 209, 1973,
s. 12.

(6) The Board may, at any time, by notice in writing to an officer, revoke a permission granted to him under sub-section (4).

Officers
receiving
remuneration
additional to
salary.

Inserted by
No. 84, 1947,
s. 7.
Sub-section (1)
amended by
No. 209, 1973,
s. 13.

91A. (1) Where an officer receives, in addition to the salary payable to him under this Act, any other amount by way of remuneration or allowance for the performance of services, and the Board directs, by notice in writing given to that officer, that this section shall apply to that remuneration or allowance, this section shall apply accordingly and that officer shall be deemed to receive that remuneration or allowance on behalf of Australia and shall pay to Australia any amount of that remuneration or allowance received by him.

Amended by
No. 209, 1973,
s. 13.

(2) The amount of any remuneration or allowance received by an officer to which, by virtue of a notice given to that officer under the last preceding sub-section, this section applies, shall be any amount received by the officer for the performance of services during such period (whether before or after the commencement of this section but not being earlier than 1 July 1947) as is specified in that notice.

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, 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 to inquire into the origin of birth and parentage of officers or employees makes a report to the Governor-General expressing the opinion that the service of any person as an officer or employee should not be continued, the Governor-General may dismiss the person from office or employment.

Dismissal of officer of enemy origin.

Sub-section (1) amended by No. 209, 1973, s. 13.

(2) If the Board, after inquiry, reports to the Governor-General that, in its opinion, the continuance of any person as an officer or employee is detrimental to the public safety or the defence of Australia, the Governor-General may dismiss the person from office or employment.

Amended by No. 209, 1973, s. 13.

(3) No person who is dismissed from office or employment in pursuance of this section shall be entitled to make any claim against Australia by way of compensation or otherwise in respect of his dismissal.

Amended by No. 209, 1973, s. 13.

* * * * *

Sub-section (4) omitted by No. 209, 1973, s. 13.

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:

Repayment of deductions on account of assurance.

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.

Personation,
&c., at
examinations.

Repealed by
No. 45, 1934,
s. 2; inserted by
No. 105, 1960,
s. 32.

Sub-section (1)
amended by
No. 47, 1966,
s. 30.

96. (1) A person shall not—

- (a) personate another person at an examination held under this Act;
- (b) permit another person to personate him at an examination held under this Act; or
- (c) before the time at which an examination is to be held under this Act—
 - (i) improperly obtain possession of; or
 - (ii) except with proper authority, furnish to a person, an examination paper that has been set for that examination or particulars relating to such an examination paper.

Penalty: Two hundred dollars or imprisonment for six months.

(2) An officer who is convicted of an offence against this section may be dismissed by the Board.

Regulations.

Sub-section (1)
amended by
No. 46, 1924,
s. 23; No. 43,
1945, s. 17;
No. 46, 1951,
s. 19; No. 63,
1954, s. 18;
No. 13, 1957,
s. 24; No. 105,
1960, s. 33;
No. 71, 1973,
s. 5; and
No. 209, 1973,
s. 13.

97.³⁷ (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:—

- (a) for defining the seniority of officers of the Second, Third and Fourth Divisions;
- (b) for defining, in relation to the officers included in a class of officers, the seniority of those officers for the purpose of transfer or promotion within that class;
- (c) prescribing the conditions under which officers of a Division may be transferred to another Division or to an office in another Division, and fixing maximum ages for such transfers;

* * * * *

- (f) for prescribing courses of study for which recognition may be given by the Board;

* * * * *

- (h) for regulating the procedure of Boards of Inquiry and Appeal Boards or of Promotions Appeal Committees;

* * * * *

- (j) the allowances which may be paid to officers or employees;
- (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;
- (ma) for providing for forfeiture of salary or pay of officers or employees in respect of periods of absence not authorized by or under this Act or the regulations;
- (n) for regulating the granting of leave of absence to officers and temporary employees;
- (o) the performance of overtime;

* * * * *

- (q) for providing for the notification to the Board of punishments imposed on officers under sections 55 and 56 and for the keeping, for such periods as are specified in the regulations, of records of punishments so imposed;
- (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;
- (sa) for providing for appeals against temporary transfers;
- (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 each House of the Parliament within fifteen sitting days of that House after the approval of the regulations by the Governor-General.

Amended by
No. 72, 1936,
s. 12.

Part IV (sections 98-103 and 105-108) repealed by No. 63, 1954, s. 19; section 104 repealed by No. 11, 1945, s. 23.

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Heading omitted by No. 71, 1973, s. 5.

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Schedule 1 repealed by No. 209, 1973, s. 13.

Substituted by No. 71, 1973, s. 4.

SCHEDULE 2³⁸

Sections 7 and 10.

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 Department of Aboriginal Affairs
 The Department of Air
 The Department of the Army
 The Attorney-General's Department
 The Department of the Capital Territory
 The Department of Civil Aviation
 The Department of Customs and Excise
 The Department of Defence
 The Department of Education
 The Department of the Environment and Conservation
 The Department of External Territories
 The Department of Foreign Affairs
 The Department of Health
 The Department of Housing
 The Department of Immigration
 The Department of Labour
 The Department of the Media
 The Department of Minerals and Energy
 The Department of the Navy
 The Department of Northern Development
 The Department of the Northern Territory
 The Department of Overseas Trade
 The Postmaster-General's Department
 The Department of Primary Industry
 The Department of the Prime Minister and Cabinet
 The Repatriation Department
 The Department of Science
 The Department of Secondary Industry
 The Department of Services and Property
 The Department of Social Security
 The Department of the Special Minister of State
 The Department of Supply
 The Department of Tourism and Recreation
 The Department of Transport
 The Department of the Treasury
 The Department of Urban and Regional Development
 The Department of Works

SCHEDULE 3³⁹Section 25. Substituted by
No. 71, 1973, s.4.

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 Department of Aboriginal Affairs
 The Secretary to the Department of Air
 The Secretary to the Department of the Army
 The Secretary to the Attorney-General's Department
 The Secretary to the Department of the Capital Territory
 The Director-General of Civil Aviation
 The Comptroller-General of Customs
 The Secretary to the Department of Defence
 The Secretary to the Department of Education
 The Secretary to the Department of the Environment and Conservation
 The Secretary to the Department of External Territories
 The Secretary to the Department of Foreign Affairs
 The Director-General of Health
 The Secretary to the Department of Housing
 The Secretary to the Department of Immigration
 The Secretary to the Department of Labour
 The Secretary to the Department of the Media
 The Secretary to the Department of Minerals and Energy
 The Secretary to the Department of the Navy
 The Secretary to the Department of Northern Development
 The Secretary to the Department of the Northern Territory
 The Secretary to the Department of Overseas Trade
 The Director-General of Posts and Telegraphs
 The Secretary to the Department of Primary Industry
 The Secretary to the Department of the Prime Minister and Cabinet
 The office under the *Repatriation Act* 1920-1973 of Chairman of the Repatriation Commission
 The Secretary to the Department of Science
 The Secretary to the Department of Secondary Industry
 The Secretary to the Department of Services and Property
 The Director-General of Social Services
 The Secretary to the Department of the Special Minister of State
 The Secretary to the Department of Supply
 The Secretary to the Department of Tourism and Recreation
 The Secretary to the Department of Transport
 The Secretary to the Department of the Treasury
 The Secretary to the Department of Urban and Regional Development
 The Director-General of Works

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Schedules 4, 5
and 6 repealed
by No. 209,
1973, s. 13.

NOTES

1. The *Public Service Act* 1922-1973 comprises the *Commonwealth Public Service Act* 1922 as amended by the other Acts specified in the following table:

Act	Number and year	Date of Assent	Date of commencement
<i>Commonwealth Public Service Act 1922</i>	No. 21, 1922	18 Oct 1922	19 July 1923 (<i>see Gazette</i> 1923, p. 1035)
<i>Commonwealth Public Service Act 1924</i>	No. 46, 1924	20 Oct 1924	15 Nov 1924 (<i>see Gazette</i> 1924, p. 2715)
<i>Commonwealth Public Service Act 1928</i>	No. 41, 1928	26 Sept 1928	26 Sept 1928
<i>Commonwealth Public Service Act 1930</i>	No. 19, 1930	28 July 1930	S. 4: 1 Oct 1929 Remainder: Royal Assent
<i>Commonwealth Public Service Act 1931</i>	No. 21, 1931	7 Aug 1931	7 Aug 1931
<i>Commonwealth Public Service Act 1932</i>	No. 72, 1932	5 Dec 1932	5 Dec 1932
<i>Commonwealth Public Service Act 1933</i>	No. 38, 1933	9 Dec 1933	9 Dec 1933
<i>Statute Law Revision Act 1934</i>	No. 45, 1934	6 Aug 1934	6 Aug 1934
<i>Commonwealth Public Service Act 1934</i>	No. 46, 1934	6 Aug 1934	6 Aug 1934
<i>Commonwealth Public Service Act 1936</i>	No. 72, 1936	7 Dec 1936	7 Dec 1936
<i>Commonwealth Public Service Act 1937</i>	No. 41, 1937	16 Sept 1937	16 Sept 1937
<i>Commonwealth Public Service Act 1939</i>	No. 72, 1939	15 Dec 1939	2 Sept 1939
<i>Commonwealth Public Service Act 1940</i>	No. 88, 1940	16 Dec 1940	13 Jan 1941
<i>Commonwealth Public Service Act 1941</i>	No. 5, 1941	4 Apr 1941	Ss. 3 and 5: 2 Sept 1939 Remainder: Royal Assent
<i>Commonwealth Employees' Furlough Act 1943</i>	No. 19, 1943	29 Mar 1943	29 Mar 1943
<i>Re-establishment and Employment Act 1945</i>	No. 11, 1945	28 June 1945	Parts XI and XII: 11 Jan 1952 (<i>see Gazette</i> 1952, p. 1319) Remainder: 27 Aug 1945 (<i>see Gazette</i> 1945, p. 1859)
<i>Commonwealth Public Service Act 1945</i>	No. 29, 1945	16 Aug 1945	16 Aug 1945
<i>Commonwealth Public Service Act (No. 2) 1945</i>	No. 43, 1945	11 Oct 1945	S. 2: Royal Assent S. 13: 29 Mar 1943 S. 14: 12 June 1941 S. 16: 1 Mar 1945 Remainder: 1 May 1946 (<i>see Gazette</i> 1946, p. 771)
<i>Commonwealth Public Service Act 1946</i>	No. 16, 1946	3 May 1946	3 May 1946
<i>Commonwealth Public Service Act 1947</i>	No. 1, 1947	14 Mar 1947	14 Mar 1947 (a)
<i>War Service Homes Act 1947</i>	No. 38, 1947	12 June 1947	14 July 1947 (<i>see Gazette</i> 1947, p. 1885)
<i>Salaries (Statutory Offices) Adjustment Act 1947(b)</i>	No. 52, 1947	1 Nov 1947	1 Nov 1947
<i>Commonwealth Public Service Act (No. 2) 1947</i>	No. 84, 1947	11 Dec 1947	8 Jan 1948
<i>Commonwealth Public Service Act 1948</i>	No. 35, 1948	26 June 1948	1 Sept 1948 (<i>see Gazette</i> 1948, p. 3115)
<i>Commonwealth Public Service Act (No. 2) 1948</i>	No. 75, 1948	17 Dec 1948	17 Dec 1948

Act	Number and year	Date of Assent	Date of commencement
<i>Salaries (Statutory Offices) Adjustment Act 1950(b)</i>	No. 51, 1950	14 Dec 1950	1 July 1950
<i>Statute Law Revision Act 1950</i>	No. 80, 1950	16 Dec 1950	31 Dec 1950
<i>Public Service Act (No. 2) 1951</i>	No. 46, 1951	7 Dec 1951	Ss. 1-3, 16 and 20: Royal Assent S. 15: 1 Jan 1951 Remainder: 18 Mar 1952 (<i>see Gazette</i> 1952, p. 1951)
<i>Re-establishment and Employment Act 1951</i>	No. 48, 1951	8 Dec 1951	8 Dec 1951
<i>Public Service Act 1953</i>	No. 22, 1953	9 Apr 1953	Ss. 5, 10-12 and 14: 1 July 1952 Remainder: Royal Assent
<i>Public Service Act 1954</i>	No. 63, 1954	6 Nov 1954	Ss. 10-12 and 18: 1 Mar 1955 Remainder: Royal Assent
<i>Salaries Adjustment Act 1955</i>	No. 18, 1955	10 June 1955	10 June 1955
<i>Public Service Act 1957</i>	No. 13, 1957	25 May 1957	Ss. 4, 7, 14, 23 and 24: 20 Feb 1959 (<i>see Gazette</i> 1959, p. 729) Remainder: Royal Assent
<i>Salaries (Statutory Offices) Adjustment Act 1957(b)</i>	No. 39, 1957	12 Sept 1957	1 July 1957
<i>Public Service Act 1958</i>	No. 11, 1958	14 May 1958	20 Apr 1958
<i>Salaries (Statutory Offices) Adjustment Act 1960(b)</i>	No. 17, 1960	17 May 1960	17 May 1960(c)
<i>Public Service Act 1960</i>	No. 105, 1960	16 Dec 1960	Ss. 1-2, 9-10, 14, 16-19 (1), 20 and 21: Royal Assent Remainder: 11 May 1961 (<i>see Gazette</i> 1961, p. 1757)
<i>Public Service Act 1964</i>	No. 2, 1964	4 Mar 1964	17 Dec 1963
<i>Salaries (Statutory Offices) Adjustment Act 1964(b)</i>	No. 75, 1964	5 Nov 1964	5 Nov 1964(d)
<i>Public Service Act 1966</i>	No. 47, 1966	26 Oct 1966	26 Oct 1966(e)
<i>Public Service Act (No. 2) 1966</i>	No. 85, 1966	29 Oct 1966	18 Nov 1966 (<i>see Gazette</i> 1966, p. 5732)
<i>Public Service Act 1967</i>	No. 2, 1967	20 Mar 1967	13 Dec 1966
<i>Public Service Act (No. 2) 1967</i>	No. 115, 1967	17 Nov 1967	17 Nov 1967
<i>Public Service Act 1968</i>	No. 59, 1968	25 June 1968	25 June 1968
<i>Public Service Act (No. 2) 1968</i>	No. 114, 1968	2 Dec 1968	2 Dec 1968
<i>Salaries Act 1968(b)</i>	No. 120, 1968	2 Dec 1968	2 Dec 1968(f)
<i>Public Service Act 1972</i>	No. 6, 1972	24 Mar 1972	24 Mar 1972
<i>Public Service Act 1973</i>	No. 21, 1973	18 Apr 1973	1 Jan 1973
<i>Public Service Act (No. 2) 1973</i>	No. 71, 1973	18 June 1973	18 June 1973
<i>Public Service Act (No. 3) 1973</i>	No. 73, 1973	18 June 1973	18 June 1973
<i>Public Service Act (No. 4) 1973</i>	No. 209, 1973	19 Dec 1973	(g)

- (a) Sub-section 2 (2) of the *Commonwealth Public Service Act* 1947 provides as follows:
 “(2) The amendments made and repeals effected by this Act shall not have any effect in relation to persons holding office or employed, or to employment, under—
 (a) the *Australian Soldiers’ Repatriation Act* 1920-1946; or
 (b) the *War Service Homes Act* 1918-1946,
 until the day fixed by Proclamation, in pursuance of section eighty-one Y of the Principal Act, as amended by this Act, as the day upon which the service of the Repatriation Commission or the service of the War Service Homes Commissioner, as the case may be, shall be transferred to the Commonwealth Service.”
 The date fixed by Proclamation in respect of the service of the Repatriation Commission was 1 September 1947 (*see Gazette* 1947, p. 2543) and in respect of the service of the War Service Homes Commissioner was 8 May 1947 (*see Gazette* 1947, p. 1269).
- (b) The *Salaries (Statutory Offices) Adjustment Act* 1947, the *Salaries (Statutory Offices) Adjustment Act* 1950, the *Salaries (Statutory Offices) Adjustment Act* 1957, the *Salaries (Statutory Offices) Adjustment Act* 1960, the *Salaries (Statutory Offices) Adjustment Act* 1964 and the *Salaries Act* 1968 were repealed by section 7 of the *Statute Law Revision Act* 1973. That section provides that the repeals do not affect the operation of any amendment made by a repealed Act or any provision made by it for the citation of an Act as so amended.
- (c) Section 2 of the *Salaries (Statutory Offices) Adjustment Act* 1960 provides as follows:
 “2. This Act shall come into operation on the day on which it receives the Royal Assent but the amendments made by this Act shall be deemed to have taken effect on the third day of December, One thousand nine hundred and fifty-nine.”
- (d) Section 2 of the *Salaries (Statutory Offices) Adjustment Act* 1964 provides as follows:
 “2. This Act shall come into operation on the day on which it receives the Royal Assent but the amendments made by this Act shall be deemed to have taken effect on the first day of November, One thousand nine hundred and sixty-four.”
- (e) Sub-section 2 (2) of the *Public Service Act* 1966 provides as follows:
 “(2) The amendments made by paragraphs (a), (c), (d) and (e) of section 3, by section 12, and by paragraphs (b) and (c) of section 13, of this Act, shall be deemed to have taken effect on the thirtieth day of June, One thousand nine hundred and sixty-five.”
- (f) Section 2 of the *Salaries Act* 1968 provides as follows:
 “2. This Act shall come into operation on the day on which it receives the Royal Assent but the amendments made by this Act shall be deemed to have taken effect on the first day of December, One thousand nine hundred and sixty-eight.”
- (g) Section 2 of the *Public Service Act* (No. 4) 1973 provides as follows:
 “2. (1) Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.
 “(2) Sub-section 12 (1) shall come into operation on a date to be fixed by Proclamation.
 “(3) The amendments of the Principal Act effected by sections 10 and 11 shall be deemed to have taken effect on 1 January 1973.”
 The date fixed by Proclamation was 1 January 1975 (*see Gazette* 1974, No. 103D, p. 1).

2.—S. 7 (1)—Now cited as the *Public Service Arbitration Act* 1920-1973.

3.—S. 12 (1)—*See* sub-section 25 (4) of this Act.

4.—S. 13 (1)—By section 15 of, and Schedule 4 to, the *Remuneration and Allowances Acts* 1973, the rate per annum of the salary applicable to the office of Chairman of the Public Service Board is \$29,250 and that of member of the Public Service Board \$25,000 with an annual allowance of \$1,750 and \$1,200 respectively.

5. Sub-section 16 (1) was substituted by sub-section 6 (1) of the *Public Service Act* 1957. Sub-section 6 (2) of that Act provides as follows:

“(2) An instrument of delegation issued under section sixteen of the Principal Act and in force immediately before the commencement of this section shall, after the commencement of this section, have effect as if it had been issued under section sixteen of the Principal Act as amended by the last preceding sub-section.”

Section 6 of the *Public Service Act* 1957 commenced on 25 May 1957.

6. Sub-section 24 (1A) was inserted by sub-section 6 (1) of the *Public Service Act* 1966. Sub-section 6 (2) of that Act provides as follows:

“(2) In relation to the exercise of any power or function of the Permanent Head of the Repatriation Department before the date on which this Act received the Royal Assent, a person who held office as Chairman of the Repatriation Commission under the *Australian Soldiers' Repatriation Act* 1920-1946 or under that Act as amended shall be deemed to have been the Permanent Head of that Department.”

The *Public Service Act* 1966 received the Royal Assent on 26 October 1966. The Australian Soldiers' Repatriation Act is now cited as the Repatriation Act.

- 7.—S. 25—Sub-section 15 (2) of the *Broadcasting and Television Act* 1942-1973 provides as follows:

“(2) For the purposes of this section, the Chairman of the Board shall have all the powers of, or exercisable by, a Permanent Head under the *Public Service Act* 1922-1973 so far as those powers relate to the branch of the Public Service under the control of the Board.”

Sub-section 19 (2) of the *Australian Universities Commission Act* 1959-1973 provides as follows:

“(2) For the purposes of this section, the Chairman has all the powers of, or exercisable by, a Permanent Head under the *Public Service Act* 1922-1968 so far as those powers relate to the branch of the Public Service of the Commonwealth comprising the staff of the Commission, as if that branch were a separate Department.”

Sub-section 17 (4) of the *National Library Act* 1960-1973 provides as follows:

“(4) The Director-General has all the powers of, or exercisable by, a Permanent Head under the *Public Service Act* 1922-1960 so far as those powers relate to the branch of the Public Service of the Commonwealth comprising the staff of the National Library, as if that branch were a separate Department.”

Section 16 of the *Parliamentary Counsel Act* 1970-1973 provides as follows:

“16. (1) The staff required for the purposes of this Act shall be persons appointed or employed under the *Public Service Act* 1922-1968.

“(2) The First Parliamentary Counsel has all the powers of, or exercisable by, a Permanent Head under the *Public Service Act* 1922-1968 so far as those powers relate to the branch of the Public Service of the Commonwealth comprising the staff referred to in the last preceding sub-section as if that branch were a separate Department of the Public Service of the Commonwealth.

“(3) For the purposes of sub-sections (5) and (6) of section 25 of the *Public Service Act* 1922-1968, the First Parliamentary Counsel shall be deemed to be a Permanent Head.”

Section 19 of the *Commission on Advanced Education Act* 1971-1973 provides as follows:

“19. (1) The staff of the Commission shall be employed under the *Public Service Act* 1922-1968.

“(2) For the purposes of this section the Chairman has all the powers of, or exercisable by, a Permanent Head under the *Public Service Act* 1922-1968 so far as those powers relate to the branch of the Public Service of the Commonwealth comprising the staff of the Commission as if that branch were a separate department of the Public Service of the Commonwealth.

“(3) For the purposes of sub-sections (5) and (6) of section 25 of the *Public Service Act* 1922-1968, the Chairman shall be deemed to be a Permanent Head.

“(4) In this section, ‘the Chairman’ includes an acting Chairman of the Commission.”

8.—S. 29 (1)—Sub-section 51 (3) of the *Judiciary Act* 1903-1973 provides that no new office shall be created either in the Principal Registry or in any District Registry of the High Court unless the Chief Justice certifies in writing to the Governor-General that the new office is necessary.

9.—Div. 4—Section 34 of the *Public Service Act* 1960 provides as follows:

“34. (1) In this section, ‘the commencing date’ means the date fixed under sub-section (3) of section two of this Act.

“(2) The repeal effected by section eleven of this Act does not affect any appointment to the Commonwealth Service made before the commencing date.

“(3) The provisions of sub-sections (2) and (3) of section forty-three of the Principal Act continue to apply in relation to an officer of the Commonwealth Service or of the Territorial Service who had been transferred in pursuance of that section before the commencing date where the period of his transfer had not been completed before that date.

“(4) The provisions of sub-section (2) of section forty-seven A of the Principal Act continue to apply in relation to a person to whom those provisions applied immediately before the commencing date.

“(5) Nothing in sub-section (3) of section forty-six of the Principal Act as amended by this Act prevents the appointment of a person to an office in the Commonwealth Service after the commencing date in pursuance of an application for appointment made in accordance with a notification published under section thirty-four of the Principal Act, if the appointment is made in accordance with the order of appointment specified in the notification.”

The date referred to in sub-section 34 (1) is 11 May 1961.

10. Sections 35 and 39 were substituted by s. 11 of the *Public Service Act* 1960. Section 35 of that Act provides as follows:

“35. A returned soldier who, immediately before the date fixed under sub-section (3) of section two of this Act—

(a) was an applicant for appointment to the Commonwealth Service; and

(b) was, by virtue of section eighty-four of the Principal Act, deemed to have obtained the educational qualifications required for appointment to any offices in the Commonwealth Service,

shall be deemed to have obtained the educational qualification required for appointment to those offices by section thirty-five or thirty-nine of the Principal Act as amended by this Act.”

The date referred to in this section is 11 May 1961.

11. The operation of sub-section 46 (3) is affected by sub-section 34 (5) of the *Public Service Act* 1960, which is set out in note 9.

12.—S. 47A—*See* note 13.

13. Section 47C re-enacts with variations section 47A of the *Public Service Act* 1922-1958. As to the continued operation of sub-section (2) of that section, *see* sub-section 34 (4) of the *Public Service Act* 1960 set out in note 9.

Section 47A of the *Public Service Act* 1922-1958 was inserted by sub-section 5 (1) of the *Commonwealth Public Service Act (No. 2)* 1945. Sub-section 5 (2) of the last-mentioned Act provides as follows:

“(2) Any officer who, after the first day of September, One thousand nine hundred and forty—

- (a) resigned from the Commonwealth Service in order to become a candidate for election as a member of any House of the Parliament of the Commonwealth or of a State;
- (b) was a candidate at the election; and
- (c) failed to be elected,

and, thereafter, but prior to the commencement of this Act, was appointed to the Commonwealth Service, shall be deemed to have been appointed in pursuance of sub-section (1) of section forty-seven A of the *Commonwealth Public Service Act* 1922-1945, and the provisions of sub-section (2) of that section shall apply in relation to his service accordingly.”

14. Section 47D re-enacts with variations section 43 of the *Public Service Act* 1922-1958. As to the continued operation of sub-sections (2) and (3) of that section, *see* sub-section 34 (3) of the *Public Service Act* 1960 set out in note 9.

15.—Ss. 48 (1), 81Y and 81Z (1)—Now cited as the *Repatriation Act* 1920-1973.

16.—Ss. 48 (1), 81Y and 81Z (1)—Now cited as the *Defence Service Homes Act* 1918-1973.

17.—S. 50 (5AB)—Section 50 was amended by section 3 of the *Public Service Act* 1972. Section 6 of that Act provides as follows:

“6. Notwithstanding the amendments made by this Act—

- (a) the regulations in force under the Principal Act immediately before the commencement of this Act with respect to the constitution of Promotions Appeal Committees continue in force in relation to Promotions Appeal Committees other than Central Promotions Appeal Committees as if made under the Principal Act as amended by this Act; and
- (b) a Promotions Appeal Committee constituted under the Principal Act immediately before the commencement of this Act continues in existence as if constituted under the Principal Act as amended by this Act.”

18.—S. 50 (8)—Sub-sections 50 (8), (8A)—(8F) and (9)—(16) were substituted for sub-sections (8)—(15) by paragraph 3 (c) of the *Public Service Act* 1972. Section 5 of that Act provides that the amendments made by paragraph 3 (c) apply only in relation to appeals in respect of promotions notified on or after a date to be fixed by Proclamation as the proclaimed date for the purposes of that section. The date fixed was 1 March 1973; *see Gazette* 1973, No. 22, p. 3.

19.—S. 54—By section 5 of the *National Health Act* 1953-1973, a person is not eligible to be appointed as the Director-General of Health of the Commonwealth unless he is a legally qualified medical practitioner of not less than ten years' standing.

- 20.—Div. 5A—The *Maternity Leave (Australian Government Employees) Act* 1973 makes provision for maternity leave in respect of employees of the Australian Government and certain other persons.
- 21.—Div. 8—The *Maternity Leave (Australian Government Employees) Act* 1973 makes provision for maternity leave in respect of employees of the Australian Government and certain other persons, and includes in section 11 provision for “paternity leave” for male employees.
- 22.—Ss. 68-68E—*See* section 68F of this Act.
23. The date of commencement of s. 68A of this Act was 26 October 1966. *See* sub-section 2 (2) of the *Public Service Act* 1966 set out in paragraph (e) of note 1.
24. Sub-section 69 (3) was omitted by section 16 of the *Public Service Act* 1960. Sub-section 21 (2) of that Act provides as follows:
 “(2) The provisions of sub-section (3) of section sixty-nine, sub-section (2) of section seventy-one and sub-section (2) of section seventy-two A of the Principal Act continue to apply in relation to periods of leave of absence without pay granted under those sections before the day on which this Act receives the Royal Assent.”
25. Sub-section 71 (2) was omitted by section 18 of the *Public Service Act* 1960. For the continued operation of that sub-section in certain cases, *see* sub-section 21 (2) of that Act set out in note 24.
26. Section 72A was amended by section 3 of the *Public Service Act (No. 2)* 1968. Section 4 of that Act provides as follows:
 “4. (1) The amendment made by the last preceding section does not affect the continuance of leave granted under section 72A of the Principal Act for a period that is current immediately before the commencement of this Act, but section 72A of the Principal Act as amended by this Act applies as if that leave had been granted under that section as so amended.
 “(2) The regulations in force immediately before the date of commencement of this Act prescribing bodies or organizations for the purposes of section 72A of the Principal Act have effect, on and after that date, as regulations prescribing bodies or organizations for the purposes of section 72A of the Principal Act as amended by this Act.”
27. Sub-section 72A (2) as then in force was omitted by section 20 of the *Public Service Act* 1960. For the continued operation of that sub-section in certain cases, *see* sub-section 21 (2) of that Act set out in note 24.
- 28.—Ss. 73, 74 and 75 (3)—Section 6 of the *Public Service Act (No. 2)* 1967 provides as follows:
 “6. (1) Where, before the date on which this Act received the Royal Assent, a period of employment in the service of a person, authority, institution or body had been taken into account for the purposes of reckoning the period of service of an officer for the purposes of sections 73 and 74 of the Principal Act and, if the officer had been a Commonwealth employee within the meaning of the *Commonwealth Employees’ Furlough Act* 1943, or that Act as amended at any time, the taking into account of that period would have been deemed to have been lawful by reason of sub-section (1) of section 11 of the *Commonwealth*

Employees' Furlough Act 1967, that period of service shall be deemed to have been lawfully taken into account.

“(2) The regulations made under the Principal Act for the purposes of sections 73 and 74 of that Act and in force, or purporting to be in force, immediately before the date on which this Act received the Royal Assent have, on and from that date, the same force and effect that they would have had if they had been made under the Principal Act as amended by this Act.”

The *Public Service Act* (No. 2) 1967 received the Royal Assent on 17 November 1967.

29. Paragraph 74 (1) (b) was substituted by paragraph 22 (1) (b) of the *Public Service Act* 1966. Sub-section 22 (2) of that Act provides as follows:

“(2) The amendments made by paragraph (b) of the last preceding sub-section do not apply in relation to an officer whose period of service was, on the date on which this Act received the Royal Assent, not less than ten years.”

The *Public Service Act* 1966 received the Royal Assent on 26 October 1966.

30. Paragraph 74 (3) (b) was amended by sub-section 3 (1) of the *Public Service Act* 1968. Sub-section 3 (2) of that Act provides as follows:

“(2) The provision amended by the last preceding sub-section shall, as so amended, be deemed, in relation to an officer who was, on or after the first day of September, One thousand nine hundred and sixty-seven, and before the commencement of this Act, retired from the Commonwealth Service, under section 20 of the *Public Service Act* 1922-1966 or that Act as amended at any time, after not less than four years' service but less than eight years' service, to have been in force when the officer was so retired.”

The *Public Service Act* 1968 commenced on 25 June 1968.

- 31.—S. 81Y—See sub-section 2 (2) of the *Commonwealth Public Service Act* 1947 set out in paragraph (a) of note 1.

- 32.—S. 81ZC—Division 9D came into operation on 1 September 1948; see *Gazette* 1948, p. 3115.

- 33.—S. 81ZI—By notice published in the *Gazette* 1949, p. 375, the Governor-General declared that, on and from 10 February 1949, the work being performed in the Division of Aeronautics under the control of the Commonwealth Council for Scientific and Industrial Research was work which should be performed under the control of the Department of Supply and Development.

34. Sub-section 82 (4) was substituted by sub-section 21 (1) of the *Public Service Act* 1957. Sub-section 21 (2) of that Act provides as follows:

“(2) A person who, immediately before the commencement of this section, was employed in a temporary capacity shall, after the commencement of this section, continue in that employment subject to the provisions of the Principal Act as amended by this Act.”

Section 21 of the *Public Service Act* 1957 commenced on 25 May 1957.

35. Section 82B was inserted by sub-section 15 (1) of the *Commonwealth Public Service Act* (No. 2) 1945. Sub-section 15 (2) of that Act provides as follows:

“(2) Any person who was temporarily employed in any Department and who, after the first day of September, One thousand nine hundred and forty—

- (a) resigned from that employment in order to become a candidate for election as a member of any House of the Parliament of the Commonwealth or of a State;
- (b) was a candidate at the election; and
- (c) failed to be elected,

and, thereafter, but prior to the commencement of this Act, was temporarily employed in any Department shall be deemed to have been employed in pursuance of sub-section (1) of section eighty-two B of the *Commonwealth Public Service Act 1922-1945*, and the provisions of sub-section (2) of that section shall apply in relation to his employment accordingly."

36. Section 91 was amended by sub-section 12 (1) of the *Public Service Act (No. 4) 1973*; see sub-section 12 (2) of that Act set out in note 37.

37. Paragraphs 97 (1) (ma) and (q) were inserted by section 24 of the *Public Service Act 1957*. Section 28 of that Act provides as follows:

"28. Regulations for the purposes of section eighty-four or paragraph (ma) or (q) of sub-section (1) of section ninety-seven of the *Public Service Act 1922-1957* may be made before the date fixed by Proclamation under sub-section (2) of section two of this Act, but regulations so made shall not have any force or effect before that date."

Section 91 was amended by sub-section 12 (1) of the *Public Service Act (No. 4) 1973*. Sub-section 12 (2) of that Act provides as follows:

"(2) any time after this Act receives the Royal Assent and before the date fixed under sub-section 2 (2), regulations may be made for the purposes of the provisions inserted in the Principal Act by sub-section (1) of this section as if those provisions had come into operation on the date on which this Act receives the Royal Assent, but regulations so made shall not come into operation until the date fixed under sub-section 2 (2)."

As to the validation and saving of certain regulations, see sub-section 6 (2) of the *Public Service Act (No. 2) 1967* (set out in note 28), sub-section 4 (2) of the *Public Service Act (No. 2) 1968* (set out in note 26) and paragraph 6 (a) of the *Public Service Act 1972* (set out in note 17).

- 38.—Sch. 2—See section 7A of this Act, which provides that this Schedule is deemed to be amended upon notification in the *Gazette* of the abolition, establishment, or alteration of the name, of a Department.

- 39.—Sch. 3—For references to Acts providing that certain persons are to have the powers of a Permanent Head, see note 7.

See sub-section 25 (1) of this Act, which provides that this Schedule is deemed to be amended upon notification in the *Gazette* of the abolition, addition, or alteration of the name, of an office of Permanent Head of a Department.

PUBLIC SERVICE ARBITRATION ACT 1920-1973

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THE SCHEDULE

Oath or Affirmation

PUBLIC SERVICE ARBITRATION ACT

1920-1973

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

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| <p>1. This Act may be cited as the <i>Public Service Arbitration Act</i> 1920-1973.¹</p> | <p>Short title.
Short title amended;
No. 32, 1918, s. 2.</p> |
| <p>2. This Act shall commence on a date to be fixed by proclamation.¹</p> | <p>Commencement.</p> |
| <p>3. (1) In this Act unless the contrary intention appears—
“Commissioner” means a Commissioner (including the Senior Commissioner) holding office under the <i>Conciliation and Arbitration Act</i> 1904-1969;
“Conciliator” means a Conciliator holding office under the <i>Conciliation and Arbitration Act</i> 1904-1969;
“Conditions of employment” means salaries, wages, rates of pay or other terms or conditions of service or employment;
“Deputy Arbitrator” means a Deputy Public Service Arbitrator appointed in pursuance of this Act;
“Determination” includes an order under sub-section (1) of section twelve D, and an order under paragraph (e) of sub-section (1) of section fourteen, of this Act;
“Industrial situation” means—</p> | <p>Interpretation.
Amended by
No. 80, 1950, s. 13; No. 36, 1952, s. 3;
No. 51, 1956, s. 3; No. 104, 1956, s. 3;
No. 10, 1969, s. 3; and No. 17, 1972, s. 3.</p> |
| <p>(a) the refusal or failure to perform work, including (without limiting the generality of the preceding words of this paragraph) the refusal or failure to perform work in a particular manner, at a particular place or at a particular time or while particular circumstances exist;</p> | |
| <p>(b) the unauthorized interruption, delaying or obstruction of, or any unauthorized limitation on, the performance of work;</p> | |
| <p>(c) the performance of work in an unauthorized manner or at an unauthorized time, being a manner or time so different from the usual manner or time of the performance of that work that there would be a limitation or restriction on, or a tendency to limit or restrict, the amount or volume of work performed or the output or production of work; or</p> | |
| <p>(d) the unauthorized adoption of such a practice in relation to work that there would be a limitation or restriction on,</p> | |

or a tendency to limit or restrict, the amount or volume of work performed or the output or production of work;

“Organization” means an organization within the meaning of the *Conciliation and Arbitration Act* 1904-1950;

“Presidential member of the Commission” has the same meaning as in the *Conciliation and Arbitration Act* 1904-1956;

“The Arbitrator” means the Public Service Arbitrator appointed in pursuance of this Act;

“The Board” means the Public Service Board and includes, in the case of any service not under the *Public Service Act* 1922-1950, the Permanent or Executive Head of that service;

“The Commission” means the Commonwealth Conciliation and Arbitration Commission;

“The President” has the same meaning as in the *Conciliation and Arbitration Act* 1904-1956;

“The Public Service” includes the Public Service of the Northern Territory and of the Australian Capital Territory, 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 *Public Service Act* 1922-1950 or not, but does not include persons employed in the Defence Force only.

Added by
No. 17, 1972,
s. 3.

(2) Conduct is capable of constituting an industrial situation for the purposes of this Act notwithstanding that that conduct relates to part only of the duties that officers or employees are required to perform in the course of their employment.

Employees
in Public
Service
deemed
employees in
industry.
Amended by
No. 80, 1950,
s. 3; and
No. 216, 1973,
s. 3.

4. Employees in the Public Service, or in any division, class, grade or branch thereof, or in any calling, service, handicraft, occupation, or vocation in the Public Service, or in any division, class, grade, or branch thereof, shall be deemed to be employees in an industry within the meaning of the *Conciliation and Arbitration Act* 1904-1950.

Organizations
of less than
100
employees.
Amended by
No. 80, 1950,
s. 3.

5. An association of less than one hundred employees in an industry in the Public Service may be registered under the *Conciliation and Arbitration Act* 1904-1950 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.

The
Arbitrator.
Substituted by
No. 10, 1969,
s. 4.

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

7. For the purposes of this Act, there shall be such Deputy Public Service Arbitrators as the Governor-General appoints.

Deputy Arbitrators.
Substituted by
No. 10, 1969,
s. 4.

7A. (1) Subject to this Act, a person appointed as the Arbitrator holds office for a period of seven years but is eligible for re-appointment.

Period of appointment of the Arbitrator.

(2) A person who has attained the age of sixty-five years shall not be appointed or re-appointed as the Arbitrator.

Inserted by
No. 10, 1969,
s. 4.

(3) Subject to this Act, if a person who is appointed or re-appointed as the Arbitrator is at the time more than fifty-eight years of age, he holds office for the period that expires upon his attaining the age of sixty-five years.

7B. (1) Subject to this Act, a person appointed as a Deputy Arbitrator holds office for such period, not exceeding seven years, as is specified in the instrument of his appointment but is eligible for re-appointment.

Period of appointment of a Deputy Arbitrator.

Inserted by
No. 10, 1969,
s. 4.

(2) A person who has attained the age of sixty-five years shall not be appointed or re-appointed as a Deputy Arbitrator.

(3) A person shall not be appointed or re-appointed as a Deputy Arbitrator for a period that extends beyond the date on which he will attain the age of sixty-five years.

7C.² (1) The Arbitrator shall be paid a salary at the rate of Nineteen thousand five hundred dollars per annum and an annual allowance of One thousand dollars and a Deputy Arbitrator shall be paid a salary at the rate of Eleven thousand eight hundred and fifty dollars per annum, and the Consolidated Revenue Fund is appropriated accordingly.

Remuneration of Arbitrator and Deputy Arbitrators.

Inserted by
No. 10, 1969,
s. 4.

(2) A person appointed as the Arbitrator or as a Deputy Arbitrator shall be paid such allowances in respect of travelling expenses as the Minister determines.

(3) If the Arbitrator or a Deputy Arbitrator is a Commissioner or a Conciliator, he is not entitled to receive any salary or allowances in respect of his office of Commissioner or Conciliator, but his holding of that office is not otherwise affected by reason of his holding office as the Arbitrator or a Deputy Arbitrator.

7D.³ (1) If a person appointed as the Arbitrator or a Deputy Arbitrator was, immediately before his appointment—

Preservation of rights of Commonwealth public servants.

Inserted by
No. 10, 1969,
s. 4.

(a) a person to whom sub-section (1) of section twelve of the *Conciliation and Arbitration Act* 1904-1969 (including that sub-section as applying by virtue of section twenty of that Act) applied; or

(b) an officer of the Public Service of the Commonwealth,

he retains his existing and accruing rights and, for the purpose of determining those rights, his service as the Arbitrator or a Deputy Arbitrator shall be taken into account as if it were service in the Public Service of the Commonwealth.

(2) If a person appointed as the Arbitrator—

- (a) was, immediately before his appointment, a Deputy Arbitrator; and
- (b) was, immediately before his appointment as a Deputy Arbitrator—
 - (i) a person to whom sub-section (1) of section twelve of the *Conciliation and Arbitration Act* 1904-1969 (including that sub-section as applying by virtue of section twenty of that Act) applied; or
 - (ii) an officer of the Public Service of the Commonwealth,

he retains his existing and accruing rights and, for the purpose of determining those rights, his service as the Arbitrator shall be taken into account as if it were service in the Public Service of the Commonwealth.

Preservation
of rights of
State public
servants.
Inserted by
No. 10, 1969,
s. 4.

7E. (1) If a person appointed as the Arbitrator or a Deputy Arbitrator was, immediately before his appointment—

- (a) a person to whom sub-section (2) of section twelve of the *Conciliation and Arbitration Act* 1904-1969 (including that sub-section as applying by virtue of section twenty of that Act) applied; or
- (b) an officer of the Public Service of a State,

he retains his existing and accruing rights other than rights in respect of superannuation.

(2) If a person appointed as the Arbitrator—

- (a) was, immediately before his appointment, a Deputy Arbitrator; and
- (b) was, immediately before his appointment as a Deputy Arbitrator—
 - (i) a person to whom sub-section (2) of section twelve of the *Conciliation and Arbitration Act* 1904-1969 (including that sub-section as applying by virtue of section twenty of that Act) applied; or
 - (ii) an officer of the Public Service of a State,

he retains his existing and accruing rights other than rights in respect of superannuation.

8. (1) The Governor-General may remove the Arbitrator or a Deputy 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.

Removal or suspension of Arbitrator or Deputy Arbitrator.

Sub-section (1) amended by No. 10, 1969, s. 5.

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

Amended by No. 10, 1969, s. 5.

(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 or Deputy 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.

Amended by No. 10, 1969, s. 5.

9. (1) If a person appointed as the Arbitrator or as a Deputy Arbitrator—

Vacation of office.

Substituted by No. 10, 1969, s. 6.

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

the Governor-General may terminate his appointment by notice in the *Gazette*.

(2) A person appointed as the Arbitrator or as a Deputy Arbitrator may resign his office by writing under his hand delivered to the Governor-General.

10. (1) Where the Arbitrator is, or is expected to be, absent from duty or is suspended from office, or where there is a vacancy in the office of the Arbitrator, the Governor-General may appoint a person, upon such terms and conditions as the Governor-General determines, to act in the office of the Arbitrator during the absence or suspension or until a person is appointed as the Arbitrator, as the case may be.

Appointment of person to act as Arbitrator.

Substituted by No. 10, 1969, s. 6.

(2) The Governor-General may at any time terminate an appointment under this section.

(3) A person appointed under this section may resign his appointment by writing under his hand delivered to the Governor-General.

(4) A person appointed under this section has all the powers and functions conferred on, and shall perform all the duties imposed on, the Arbitrator by this Act.

Oath of office.

Inserted by
No. 10, 1969,
s. 6; amended by
No. 216, 1973,
s. 3.

10A. A person appointed to, or to act in, an office under this Act shall, before proceeding to discharge the duties of that office, take before a Judge of the Commonwealth Industrial Court or a Judge of the Supreme Court of a State or Territory an oath or affirmation in accordance with the form in the Schedule to this Act.

Protection and immunity of Arbitrator and Deputy Arbitrator.

Inserted by
No. 10, 1969,
s. 6.

10B. A person appointed to, or to act in, an office under this Act has, in the performance of the functions and duties of that office, the same protection and immunity as a Judge of the Commonwealth Industrial Court.

Transfer of cases from Court to Arbitrator.

Sub-section (1) omitted by
No. 104, 1956,
s. 4; sub-sections (2) and (3) omitted by
No. 45, 1934,
s. 2.

11. * * * * *

Amended by
No. 51, 1956,
s. 5.

(4)⁴ For the purposes of this Act all awards and orders made by the Commonwealth Court of Conciliation and Arbitration 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.

Limitation on submission of claims to Commission.

Inserted by
No. 104, 1956,
s. 5.

11A. (1) Subject to the next succeeding sub-section, an organization of employees in the Public Service is not entitled to submit to the Commission a claim relating to conditions of employment of members of the organization.

(2)⁵ An organization of employees in the Public Service may submit such a claim to the Commission—

Amended by
No. 10, 1969,
s. 7.

(a) with the consent of the Arbitrator; or

(b) where, in pursuance of section fourteen A of this Act, the Arbitrator or a Deputy Arbitrator has (otherwise than on the ground of triviality) refrained from hearing, or from further hearing, or from determining the claim.

(3) The Arbitrator shall not give his consent under paragraph (a) of the last preceding sub-section unless, in his opinion, the claim is one that he would, in pursuance of section fourteen A of this Act, be likely to refrain from hearing, or from further hearing, or from determining (otherwise than on the ground of triviality).

12. (1) Subject to this Act, the Arbitrator shall determine all matters submitted to him relating to conditions of employment of officers and employees of the Public Service.

Power of
Arbitrator to
determine
conditions of
employment.

Sub-section (1)
substituted by
No. 104, 1956,
s. 6.

(2) An organization is entitled to submit to the Arbitrator by memorial any claim relating to the conditions of employment of members of the organization.

Substituted by
No. 104, 1956,
s. 6.

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

Amended by
No. 80, 1950,
s. 3.

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

Amended by
No. 80, 1950,
s. 3.

(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 Board 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.

Amended by
No. 80, 1950,
s. 3.

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

(7) The Board, 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 Board, or to the Board if the application to vary has been made by

Amended by
No. 80, 1950,
s. 3.

the Minister of the Department affected, or to the Board 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 provision 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.

Amended by
No. 80, 1950,
s. 3.

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

Arbitrator
may refer
claim,
application
or matter to
Deputy
Arbitrator.

12A. (1) The Arbitrator may refer to a Deputy Arbitrator a claim, application or matter submitted to the Arbitrator under the last preceding section.

Inserted by
No. 10, 1969,
s. 8.

(2) Subject to the next succeeding sub-section, a Deputy Arbitrator to whom a claim, application or matter has been so referred shall hear and determine that claim, application or matter in the manner provided by this Act for the hearing and determination of claims, applications or matters by the Arbitrator.

(3) Before determining a claim, application or matter referred to him under this section, a Deputy Arbitrator shall consult with the Arbitrator as to the determination that he proposes to make and, if the Arbitrator does not concur with the proposed determination, the Arbitrator shall withdraw the reference and shall, after such further hearing (if any) as he thinks necessary, himself determine the claim, application or matter.

Industrial
situation
concerning
the Public
Service.

Inserted by
No. 17, 1972,
s. 4.

12B. Sections twelve C to twelve F, inclusive, of this Act apply in relation to an industrial situation only to the extent, if any, to which officers or employees of the Public Service are concerned in or affected by, or are likely to be concerned in or affected by, that industrial situation or would, upon the occurrence of that industrial situation, be likely to be so concerned or affected.

12C. (1) Where—

- (a) it appears to a Minister or to the Board that an industrial situation exists or is likely to occur; or
- (b) it appears to an officer of an organization that—
 - (i) an industrial situation exists in which members of the organization are, or are likely to be, concerned; or
 - (ii) an industrial situation is likely to occur in which members of the organization would be likely to be concerned,

the Minister, the Board or the organization, as the case may be, may give a notice in writing to the Arbitrator informing him accordingly and making an application that he exercise his powers under the next succeeding section.

(2) Where a notice has been duly given to the Arbitrator under the last preceding sub-section, the Arbitrator shall send a copy of the notice—

- (a) to the Minister (other than the Minister who gave the notice) of each Department of State that appears to the Arbitrator to be a Department that is, or is likely to be, affected by the industrial situation or would, upon the occurrence of the industrial situation, be likely to be so affected;
- (b) if the notice was not given by the Board—to the Board; and
- (c) to every organization that appears to the Arbitrator to be an organization members of which are, or are likely to be, concerned in or affected by the industrial situation or would, upon the occurrence of the industrial situation, be likely to be so concerned or affected.

12D. (1) Where the Arbitrator has been informed under the last preceding section of the existence or likely occurrence of an industrial situation, the Arbitrator or a Deputy Arbitrator—

- (a) shall forthwith call a conference of representatives of the Board, of the Minister of any Department of State that is, or is likely to be, affected by the existence of the situation or would, upon the occurrence of the situation, be likely to be so affected, of any organization members of which are, or are likely to be, concerned in or affected by the situation or would, upon the occurrence of the situation, be likely to be so concerned or affected and of any other person whose presence at the conference the Arbitrator or Deputy Arbitrator considers to be desirable; and
- (b) may, subject to the next succeeding sub-section, after hearing such evidence (if any) as he thinks fit, make such orders as he thinks necessary or desirable for putting an end to, or preventing the occurrence of, the situation or preventing the occurrence of further industrial situations or such other orders as he thinks necessary or desirable by reason of the existence or likely occurrence of the situation.

Action that may be taken in respect of industrial situation.

Inserted by No. 17, 1972, s. 4.

Order in relation to industrial situation.

Inserted by No. 17, 1972, s. 4.

(2) The orders that may be made under the last preceding sub-section are—

- (a) orders relating to conditions of employment of officers or employees (whether members of an organization or not) who are concerned in or affected by, or are likely to be concerned in or affected by, the industrial situation; or
- (b) orders directing the cessation of conduct that constitutes, or encourages the continuation of, the industrial situation or prohibiting the engaging in conduct that would constitute or bring about the industrial situation.

(3) An order under sub-section (1) of this section may be made binding on an organization members of which are concerned in the industrial situation or, upon the occurrence of the industrial situation, would be so concerned or on some or all of the members of such an organization, or both on such an organization and on some or all of its members.

Compulsory
conference.

Inserted by
No. 17, 1972,
s. 4.

12E. (1) For the purpose of putting an end to, or preventing the occurrence of, an industrial situation, the Arbitrator or a Deputy Arbitrator may direct a person to attend, at a time and place specified in the direction, at a conference presided over by the Arbitrator or a Deputy Arbitrator.

(2) A direction under the last preceding sub-section may be given orally, in writing signed by the Arbitrator or Deputy Arbitrator or by telegram sent by the Arbitrator or Deputy Arbitrator.

(3) A direction under sub-section (1) of this section may be given to any person whose presence at the conference the Arbitrator or Deputy Arbitrator thinks is likely to conduce to putting an end to, or preventing the occurrence of, the industrial situation.

(4) A person directed under sub-section (1) of this section shall attend the conference and continue his attendance at the conference as directed by the Arbitrator or a Deputy Arbitrator.

Penalty: One thousand dollars.

(5) The conference shall be held in private except to such extent (if any) as the Arbitrator or a Deputy Arbitrator directs that it be held in public.

Concurrence
of Arbitrator
in orders by
Deputy
Arbitrator.

Inserted by
No. 17, 1972,
s. 4.

12F. A Deputy Arbitrator shall not make an order under sub-section (1) of section twelve D of this Act relating to conditions of employment unless the Arbitrator concurs in the making of the order.

13. (1) In relation to every claim or application made to him in pursuance of this Act, the Arbitrator or a Deputy 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 and Deputy Arbitrator to act according to equity and good conscience.

Sub-section (1) amended by No. 10, 1969, s. 9.

(2) The Arbitrator or a Deputy Arbitrator shall, at the request of the organization which has submitted a claim or application, or of the Board, 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 the Deputy Arbitrator or as are prescribed.

Amended by No. 80, 1950, s. 3; and No. 10, 1969, s. 9.

(3) One of the assessors shall be a person nominated by the organization, and the other a person nominated jointly by the Board 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.

Amended by No. 80, 1950, s. 3.

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 and Deputy Arbitrator.

- (a) to vary any determination, and to re-open any question;
- (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;
- (da) to make a determination affecting a person who, or an organization that, has not been represented in the proceedings but has been given an opportunity of being so represented;
- (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:

Sub-section (1) amended by No. 36, 1952, s. 4; and No. 10, 1969, s. 10.

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.

Inserted by
No. 10, 1969,
s. 10.

(1A) Subject to sub-section (3) of section twelve A of this Act, a Deputy Arbitrator has, in relation to a claim, application or matter that he is hearing under this Act, the powers conferred on the Arbitrator by the last preceding sub-section other than the power referred to in paragraph (e) of that sub-section.

Amended by
No. 93, 1966,
s. 3.

(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: One hundred dollars.

Arbitrator or
Deputy
Arbitrator
may refuse
to hear and
determine
certain
claims, &c.
Substituted by
No. 104, 1956,
s. 7; amended by
No. 10, 1969,
s. 11.

14A. The Arbitrator, or a Deputy Arbitrator acting with the concurrence of the Arbitrator, may refrain from hearing, or from further hearing, or from determining a claim or application made to him under this Act, or a matter forming part of or arising out of such a claim or application, if it appears to the Arbitrator or the Deputy Arbitrator that, on any ground, including any of the following grounds, it is unnecessary or undesirable in the public interest to deal with the claim, application or matter:—

- (a) that the subject-matter of the claim or application, or the matter, is trivial;
- (b) that the subject-matter of the claim or application, or the matter, has been dealt with, is being dealt with or is proper to be dealt with by another industrial authority;
- (c) that conditions of employment of employees in respect of whom the claim or application is made have previously been dealt with by another industrial authority;
- (d) that conditions of employment of employees in respect of whom the claim or application is made should be, or continue to be, dealt with by another industrial authority, being an authority which has already dealt with, deals with, will be dealing with or is available to deal with the conditions of employment of persons who are not employees in the Public Service but are engaged in similar work; or
- (e) that conditions of employment of employees in respect of whom the claim or application is made should be, or continue to be, the same as the conditions of employment provided by an award, order, decision or determination of another industrial authority

in respect of the employment of persons who are not employed in the Public Service but are engaged in similar work, being conditions of employment which the Arbitrator or the Deputy Arbitrator is satisfied are being, will be or will continue to be applied to the employees in respect of whom the claim or application is made.

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.

Reference of
claim or
matter for
report.

15AA. (1) If the hearing of a matter has been commenced before the Arbitrator and, before the matter has been determined, the Arbitrator has become unable to continue to hear the matter, whether by reason of illness, suspension from office or otherwise, or has ceased to be the Arbitrator, whether by death or otherwise, the matter, or so much of the matter as has not been determined, may be heard and determined—

Continuation
of hearing of
matters.
Inserted by
No. 10, 1969,
s. 12.

- (a) where the Arbitrator has become unable to continue to hear the matter—
 - (i) by a person appointed to act in the office of the Arbitrator;
 - (ii) except in a case where the Arbitrator has been suspended from office—by a Deputy Arbitrator nominated by the Arbitrator; or
 - (iii) by a Deputy Arbitrator nominated by a person appointed to act in the office of the Arbitrator; or
- (b) where the Arbitrator has ceased to be the Arbitrator—
 - (i) by a person subsequently appointed as the Arbitrator;
 - (ii) by a person appointed to act in the office of the Arbitrator; or
 - (iii) by a Deputy Arbitrator nominated by a person referred to in either of the last two preceding sub-paragraphs.

(2) If the hearing of a matter has been commenced before a Deputy Arbitrator and, before the matter has been determined, the Deputy Arbitrator has become unable to continue to hear the matter, whether by reason of illness, suspension from office or otherwise, or has ceased to be a Deputy Arbitrator, whether by death or otherwise, the Arbitrator or another Deputy Arbitrator nominated by the Arbitrator may hear and determine the matter, or so much of the matter as has not been determined.

(3) A person who continues the hearing of a matter or a part of a matter in pursuance of this section shall have regard to the evidence given, the arguments adduced and any order or determination made during the previous hearing.

(4) Sub-section (3) of section twelve A of this Act applies in relation to the determination under this section by a Deputy Arbitrator of a matter or part of a matter to which section twelve of this Act applies as if the matter or part of a matter had been referred to that Deputy Arbitrator under sub-section (1) of section twelve A of this Act.

(5) In this section, "matter" means a claim or application under this Act or a matter forming part of or arising out of such a claim or application.

Reference to
the
Commission.

Substituted by
No. 51, 1956,
s. 6.

Sub-section (1)
amended by
No. 41, 1959,
s. 3.

15A.⁶ (1) In this section, "the Commission" means the Commission constituted by presidential members of the Commission nominated by the President to the number of at least two and the Arbitrator.

(2) For the purposes of the constitution of, and the exercise of functions by, the Commission under this section, the Arbitrator shall be deemed to be a member of the Commission.

Amended by No.
41, 1959, s. 3;
and No. 17,
1972, s. 5.

(3) The Arbitrator shall, upon request made as provided by the next succeeding sub-section, on the ground that a claim or application, or a matter forming part of or arising out of a claim or application (including a question whether a term of a determination should be a common rule, and, if so, whether the common rule should be a common rule of the Public Service or of any branch or part of the Public Service), is of such importance that the claim, application or matter should, in the public interest, be dealt with as provided by this section, consult with the President as to whether the claim, application or matter should be so dealt with.

Substituted by
No. 17, 1972,
s. 5.

(4) A request under the last preceding sub-section may be made by—

- (a) the Board;
- (b) a Minister by whom the application was made or who is affected by the claim, application or matter;
- (c) an organization by which the claim or application was submitted or made or that is affected by the claim, application or matter; or
- (d) if the application was made under section twelve C of this Act in relation to an industrial situation that exists or is likely to occur—an organization members of which are concerned in or affected by the industrial situation or would, upon the occurrence of the industrial situation, be likely to be so concerned or affected.

(5) If the President, having regard to the reasons for the request, is of opinion that the claim, application or matter should, in the public interest, be dealt with as provided by this section, he may direct accordingly.

Amended by
No. 41, 1959,
s. 3; and No. 17,
1972, s. 5.

(6) Where the President so directs, the Commission shall, subject to the next succeeding sub-section, hear and determine the claim, application or matter and for that purpose may have regard to any evidence given and any arguments adduced in relation to the claim, application or matter before the Commission commenced to hear the claim, application or matter and may make such determination as might have been made by the Arbitrator.

Amended by
No. 41, 1959,
s. 3.

(7) Where a claim, application or matter has been referred to the Commission under this section—

Substituted by
No. 10, 1969,
s. 13.

- (a) the Commission may refer the claim, application or matter back to the Arbitrator or, if the claim, application or matter had been heard by a Deputy Arbitrator, to the Arbitrator or to that Deputy Arbitrator, who shall hear and determine it; or
- (b) the Commission may refer a matter forming part of, or arising out of, the claim, application or matter back to the Arbitrator or, if the claim, application or matter had been heard by a Deputy Arbitrator, to the Arbitrator or to that Deputy Arbitrator, and, in that case—
 - (i) the Arbitrator or Deputy Arbitrator shall hear and determine the matter referred back; and
 - (ii) the Commission shall hear and determine the claim, application or matter with the exception of the matter referred back to the Arbitrator or Deputy Arbitrator.

(8) In relation to the determination under the last preceding sub-section of a claim, application or matter to which section twelve of this Act applies—

Omitted by
No. 41, 1959,
s. 3; inserted by
No. 10, 1969,
s. 13.

- (a) where the claim, application or matter was referred back to the Arbitrator—section twelve A of this Act applies; and
- (b) where the claim, application or matter was referred back to a Deputy Arbitrator—sub-section (3) of section twelve A of this Act applies as if the claim, application or matter had been referred to that Deputy Arbitrator under sub-section (1) of section twelve A of this Act.

(9) The Commission has, in relation to a claim, application or matter before it under this section, the same powers, duties and functions as the Arbitrator has in relation to a claim or application submitted to him under this Act, and, for the purpose of the exercise by the Commission of the powers of the Arbitrator under section fifteen of this Act, the presidential members of the Commission and the Arbitrator shall be deemed to be persons authorized by the Governor-General for the purposes of that section.

Amended
No. 41, 1959,
s. 3; and
No. 10, 1969,
s. 13.

Added by
No. 41, 1959,
s. 3; amended by
No. 10, 1969,
s. 13.

(10) At any time before the Commission has been constituted under this section for the purpose of hearing and determining a claim, application or matter in respect of which the President has, whether before or after the commencement of this sub-section, given a direction under this section, the President may (if, after taking account of any views expressed by the Board or any Minister or organization concerned in the claim or application, he considers that it is desirable so to do for the purpose of facilitating the hearing and determination of the claim, application or matter by the Commission) exercise the power that, if the Commission were so constituted, the Commission would have under section fifteen of this Act to refer the claim, application or matter to a person for investigation and report and to delegate its powers to that person, but the President shall not, by virtue of this sub-section, refer a claim, application or matter to any person other than the Arbitrator or a presidential member of the Commission.

Section 15B
repealed by
No. 51, 1956,
s. 6.

* * * * *

Appeals to
Commission.

Substituted by
No. 51, 1956,
s. 6.

Sub-section (1)
amended by
No. 41, 1959,
s. 4.

15C.⁶ (1) In this section, “ the Commission ” means the Commission constituted by presidential members of the Commission nominated by the President to the number of at least three.

Amended by
No. 10, 1969,
s. 14.

(2) An appeal lies to the Commission against a determination made by the Arbitrator or a Deputy Arbitrator.

(3) An appeal does not lie under the last preceding sub-section unless, in the opinion of the Commission, the determination deals with a matter of such importance that, in the public interest, an appeal should lie.

(4) An appeal under this section—

- (a) shall be made within fourteen days after the date of the determination appealed against; and
- (b) may be made by—
 - (i) the Board;
 - (ii) a Minister affected by the determination; or
 - (iii) an organization affected by the determination.

(5) Where an appeal has been instituted under this section, the Commission may, on such terms and conditions as it thinks fit, make an order that the operation of the whole or a part of the determination under appeal be stayed pending the determination of the appeal or until further order of the Commission.

(6) Upon the hearing of an appeal under this section, the Commission may—

Amended by
No. 10, 1969,
s. 14.

- (a) admit further evidence; and
- (b) direct the Arbitrator or, if the appeal is against a determination of a Deputy Arbitrator, the Arbitrator or that Deputy Arbitrator to furnish a report to the Commission with respect to such matter as the Commission specifies,

and shall—

- (c) make a determination confirming, quashing or varying the determination under appeal; or
- (d) make a determination dealing with the subject-matter of the determination under appeal.

(7) Where, in pursuance of paragraph (b) of the last preceding subsection, the Commission directs the Arbitrator or a Deputy Arbitrator to furnish a report, the Arbitrator or Deputy Arbitrator shall, after making such investigation (if any) as is necessary, furnish a report accordingly.

Amended by
No. 10, 1969,
s. 14.

(8) The provisions of this Act relating to the hearing and determination of claims submitted to the Arbitrator under this Act extend to the hearing and determination of an appeal under this section.

15D. The last two preceding sections do not apply to a determination made under sub-section (6) or (10) of section twelve of this Act.

Reference
and appeal
provisions
not
applicable to
consent
determin-
ations.
Substituted by
No. 51, 1956,
s. 6.

15E. Subject to sub-section (2B) of section twenty-one of this Act, the provisions of this Act (other than the provisions of sections fifteen A and fifteen C) which apply to and in relation to determinations made by the Arbitrator apply to and in relation to determinations made by the Commission under this Act and, in the application of those provisions to determinations made by the Commission, references to the Arbitrator shall be read as references to the Commission.

Application
of certain
provisions to
the
determin-
ations of the
Commission.
Substituted by
No. 51, 1956,
s. 6.

15F. (1) The Arbitrator may give an interpretation of a determination made under this Act.

Interpret-
ation of
determin-
ations.

(2) The Arbitrator may, if he thinks fit, refer an application for the interpretation of a determination to the Commission and the Commission constituted by a presidential member of the Commission may give an interpretation of the determination.

Substituted by
No. 51, 1956,
s. 6.

Officers to comply with determinations.

Amended by No. 80, 1950, s. 3; and No. 10, 1969, s. 15.

Determination not limited to claim.

Amended by No. 10, 1969, s. 16.

Costs.

Amended by No. 10, 1969, s. 17.

Representation.

Substituted by No. 2, 1955, s. 6.

16. The Board, 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 or a Deputy Arbitrator made under this Act.

17. In making any determination under this Act, the Arbitrator, or a Deputy Arbitrator acting with the concurrence of 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 or the Deputy Arbitrator thinks necessary in the interests of the public or of the Public Service.

18. No costs shall be allowed in respect of any proceedings under this Act other than proceedings in respect of offences against this Act.

19. (1) Subject to this section, a person or organization shall not be represented in proceedings under this Act by counsel or solicitor.

(2) The last preceding sub-section does not prevent the representation, in proceedings under this Act—

(a) of an organization by—

- (i)** a member or officer of that organization; or
- (ii)** a member or officer of another organization who is representing that other organization in proceedings being heard at the same time as the first-mentioned proceedings;

(b) of a Minister by—

- (i)** an officer of the Public Service Board; or
- (ii)** an officer of the Public Service of the Commonwealth who is employed in the Department administered by the Minister;

(c) of the Public Service Board by an officer of the Public Service Board; or

(d) of a public institution or authority of the Commonwealth by—

- (i)** a person employed by that public institution or authority; or
- (ii)** an officer of the Public Service Board.

(3) In proceedings under this Act before the Commission, a person or organization may be represented by counsel or solicitor—

- (a)** by leave of the Commission and with the consent of all parties to the proceedings; or
- (b)** by leave of the Commission, granted upon application made by a party to the proceedings, on the ground that, having regard to

Substituted by No. 51, 1956, s. 7.

the subject-matter of the proceedings, there are special circumstances which make it desirable that the parties and interveners may be so represented.

(4) In this section, “officer of the Public Service Board” means an officer of the Public Service of the Commonwealth who is employed under the direct control of the Public Service Board.

20. Subject to section fifteen C of this Act, no determination of the Arbitrator or a Deputy 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.

Determinations not to be challenged.

Amended by No. 36, 1952, s. 6; and No. 10, 1969, s. 18.

20A. References in the next two succeeding sections to the Arbitrator shall be read as including references to a Deputy Arbitrator.

References to Arbitrator to include Deputy Arbitrator.

Inserted by No. 10, 1969, s. 19.

21. (1) Subject to this Act, a determination of the Arbitrator shall come into operation upon such date as the Arbitrator specifies in the determination.

Determinations to be laid before Parliament.

Sub-section (1) substituted by No. 10, 1969, s. 20.

(2) When a determination has been made by the Arbitrator under this Act, the Arbitrator shall send a certified copy of the determination to the Prime Minister and to the Attorney-General forthwith after the time for instituting an appeal against the determination has elapsed.

Substituted by No. 51, 1956, s. 8.

(2A) If an appeal against the determination is instituted, the Arbitrator shall send a certified copy of the determination to the Prime Minister and to the Attorney-General—

Substituted by No. 51, 1956, s. 8; amended by No. 104, 1956, s. 8.

(a) forthwith after the commencement of the hearing of the appeal; or

(b) if an order has been made that the operation of the whole of the determination be stayed—forthwith after the stay has ceased to operate.

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

Substituted by No. 51, 1956, s. 8.

(3) The Prime Minister shall cause the determination to be laid before each House of the Parliament within 14 sitting days of that House after its receipt by him.

Substituted by No. 216, 1973, s. 3.

Determinations inconsistent with Commonwealth law. Sub-section (1) substituted by No. 104, 1956, s. 9.

22. (1) The Arbitrator may make a determination which is not in accord with an award or order of the Commonwealth Court of Conciliation and Arbitration or of the Commission, but, except as provided by this section, is not empowered to make a determination which is not in accord with a law of the Commonwealth.

Substituted by No. 104, 1956, s. 9; amended by No. 216, 1973, s. 3.

(2) The Arbitrator may, where he thinks it proper to do so, make a determination that, in his opinion, is not, or may not be, in accord with a law of the Commonwealth relating to conditions of employment of employees in the Public Service, not being—

- (a) the *Compensation (Australian Government Employees) Act* 1971-1973, the *Commonwealth Employees' Furlough Act* 1943-1953 or the *Superannuation Act* 1922-1956; or
- (b) any other prescribed Act or the prescribed provisions of any other Act.

Inserted by No. 104, 1956, s. 9.

(2A) In that case, the Arbitrator shall send to the Prime Minister and to the Attorney-General, with the certified copy of the determination, a statement of the laws of the Commonwealth with which, in his opinion, the determination is not, or may not be, in accord.

Substituted by No. 216, 1973, s. 3.

(3) The Prime Minister shall cause the determination and the statement (if any) of the Arbitrator to be laid before each House of the Parliament within 14 sitting days of that House after its or their receipt by him.

Substituted by No. 104, 1956, s. 9; amended by No. 216, 1973, s. 3.

(4) If, before a determination is laid before the Parliament under the last preceding section or under this section, the Attorney-General advises the Prime Minister that, in his opinion, the determination is not in accord with a law of the Commonwealth referred to in the opinion, the Prime Minister shall cause the opinion to be laid, together with the determination, before each House of the Parliament.

Amended by No. 10, 1969, s. 21; and No. 216, 1973, s. 3.

(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 that House, passes a resolution disapproving the determination, then—

- (a) if the determination has not come into operation—the determination shall not come into operation; or
- (b) if the determination has come into operation—the determination shall not have any force or effect from and including the date on which the resolution was passed.

(6) Notwithstanding the provisions of the last preceding sub-section, where an order has been made that the operation of a part of the determination be stayed—

Substituted by No. 36, 1952, s. 8; amended by No. 51, 1956, s. 9; No. 10, 1969, s. 21; and No. 216, 1973, s. 3.

(a) either House of the Parliament may, within thirty days after the determination with the statement or opinion has been laid before that House, pass a resolution disapproving the part of the determination the operation of which has not been stayed, and, in that event—

- (i) if that part of the determination has not come into operation—that part of the determination shall not come into operation; or
- (ii) if that part of the determination has come into operation—that part of the determination shall not have any force or effect from and including the date on which the resolution was passed; and

(b) either House of the Parliament may, within thirty days after the next meeting of that House after the stay has ceased to operate, pass a resolution disapproving the part of the determination the operation of which was stayed, and, in that event—

- (i) if that part of the determination has not come into operation—that part of the determination shall not come into operation; or
- (ii) if that part of the determination has come into operation—that part of the determination shall not have any force or effect from and including the date on which the resolution was passed.

(7) Subject to the last two preceding sub-sections and to the Constitution, a determination or part of a determination that has come into operation has full force and effect, notwithstanding the provisions of any law of the Commonwealth.

Added by No. 36, 1952, s. 8; amended by No. 2, 1955, s. 8; No. 104, 1956, s. 9; and No. 10, 1969, s. 21.

22A. (1) A person shall not—

- (a) wilfully insult or disturb the Arbitrator or a Deputy Arbitrator when exercising his powers or functions under this Act;
- (b) interrupt any proceedings before the Arbitrator or a Deputy Arbitrator;
- (c) use insulting language towards the Arbitrator or a Deputy Arbitrator; or
- (d) by writing or speech use words calculated—
 - (i) to influence improperly the Arbitrator or a Deputy Arbitrator or a witness in proceedings before the Arbitrator or a Deputy Arbitrator; or
 - (ii) to bring the Arbitrator or a Deputy Arbitrator into disrepute.

Offences.

Inserted by No. 10, 1969, s. 22.

Penalty: Two hundred dollars or imprisonment for twelve months, or both.

(2) A reference in the last preceding sub-section to the Arbitrator includes a reference to a person acting in the office of the Arbitrator and to a person to whom a claim, application or matter has been referred under this Act for investigation and report.

Regulations.

Amended by
No. 104, 1956,
s. 10.

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, and, in particular, for prescribing the fees to be charged in respect of proceedings under this Act.

Added by
No. 10, 1969,
s. 23.

THE SCHEDULE

Section 10A

Oath or Affirmation

I, _____, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, that I will well and truly serve Her in the Office of (*insert name of office*) and that I will faithfully and impartially perform the duties of that office. So help me God!

Or, I, _____, do solemnly and sincerely promise and declare that (*as above, omitting the words "So help me God"*).

NOTES

1. The *Public Service Arbitration Act* 1920-1973 comprises the *Arbitration (Public Service) Act* 1920 as amended by the other Acts specified in the following table:

Act	Number and year	Date of Assent	Date of commencement
<i>Arbitration (Public Service) Act</i> 1920	No. 28, 1920	7 Oct 1920	31 Mar 1921 (<i>see Gazette</i> 1921, p. 489)
<i>Arbitration (Public Service) Act</i> 1928	No. 1, 1928	14 Mar 1928	14 Mar 1928
<i>Arbitration (Public Service) Act</i> 1929	No. 25, 1929	13 Dec 1929	13 Dec 1929
<i>Statute Law Revision Act</i> 1934	No. 45, 1934	6 Aug 1934	6 Aug 1934
<i>Salaries (Statutory Offices) Adjustment Act</i> 1947 (<i>a</i>)	No. 52, 1947	1 Nov 1947	1 Nov 1947
<i>Salaries (Statutory Offices) Adjustment Act</i> 1950 (<i>a</i>)	No. 51, 1950	14 Dec 1950	1 July 1950
<i>Statute Law Revision Act</i> 1950	No. 80, 1950	16 Dec 1950	31 Dec 1950
<i>Public Service Arbitration Act</i> 1952	No. 36, 1952	17 June 1952	27 June 1952 (<i>see Gazette</i> 1952, p. 2977)
<i>Public Service Arbitration Act</i> 1955	No. 2, 1955	18 May 1955	18 May 1955
<i>Salaries Adjustment Act</i> 1955	No. 18, 1955	10 June 1955	10 June 1955

Act	Number and year	Date of Assent	Date of commencement
<i>Public Service Arbitration Act 1956</i>	No. 51, 1956	30 June 1956	Ss. 1, 2 and 4: Royal Assent Remainder: 14 Aug 1956 (<i>see Gazette</i> 1956, p. 2489)
<i>Public Service Arbitration Act (No. 2) 1956</i>	No. 104, 1956	15 Nov 1956	S. 12: 14 Aug 1956 Remainder: Royal Assent
<i>Salaries (Statutory Offices) Adjustment Act 1957 (a)</i>	No. 39, 1957	12 Sept 1957	1 July 1957
<i>Public Service Arbitration Act 1959</i>	No. 41, 1959	22 May 1959	S. 3 (2): 14 Aug 1956 Remainder: 22 May 1959
<i>Salaries (Statutory Offices) Adjustment Act 1960 (a)</i>	No. 17, 1960	17 May 1960	17 May 1960
<i>Salaries (Statutory Offices) Adjustment Act (No. 2) 1964 (a)</i>	No. 115, 1964	23 Nov 1964	23 Nov 1964
<i>Statute Law Revision (Decimal Currency) Act 1966</i>	No. 93, 1966	29 Oct 1966	1 Dec 1966
<i>Salaries Act 1968 (a)</i>	No. 120, 1968	2 Dec 1968	2 Dec 1968
<i>Public Service Arbitration Act 1969</i>	No. 10, 1969	23 Apr 1969	23 Apr 1969
<i>Public Service Arbitration Act 1972</i>	No. 17, 1972	24 Apr 1972	24 Apr 1972
<i>Statute Law Revision Act 1973</i>	No. 216, 1973	19 Dec 1973	31 Dec 1973

(a) The *Salaries (Statutory Offices) Adjustment Act 1947*, the *Salaries (Statutory Offices) Adjustment Act 1950*, the *Salaries (Statutory Offices) Adjustment Act 1957*, the *Salaries (Statutory Offices) Adjustment Act 1960*, the *Salaries (Statutory Offices) Adjustment Act (No. 2) 1964* and the *Salaries Act 1968* were repealed by section 7 of the *Statute Law Revision Act 1973*. That section provides that the repeals do not affect the operation of any amendment made by a repealed Act or any provision made by it for the citation of an Act as so amended.

- 2.—S. 7C (1)—By section 15 of, and Schedule 4 to, the *Remuneration and Allowances Acts 1973*, the rate per annum of the salary applicable to the office of Public Service Arbitrator is \$25,000 and that of Deputy Public Service Arbitrator \$16,250 with an annual allowance applicable to the office of Public Service Arbitrator of \$1,200.
- 3.—S. 7D—See also *Officers' Rights Declaration Act 1928-1973*.
- 4.—S. 11 (4)—See also sections 10, 11 and 12 of the *Public Service Arbitration Act 1956* as amended by the *Public Service Arbitration Act (No. 2) 1956*.
- 5.—S. 11A (2)—For provisions relating to the powers of the Commission in relation to claims submitted in accordance with this sub-section, see section 41A of the *Conciliation and Arbitration Act 1904-1973*.
- 6.—Ss. 15A and 15C—See also section 5 of the *Public Service Arbitration Act 1959*.

PUBLIC WORKS COMMITTEE ACT 1969-1973

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THE SCHEDULE

Declaration by Member

PUBLIC WORKS COMMITTEE ACT 1969-1973

An Act relating to the Parliamentary Standing Committee on Public Works.

PART I—PRELIMINARY

- | | |
|---|--|
| 1. This Act may be cited as the <i>Public Works Committee Act</i> 1969-1973. ¹ | Short title.
Short title amended;
No. 32, 1918,
s. 2. |
| 2. This Act shall come into operation on a date to be fixed by Proclamation. ¹ | Commencement. |
| * * * * * | Sections 3 and 4 repealed by
No. 216, 1973,
s. 3. |
| 5. In this Act, unless the contrary intention appears—
“assessor” means a person appointed under section 26 of this Act;
“commence”, in relation to a public work, includes enter into a contract for the carrying out of the whole or a part of the work, and
“commencement” has a corresponding meaning;
“court of summary jurisdiction” includes a court of a Territory sitting as a court for the making of summary orders or the summary punishment of offences under the law of the Territory;
“member” means a member of the Committee;
“public work” means a work—
(a) that is proposed to be carried out by or for the Commonwealth within Australia or within a Territory not forming part of Australia; and
(b) in respect of the carrying out of which moneys appropriated by the Parliament are proposed to be expended by the Commonwealth;
“the Chairman” means the Chairman of the Committee;
“the Committee” means the Parliamentary Standing Committee on Public Works for the time being constituted in accordance with this Act;
“work” includes a continuation, completion, repair, re-construction or extension of a work: | Definitions.
Amended by
No. 216, 1973,
s. 3. |
| 6. This Act extends to every Territory not forming part of Australia. | Extension to Territories.
Amended by
No. 216, 1973,
s. 3. |

PART II—PARLIAMENTARY STANDING COMMITTEE ON PUBLIC WORKS

Parliamentary
Standing
Committee
on Public
Works.

7. (1) As soon as practicable after the commencement of the first session of each Parliament, a joint committee of members of the Parliament, to be known as the Parliamentary Standing Committee on Public Works, shall be appointed.

Sub-section (2)
omitted by
No. 216, 1973,
s. 3.

* * * * * * *

(3) The Committee shall consist of nine members, namely:—

- (a) three members of the Senate appointed by the Senate; and
- (b) six members of the House of Representatives appointed by that House.

(4) The appointment of members by a House of the Parliament shall be in accordance with the practice of that House with respect to the appointment of members of that House to serve on joint select committees of both Houses of the Parliament.

(5) A member of the Parliament is not eligible for appointment as a member of the Committee if he is—

- (a) a Minister;
- (b) the President of the Senate;
- (c) the Speaker of the House of Representatives; or
- (d) the Chairman of Committees of the Senate or of the House of Representatives.

(6) A member holds office during the pleasure of the House of the Parliament by which he was appointed.

(7) A member ceases to hold office—

- (a) when the House of Representatives expires by effluxion of time or is dissolved;
- (b) if he becomes the holder of an office specified in any of the paragraphs of sub-section (5) of this section;
- (c) if he ceases to be a member of the House of the Parliament by which he was appointed; or
- (d) if he resigns his office as provided by either of the next two succeeding sub-sections.

(8) A member appointed by the Senate may resign his office by writing under his hand addressed to the President of the Senate.

(9) A member appointed by the House of Representatives may resign his office by writing under his hand addressed to the Speaker of that House.

(10) Either House of the Parliament may appoint one of its members to fill a vacancy amongst the members of the Committee appointed by that House.

(11) Notice of the appointment of a member, and of a member ceasing to hold office otherwise than upon the expiry or dissolution of the House of Representatives, shall be published in the *Gazette*.

(12) The exercise of a power or the performance of a function by the Committee, the Chairman or a member is not invalidated by reason only of there being a vacancy or vacancies in the membership of the Committee.

8. A member shall, before proceeding to discharge the duties of his office, make and subscribe a declaration of office in accordance with the form in the Schedule to this Act—

Declaration
to be
subscribed
by members.

- (a) in the case of a member appointed by the Senate—before the President of the Senate or a person appointed by the President of the Senate to be a person before whom such a declaration may be made and subscribed; and
- (b) in the case of a member appointed by the House of Representatives—before the Speaker of that House or a person appointed by the Speaker of that House to be a person before whom such a declaration may be made and subscribed.

9. (1) There shall be a Chairman and a Vice-Chairman of the Committee, who shall be elected by the members.

Chairman
and Vice-
Chairman.

(2) The Chairman and Vice-Chairman hold office during the pleasure of the Committee.

(3) The Chairman or Vice-Chairman ceases to hold office if—

- (a) he ceases to be a member; or
- (b) he resigns his office as provided by the next succeeding subsection.

(4) The Chairman or Vice-Chairman may resign his office by writing under his hand presented to a meeting of the Committee.

(5) Subject to this section, the Chairman or, in his absence, the Vice-Chairman shall preside at all meetings of the Committee.

(6) Where—

- (a) the Chairman is absent from Australia or is, for any reason, unable to exercise his powers under this Act; and
- (b) the Vice-Chairman is absent from Australia or is, for any reason, unable to exercise the powers of the Chairman under this Act,

the members present at a meeting of the Committee may appoint one of their number to be temporary chairman of the Committee.

(7) While the appointment of a temporary chairman remains in force, he shall preside at all meetings of the Committee at which he is present.

(8) The appointment of a temporary chairman remains in force until—

- (a) he resigns the appointment by writing under his hand presented to a meeting of the Committee;
 - (b) he ceases to be a member;
 - (c) the absence or inability of the Chairman or Vice-Chairman ceases; or
 - (d) the appointment is revoked by the Committee,
- whichever first happens.

(9) The Vice-Chairman and a temporary chairman may each exercise any of the powers of the Chairman under this Act.

(10) Where the Chairman, the Vice-Chairman and, if the appointment of a temporary chairman is in force, the temporary chairman are absent from a meeting of the Committee, the members present may appoint one of their number to preside at the meeting and the member so appointed may exercise, in relation to that meeting, and in relation to any matter arising out of that meeting, any of the powers of the Chairman under this Act.

(11) For the purpose of the exercise of the powers of the Chairman under this Act, a reference in this Act to the Chairman includes a reference to the Vice-Chairman, to a temporary chairman and to a member appointed under the last preceding sub-section.

**Sectional
Committees.**

10. (1) The Committee may appoint three or more members to be a Sectional Committee and may appoint a member to fill a vacancy amongst the members of a Sectional Committee.

(2) A member of a Sectional Committee—

- (a) holds office during the pleasure of the Committee;
- (b) ceases to hold office if he ceases to be a member of the Committee; and
- (c) may resign his office by writing under his hand addressed to the Chairman of the Committee.

(3) There shall be a Chairman and a Vice-Chairman of each Sectional Committee, who shall be elected by the members of the Sectional Committee.

(4) The Chairman or Vice-Chairman of a Sectional Committee—

- (a) holds office during the pleasure of the Sectional Committee;
- (b) ceases to hold office if he ceases to be a member of the Sectional Committee; and

(c) may resign his office by writing under his hand presented at a meeting of the Sectional Committee.

(5) The Chairman, or, in his absence, the Vice-Chairman, of a Sectional Committee shall preside at all meetings of the Sectional Committee.

(6) There shall not be more than two Sectional Committees at the one time.

(7) A Sectional Committee or Sectional Committees may sit when the Committee is sitting.

(8) At a meeting of a Sectional Committee, a majority of the members of the Sectional Committee form a quorum.

(9) The exercise of a power by a Sectional Committee, the Chairman of a Sectional Committee or a member of a Sectional Committee is not invalidated by reason only of there being a vacancy or vacancies in the membership of the Sectional Committee.

11. (1) The Committee may refer to a Sectional Committee appointed under the last preceding section, for inquiry and report to the Committee, a matter connected with a public work that has been referred to the Committee under this Act. Reference of matters to Sectional Committees.

(2) For the purposes of the last preceding sub-section, this Act (other than sections 7, 8, 9 and 10, this section, sub-sections (2) and (3) of the next succeeding section and sections 13, 16, 17, 18, 19, 24, 35, 38 and 39) applies in relation to a Sectional Committee in like manner as it applies in relation to the Committee and, for the purposes of this Act as so applying, a reference to the Chairman shall be read as a reference to the Chairman, or to the Vice-Chairman, of the Sectional Committee.

(3) The report of a Sectional Committee upon a matter referred to it under this section, together with the record of all evidence given before, and all documents and parts of documents produced in evidence to, the Sectional Committee shall be presented to the Committee by the Chairman, or by the Vice-Chairman, of the Sectional Committee.

12. (1) The Committee may meet at such times and at such places within the Commonwealth or within a Territory not forming part of the Commonwealth as the Committee, by resolution, determines or, subject to any resolution of the Committee, as the Chairman determines. Meetings of the Committee.

(2) Five members may make a request in writing signed by them to the Chairman to convene a meeting of the Committee for a specified purpose.

(3) Upon receiving a request under the last preceding sub-section, the Chairman shall—

(a) determine a time and place for the holding of the meeting, being a time on a day not later than fourteen days after the day on which he received the request; and

(b) by such means as he thinks fit, inform each member of the time, date and place of the meeting and of the purpose of the meeting.

(4) The Committee may meet and transact business notwithstanding any prorogation of the Parliament.

(5) The Committee shall not meet or transact business on a sitting day of either House of the Parliament during the time of the sitting, except by leave of that House.

Quorum. 13. At a meeting of the Committee, five members form a quorum.

Voting. 14. (1) A question arising at a meeting of the Committee shall be determined by a majority of the votes of the members present and voting.

(2) The member presiding at a meeting of the Committee has a deliberative vote and, in the event of an equality of votes, a casting vote.

(3) Where the members present at a meeting of the Committee do not vote unanimously on a question, there shall, if a member so requires, be recorded in the minutes and in the Committee's report—

(a) the names of the members who voted and the manner in which each such member voted;

(b) the names of the members who abstained from voting and the fact that they abstained from voting; and

(c) if the question was determined by the casting vote of the member presiding—the name of the member presiding and the fact that the question was so determined.

Minutes. 15. The Committee shall keep full minutes of its proceedings.

Annual report. 16. The Committee shall cause to be laid before each House of the Parliament, within fifteen sitting days of that House after each thirty-first day of December, a report of its proceedings, if any, during the year ended on that thirty-first day of December.

PART III—REPORTS ON PUBLIC WORKS

Functions of the Committee. 17. (1) The Committee shall, as expeditiously as is practicable—

(a) consider each public work that is referred to it in accordance with this Act; and

(b) make a report to both Houses of the Parliament concerning the expedience of carrying out the work and concerning any other matters related to the work in respect of which the Committee

thinks it desirable that the views of the Committee should be reported to those Houses,
and, for those purposes, shall do such things and make such inquiries as it thinks necessary.

(2) The Committee may, in its report on a public work, recommend any alterations to the proposals for the work that, in its opinion, are necessary or desirable to ensure that the most effective use is made of the moneys to be expended on the work.

(3) In considering and reporting on a public work, the Committee shall have regard to—

- (a) the stated purpose of the work and its suitability for that purpose;
- (b) the necessity for, or the advisability of, carrying out the work;
- (c) the most effective use that can be made, in the carrying out of the work, of the moneys to be expended on the work;
- (d) where the work purports to be of a revenue-producing character, the amount of revenue that it may reasonably be expected to produce; and
- (e) the present and prospective public value of the work.

18. (1) A motion may be moved in either House of the Parliament that a public work be referred to the Committee for consideration and report.

Reference of
public works
to the
Committee.

(2) A motion under the last preceding sub-section may relate to a public work that has been referred to the Committee as constituted during a previous Parliament.

(3) Upon the moving of the motion, a Minister shall furnish to the House in which the motion is moved—

- (a) a statement in relation to the public work (including the purpose of the work); and
- (b) such plans, specifications and other particulars as the Minister thinks necessary.

(4) The Governor-General may, at any time when the Parliament is not in session or the House of Representatives is adjourned for a period exceeding one month or for an indefinite period, being a time when the Committee is in existence, refer a public work to the Committee for consideration and report.

(5) A public work that has been referred to the Committee in accordance with this section shall not be commenced before a report of the Committee concerning the work has been presented to both Houses of the Parliament.

(6) If, after a report of the Committee concerning a public work has been presented to both Houses of the Parliament and before the work

has been commenced, each House resolves that, for reasons or purposes stated in the resolution, the work be again referred to the Committee for consideration and report, the Committee shall further consider the work and the work shall not be commenced before a further report of the Committee concerning the work has been presented to both Houses.

(7) A public work that has been referred to the Committee shall not be commenced unless, after the report of the Committee (or, if there has been a further reference of the work under the last preceding sub-section, the report of the Committee on the further reference) has been presented to both Houses of the Parliament, the House of Representatives has resolved that it is expedient to carry out the work.

Amended by
No. 140, 1973,
s. 3.

(8) A public work the estimated cost of which exceeds Two million dollars shall not be commenced unless—

- (a) the work has been referred to the Committee in accordance with this section;
- (b) the House of Representatives has resolved that, by reason of the urgent nature of the work, it is expedient that it be carried out without having been referred to the Committee; or
- (c) the Governor-General has, by order, declared that the work is for defence purposes and that the reference of the work to the Committee would be contrary to the public interest.

Review of
reports.

19. (1) Where the Committee has made a report concerning a public work, the Committee (including the Committee as constituted at any subsequent time, whether during the same or another Parliament) may, if it resolves, before the work is commenced, that the report be reviewed, review the report and make a further report in accordance with section 17 of this Act to both Houses of the Parliament concerning the work.

(2) Without prejudice to the operation of sub-section (7) of the last preceding section, if the Chairman notifies the Minister in writing that the Committee has resolved, in accordance with this section, that a report concerning a public work be reviewed, the work shall not be commenced unless—

- (a) the Committee has resolved that it does not desire the commencement of the work to be deferred;
- (b) a further report has been made by the Committee concerning the work;
- (c) the House of Representatives has resolved that it is expedient that the work be commenced without awaiting the further report; or
- (d) the further report has not been made before the House of Representatives expires by effluxion of time or is dissolved.

20. (1) The Committee may take evidence on oath or affirmation and the Chairman may administer an oath or affirmation to a witness appearing before the Committee. Power to take evidence.

(2) An oath or affirmation administered to a witness may be in accordance with the prescribed form.

21. (1) The Chairman or a member authorized by the Committee by resolution may summon a person to appear before the Committee to give evidence and to produce such documents (if any) as are referred to in the summons. Power to summon witnesses.

(2) The summons may be in accordance with the prescribed form.

(3) The summons may be served upon the person to whom it is addressed either personally or by being left at, or sent by post to, his usual place of business or of abode.

22. (1) Where—

- (a) a summons under the last preceding section has been served upon a person;
 - (b) a reasonable amount for the costs of his conveyance has been tendered to that person; and
 - (c) that person fails to appear or, if he has appeared, fails, unless excused or released by a member from continuing in attendance, to continue in attendance as directed by the Committee or the Chairman,
- Warrant for apprehension of witness.

the Chairman or a member authorized by the Committee may issue a warrant for his apprehension.

(2) The warrant may be in accordance with the prescribed form.

(3) The person executing the warrant may—

- (a) apprehend the person in respect of whom it is issued;
- (b) bring that person before the Committee; and
- (c) detain that person in custody until he is released by order of the Chairman or a member.

(4) The warrant may be executed by the person to whom it is addressed or by a person appointed by him to assist in its execution and the person executing the warrant may break and enter a building, place, vehicle or vessel for the purpose of executing the warrant.

23. (1) Subject to this section, the Committee shall take all evidence in public. Evidence to be given in public except in certain cases.

(2) Where, in the opinion of the Committee, any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced in evidence to, the Committee relates to a secret or confidential matter, the Committee may, and at the request of the witness giving the evidence or producing the document shall—

- (a) take the evidence in private; or
- (b) direct that the document, or the part of the document, be treated as confidential.

(3) Where a direction under the last preceding sub-section is applicable in respect of a document, or a part of a document, produced in evidence to the Committee, the contents of that document or part shall, for the purposes of this section and of section 37 of this Act, be deemed to be evidence given by the person producing the document and taken by the Committee in private.

(4) Where, at the request of a witness, evidence is taken by the Committee in private—

- (a) the Committee shall not, without the consent in writing of the witness; and
- (b) a person (including a member) shall not, without the consent in writing of the witness and the authority of the Committee under sub-section (6) of this section,

disclose or publish the whole or a part of that evidence.

(5) Where evidence is taken by the Committee in private otherwise than at the request of a witness, a person (including a member) shall not, without the authority of the Committee under the next succeeding sub-section, disclose or publish the whole or a part of that evidence.

(6) The Committee may, in its discretion, disclose or publish or, by writing under the hand of the Chairman, authorize the disclosure or publication of, evidence taken in private before the Committee, but this sub-section does not operate so as to affect the necessity for the consent of a witness under sub-section (4) of this section.

(7) Nothing in this section prohibits—

- (a) the disclosure of evidence by a Sectional Committee to the Committee;
- (b) the disclosure or publication of evidence that has already been lawfully published; or
- (c) the disclosure or publication by a person of a matter of which he has become aware otherwise than by reason, directly or indirectly, of the giving of evidence before the Committee.

Penalty: Four hundred dollars or imprisonment for one year.

Continuance
of evidence.

24. Where the Committee as constituted at any time, or a Sectional Committee as constituted at any time, has taken evidence in relation to a matter but the Committee as so constituted has ceased to exist before reporting on the matter, the Committee as constituted at any subsequent time, whether during the same or another Parliament, may consider that evidence as if it had taken that evidence.

25. A person summoned to appear or appearing before the Committee as a witness has the same protection and privileges, and is, in addition to the penalties provided by this Act, subject to the same liabilities in any civil or criminal proceeding, as a witness in proceedings in the High Court. Privileges of witnesses.

26. (1) The Committee may appoint a person to be an assessor to assist it in relation to an inquiry under this Act. Assessors.

(2) A person is not qualified for appointment as an assessor unless he possesses engineering or other technical knowledge or, in relation to the matter the subject of the inquiry, special local knowledge or experience.

27. For the purposes of this Act, a member or other person acting on behalf of the Committee may, with the authority of the Committee, upon notice given by him or the Committee in accordance with the regulations to the occupier of any land, building or place— Power to enter on land, &c.

- (a) enter and inspect the land, building or place; and
- (b) inspect any material on the land or on or in the building or place.

28. A person upon whom a summons under section 21 of this Act has been served shall not, without reasonable excuse (proof whereof shall lie upon him)— Failure of witness to attend.

- (a) fail to appear; or
- (b) fail, unless excused or released by a member from continuing in attendance, to continue in attendance,

as required by the summons.

Penalty: Four hundred dollars or imprisonment for one year.

29. A person shall not knowingly dissuade or prevent a person from obeying a summons under section 21 of this Act. Preventing witnesses from giving evidence.

Penalty: Four hundred dollars or imprisonment for one year.

30. A person upon whom a summons under section 21 of this Act has been served shall not, without reasonable excuse (proof whereof shall lie upon him), refuse or fail— Refusal to be sworn, &c.

- (a) to be sworn or to make an affirmation;
- (b) to answer a question put to him by the Chairman or a member; or
- (c) to produce a document that he was, by the summons, required to produce.

Penalty: Four hundred dollars or imprisonment for one year.

31. A person shall not wilfully give false evidence on oath or affirmation before the Committee. False evidence.

Penalty: Imprisonment for five years.

Protection of
witnesses.

32. A person shall not—

- (a) use violence to or inflict injury on;
- (b) cause or procure violence, damage, loss or disadvantage to; or
- (c) cause or procure the punishment of,

a person for or on account of his having appeared, or being about to appear, as a witness before the Committee or for or on account of any evidence lawfully given by him before the Committee.

Penalty: Four hundred dollars or imprisonment for one year.

Prosecution
of offences.

33. (1) An offence against this Act may be prosecuted summarily or upon indictment, but an offender is not liable to be punished more than once in respect of the same offence.

(2) Subject to the next succeeding sub-section, where proceedings in respect of an offence against this Act are brought in a court of summary jurisdiction, the court may commit the defendant for trial or determine the proceedings.

(3) Where proceedings in respect of an offence against section 31 of this Act are brought in a court of summary jurisdiction, the court shall not determine the proceedings except with the consent of the defendant and, where the court determines the proceedings, it shall not impose a penalty exceeding imprisonment for a period of one year.

Proceedings
to be
instituted by
Attorney-
General.

34. Proceedings in respect of an offence against this Act shall not be instituted except by the Attorney-General or with his consent in writing.

PART IV—MISCELLANEOUS

Allowances.

35. (1) The Chairman and other members shall be paid such allowances as are prescribed.

(2) The allowances are payable, upon the certificate of the Chairman, out of the Consolidated Revenue Fund, which is appropriated accordingly.

Limitation of
annual
expenditure.
Amended by
No. 57, 1972,
s. 3.

36. The total amount paid out of the Consolidated Revenue Fund in respect of allowances payable under the last preceding section shall not exceed Thirty thousand dollars in any financial year.

37. (1) Section 23 of this Act has effect notwithstanding section 2 of the *Parliamentary Papers Act* 1908-1963.

Application
of
Parliamentary
Papers Act.

(2) Where evidence taken by the Committee in private is disclosed or published in accordance with section 23 of this Act, section 4 of the *Parliamentary Papers Act* 1908-1963 applies to and in relation to the disclosure or publication as if it were a publication of that evidence under an authority given in pursuance of section 2 of that Act.

38. For the purposes of this Act and of the *Parliamentary Papers Act* 1908-1963, evidence taken by the Parliamentary Standing Committee on Public Works as constituted at any time under the *Commonwealth Public Works Committee Act* 1913 or under that Act as amended and in force at any time, or by a Sectional Committee of that Committee within the meaning of that Act, shall be deemed to be evidence taken by the Committee under this Act and, if it was taken in private at the request of the witness giving it, to have been taken under this Act in private at the request of that witness.

Evidence
given before
former
Committee.

* * * * *

Section 39
repealed by
No. 216, 1973,
s. 3.

40. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and in particular providing for the payment of fees and expenses to assessors and to witnesses appearing before the Committee.

Regulations.

THE SCHEDULE

Section 8

Public Works Committee Act 1969

DECLARATION BY MEMBER

I, A.B., do solemnly and sincerely promise and declare that, according to the best of my skill and ability, I will faithfully, impartially and truly execute the office and perform the duties of a member of the Parliamentary Standing Committee on Public Works.

NOTE

1. The *Public Works Committee Act* 1969-1973 comprises the *Public Works Committee Act* 1969 as amended by the other Acts specified in the following table:

Public Works Committee Act 1969-1973

Act	Number and year	Date of Assent	Date of commencement
<i>Public Works Committee Act 1969</i>	No. 92, 1969	27 Sept 1969	24 Nov 1969 (<i>see Gazette 1969, p. 7065</i>)
<i>Public Works Committee Act 1972</i>	No. 57, 1972	9 June 1972	9 June 1972
<i>Public Works Committee Act 1973</i>	No. 140, 1973	15 Nov 1973	15 Nov 1973
<i>Statute Law Revision Act 1973</i>	No. 216, 1973	19 Dec 1973	31 Dec 1973

QANTAS EMPIRE AIRWAYS ACT 1948

TABLE OF PROVISIONS

Section

1. Short title
2. Commencement
3. Approval of purchase of shares
4. Subscription to Share Capital
5. Appropriation

An Act to approve the purchase by the Commonwealth of certain Shares in Qantas Empire Airways Limited and subscription by the Commonwealth to issues of Capital by that Company, and for other purposes.

WHEREAS the *Qantas Empire Airways Agreement Act 1946* authorized the execution of an agreement for the purchase by the Commonwealth of the shares held by British Overseas Airways Corporation in Qantas Empire Airways Limited: Preamble.

AND WHEREAS the agreement so authorized was made and carried out, so that the Commonwealth became the owner of the said shares:

AND WHEREAS all the remaining shares in Qantas Empire Airways Limited (numbering Two hundred and sixty-one thousand and five hundred shares) were owned by The Queensland and Northern Territory Aerial Services Limited:

AND WHEREAS the Government of the Commonwealth, on or about the third day of July, One thousand nine hundred and forty-seven, purchased the said remaining shares:

AND WHEREAS it is desirable that the Commonwealth should subscribe to issues of capital by Qantas Empire Airways Limited:

AND WHEREAS it is desirable that the Parliament should approve the purchase of the said remaining shares and any subscription by the Commonwealth to such issues of capital:

AND WHEREAS it is necessary that the Parliament should appropriate the Consolidated Revenue Fund for the purposes of the purchase of the said remaining shares and for the purposes of the said subscriptions to issues of capital:

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 *Qantas Empire Airways Act 1948*.¹
- Commence- 2. This Act shall come into operation on the day on which it receives
ment. the Royal Assent.¹
- Approval of 3. Approval is given to the purchase made on or about the third day
purchase of of July, One thousand nine hundred and forty-seven, by the Common-
shares. wealth from The Queensland and Northern Territory Aerial Services
 Limited of Two hundred and sixty-one thousand and five hundred
 shares in Qantas Empire Airways Limited.
- Subscription 4. Approval is given to subscription by the Commonwealth, to such
to Share extent as the Treasurer thinks fit, to issues of capital by Qantas Empire
Capital. Airways Limited, and the amount of any such subscription shall, to the
 extent to which that amount is not available out of moneys appropriated
 by this Act, be paid out of sums from time to time appropriated by the
 Parliament for the purpose.
- Appropri- 5. There shall be payable out of the Consolidated Revenue Fund,
ation. which is hereby appropriated accordingly—
 (a) the sum of Four hundred and fifty-five thousand pounds, being
 the purchase price of the shares specified in section three of this
 Act; and
 (b) the sum of Two million pounds to meet subscriptions, approved
 by the last preceding section, by the Commonwealth to issues of
 capital by Qantas Empire Airways Limited.

NOTE

1. Act No. 30, 1948; assented to 24 June 1948.

QUARANTINE ACT 1908-1973

TABLE OF PROVISIONS

PART I—INTRODUCTORY

Section

1. Short title
2. Commencement
- 2A. Power to supersede Quarantine measures under State Acts
- 2B. Proclamation in event of epidemic
3. (Repealed)
4. Scope of Quarantine
5. Definitions
6. (Repealed)
7. No appropriation

PART II—ADMINISTRATION

8. (Repealed)
- 8A. Director of Quarantine and Chief Quarantine Officers
9. Appointment of officers
- 9A. Temporary Quarantine Officers
10. Delegation of authority
- 10A. Revocation of delegation
11. Arrangements with State Governments to aid in carrying out this Act

PART III—GENERAL PROVISIONS

12. Proclaimed places
- 12A. Minister may take measures for the diagnosis of quarantinable disease, &c.
- 12B. Laboratories, &c.
13. Proclamation of ports of entry, &c.
- 13A. Emergency Quarantine grounds
14. Exemption of certain vessels and goods
15. Vessels may be ordered to carry disinfecting apparatus
- 15A. Disinfecting apparatus to be carried on vessels
16. Cleansing, &c., of vessels

PART IV—QUARANTINE OF VESSELS, PERSONS, AND GOODS

Division 1—Liability to Quarantine

17. When vessel subject to quarantine
18. Persons subject to quarantine
Goods subject to quarantine
- 18A. Reports by persons subject to quarantine
19. Continuance of liability to quarantine
20. Vessels to enter first port of entry
- 20A. Landing places for aircraft
- 20B. Prohibition of entry by air from proclaimed places
- 20C. Aircraft landing at places other than landing places
21. Quarantine signals on vessels
22. Notification of outbreak of a disease on a vessel
23. Signal
24. Unauthorized person not to board or approach vessel
25. When required vessel to be brought to
26. Limit in port for vessels subject to quarantine
- 26A. Vessels to be brought to mooring grounds
27. Master to deliver health report
28. Master and medical officer to answer questions

TABLE OF PROVISIONS—continued

- 29. No person to be allowed to quit vessel subject to quarantine
- 30. Persons prohibited from quitting vessels and quarantine areas
- 31. Apprehension of persons liable to quarantine
- 32. Mooring of vessels from proclaimed places
- 33. Pratique
- 34. Quarantine surveillance

Division 2—Performance of Quarantine

- 35. Order to perform quarantine
- 35AA. Medical examination for possible pulmonary tuberculosis, &c.
- 35A. Vessel having communicable disease on board
- 36. Master, when so ordered, to convey vessel into quarantine
- 37. When vessel deemed to be in quarantine
- 38. Particulars to be given at quarantine station
- 39. Performance of quarantine by vessel
- 40. Vessel in quarantine not to be moved except in accordance with Act
- 41. Removal from vessel to perform quarantine
- 42. Power to permit vessel to proceed on voyage
- 43. Cleansing and disinfecting vessel
- 44. Goods not to be removed
- Penalty for receiving quarantinable goods
- 45. Performance of quarantine by persons
- Penalty for breach of regulations
- Quarantine surveillance
- 46. Release from quarantine
- 46A. Approval of places for the performance of quarantine by goods
- 47. Performance of quarantine by goods
- 48. Goods ordered into quarantine to be treated and disinfected
- Goods may be destroyed
- 49. Unlawful damage by officers

PART V—QUARANTINE OF ANIMALS AND PLANTS

- 50. Animals or plants to be landed at declared ports
- 51. Quarantine control of imported animals
- 52. Penalty for unauthorized landing of animals, &c.
- 53. Examination of imported animals
- Quarantine surveillance of animals
- 54. Examination of imported plants
- 55. Power to order animals and plants into quarantine
- 55A. Power to order goods into quarantine
- 56. Performance of quarantine
- 57. Power to destroy diseased animals
- 58. Power to destroy diseased plants

PART VI—EXPENSES OF QUARANTINE

- 59. Liability of owner or agent for expenses of quarantine
- 59A. Liability for costs of disinfection, &c.
- 59B. Security for carrying out responsibilities
- 60. Liability of ship-owners as to pilotage
- 61. Liability of owners, &c., for expenses of passages
- 62. Persons in quarantine able to support themselves
- 63. Owners of vessel quarantined liable for services of medical officer
- 64. Quarantine expenses in case of animals and plants
- 65. Expenses to be a charge upon vessel
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PART VII—MISCELLANEOUS

- 67. Penalty for importing, &c., contrary to proclamation

TABLE OF PROVISIONS—continued

- 67A. Liability of master or owner of vessel for importation of prohibited animals
- 68. Forfeiture of animals, plants, &c., unlawfully imported, &c.
- 68A. Destruction of certain animals
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- 70. Powers of inspection
- 71. Boarding vessel
- 72. Medical inspections and examinations
- 73. Quarantine officer may make inquiries at any time
- 74. Power to affix notices
- 75. Persons may be vaccinated
- 76. Trespassing on quarantine stations
- 77. Pilot to incur penalty on wrongly conducting vessel
- 78. Penalty for entering port, other than first port of entry, having disease on board
- 78A. Cleansing and disinfection of insanitary vessels
- 79. Offences as to documents
- 80. Penalty for desertion
- 81. Bribing, assaulting, obstructing, or intimidating officers
- 82. Officers taking bribes
- 83. Master or medical officer of vessel misleading quarantine officer
- 84. Maliciously ordering vessels, &c., into quarantine
- 85. Proceedings in respect of offences
- 86. (Repealed)
- 86A. Venue in summary prosecution
- 86B. (Repealed)
- 86C. Power to administer oaths or take declarations
- 86D. Averment of prosecution sufficient
- 86E. Penalty in cases not specially provided for
- 87. Regulations

QUARANTINE ACT 1908-1973

An Act relating to Quarantine.

PART I—INTRODUCTORY

1. This Act may be cited as the *Quarantine Act* 1908-1973.¹

Short title.

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

2. This Act shall commence on a day to be fixed by proclamation.¹

Commence-
ment.

2A. (1) Whenever the Governor-General is satisfied that an emergency exists which makes it necessary to do so, he may, by proclamation, declare that any or all measures of quarantine prescribed by or under any State Act shall, for such period as is specified in the proclamation, cease to have effect, and such measure shall thereupon cease to have effect accordingly.

Power to
supersede
Quarantine
measures
under State
Acts.

Inserted by
No. 47, 1920,
s. 2.

(2) The Governor-General may at any time revoke or vary any such proclamation.

2B. (1) Where the Governor-General is satisfied that an epidemic caused by a quarantinable disease or danger of such an epidemic exists in a part of the Commonwealth, the Governor-General may, by proclamation, declare the existence in that part of the Commonwealth of that epidemic or of the danger of that epidemic.

Proclamation
in event of
epidemic.

Inserted by
No. 92, 1947,
s. 3.

(2) Upon the issue of a proclamation under the last preceding sub-section the Minister may, during the period the proclamation remains in force, give such directions and take such action as he thinks necessary to control and eradicate the epidemic, or to remove the danger of the epidemic, by quarantine measures or measures incidental to quarantine.

(3) A person who refuses or fails to comply with any direction given under the last preceding sub-section, or who hinders or obstructs the taking of any action under that sub-section, shall be guilty of an offence.

* * * * *

Section 3
repealed by
No. 216, 1973,
s. 3.

Scope of Quarantine.

Amended by No. 15, 1912, s. 2; and No. 42, 1915, s. 2.

4. In this Act, Quarantine has relation to measures for the inspection, exclusion, detention, observation, segregation, isolation, protection, treatment, sanitary regulation, and disinfection of vessels, persons, goods, things, animals, or plants, and having as their object the prevention of the introduction or spread of diseases or pests affecting man, animals, or plants.

Definitions.

Amended by No. 15, 1912, s. 3; No. 47, 1920, s. 3; No. 30, 1924, s. 2; No. 19, 1947, s. 3; No. 92, 1947, s. 4; and No. 1, 1969, s. 3.

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

“Animal” includes a dead animal and any part of an animal;

“Australian vessel” means a vessel which does not voyage or ply to or from any place outside Australia;

“Authorized person” means a person authorized by this Act or the regulations, or by the Minister or a quarantine officer, to do the act in relation to which the expression is used;

“By authority” means by the authority of the Minister, or of a quarantine officer, or of an officer under this Act doing duty in the matter in relation to which the expression is used;

“Disease” in relation to animals, means glanders, farcy, pleuropneumonia contagiosa, foot and mouth disease, rinderpest, anthrax, Texas or tick fever, hog cholera, swine plague, mange, scab, surra, dourine, rabies, tuberculosis, actinomycosis, variola ovina, or any disease, parasite or pest declared by the Governor-General by proclamation to be a disease affecting animals;

“Disease”, in relation to plants, means any disease, pest or plant declared by the Governor-General by proclamation, or by the Minister by notice published in the *Gazette*, to be a disease or pest affecting plants or a noxious plant;

“First port of entry” in relation to a vessel means a first port of entry for that vessel;

“Goods” includes animals and plants and any other kind of movable property;

“Landing place” means any place declared by proclamation to be a landing place for vessels engaged in navigation by air;

“Master” in relation to a vessel means the person (other than a pilot) in charge or command of the vessel;

“Medical Officer” in relation to a vessel means any person on the vessel acting as the medical officer, doctor, or surgeon of the vessel;

“Officer” means a quarantine officer or other officer appointed under this Act;

“Oversea vessel” means any vessel other than an Australian vessel;

“Package” includes every means by which plants are cased, covered, enclosed, contained, or packed for carriage;

“Pest” includes “weed pest” and “insect pest”;

“Plant” includes a dead plant and any part of a plant;

“Port” includes landing place;

“Port of departure” in relation to a vessel means the port at which the vessel commenced its current voyage;

“Pratique”, in relation to a vessel, means a certificate of pratique granted by a quarantine officer since the last arrival of the vessel from places outside Australia, and having effect at the port or place where the vessel is for the time being, or is about to arrive;

“Quarantinable disease” means small-pox, plague, cholera, yellow fever, typhus fever, or leprosy, or any disease declared by the Governor-General, by proclamation, to be a quarantinable disease;

“Quarantine area” means any part of the Commonwealth which, in pursuance of this Act, is declared to be a quarantine area;

“Quarantine Officer” means a quarantine officer appointed under this Act;

“Unauthorized person” means a person not authorized by this Act or the Regulations, or by the Minister or a quarantine officer, to do the act in relation to which the expression is used;

“Vessel” means any ship, boat, or other description of vessel or vehicle used in navigation by sea or air.

* * * * *

Section 6
repealed by
No. 15, 1912,
s. 4.

7. Nothing in this Act shall be taken to be an appropriation of any public moneys.

No
appropriation.

PART II—ADMINISTRATION

* * * * *

Section 8
repealed by
No. 47, 1920,
s. 4.

8A. (1) There shall be a Director of Quarantine who shall, under the Minister, be charged with the execution of this Act and the regulations thereunder.

Director of
Quarantine
and Chief
Quarantine
Officers.

(2) There shall be such Chief Quarantine Officers for such divisions of quarantine as the Governor-General thinks fit, who shall have such powers and functions as are conferred upon them by this Act or the regulations.

Inserted by
No. 15, 1912,
s. 5.

(3) All quarantine officers (including Chief Quarantine Officers) shall perform their powers and functions under and subject to the directions of the Director of Quarantine who shall himself also have all the powers of a Quarantine Officer or a Chief Quarantine Officer under this Act or Regulations.

Amended by
No. 47, 1920,
s. 5.

Sub-section (4)
omitted by
No. 216, 1973,
s. 3.

* * * * *

(5) For the purposes of this section, any branch or subject of quarantine or territorial division or locality for which a Chief Quarantine Officer is appointed shall be a division of quarantine.

Appoint-
ment of
officers.

9. The Governor-General may appoint quarantine officers and other officers for carrying out this Act.

Temporary
Quarantine
Officers.

9A. (1) The Minister may appoint temporary Quarantine Officers for such period as he thinks necessary.

Inserted by
No. 47, 1920,
s. 6.

Inserted by
No. 92, 1947,
s. 5.

(1A) Where the Governor-General has, in pursuance of section two B of this Act, declared the existence of an epidemic or the danger of an epidemic in any part of the Commonwealth, any person thereto authorized in writing by the Minister may, either orally or in writing, authorize any person to act during any specified period as a temporary quarantine officer in that part of the Commonwealth.

Amended by
No. 92, 1947,
s. 5.

(2) Temporary Quarantine Officers shall, for the period of their appointment or authority to act, have all the powers of a Quarantine Officer appointed under the last preceding section.

Substituted by
No. 92, 1947,
s. 5.

(3) Any appointment made or authority given in pursuance of this section shall not confer on the person appointed or authorized any claim to be permanently appointed in any capacity.

Delegation
of authority.

10. In relation to any particular matter or class of matters, or as to any particular State or port, the Minister may by writing under his hand delegate any of his powers under this Act (except this power of delegation) so that the delegated powers may be exercised by the delegate with respect to the matter or class of matters, or the State or port specified in the instrument of delegation.

Revocation
of
delegation.

Inserted by
No. 47, 1920,
s. 7.

10A. Every delegation by the Minister shall be revocable in writing at will and no delegation shall prevent the exercise of any power by the Minister.

11. The Governor-General may enter into an arrangement with the Governor of any State in respect of all or any of the following matters:—

Arrangements with State Governments to aid in carrying out this Act.

- (a) The use of any State quarantine station or other place as a quarantine station under this Act, and the control and management of any such quarantine station;
- (b) Any matters necessary or convenient to be arranged in order to enable the Commonwealth quarantine authorities and the State health or other authorities to act in aid of each other in preventing the introduction or spread of diseases affecting man, animals, or plants.

PART III—GENERAL PROVISIONS

12. The Governor-General may, by proclamation, declare that any place beyond or in Australia is infected with a quarantinable disease, or that a quarantinable disease may be brought or carried from or through that place, and thereupon, and so long as the proclamation remains in force, that place shall be a proclaimed place within the meaning of this Act.

Proclaimed places.

12A. (1) Where, in the opinion of the Minister, an emergency has arisen which requires the taking of action not otherwise authorized by this Act, he may take such quarantine measures, or measures incidental to quarantine, as he thinks necessary or desirable for the diagnosis, prevention and treatment of any quarantinable disease.

Minister may take measures for the diagnosis of quarantinable disease, &c.

Inserted by No. 92, 1947, s. 6.

(2) A person who refuses or fails to comply with a direction given in pursuance of the last preceding sub-section, or who hinders or obstructs the taking of any action under that sub-section, shall be guilty of an offence against this Act punishable upon conviction by a fine not exceeding One thousand dollars or imprisonment for a period not exceeding one year.

Amended by No. 1, 1969, s. 18.

12B. The Minister may establish and use laboratories and facilities for the diagnosis of disease for purposes of, or incidental to, quarantine and may—

Laboratories, &c.

Inserted by No. 92, 1947, s. 6.

- (a) lease, rent, purchase or erect premises; or
- (b) enter into an agreement with any State or with any hospital authority for the use of buildings,

for the purpose of any such diagnosis.

Proclamation
of ports of
entry, &c.

Sub-section (1)
amended by
No. 15, 1912,
s. 6; No. 42,
1915, s. 3;
No. 47, 1920,
s. 8; No. 30,
1924, s. 3;
No. 19, 1947,
s. 4; No. 92,
1947, s. 7; and
No. 216, 1973,
s. 3.

13. (1) The Governor-General may, by proclamation—

- (a) declare any ports in Australia to be first ports of entry for over-sea vessels;
- (aa) declare any place or area in Australia to be a landing place for vessels engaged in navigation by air;
- (b) declare any ports in Australia to be ports where imported animals and plants or any particular kinds of imported animals or plants may be landed;
- (c) appoint places on land or sea to be quarantine stations for the performance of quarantine by vessels, persons, goods, animals, or plants;
- (d) prohibit the introduction into Australia of any noxious insect, or any pest, or any disease germ or microbe, or any disease agent, or any culture virus or substance or article containing, or likely to contain, any noxious insect, pest, disease germ, microbe, or disease agent;
- (e) prohibit the importation into Australia of any articles likely, in his opinion, to introduce any infectious or contagious disease, or disease or pest affecting persons, animals or plants;
- (f) prohibit the importation into Australia of any animals or plants, or any parts of animals or plants;
- (fa) prohibit the bringing into any port or place in Australia of any animals;
- (g) prohibit the removal of any animals, plants or goods, or parts of animals or plants from any part of the Commonwealth to any other part of the Commonwealth;
- (h) declare any part of the Commonwealth in which any quarantinable disease or any disease or pest affecting animals or plants exists, or is suspected to exist, to be a quarantine area; or
- (i) declare that any vessel, persons, animals, plants, or goods in any quarantine area, or in any part of the Commonwealth in which any quarantinable disease, or any disease or pest affecting plants or animals, exists, or is suspected to exist, shall be subject to quarantine.

Inserted by
No. 15, 1912,
s. 6.

(1A) The power to declare first ports of entry shall extend to authorize the declaration of a port to be a first port of entry for all over-sea vessels, or for over-sea vessels from any particular place, or for any class of over-sea vessels.

(2) The power of prohibition under this section shall extend to authorize prohibition generally or with limitations as to place and subject matter, and either absolutely or subject to any specified conditions or restrictions.

(3) The powers conferred on the Governor-General by this section, in relation to the matters specified in paragraphs (g), (h), and (i) of sub-section (1), so far as they relate to animals, plants or goods, or any disease or pest affecting animals or plants, shall only be exercised in cases where the Governor-General is satisfied that the exercise of those powers is necessary for the purpose of preventing the spread of a quarantinable disease, or a disease or pest affecting animals or plants.

Substituted by
No. 30, 1924,
s. 3.

13A. The Minister may appoint any place to be a temporary quarantine station for such period as he thinks necessary, for the performance of quarantine by any vessel, persons, goods, animals, or plants, and the place so appointed shall be deemed to be a quarantine station accordingly.

Emergency
Quarantine
grounds.
Inserted by
No. 15, 1912,
s. 7.

14. The Governor-General may exempt, for such time and subject to such conditions as he thinks fit, from all or any of the provisions of this Act—

Exemption
of certain
vessels and
goods.

- (a) any ship of war;
- (b) any vessels trading exclusively between Australian ports or Australia and New Zealand or Fiji, or other places adjacent to Australia;
- (c) any particular vessel or class of vessels, and
- (d) any persons, animals, plants, or goods.

15. The owner or master of any vessel going from one State or part of the Commonwealth to another State or part of the Commonwealth, or of any vessel carrying passengers and trading regularly with the Commonwealth, shall, if required by the Minister by order in writing so to do, cause to be carried on the vessel for such time as may be prescribed such prophylactic agents as are prescribed and efficient disinfecting apparatus or appliances and disinfectants approved by him.

Vessels may
be ordered to
carry
disinfecting
apparatus.
Amended by
No. 15, 1912,
s. 8; and No. 1,
1969, s. 18.

Penalty: Five hundred dollars.

15A. (1) The master of any vessel, bound for any port or place in Australia, which comes from or calls or touches at any proclaimed place, shall, while his vessel is at that proclaimed place and during the voyage to Australia, take, in respect of the vessel her crew passengers and cargo, all prescribed precautionary measures to prevent the introduction into or spread within Australia of any quarantinable disease.

Disinfecting
apparatus to
be carried on
vessels.
Inserted by
No. 15, 1912,
s. 9.
Sub-section (1)
amended by
No. 47, 1920,
s. 9; and No. 92,
1947, s. 8.

(2) The master of any vessel who, having failed to comply with the preceding sub-section, suffers his vessel to enter any port or place in Australia, shall be guilty of an offence against this Act punishable upon conviction by a fine not exceeding One thousand dollars or imprisonment for a period not exceeding one year.

Amended by
No. 1, 1969,
s. 18.

(3) In any prosecution under this section, if the master of the vessel satisfies the Court that he was not aware of the precautionary measures required to be taken by him, and that he took all reasonable means to ascertain whether any such measures were necessary on his part, he shall not be liable to any penalty.

(4) Where a vessel has arrived from a proclaimed place and the prescribed precautionary measures have not been taken, any prescribed measures for the prevention of the introduction or spread of any quarantinable disease may be carried out by a quarantine officer with respect to the vessel her crew passengers and cargo at the expense of the owner of the vessel.

Cleansing,
&c., of
vessels.

Amended by
No. 47, 1920,
s. 10; and No. 1,
1969, s. 18.

16. The owner or master of any Australian vessel or of any vessel going from one port in the Commonwealth to another port in the Commonwealth shall, when required by a quarantine officer by order in writing so to do, cause his vessel to be cleansed, disinfected, fumigated or submitted to any specified process for the destruction of rats, mice, insects, or disease agents in the presence and to the satisfaction of an officer.

Penalty: Five hundred dollars.

PART IV—QUARANTINE OF VESSELS, PERSONS AND GOODS

Division 1—Liability to Quarantine

When vessel
subject to
quarantine.

Amended by
No. 15, 1912,
s. 10.

17. The following vessels shall be subject to quarantine:—

- (a) Every oversea vessel until pratique has been granted or until she has been released from quarantine;
- (b) Every vessel (whether an Australian vessel or an oversea vessel) on board which any quarantinable disease or disease which there is reason to believe or suspect to be a quarantinable disease has broken out or been discovered (notwithstanding that pratique has been granted or that she has been released from quarantine); and
- (c) Every vessel which is ordered into quarantine by a quarantine officer.

Persons
subject to
quarantine.

Sub-section (1)
amended by
No. 92, 1947,
s. 9.

18. (1) The following persons shall be subject to quarantine:—

- (a) Every person who is on board a vessel subject to quarantine, or who has been on board the vessel (being an oversea vessel) since her arrival in Australia;
- (b) Every person infected with a quarantinable disease;
- (c) Every person who has been in contact with or exposed to, infection from any person or goods subject to quarantine; and

(d) Every person who is, or has been within a period of fourteen days, in an area which is a quarantine area.

(2) The following goods shall be subject to quarantine:—

(a) All goods which are on board a vessel subject to quarantine, or which have been on board the vessel (being an oversea vessel) since her arrival in Australia;

Goods subject to quarantine.
Amended by No. 92, 1947, s. 9.

(b) All goods infected with a quarantinable disease; and

(c) All goods which have been in contact with or exposed to infection from a quarantinable disease or from any person or goods subject to quarantine.

18A. A person who arrives in Australia by air and who, within fourteen days after his arrival, suffers from any illness or disease, shall forthwith report the fact to a quarantine officer.

Reports by persons subject to quarantine.
Inserted by No. 92, 1947, s. 10; amended by No. 1, 1969, s. 18.

Penalty: Five hundred dollars.

19. All vessels, persons, and goods subject to quarantine shall continue to be so subject from the time when they became subject to quarantine until they are released from quarantine or until pratique has been granted.

Continuance of liability to quarantine.

20. The master of an oversea vessel arriving in Australia shall not, unless from stress of weather or other reasonable cause, suffer the vessel to enter any port other than a port declared to be a first port of entry.

Vessels to enter first port of entry.
Amended by No. 1, 1969, s. 18.

Penalty: One thousand dollars or imprisonment for one year.

20A. The master of any oversea vessel engaged in navigation by air shall not, unless from stress of weather or other reasonable cause, suffer the vessel to land in Australia at any place other than a landing place.

Landing places for aircraft.
Inserted by No. 47, 1920, s. 11; amended by No. 1, 1969, s. 18.

Penalty: One thousand dollars or imprisonment for one year.

20B. (1) Where the Governor-General is of opinion that there is danger of the introduction into Australia by vessels used in navigation by air of disease from any place beyond Australia he may, by proclamation, declare the place to be a place in relation to which this section shall apply.

Prohibition of entry by air from proclaimed places.
Inserted by No. 92, 1947, s. 11.

(2) The master and owner of any vessel used in navigation by air which enters Australia from or through a place specified in a proclamation under the last preceding sub-section shall be guilty of an offence against this Act punishable upon conviction by a fine not exceeding Two thousand dollars or imprisonment for a period not exceeding two years.

Amended by No. 1, 1969, s. 18.

Amended by
No. 1, 1969,
s. 18.

(3) The Governor-General may by proclamation declare that a person shall not, so long as the proclamation remains in force, enter Australia, by any vessel used in navigation by air, from any place beyond Australia specified in the proclamation unless that person has complied with the conditions specified in the proclamation, and a person shall not enter Australia in contravention of any such proclamation.

Penalty: Two thousand dollars or imprisonment for two years.

(4) The conditions specified in a proclamation under the last preceding sub-section shall be such conditions as the Governor-General considers necessary or expedient for avoiding the possibility of the entry into Australia of persons suffering from, or capable of communicating, any disease of persons, animals or plants.

Amended by
No. 1, 1969,
s. 18.

(5) The master and owner of a vessel used in navigation by air by which any person enters Australia in contravention of a proclamation under sub-section (3) of this section shall be guilty of an offence against this Act punishable upon conviction by a fine not exceeding Two thousand dollars or imprisonment for a period not exceeding two years.

(6) For the purposes of this section and of any proclamation under this section, a person shall be deemed to enter Australia from a place outside Australia if he has been in that place within fourteen days before his arrival in Australia.

Aircraft
landing at
places other
than landing
places.
Inserted by
No. 92, 1947,
s. 11.

20C. If any vessel engaged in navigation by air and subject to quarantine makes a landing at any part of Australia which is not a landing place, the vessel and any person, goods, animal or plant on board shall, for the purposes of this Act, be deemed to be ordered into quarantine and shall be dealt with as prescribed.

Quarantine
signals on
vessels.
Amended by
No. 47, 1920,
s. 12; No. 92,
1947, s. 12; and
No. 1, 1969,
s. 18.

21. The master of every vessel subject to quarantine shall—

- (a) display the quarantine signal on his vessel before she comes within one league of any port;
- (b) keep the quarantine signal displayed on his vessel while entering or being in any port or quarantine station; and
- (c) in the case of a vessel engaged in navigation by air, display and keep displayed the prescribed signal and, on arrival at the first landing place in Australia and at each landing place subsequently called at, cause his vessel to come to a stop as near as possible to a spot marked by the prescribed signal on the landing place.

Penalty: One thousand dollars.

22. (1) When—

- (a) any eruptive disease; or
- (b) any disease attended with fever and glandular swellings; or
- (c) any disease which he believes or suspects, or has reason to believe or suspect, to be a quarantinable disease—

has broken out on board any vessel, the master of the vessel shall forthwith (unless the vessel is actually performing quarantine under the supervision of a quarantine officer)—

- (d) notify a quarantine officer of the breaking out of the disease, and
- (e) display the quarantine signal on his vessel, and keep it so displayed until he is authorized by a Quarantine Officer to remove it or until the vessel is released from quarantine.

Penalty: One thousand dollars or imprisonment for one year.

(2) The master of a vessel in port shall forthwith give notice in writing to a quarantine officer of every case of any prescribed disease which was on his vessel when she arrived in the port or which has arisen on his vessel since she arrived in the port.

Penalty: One thousand dollars or imprisonment for one year.

23. The quarantine signal shall be as prescribed and shall be displayed in the prescribed manner.

24. No unauthorized person shall go on board or, except as the master or a member of the crew of a tug that is carrying out operations as a tug, alongside of any vessel subject to quarantine or while the quarantine signal is displayed on the vessel or shall approach within thirty yards of any prescribed signal on a landing place.

Penalty: Five hundred dollars.

25. The master of a vessel shall, on being so required by a quarantine officer, bring the vessel to, and shall by all reasonable means facilitate the boarding of the vessel by the quarantine officer.

Penalty: One thousand dollars.

26. (1) The master of a vessel subject to quarantine shall not allow the vessel to be brought into any part of the port within the quarantine line except for the purpose of complying with the next succeeding section.

Penalty: One thousand dollars.

(2) The Governor-General may by proclamation fix the position of the quarantine line for any port.

Notification of outbreak of a disease on a vessel.
Sub-section (1) amended by No. 15, 1912, s. 11; No. 47, 1920, s. 13; and No. 1, 1969, ss. 4 and 18.

Added by No. 15, 1912, s. 11; amended by No. 1, 1969, s. 18.

Signal.
Amended by No. 47, 1920, s. 14.

Unauthorized person not to board or approach vessel.
Amended by No. 47, 1920, s. 15; No. 92, 1947, s. 13; and No. 1, 1969, ss. 5 and 18.

When required vessel to be brought to.
Amended by No. 1, 1969, s. 18.

Limit in port for vessels subject to quarantine.
Sub-section (1) amended by No. 1, 1969, ss. 6 and 18.

Vessels to be brought to mooring grounds.

Substituted by No. 1, 1969, s. 7.

26A.² The master of a vessel subject to quarantine (not being a vessel used in navigation by air) shall, forthwith on arrival at or near a port, bring the vessel—

- (a) to a place appointed by the Governor-General by proclamation to be a mooring ground in relation to the port for vessels subject to quarantine; or
- (b) with the approval of a quarantine officer authorized in writing by the Director of Quarantine to grant approvals under this section and on payment of any fee that is payable under the regulations in respect of the approval, to such place as is specified in the approval.

Penalty: One thousand dollars.

Master to deliver health report.

Amended by No. 1, 1969, s. 18.

27. The master of an overseas vessel arriving at any port in Australia shall, on being required so to do, make out and deliver to the quarantine officer a health report, in accordance with the prescribed form signed by him, and, if the vessel carries a medical officer, signed also by the medical officer.

Penalty: One thousand dollars.

Section 27A repealed by No. 92, 1947, s. 14.

* * * * *

Master and medical officer to answer questions.

Sub-section (1) amended by No. 42, 1915, s. 4; No. 19, 1947, s. 5; and No. 1, 1969, s. 18.

28. (1) The medical officer and the master of any overseas vessel arriving at any port in Australia shall severally truly answer to the best of their knowledge all questions put to them or either of them by a quarantine officer touching the health of the crew and passengers of the vessel during the voyage, touching the sanitary condition of the vessel during the voyage, and touching the existence of any quarantinable or infectious disease at the ports of departure or call or on board any vessel communicated with, touching the existence, at any time, of any animals on his vessel, or touching the existence on his vessel of any rags or second-hand clothing or other prescribed articles and the ports or places at which they were put on board the vessel.

Penalty: One thousand dollars.

(2) Any questions under this section may be written or oral, and the quarantine officer may require the answers to be given in writing or orally.

Added by No. 15, 1912, s. 14.

(3) A quarantine officer may, if he thinks fit, require the medical officer and the master or either of them to verify any answer to any question asked in pursuance of this section by a declaration in writing signed by him solemnly declaring to the truth of the answer.

(4) Any declaration under this section may be taken before a quarantine officer, and any person who makes any false statement in any such declaration shall be guilty of an indictable offence against this Act punishable upon conviction by a fine not exceeding Two thousand dollars or imprisonment for a period not exceeding two years.

Added by
No. 15, 1912,
s. 14; amended
by No. 1, 1969,
s. 18.

29. (1) Except as prescribed, the master of a vessel subject to quarantine shall not quit, or knowingly or negligently suffer any person to quit, his vessel, or knowingly or negligently permit any goods, mails, or loose letters to be removed from his vessel.

No person to
be allowed
to quit vessel
subject to
quarantine.

Penalty: One thousand dollars.

Sub-section (1)
amended by
No. 1, 1969,
s. 18.

(2) In order to comply with this section, the master of a vessel may detain any person, goods, mails, or loose letters on his vessel, and may use any means reasonably necessary for that purpose.

30. A person (not being a quarantine officer) who is on board a vessel subject to quarantine, or who is in a quarantine area, shall not (unless authorized by a quarantine officer to do so) leave the vessel or quarantine area.

Persons
prohibited
from quitting
vessels and
quarantine
areas.

Penalty: Five hundred dollars.

Substituted by
No. 92, 1947,
s. 15; amended
by No. 1, 1969,
s. 18.

31. (1) Any constable or authorized person may, without warrant, apprehend—

Apprehen-
sion of
persons
liable to
quarantine.

(a) any person who has, in contravention of this Act or the regulations, quitted any vessel subject to quarantine or any quarantine station; or

Sub-section (1)
amended by
No. 92, 1947,
s. 16.

(b) any person subject to quarantine (not being a person who is so subject by reason only of being or having been in a quarantine area) who is found in any place not being in or part of a quarantine station.

(1A) Any constable or authorized person may, without warrant, apprehend any person who is subject to quarantine by reason of having been in a quarantine area and whom he believes to have left that area in contravention of this Act.

Inserted by
No. 92, 1947,
s. 16.

(2) Any person apprehended under this section shall be brought before a Justice of the Peace or quarantine officer, who may, on proof to his satisfaction that the person so brought before him is subject to quarantine, order him to be taken to the vessel from which he has landed or to a quarantine station to perform quarantine, or to be taken to the quarantine area from which he came, and may by warrant authorize any constable or other person to take him accordingly, or may order him to be dealt with in accordance with the regulations.

Amended by
No. 92, 1947,
s. 16.

Added by
No. 1, 1969,
s. 8; amended by
No. 216, 1973,
s. 3.

(3) In this section, “constable” means a member of the Commonwealth Police Force or of the Police Force of a State or Territory.

Mooring of
vessels from
proclaimed
places.

32. (1) A vessel which has arrived at any port from a proclaimed place and not having a certificate of pratique shall be moored or berthed in the port in accordance with the directions of a quarantine officer or as prescribed.

Amended by
No. 1, 1969,
s. 18.

(2) The master of a vessel shall not suffer or permit her to be moored or berthed in any port in contravention of this section.

Penalty: One thousand dollars or imprisonment for one year.

Pratique.

33. (1) After boarding any oversea vessel (not having a certificate of pratique) the quarantine officer shall forthwith, if he is satisfied that the vessel is free from infection, give the master a certificate of pratique in accordance with the form prescribed.

(2) The certificate of pratique may be expressed to have effect in all ports in Australia, or to have effect only in any specified port or ports, or the ports in any specified States or parts of the Commonwealth or to have effect only for a specified time.

Added by
No. 15, 1912,
s. 15.

(3) The certificate of pratique may be expressed to have relation to all or any specified measures of quarantine.

Quarantine
surveillance.

34. (1) Where a vessel has arrived at any port from a proclaimed place, or is subject to quarantine, and the quarantine officer is satisfied that no person on board is actually suffering from a quarantinable disease, but is not satisfied that the vessel is free from infection, he may, subject to this section—

- (a) refrain from giving a certificate of pratique;
- (b) permit the vessel to proceed on her voyage without performing quarantine at a quarantine station;
- (c) permit any passengers for that port and their effects to be landed;
- (d) permit any cargo on the vessel for that port to be landed.

(2) The vessel shall continue to be subject to quarantine until pratique is granted.

Amended by
No. 1, 1969,
s. 18.

(3) All persons landed in pursuance of this section shall continue subject to quarantine until such period as is prescribed, and, while so subject, shall be under quarantine surveillance and shall comply with the regulations relating to quarantine surveillance.

Penalty: One thousand dollars.

(4) All cargo and passengers' effects landed under this section shall be subject to treatment and disinfection as prescribed.

Division 2—Performance of Quarantine

35. (1) A quarantine officer may, by order in writing, order into quarantine any vessel, person, or goods (whether subject to quarantine or not), being or likely to be, in his opinion, infected with a quarantinable disease or a source of infection with a quarantinable disease.

Order to perform quarantine.

(1A) A quarantine officer may, by order in writing, order into quarantine any person, being a person who is or has been on board an over-sea vessel, who fails to satisfy the quarantine officer that he has, within the prescribed period, been successfully vaccinated or inoculated against any prescribed disease.

Inserted by No. 19, 1947, s. 6; amended by No. 92, 1947, s. 17.

(2) If a vessel has arrived in Australia from a proclaimed place the quarantine officer shall (except as prescribed) order her into quarantine.

(3) The order may—

- (a) in the case of any vessel, and all persons and goods on board the vessel, be served on the master of the vessel; or
- (b) in the case of any person, be served on the person; or
- (c) in the case of any goods, be served on the owner consignee or any person having possession or custody of the goods.

(4) When the order has been served in accordance with this section, the vessel, and all persons and goods on board the vessel, or the person or goods, as the case may be, shall be deemed to be ordered into quarantine.

35AA. (1) Where a quarantine officer is not satisfied that a person, being an immigrant, is not suffering from active pulmonary tuberculosis, the quarantine officer may, by order in writing served on the person, require him to undergo, within a time and at a place specified in the order, a medical examination in accordance with the next succeeding sub-section.

Medical examination for possible pulmonary tuberculosis, &c.

Inserted by No. 12, 1966, s. 3.

(2) The medical examination referred to in the last preceding sub-section shall—

Amended by No. 216, 1973, s. 3.

- (a) be carried out by, or under the supervision of, a person registered as a medical practitioner in a State or Territory, being a person approved by the Minister for the purposes of this section; and
- (b) be such examination as that person considers necessary to ascertain whether or not the person to be examined is suffering from active pulmonary tuberculosis.

(3) If a person fails to comply with an order under sub-section (1) of this section, a quarantine officer may, by order in writing served on the person, order him into quarantine.

(4) Where a quarantine officer is of the opinion that a person, being an immigrant, is, or is likely to be, suffering from active pulmonary tuberculosis, the quarantine officer may, by order in writing served on the person, order the person into quarantine.

(5) A quarantine officer may release under quarantine surveillance a person ordered into quarantine under this section.

(6) The regulations may provide that this section does not apply to a person included in a prescribed class of persons.

(7) In this section, "immigrant" has the same meaning as in the *Migration Act 1958-1966*.

Vessel
having
communicable
disease on
board.

Inserted by
No. 15, 1912,
s. 16.

Sub-section (1)
amended by
No. 42, 1915,
s. 5.

35A. (1) When a vessel subject to quarantine, or any other vessel, has on board any case of communicable (infectious) disease, and a quarantine officer certifies that measures of quarantine are necessary to prevent the disease from spreading, all such measures for the disinfection of the vessel and all such other measures of quarantine as are prescribed or as a quarantine officer directs shall be taken, and any persons suffering from or suspected to be suffering from the disease or who have been exposed to infection from the disease may be ordered into quarantine and may be removed to a quarantine station to perform quarantine.

(2) Persons suffering from, or suspected to be suffering from, the disease shall be deemed to be subject to quarantine, notwithstanding that the disease has not been proclaimed to be a quarantinable disease.

Added by
No. 42, 1915,
s. 5; amended by
No. 47, 1920,
s. 18; and No. 1,
1969, s. 18.

(3) No person suffering from or suspected to be suffering from a communicable (infectious) disease shall quit the vessel without the written permission of a quarantine officer.

Penalty: One thousand dollars or imprisonment for one year.

Added by
No. 42, 1915,
s. 5; amended by
No. 47, 1920,
s. 18; and No. 1,
1969, s. 18.

(4) No person who is in charge of any person suffering from or suspected to be suffering from any communicable (infectious) disease shall permit the person to quit the vessel without the written permission of a quarantine officer.

Penalty: One thousand dollars or imprisonment for one year.

Added by
No. 47, 1920,
s. 18; amended by
No. 1, 1969,
s. 18.

(5) When a quarantine officer has given a certificate in pursuance of sub-section (1) of this section, the master of the vessel shall not knowingly or negligently allow any person suffering from, or suspected to be suffering from, the disease, or who has been exposed to infection from the disease, to quit the vessel.

Penalty: Two thousand dollars or imprisonment for two years.

36. (1) When a vessel is ordered into quarantine, the master thereof shall forthwith cause the vessel and all persons and goods on board the vessel to be conveyed into such quarantine station as the quarantine officer directs, there to perform quarantine.

Master, when so ordered, to convey vessel into quarantine.

Penalty: Two thousand dollars or imprisonment for two years.

Sub-section (1) amended by No. 1, 1969, s. 18.

(2) Where a vessel ordered into quarantine has to be cleansed, fumigated, disinfected, or treated in any manner, a quarantine officer may direct the vessel to be taken to any prescribed place for the purpose of being so cleansed, fumigated, disinfected, or treated, and the master of the vessel shall cause the vessel to be taken to the place accordingly.

Added by No. 15, 1912, s. 17; amended by No. 1, 1969, s. 18.

Penalty: Two thousand dollars or imprisonment for two years.

37. A vessel ordered into quarantine, although not actually within a quarantine station, shall be deemed to be in quarantine.

When vessel deemed to be in quarantine.

38. When the vessel arrives at the appointed quarantine station, the master shall, on request, produce and deliver to the officer in charge of the quarantine station his passenger list, log, manifest, journal, and other ship's papers.

Particulars to be given at quarantine station.

Penalty: One thousand dollars or imprisonment for one year.

Amended by No. 92, 1947, s. 18; and No. 1, 1969, s. 18.

39. Every vessel in quarantine shall, subject to this Act, perform quarantine at the appointed quarantine station, and for that purpose may be there detained by a quarantine officer or any authorized person until released in accordance with this Act, and whilst so detained shall be subject to the regulations relating to the performance of quarantine.

Performance of quarantine by vessel.

40. When a vessel is in quarantine, the master shall not move the vessel or suffer her to be moved except in accordance with this Act and the regulations.

Vessel in quarantine not to be moved except in accordance with Act.

Penalty: Two thousand dollars or imprisonment for two years.

Amended by No. 1, 1969, s. 18.

41. (1) For the purpose of the performance of quarantine, any persons on board a vessel subject to quarantine may be removed from the vessel by a quarantine officer at any port (notwithstanding that the port is not their port of destination) and conveyed to and detained in a quarantine station there to perform quarantine.

Removal from vessel to perform quarantine.

(2) All persons removed from a vessel in pursuance of this section shall be entitled to be provided with free passages to their ports of destination forthwith after being released from quarantine.

Power to permit vessel to proceed on voyage.

Amended by No. 92, 1947, s. 19.

42. The Minister may, if he thinks fit, permit any vessel in quarantine to proceed on her voyage with her officers, crew, and passengers, or any of them, without performing quarantine at the quarantine station at the port or landing place at which she then is; but the vessel and her officers, crew, and passengers shall not thereby be released from quarantine, but shall, while in Australia and until released from quarantine, be deemed to be in quarantine, and shall, except as prescribed or as ordered by the Minister, be subject to this Act and the Regulations to the same extent as if they were performing quarantine at a quarantine station.

Cleansing and disinfecting vessel.

Amended by No. 92, 1947, s. 20; and No. 1, 1969, s. 18.

43. A quarantine officer may order any vessel in quarantine to be cleansed and disinfected or treated in such manner as he directs, and the master of the vessel shall cause her to be cleansed and disinfected or treated accordingly.

Penalty: Two thousand dollars or imprisonment for two years.

Goods not to be removed.

Sub-section (1) amended by No. 1, 1969, s. 18.

44. (1) When a vessel is in quarantine then, until the vessel is released from quarantine, no unauthorized person shall land or unship, or move with intent to land or unship, any goods from the vessel.

Penalty: One thousand dollars or imprisonment for one year.

Penalty for receiving quarantinable goods.

Amended by No. 1, 1969, s. 18.

(2) No person shall knowingly receive or have in his possession any goods landed or unshipped from any vessel in contravention of this section.

Penalty: One thousand dollars or imprisonment for one year.

(3) In any prosecution under sub-section (2) of this section, the burden of proving want of knowledge shall lie upon the defendant.

Performance of quarantine by persons.

Sub-section (1) amended by No. 42, 1915, s. 6; and No. 92, 1947, s. 21.

45. (1) All persons ordered into quarantine shall perform quarantine, and for that purpose may—

- (a) be detained on board the vessel,
- (b) be detained upon the premises upon which they are found,
- (c) be removed to and detained in a quarantine station, or
- (d) be removed to and detained in any suitable place or building approved by a quarantine officer (which place or building shall, for the purposes of this Act, be deemed to be a quarantine station),

until released in accordance with this Act or the regulations; and while so detained shall be subject to the regulations regulating the performance of quarantine and the government of quarantine stations.

Penalty for breach of regulations.

Amended by No. 47, 1920, s. 19; and No. 1, 1969, s. 18.

(2) No person ordered into quarantine shall commit any breach of the regulations regulating the performance of quarantine or the government of quarantine stations.

Penalty: One thousand dollars or imprisonment for one year.

(3) Where a person ordered into quarantine is not, in the opinion of a quarantine officer, actually suffering from a quarantinable disease, the quarantine officer may release the person under quarantine surveillance.

Quarantine surveillance.
Amended by No. 42, 1915, s. 6; and No. 92, 1947, s. 21.

(3A) A person released under the last preceding sub-section shall, while he is under quarantine surveillance, report to such person at such times and places as are directed by a quarantine officer.

Inserted by No. 92, 1947, s. 21; amended by No. 1, 1969, s. 18.

Penalty: Five hundred dollars.

(4) Any person subject to quarantine shall be under quarantine surveillance and shall comply with the regulations relating to quarantine surveillance.

Substituted by No. 47, 1920, s. 19; amended by No. 1, 1969, s. 18.

Penalty: Five hundred dollars or imprisonment for six months.

46. When quarantine has been performed by any vessel or persons in accordance with this Act and the regulations, such vessel and persons shall forthwith be released from quarantine.

Release from quarantine.

46A. (1) Where goods have been ordered into quarantine, a quarantine officer may, in writing, approve a place other than a quarantine station as a place where the goods may perform quarantine.

Approval of places for the performance of quarantine by goods.

(2) Where, in relation to any goods, a place has been approved under the last preceding sub-section, any reference in section forty-seven, fifty-six or sixty-nine of this Act to a quarantine station shall, in relation to those goods, be read as including a reference to that place.

Inserted by No. 1, 1969, s. 9.

47. All goods ordered into quarantine shall perform quarantine, and for that purpose may be detained on board the vessel or in a quarantine station.

Performance of quarantine by goods.

48. (1) All goods ordered into quarantine shall be treated and disinfected as prescribed, and when so treated and disinfected may be released from quarantine.

Goods ordered into quarantine to be treated and disinfected.

(2) If the quarantine officer in charge of any goods ordered into quarantine is of opinion that they cannot be effectively disinfected, and ought not to be released from quarantine owing to the danger of infection, he may cause the goods to be destroyed:

Goods may be destroyed.
Amended by No. 1, 1969, s. 10.

Provided that where the value of the goods exceeds Twenty dollars this power shall not be exercised without the written approval of the Minister.

49. No officer shall unlawfully destroy or damage any goods under his charge in the performance of quarantine.

Unlawful damage by officers.

Penalty: One thousand dollars or imprisonment for one year.

Amended by No. 1, 1969, s. 18.

PART V—QUARANTINE OF ANIMALS AND PLANTS

Animals or plants to be landed at declared ports.

Amended by No. 15, 1912, s. 18; and No. 1, 1969, s. 18.

50. No person shall land any imported animals or plants in any port or place in Australia except a port declared by proclamation to be a port where the imported animals or plants may be landed.

Penalty: Five hundred dollars or imprisonment for six months.

Quarantine control of imported animals.

Amended by No. 1, 1969, s. 18.

51. No imported animals or plants, and no hay, straw, fodder, litter, fittings, clothing, utensils, appliances or packages used on any vessel in connexion with imported animals or plants shall, until released from quarantine, be moved, dealt with, or interfered with except by authority and in accordance with this Act and the Regulations.

Penalty: Five hundred dollars or imprisonment for six months.

Penalty for unauthorized landing of animals, &c.

Amended by No. 47, 1920, s. 20; and No. 1, 1969, s. 18.

52. No imported animals or plants, and no hay, straw, fodder, litter, fittings, clothing, utensils, appliances or packages used on any vessel in connexion with imported animals or plants shall be landed or removed from the vessel until a permit for their landing or removal from the vessel has been granted by a quarantine officer.

Penalty: Five hundred dollars or imprisonment for six months.

Examination of imported animals.

53. (1) A quarantine officer prescribed for the purpose shall make a careful inspection of all imported animals before they are delivered to the importer.

(2) If the imported animals (other than camels horses or dogs) come from a country declared by the Governor-General by proclamation to be free from disease affecting animals of the kind of those imported and are accompanied by a certificate of an approved veterinary surgeon at the port of shipment, certifying that he had examined the animals prior to their shipment and that they then were in good health and free from disease, and the quarantine officer has reported to the Minister that he is satisfied that during the voyage they have not suffered from any disease or been exposed to infection, and were free from disease at the time of landing, and that there is no danger of their introducing any disease he may, subject to the regulations, give to the importer a certificate to that effect, and may allow them to be delivered to the importer without being required to perform quarantine.

Quarantine surveillance of animals.

Substituted by No. 15, 1912, s. 19.

(3) If any imported animal is not suffering from any disease, the quarantine officer may, subject to the Regulations, permit the animal to leave the ship, or, if it has been ordered into quarantine the quarantine station under quarantine surveillance.

(4) An animal under quarantine surveillance shall continue thereunder for such period as is prescribed, and shall be treated and dealt with as prescribed, and the owner or person in charge of the animal shall during such period comply with the regulations relating to quarantine surveillance of animals, and a quarantine officer may, at any time during such period, order the animal into quarantine.

Added by
No. 15, 1912,
s. 19.

(5) In all other cases, a quarantine officer shall order the imported animals into quarantine.

Added by
No. 15, 1912,
s. 19.

54. (1) A quarantine officer shall make a careful inspection of all imported plants before they are delivered to the importer.

Examination
of imported
plants.

(2) If the imported plants are found to be free from disease, and the quarantine officer is satisfied that they can be delivered to the importer without danger of introducing any disease, he may, subject to the regulations, authorize their delivery to the importer.

(3) If the imported plants are found not to be free from disease, or the quarantine officer is not satisfied that they can be delivered to the importer without danger of introducing some disease, he shall order the plants into quarantine.

55. A quarantine officer may examine, and order into quarantine, any animals or plants declared by proclamation to be subject to quarantine.

Power to
order
animals and
plants into
quarantine.

55A. (1) A quarantine officer may examine and order into quarantine any goods to which this section applies being or likely to be, in his opinion, infected with a disease affecting animals or plants, or which contain or appear to contain any insect or pest or disease agent.

Power to
order goods
into
quarantine.

Inserted by
No. 15, 1912,
s. 20.

Sub-section (1)
amended by
No. 1, 1969,
s. 11.

(2) This section applies to—

(a) imported goods; and

(b) any other goods that have been, or that an officer has reasonable cause to believe have been, on board—

(i) an oversea vessel; or

(ii) an Australian vessel subject to quarantine.

Added by No. 1,
1969, s. 11;
amended by
No. 216, 1973,
s. 3.

56. All animals and plants and goods ordered into quarantine may forthwith be conveyed to a quarantine station, and may be detained there for such period as is prescribed, and, while so detained, shall be dealt with and treated as prescribed or as directed by the Minister.

Performance
of
quarantine.

Amended by
No. 15, 1912,
s. 21; and
No. 92, 1947,
s. 22.

Power to
destroy
diseased
animals.

57. (1) If a quarantine officer prescribed for the purpose certifies that any animal ordered into quarantine is affected with any disease and, in his opinion, is a source of danger to other animals and ought to be destroyed, the Minister may after notice to the owner agent or person in charge, if known, order it to be destroyed, and it shall be destroyed accordingly.

Amended by
No. 92, 1947,
s. 23.

(2) If any animal so destroyed (not being an animal which has been brought into Australia in contravention of this Act, the Regulations or a proclamation under this Act) is found not to be diseased, compensation shall, in accordance with the Regulations, be paid to the owner of the animal.

Added by
No. 92, 1947,
s. 23.

(3) For the purposes of this section, an animal shall be deemed to have been suffering from a disease if the application to the animal of a test prescribed in relation to that disease has resulted in a positive reaction.

Power to
destroy
diseased
plants.

Amended by
No. 15, 1912,
s. 22; and
No. 47, 1920,
s. 21.

58. If a quarantine officer certifies that any plants or goods ordered into quarantine are affected with any disease or with any noxious insect or any pest, or have been exposed to infection from any plant affected, or article contaminated, with any disease or with any noxious insect or any pest, and in his opinion are a source of danger to other plants and ought to be destroyed, the Minister, after notice to the owner or agent, if known, may order them to be destroyed and they shall be destroyed accordingly.

PART VI—EXPENSES OF QUARANTINE

Liability of
owner or
agent for
expenses of
quarantine.

Substituted by
No. 15, 1912,
s. 23.

Sub-section (1)
amended by
No. 47, 1920,
s. 22.

59. (1) The master, owner, and agent, of any vessel ordered into quarantine, or of any vessel from which any person is removed to perform quarantine, shall severally be responsible for—

- (a) the removal of the passengers and crew to the quarantine station;
- (b) the care and maintenance of the passengers and crew while detained at the quarantine station;
- (c) the conveyance of the passengers from the quarantine station to their ports of destination;
- (d) the medical surveillance of persons released under quarantine surveillance;
- (e) the provision of such medical, nursing and other attendance on the vessel and at the quarantine station for or in respect of the vessel as the Minister considers necessary; and
- (f) the provision of such launch and patrol services and such supervision as the Minister considers necessary to ensure the satisfactory performance of quarantine by the vessel and the persons and goods thereon,

and shall supply, to the satisfaction of the Minister, all such service, attendance, meals, and other things as are required for those purposes, including domestic and laundry service, medicines, medical comforts, nursing, and attendance for the sick.

(2) The master, owner, or agent, of the vessel may arrange with the Minister for the carrying out of any responsibility under this section and for the payment of the expenses thereof, but in any case the Minister may take action if he thinks it necessary to do so, and any expense incurred shall be paid by the master, owner, or agent, of the vessel to the Commonwealth:

Amended by
No. 47, 1920,
s. 22.

Provided that the Governor-General may direct that, as regards any vessel trading exclusively between Australian ports or Australia and New Zealand or Fiji, or other places adjacent to Australia, the expenses of carrying out any responsibility under this section shall be borne by the Commonwealth, and, upon the issue of such direction, the master, owner and agent of any vessel to which the direction relates shall be exempt from liability for the expenses of carrying out that responsibility:

Provided further that the Governor-General may direct that the expenses of overland passengers arising out of quarantine regulations may be borne by the Commonwealth.

(3) A passenger shall not be liable to compensate the master, owner, or agent for any cost incurred by the master, owner, or agent under this section, and any contract or stipulation purporting to impose any such liability upon him shall to that extent be null and void.

59A. The master, owner, or agent, of any vessel ordered into quarantine, or ordered to be cleansed, fumigated, disinfected, or treated, shall pay all costs of removal of cargo or goods from the vessel, and costs incurred in the cleansing, fumigation, disinfection, or treatment, of the vessel, or of any goods or things taken from the vessel.

Liability for
costs of
disinfection,
&c.

Inserted by
No. 15, 1912,
s. 23; amended
by No. 47, 1920,
s. 23.

59B. Before permitting any persons, goods, personal effects, or things to leave or be removed from a vessel ordered into quarantine, the quarantine officer may require the master, owner, or agent, of the vessel to give security to the satisfaction of the quarantine officer that all responsibilities under this Part of the master, owner, and agent, of the vessel in respect of those persons, goods, personal effects, or things shall be faithfully carried out.

Security for
carrying out
responsi-
bilities.

Inserted by
No. 15, 1912,
s. 23.

60. The owners and agents of any vessel ordered into quarantine shall pay to the Commonwealth all charges incurred by the Commonwealth in connexion with the piloting or towing of the vessel into or out of port, or from one place to another in port.

Liability of
ship-owners
as to
pilotage.

Liability of owners, &c., for expenses of passages.

61. The owners and agents of any vessel subject to quarantine shall pay to the Commonwealth all expenses incurred by it in providing persons, who were removed from the vessel in order to perform quarantine, with passages to their ports of destination .

Persons in quarantine able to support themselves.

62. Any person detained in quarantine, who is not one of the crew or passengers of a vessel ordered into quarantine, shall, if he is reasonably able so to do, and is thereunto required by the Minister, pay to the Commonwealth the cost of any food and medicines supplied to him and those dependent on him during their removal to or detention in quarantine.

Owners of vessel quarantined liable for services of medical officer.

63. When a vessel is ordered into quarantine, the Minister may—

- (a) appoint a medical officer to take charge of the crew and passengers of the vessel while in quarantine; and
- (b) fix the amount of remuneration to be paid to the medical officer for his services.

Such remuneration shall be paid by the owners or agents of the vessel to the Commonwealth.

Quarantine expenses in case of animals and plants.

Sub-section (1) amended by No. 15, 1912, s. 24; and No. 47, 1920, s. 24.

64. (1) The expenses connected with the examination of any animals or plants or goods, and of their conveyance to a quarantine station, and of their detention, maintenance, and treatment in quarantine or under quarantine surveillance, and the expenses connected with the removal, disposal, and destruction of any animals, plants or goods ordered to be destroyed in pursuance of this Act shall be paid by the importer or owner of the animals or plants or goods to the Commonwealth, and shall be a charge upon the animals or plants or goods or may be recovered as provided in this Part of this Act.

Amended by No. 15, 1912, s. 24.

(2) A quarantine officer may refuse to grant a permit for the landing or removal of any animals or plants or goods until security is given to his satisfaction for payment of the expenses payable to the Commonwealth under this section.

Expenses to be a charge upon vessel.

65. Any expenses or charges payable to the Commonwealth under this Part, by the owner or agent of any vessel, shall be a charge upon the vessel, and the vessel may be detained by an officer until the expenses are paid.

Recovery of expenses.

66. Any expenses or charges payable to the Commonwealth under this Part may be recovered by action in any Federal or State Court of competent jurisdiction as a debt due to the Commonwealth.

PART VII—MISCELLANEOUS

67. (1) No person shall knowingly import, or bring into any port or place in Australia, any noxious insect, or any pest, or any disease germ or microbe, or any disease agent, or any culture virus or substance containing any disease germ or microbe or disease agent, or any goods, or any animal or plant, or any part of any animal or plant, in contravention of this Act or any proclamation under this Act.

Penalty for importing, &c., contrary to proclamation.
Sub-section (1) amended by No. 19, 1947, s. 7; and No. 1, 1969, s. 18.

Penalty: Two thousand dollars or imprisonment for five years.

(1A) A person shall not knowingly remove any animal or plant, or part of any animal or plant, or any other goods, from a part of the Commonwealth to another part of the Commonwealth in contravention of any proclamation under this Act.

Inserted by No. 1, 1969, s. 12.

Penalty: One thousand dollars or imprisonment for one year.

(2) In any prosecution under this section the burden of proving want of knowledge shall lie upon the defendant.

67A. The master or owner of a vessel shall not bring, or permit to be brought, in the vessel, any animal into any port or place in Australia in contravention of this Act, the regulations or any proclamation under this Act.

Liability of master or owner of vessel for importation of prohibited animals.

Penalty: One thousand dollars or imprisonment for one year.

Inserted by No. 92, 1947, s. 24; amended by No. 1, 1969, s. 18.

68. All animals, plants, or goods imported into Australia, or brought into any port or place in Australia, or removed from a part of the Commonwealth to another part of the Commonwealth, in contravention of this Act, or any proclamation under this Act, and all hay, straw, fodder, litter, fittings, clothing, utensils, appliances, or packages, moved or dealt with in contravention of this Act or any proclamation under this Act or the regulations, shall be forfeited and may be seized by an officer or officer of Customs and disposed of in accordance with the regulations.

Forfeiture of animals, plants, &c., unlawfully imported, &c.

Amended by No. 19, 1947, s. 8; and No. 1, 1969, s. 13.

68A. Where the master of any vessel fails to comply with the directions of the Chief Quarantine Officer or the prescribed conditions relating to the control or confinement of an animal which has been brought into a port or place in Australia but is not intended or permitted to be imported into Australia, a quarantine officer may destroy that animal.

Destruction of certain animals.

Inserted by No. 19, 1947, s. 9.

69. Any officer or officer of Customs may seize any animals, plants, or goods subject to quarantine which are found outside a quarantine station and may convey them to a quarantine station.

Seizure of forfeited animals, &c.

Powers of inspection.

Sub-section (1) substituted by No. 61, 1961, s. 4.

70. (1) A quarantine officer may board any vessel that is in a port or place in Australia and—

- (a) enter and inspect any part of the vessel;
- (b) inspect any animals or goods on board the vessel; and
- (c) inspect the passenger list, log, manifest, journal and any other papers relating to the vessel or to any persons, animals or goods on board the vessel.

Substituted by No. 61, 1961, s. 4; amended by No. 1, 1969, s. 18.

(2) The master of a vessel shall, if so required by a quarantine officer, produce to him for inspection the papers referred to in paragraph (c) of the last preceding sub-section.

Penalty: Five hundred dollars.

Added by No. 92, 1947, s. 25.

(3) A person authorized in writing by the Director of Quarantine to act under this sub-section may board any vessel in any port or place in Australia and may enter and inspect any part of the vessel and all animals, plants and goods on board the vessel.

Boarding vessel.

Sub-section (1) amended by No. 1, 1969, s. 18.

71. (1) A quarantine officer boarding any vessel may remain thereon for such time as he considers necessary or desirable, and the master shall, if required by the quarantine officer, provide suitable and sufficient food and sleeping accommodation for him.

Penalty: Two hundred dollars.

(2) If the vessel is a passenger vessel, the quarantine officer shall be entitled to all the privileges and accommodation extended to a first-class passenger.

Medical inspections and examinations.

Substituted by No. 61, 1961, s. 5.

72. (1) A quarantine officer may require the master of a vessel to cause all or any of the persons on the vessel to be informed that, for the purposes of quarantine inspection, a muster of those persons will be held at a time, and at a place on or in the vicinity of the vessel, specified by the quarantine officer.

Amended by No. 1, 1969, s. 18.

(2) The master of a vessel shall comply with a requirement made by a quarantine officer under the last preceding sub-section and, whether or not such a requirement is made, shall, by all reasonable means, facilitate the inspection by a quarantine officer of persons on the vessel.

Penalty: Five hundred dollars.

Amended by No. 1, 1969, s. 18.

(3) A person on a vessel shall, unless prevented by illness or some other cause, attend a muster of which he is informed in pursuance of a requirement made under sub-section (1) of this section.

Penalty: Two hundred dollars.

Amended by No. 1, 1969, s. 18.

(4) If so required by a quarantine officer, a person on a vessel shall, unless prevented by illness or some other cause, attend, for the purpose of quarantine inspection, at a time, and at a place on or in the vicinity of the vessel, specified by the quarantine officer.

Penalty: Two hundred dollars.

(5) A person on a vessel, or a person who attends at a place in the vicinity of a vessel in pursuance of sub-section (3) or (4) of this section, shall answer truly to the best of his knowledge all questions asked him by a quarantine officer concerning his personal health and the likelihood of his having been exposed to infection.

Substituted by
No. 1, 1969,
s. 14.

Penalty: Five hundred dollars.

(6) A person on a vessel, or a person who attends at a place in the vicinity of a vessel in pursuance of sub-section (3) or (4) of this section, shall, if required by a quarantine officer, submit to a medical examination.

Added by No. 1,
1969, s. 14.

Penalty: Two hundred dollars.

73. (1) A quarantine officer may ask the master or medical officer of any vessel any questions he thinks fit to ask concerning any sickness on board the vessel or the sanitary condition of the vessel, and the master or medical officer shall, to the best of his knowledge, information, and belief, truly answer the questions asked him by the quarantine officer.

Quarantine
officer may
make
inquiries at
any time.
Sub-section (1)
amended by
No. 1, 1969,
s. 18.

Penalty: One thousand dollars.

(2) A quarantine officer may ask any person subject to quarantine any questions concerning his personal health or liability to infection, and the person shall, to the best of his knowledge, information, and belief, truly answer the questions asked him by the quarantine officer.

Added by
No. 42, 1915,
s. 7; amended by
No. 1, 1969,
s. 18.

Penalty: Five hundred dollars.

(3) A quarantine officer may, if he thinks fit, require a person, who has been asked questions in pursuance of this section, to verify, by statutory declaration, the answers given to the questions, and any person who refuses to comply with any such requirement shall be guilty of an offence against this Act punishable upon conviction by a fine not exceeding Five hundred dollars.

Added by
No. 42, 1915,
s. 7; amended by
No. 1, 1969,
s. 18.

74. (1) A quarantine officer may affix any prescribed notices in relation to quarantine on any part of any vessel subject to quarantine, and on or near any quarantine station and in any quarantine area, and on any goods subject to quarantine.

Power to
affix notices.
Sub-section (1)
amended by
No. 92, 1947,
s. 26.

(2) An unauthorized person shall not remove, deface, or interfere with any notice affixed in pursuance of this section.

Amended by
No. 1, 1969,
s. 18.

Penalty: Two hundred dollars.

75. (1) A quarantine officer may require any person subject to quarantine or performing quarantine to be vaccinated or inoculated with any prophylactic or curative vaccine, and any person so required to be vaccinated or inoculated shall submit to be vaccinated or inoculated accordingly.

Persons may
be
vaccinated.
Sub-section (1)
amended by
No. 47, 1920,
s. 25; No. 92,
1947, s. 27; and
No. 1, 1969,
s. 18.

Penalty: Two hundred dollars.

Substituted by
No. 92, 1947,
s. 27.

(2) A quarantine officer shall not require any person to be vaccinated or inoculated unless, in his opinion, vaccination or inoculation is necessary for the prevention of the spread of a quarantinable disease.

Added by
No. 92, 1947,
s. 27.

(3) The Minister may take such action as he thinks fit to ensure the manufacture or importation of any prophylactic vaccine or other biological product required for the prevention or treatment of disease.

Trespassing
on
quarantine
stations.

Sub-section (1)
amended by
No. 92, 1947,
s. 28; and No. 1,
1969, s. 18.

76. (1) An unauthorized person shall not—

- (a) enter or trespass on any quarantine station or quarantine area;
or
- (b) interfere with any goods, animals, or plants subject to quarantine.

Penalty: Five hundred dollars or imprisonment for six months.

Amended by
No. 92, 1947,
s. 28.

(2) Any unauthorized person who enters any quarantine station while any person is performing quarantine thereon or enters a quarantine area shall be subject to quarantine, and may be detained at the quarantine station for the performance of quarantine or in the quarantine area, as the case may be.

Pilot to incur
penalty on
wrongly
conducting
vessel.

Amended by
No. 1, 1969,
s. 18.

77. A pilot shall not, unless compelled by stress of weather or other reasonable cause, conduct a vessel subject to quarantine into any place other than the proper place for a vessel so subject.

Penalty: Five hundred dollars.

Penalty for
entering
port, other
than first
port of entry,
having
disease on
board.

Amended by
No. 92, 1947,
s. 29; and No. 1,
1969, s. 18.

78. The master of a vessel who, knowing that any quarantinable disease exists on his vessel, suffers his vessel to enter a port, other than a port declared to be a first port of entry, shall be guilty of an offence against this Act punishable upon conviction by a fine not exceeding Two thousand dollars or imprisonment for a period not exceeding three years, unless he proves that it was necessary for the vessel to enter the port for the purpose of saving human life.

Cleansing
and
disinfection
of insanitary
vessels.

Inserted by
No. 15, 1912,
s. 26.

Sub-section (1)
amended by
No. 42, 1915,
s. 8; and No. 1,
1969, s. 18.

78A. (1) A quarantine officer may, subject to the regulations, order any vessel in any port in Australia, which vessel is in his opinion in an insanitary condition favorable to the spread of communicable disease, to be cleansed, fumigated, disinfected, or treated to his satisfaction, and the master of the vessel shall cause her to be cleansed, fumigated, disinfected, or treated accordingly.

Penalty: One thousand dollars.

(2) A quarantine officer may, subject to the regulations, order any such vessel to be taken to an appointed place for the purpose of cleansing, fumigation, disinfection or treatment, and the master of the vessel shall cause her to be taken to that place.

Added by
No. 42, 1915,
s. 8; amended by
No. 1, 1969,
s. 18.

Penalty: One thousand dollars.

(3) The Minister may order any vessel in any port or place in Australia to be taken to any other port or place in Australia for the purpose of cleansing, fumigation, disinfection, treatment or performance of quarantine, and the master of the vessel shall cause her to be taken to that port or place accordingly.

Added by
No. 42, 1915,
s. 8; amended by
No. 92, 1947,
s. 30; and No. 1,
1969, s. 18.

Penalty: One thousand dollars.

79. Whoever—

- (a) forges any document under this Act, or any official copy thereof, or the signature of any officer performing any duty under this Act; or
- (b) utters or puts off, knowing it to be forged, any forged document purporting to be a document issued under this Act; or
- (c) fraudulently lends any certificate or document issued under this Act to any other person or allows it to be used by any other person,

Offences as
to
documents.

Amended by
No. 1, 1969,
s. 18.

shall be guilty of an indictable offence against this Act punishable upon conviction by imprisonment for a period not exceeding three years.

80. Any officer who—

- (a) wilfully deserts from his duty; or
- (b) knowingly and unlawfully permits any person, vessel, animal, plant, or goods to depart from or be conveyed out of any quarantine station where they are detained,

Penalty for
desertion.

Amended by
No. 1, 1969,
s. 18.

shall be guilty of an indictable offence against this Act punishable upon conviction by imprisonment for a period not exceeding two years.

81. (1) Whoever—

- (a) gives or offers, or promises to give or procure to be given, any bribe, recompense, or reward to any officer, to induce him in any way to neglect or not to perform his duty; or
- (b) makes any collusive agreement with an officer to neglect or not to perform his duty; or
- (c) by threats, demands, or promises, attempts to improperly influence an officer in the performance of his duty; or
- (d) assaults or by force molests or obstructs or intimidates an officer in the performance of his duty,

Bribing,
assaulting,
obstructing,
or
intimidating
officers.

Sub-section (1)
amended by
No. 47, 1920,
s. 26; and
No. 1, 1969,
s. 18.

shall be guilty of an offence against this Act punishable upon conviction by a fine not exceeding Two thousand dollars or imprisonment for a period not exceeding two years.

Sub-sections (2)
and (3) omitted
by No. 1, 1969,
s. 18.

* * * * *

Officers
taking
bribes.

Amended by
No. 1, 1969,
s. 18.

82. Any officer who—

- (a) accepts any bribe, recompense, or reward, for or on account of any neglect to perform or non-performance of his duty; or
- (b) makes any collusive agreement with any person to neglect or not to perform his duty,

shall be guilty of an indictable offence against this Act punishable upon conviction by imprisonment for a period not exceeding three years.

Master or
medical
officer of
vessel
misleading
quarantine
officer.

Amended by
No. 1, 1969,
s. 18.

83. Any master or medical officer of a vessel who—

- (a) wilfully makes any false statement in answer to any question asked him by a quarantine officer under this Act; or
- (b) wilfully misleads a quarantine officer in the performance of his duty,

shall be guilty of an indictable offence against this Act punishable upon conviction by imprisonment for a period not exceeding two years.

Maliciously
ordering
vessels, &c.,
into
quarantine.

Amended by
No. 1, 1969,
s. 18.

84. Any quarantine officer who maliciously and without reasonable cause orders any vessel, person, goods, animal, or plant into quarantine shall be guilty of an indictable offence against this Act punishable upon conviction by imprisonment for a period not exceeding two years.

Proceedings
in respect of
offences.

Repealed by
No. 80, 1950,
s. 3; inserted by
No. 1, 1969,
s. 15.

85. (1) An offence against this Act that—

- (a) is not expressed to be an indictable offence; and
- (b) is not punishable by imprisonment or is punishable by imprisonment but for a period not exceeding one year,

shall be prosecuted summarily.

(2) An offence against this Act that—

- (a) is not expressed to be an indictable offence; and
 - (b) is punishable by imprisonment for a period exceeding one year,
- may be prosecuted summarily or upon indictment, but an offender is not liable to be punished more than once in respect of the same offence.

(3) Where proceedings for an offence against this Act to which the last preceding sub-section applies are brought in a court of summary jurisdiction, the court may commit the defendant for trial or, with the consent of the defendant, determine the proceedings, but, where the court of summary jurisdiction determines the proceedings, the court shall not impose on the defendant a fine exceeding One thousand dollars or sentence the defendant to imprisonment for a period exceeding one year.

* * * * *

Section 86
repealed by
No. 80, 1950, s.3.

86A. Proceedings in a court of summary jurisdiction may be instituted either in the State or part of the Commonwealth where the offence was committed, or in the State or part of the Commonwealth in which the defendant is found.

Venue in
summary
prosecution.
Inserted by
No. 15, 1912,
s. 27.

* * * * *

Section 86a
repealed by
No. 1, 1969,
s. 16.

86C. All quarantine officers who are authorized in that behalf by the regulations or by the Minister are hereby authorized to administer oaths or affirmations and to take declarations in all cases in which any answers to questions asked in pursuance of this Act are by this Act or the regulations required to be verified by oath, affirmation, or declaration.

Power to
administer
oaths or take
declarations.
Inserted by
No. 15, 1912,
s. 27.

86D. In every prosecution for an offence against this Act or the regulations the averment of the prosecutor contained in the information shall, in the absence of proof to the contrary, be deemed to be proved.

Averment of
prosecution
sufficient.
Inserted by
No. 47, 1920,
s. 27.

86E. Any person who commits an offence against this Act, for which no penalty is provided, shall be liable upon conviction to a penalty not exceeding Five hundred dollars.

Penalty in
cases not
specially
provided for.
Inserted by
No. 47, 1920,
s. 27; amended
by No. 1, 1969,
s. 18.

87. (1) 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 any of the following matters:—

Regulations.
Sub-section (1)
amended by
No. 15, 1912,
s. 28; No. 42,
1915, s. 9;
No. 47, 1920,
s. 28; No. 30,
1924, s. 4;
No. 92, 1947,
s. 31; and No. 1,
1969, s. 17.

- (a) for regulating the performance of quarantine;
- (b) for regulating and protecting quarantine stations and quarantine areas;
- (c) for regulating or preventing ingress to or egress from any quarantine area and for prescribing measures of quarantine within any quarantine area;
- (d) for regulating or preventing the removal of animals plants mails or goods from any quarantine area;
- (e) for requiring notification to a quarantine officer of each case of a quarantinable disease which arises in Australia or within any specified part of Australia or within any quarantine area;

- (f) for prescribing the precautions to be taken to prevent the ingress to or egress from a vessel of rats, mice, mosquitoes or other vermin or species or kinds of animals or insects liable to convey disease;
- (g) for prescribing the measures to be taken by the masters or owners of vessels to destroy rats, mice, mosquitoes or other vermin or species or kinds of animals or insects liable to convey disease, which may exist on the vessels;
- (h) for prescribing and for establishing and maintaining on vessels or within any quarantine area of conditions unfavourable to, and to the migration of, rats, mice, mosquitoes or other vermin or species or kinds of animals or insects liable to convey disease, for fixing the time limit for the completion of any work necessary for the purpose of establishing such conditions, and for empowering the Minister, in case of default by the owner or master, to carry out any such work at the expense of the owner or master;
- (i) for prescribing the precautions to be taken by masters of vessels, in respect of the vessels and their crews passengers and cargoes, at proclaimed places, and on the voyage from proclaimed places, and on voyages between Australian ports, to prevent the introduction into Australia, or spread, of quarantinable diseases;

* * * * * * * *

- (k) for regulating the discharge from vessels of any water, ballast, or refuse;
- (l) for regulating and controlling the sanitary conditions of—
 - (i) vessels in, or on, ports or landing places; and
 - (ii) wharf areas and landing places which are, or are situated in, places which are proclaimed places by virtue of section twelve of this Act (including buildings and stores on any such wharf areas and landing places) and refuse dumps on or adjacent to any such wharf areas and landing places;
- (la) for prescribing measures to be taken for the diagnosis and prevention of disease for purposes of, or incidental to, quarantine;
- (lb) for prescribing measures to be taken by the master of a vessel engaged in navigation by air for the spraying or fumigation of the vessel before and after landing in Australia;
- (m) for providing for the examination by quarantine officers of animals or plants for export;
- (n) for providing for the granting of certificates by quarantine officers in relation to any vessels, animals, plants, or goods examined or treated by them or under their supervision;

- (o) for prescribing the fees payable in respect of examinations, services, or certificates by quarantine officers and the persons by whom the fees are payable;
- (p) for prescribing the movements of any person subject to quarantine;
- (q) for prescribing measures of disinfection, fumigation, and other measures of quarantine which persons or goods subject to quarantine shall carry out or be subjected to;
- (r) for prescribing the conditions under which any prophylactic or curative vaccine or serum may be prepared and offered for sale;
- (s) for prescribing penalties not exceeding Five hundred dollars for breaches of the regulations;
- (t) for regulating for the purposes of this Act and the Regulations, navigation by air;
- (u) requiring and prescribing reports from vessels by radio-telegraphy; and
- (v) for regulating inter-state traffic and prescribing measures of quarantine in relation to inter-state traffic for the prevention of the occurrence or spread of communicable diseases or diseases or pests affecting animals or plants.

(2) Regulations made under paragraph (v) of the last preceding sub-section—

Added by
No. 47, 1920,
s. 28.

- (a) shall be published in the *Gazette*;
- (b) shall come into force only in pursuance of an order made by the Minister;
- (c) shall be in force in such State, Territory, place, area, or locality within the Commonwealth as the Minister by order directs; and
- (d) shall remain in force for such time as is specified in the order, but may from time to time, by a further order, be renewed for a further specified period for the same locality or part thereof.

(3) Any order made by the Minister in pursuance of the last preceding sub-section shall set forth the regulations to which the order relates.

Added by
No. 47, 1920,
s. 28.

NOTES

1. The *Quarantine Act* 1908-1973 comprises the *Quarantine Act* 1908 as amended by the other Acts specified in the following table:

Act	Number and year	Date of Assent	Date of commencement
<i>Quarantine Act 1908</i>	No. 3, 1908	30 Mar 1908	1 July 1909 (<i>see Gazette 1909, p. 1175</i>)
<i>Quarantine Act 1912</i>	No. 15, 1912	6 Nov 1912	6 Nov 1912
<i>Quarantine Act 1915</i>	No. 42, 1915	15 Nov 1915	15 Nov 1915
<i>Quarantine Act 1920</i>	No. 47, 1920	2 Dec 1920	2 Dec 1920
<i>Quarantine Act 1924</i>	No. 30, 1924	26 Sept 1924	26 Sept 1924
<i>Quarantine Act 1947</i>	No. 19, 1947	4 June 1947	4 June 1947
<i>Quarantine Act (No. 2) 1947</i>	No. 92, 1947	11 Dec 1947	11 Dec 1947
<i>Statute Law Revision Act 1950</i>	No. 80, 1950	16 Dec 1950	31 Dec 1950
<i>Quarantine Act 1961</i>	No. 61, 1961	24 Oct 1961	24 Oct 1961
<i>Quarantine Act 1966</i>	No. 12, 1966	13 May 1966	1 Aug 1968 (<i>see Gazette 1968, p. 4213</i>)
<i>Quarantine Act 1969</i>	No. 1, 1969	14 Mar 1969	14 Mar 1969
<i>Statute Law Revision Act 1973</i>	No. 216, 1973	19 Dec 1973	31 Dec 1973

2. Section 26A was substituted by sub-section 7 (1) of the *Quarantine Act 1969*. Sub-section 7 (2) of that Act provides as follows:

“(2) A proclamation in force immediately before the commencement of this Act under sub-section (1) of section 26A of the Principal Act appointing a place to be a mooring ground for vessels subject to quarantine has effect after the commencement of this Act as if it were a proclamation under section 26A of the Principal Act as amended by this Act.”

QUEENSLAND BEEF CATTLE ROADS AGREEMENT ACT 1962-1973

TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	(Repealed)
3A.	Definitions
4.	Approval of Agreement
4A.	Approval of Amending Agreement
5.	Financial assistance

THE SCHEDULES

FIRST SCHEDULE

Agreement dated 30 November 1962

SECOND SCHEDULE

Amending Agreement

An Act relating to an Agreement between the Commonwealth and the State of Queensland with respect to Works in connexion with certain Roads to be used for the transport of Beef Cattle.

1. This Act may be cited as the <i>Queensland Beef Cattle Roads Agreement Act</i> 1962-1973. ¹	Short title. Short title amended; No. 32, 1918, s. 2.
2. This Act shall come into operation on a date to be fixed by Proclamation. ¹	Commencement.
* * * * *	Section 3 repealed by No. 216, 1973, s. 3.
3A. In this Act, unless the contrary intention appears— “the Agreement” means the agreement a copy of which is set out in the First Schedule to this Act; “the Amending Agreement” means the agreement a copy of which is set out in the Second Schedule to this Act.	Definitions. Inserted by No. 38, 1966, s. 3.
4. The Agreement is approved.	Approval of Agreement. Amended by No. 38, 1966, s. 4.

Approval of
Amending
Agreement.

Inserted by
No. 38, 1966,
s. 5.

Financial
assistance.

Amended by
No. 38, 1966,
s. 6.

4A. The Amending Agreement is approved.

5. The payments (including advances) by the Commonwealth to the State of Queensland provided for in the Agreement as amended by the Amending Agreement may be made, by way of financial assistance to that State on the terms and conditions contained in the Agreement as so amended, out of the Consolidated Revenue Fund, which is appropriated accordingly.

Section 6
repealed by
No. 216, 1973,
s. 3.

* * * * *

Headings
substituted by
No. 38, 1966,
s. 8.

THE SCHEDULES

FIRST SCHEDULE

Section 3A

AN AGREEMENT made the thirtieth day of November 1962 between THE COMMONWEALTH OF AUSTRALIA (in this agreement called "the Commonwealth") of the one part and THE STATE OF QUEENSLAND (in this agreement called "the State") of the other part:

WHEREAS—

- (a) it is desirable in the interests of the State of Queensland and of the Commonwealth of Australia generally that certain roads in the State be constructed to standards which will facilitate the transport of beef cattle and the export of beef;
- (b) by the *Queensland Grant (Beef Cattle Roads) Act 1961* the Parliament of the Commonwealth made provision for the grant by the Commonwealth of financial assistance to the State during the period of five years that commenced on the first day of July, 1961, to enable works to be carried out in connexion with roads to be used for the transport of beef cattle;
- (c) in pursuance of the provisions of the said Act, the Commonwealth is providing financial assistance to the State for the carrying out of works approved by the Treasurer on behalf of the Commonwealth under the Act in connexion with the roads mentioned in the First Schedule to this agreement;
- (d) it will contribute to the greater efficiency and economy of maintenance of the roads if additional works are carried out to provide a bituminous surface and other improvements;
- (e) the State has requested the Commonwealth to provide, and the Parliament of the Commonwealth is to be asked to grant, further financial assistance to enable those additional works to be carried out in conjunction with the approved works, and, if possible, by the thirtieth day of June, 1967;
- (f) it is desirable that an agreement, in the terms hereinafter contained, should be made with respect to the whole of the financial assistance provided and to be provided by the Commonwealth to the State after the thirtieth day of June 1961, in respect of roads in the State to be used for the transport of beef cattle and that the legislation of the Parliament of the Commonwealth approving and giving effect to this agreement should supersede the said *Queensland Grant (Beef Cattle Roads) Act 1961*:

NOW IT IS HEREBY AGREED as follows:—

Definitions.

1. In this agreement, unless the contrary intention appears—
"financial year" means a period of twelve calendar months ending on the thirtieth day of June;

“Schedule” means Schedule to this agreement;

“the works” means the works described in the First Schedule or, if that Schedule is varied in accordance with clause 10 of this agreement, the works described in that Schedule as so varied; and

“the Treasurer” means the Treasurer of the Commonwealth and includes such other Minister of State of the Commonwealth or member of the Federal Executive Council as is for the time being acting for and on behalf of the Treasurer.

2. This agreement shall have no force and effect and shall not be binding upon either party until it is approved by the Parliament of the Commonwealth and the Parliament of the State, and the Parliament of the Commonwealth has repealed the *Queensland Grant (Beef Cattle Roads) Act 1961*. Approval of Agreement.

3. This agreement, when it comes into force, shall be construed and have effect in all respects as if— Operation of Agreement.

(a) it had come into force on the date of commencement of the *Queensland Grant (Beef Cattle Roads) Act 1961* of the Parliament of the Commonwealth; and

(b) all payments (including advances) made by the Commonwealth to the State under that Act had been made in pursuance of this agreement.

4. (1) Subject to compliance by the State with the provisions of this agreement, the Commonwealth will in accordance with and subject to the provisions of this agreement provide financial assistance to the State, not exceeding in the aggregate Eight million three hundred thousand pounds (£8,300,000), towards meeting expenditure on the works. Financial Assistance.

(2) The financial assistance to the State under this agreement in respect of the first One million pounds expended on the construction of the road between Normanton and Julia Creek shall not exceed Six hundred and fifty thousand pounds (£650,000).

(3) For the purposes of this agreement expenditure on the works means expenditure by the State on or in connexion with the works after the thirtieth day of June, 1961, and includes planning and administrative expenses directly related to carrying out the works but does not include expenses that would have been or would be incurred whether or not the works were carried out.

5. (1) The Commonwealth will, at the request of the State from time to time and subject to the provisions of this agreement, make payments to the State in pursuance of the last preceding clause of amounts equal to expenditure on the works. Payments by the Commonwealth.

(2) The State will furnish to the Treasurer such documents and other evidence in support of each request by the State for a payment to it by the Commonwealth under sub-clause (1) of this clause as the Treasurer may from time to time reasonably request, whether the request is made by the Treasurer before or after the Commonwealth has made a payment pursuant to the request by the State.

(3) Any statement of expenditure by the State forwarded to the Commonwealth in connexion with a request for payment in accordance with sub-clause (1) of this clause shall be certified as to its correctness by the Auditor-General for the State.

6. (1) The Treasurer may, at such times as he thinks fit, make advances of such amounts as he thinks fit to the State on account of an amount that may become payable to the State under clause 5 of this agreement. Advances by the Commonwealth.

(2) An amount or part of an amount advanced by the Treasurer under this clause may be deducted by the Commonwealth from amounts to be paid subsequently under sub-clause (1) of clause 5 of this agreement, or, if there are no further amounts to be paid under that sub-clause, shall be refunded by the State to the Treasurer at his request.

7. The State shall ensure that an amount, or any part of an amount, paid to the State under this agreement is not used or applied except for the purpose of meeting or of reimbursing the State for expenditure on the works within the limits of the financial assistance set out in clause 4 of this agreement. Use of Payments and Advances.

8. (1) The State shall repay to the Commonwealth one-half of each amount paid to the State by the Commonwealth under this agreement (whether by way of a payment made under clause 5 or an advance made and not refunded under clause 6) in excess of the first One million seven hundred thousand pounds (£1,700,000) so paid. Repayments by the State.

(2) Subject to sub-clause (3) of this clause the repayment by the State shall be made by thirty equal consecutive half yearly payments, the first payment in each case to be made on the fifteenth day of December, 1967, except that, in the event that an amount is paid by the Commonwealth under this agreement on or after the fifteenth day of December, 1967, the first payment by the State in that case shall be made on the fifteenth day of June or the fifteenth day of December next succeeding the date on which the amount was paid by the Commonwealth.

(3) The State may at any time after giving to the Treasurer at least one month's notice of its intention to do so, repay to the Commonwealth the whole or any part being not less than Fifty thousand pounds (£50,000) of so much of an amount paid to the State by the Commonwealth as is repayable by the State under this clause and remains unpaid, together with the interest on the amount repaid accrued to the date of repayment under the next succeeding clause.

Interest.

9. (1) The State shall pay to the Commonwealth interest on so much of an amount paid to the State by the Commonwealth under this agreement as is repayable by the State under the last preceding clause and for the time being has not been repaid, calculated from the date on which the amount was paid by the Commonwealth, at the rate provided in this clause.

(2) The State shall pay the interest for the time being accrued under this clause on the fifteenth day of June and the fifteenth day of December in each year.

(3) The rate at which interest is payable by the State under this clause in respect of each amount paid by the Commonwealth shall be the rate payable on the long term loan last raised by the Commonwealth in Australia for public subscription prior to the date upon which the amount was paid.

Execution of the Works.

10. (1) The State shall ensure that the works are carried out efficiently and in conformity with sound engineering and financial practices and in accordance with the standards of construction set out in the Second Schedule.

(2) To the extent that it is necessary for the more efficient fulfilment of the objectives of this agreement, the First and Second Schedules may be varied in such manner and to such extent as the State proposes and the Treasurer approves.

Expenditure in relation to Commonwealth Aid Roads.

11. Subject to provision being made by the Parliament of the Commonwealth for giving effect to this clause—

- (a) amounts expended by the State in respect of which payments are made or to be made to the State under this agreement shall not be taken into account for the purposes of section six of the *Commonwealth Aid Roads Act 1959*; and
- (b) where the State expends, after the thirtieth day of June, 1961, on the construction of a road between Normanton and Julia Creek amounts other than amounts referred to in the last preceding paragraph, the first Three hundred and fifty thousand pounds (£350,000) so expended shall not be taken into account for the purposes of section six of the *Commonwealth Aid Roads Act 1959*.

Annual Estimates.

12. The State shall prepare and furnish to the Treasurer not later than the thirtieth day of April in each year a statement or statements showing the estimated expenditure on the works during the next succeeding financial year and estimates of the amounts that the State will request the Commonwealth to pay to the State under this agreement during that financial year.

Supply of Information.

13. The State shall from time to time at the request of the Treasurer furnish to him such information as he may reasonably require for the purposes of or in relation to this agreement.

Financial Statements.

14. The State shall—

- (a) keep full accounts and records of all financial transactions, work done, and plant, stores, materials and equipment used or disposed of, in connexion with the works; and
- (b) furnish to the Treasurer, as soon as possible after the completion of each financial year in which there is expenditure on the works, a progress report on the performance of the works, together with financial statements showing expenditure on the works and each item thereof up to the preceding thirtieth day of June, the latest estimates of the complete cost of the works, and the estimated amounts of annual expenditure necessary to complete the works.

15. (1) The accounts, books, vouchers, documents and other records of the State relating to the carrying out of the works shall be subject to audit by the Auditor-General of the State. Audit.

(2) Until such time as the works are completed, all amounts to be paid by the Commonwealth under this agreement are paid and supporting evidence to the satisfaction of the Treasurer in relation to all amounts paid is furnished by the State, a report on the audits and on the financial statements in respect of each financial year shall be furnished by the Auditor-General of the State to the Treasurer as soon as possible after the completion of the financial year, indicating, inter alia—

- (a) whether the financial statements are based on proper accounts and records and are in agreement with those accounts and records; and
 - (b) whether the expenditure of moneys is in accordance with the agreement,
- and including reference to such other matters arising out of the audits and financial statements as the Auditor-General of the State considers should be reported to the Treasurer.

16. Any notice, request or other communication to be given or made under this agreement by the Commonwealth or the Treasurer to the State shall be deemed sufficiently given or made if it is in writing signed by the Treasurer or by any person thereunto authorized in writing by him and any notice, request or other communication to be given or made by the State to the Commonwealth or the Treasurer shall be deemed sufficiently given or made if it is in writing signed by the Minister of the Crown in right of the State for the time being charged with the administration of the Act of the Parliament of the State by which this agreement is approved or by any person thereunto authorized in writing by that Minister. Notices, &c.

THE SCHEDULES

FIRST SCHEDULE

Clauses 1 and 10

The Works

The construction or improvement, as the case may be, of roads, approximately of the respective lengths indicated, between:—

- | | |
|---|------------|
| 1. Normanton and Julia Creek | 272 miles. |
| 2. Georgetown and the Northern (Inland) Highway, via Mt. Surprise | 94 miles. |
| 3. Mt. Isa and Dajarra | 105 miles. |
| 4. Quilpie and Windorah | 156 miles. |
| 5. Winton and Boulia | 224 miles. |
| 6. Boulia and Dajarra | 93 miles. |

SECOND SCHEDULE

Clause 10

Standards

1. Formation widths—as laid down for a standard 18 feet wide pavement, namely—
 - (a) earthworks sections 26 feet;
 - (b) formation sections. 28 feet.
2. Cross sections, grades and alignment—in accordance with the requirements of the National Association of State Road Authorities of Australia, Policy for Geometric Design of Rural Roads.
3. Pavements—compacted to 95 per centum relative compaction in accordance with British Standard 1377-1961, and with strengthened shoulders 3 feet wide on all but sound soils.
4. Paving materials—in accordance with the current standard specification Form 11A of the Queensland Main Roads Department for Surface Course Paving materials.
5. Bituminous surface treatments—12 feet wide comprising in general or the equivalent of—
 - (a) (i) priming coat;

(ii) seal coat,
or alternatively—

- (b) (i) primer seal coat;
(ii) seal coat,

with an additional seal coat in flood invert sections using tar, bitumen or bituminous emulsion and stone aggregates all in accordance with the current Standard Specifications Form 11H and Form 11F of the Queensland Main Roads Department.

6. California Bearing Ratio to be used to determine the pavement depths using a traffic loading of 15 to 45 Commercial Vehicles per day.

7. Passing places and off the road areas—at intervals of approximately 20 miles, 300 feet length, allowing for a ten feet extra pavement width, paved using paving materials and surface treatment as specified in this Schedule.

8. Bridges and floodways—provision of crossing having regard to stream type, nature of rainfall and the period of inundation—

- (a) in general, provision of floodways using concrete or sealed pavements, 22 feet wide with 2 feet protected margins;
(b) on major crossings, if bridging is necessary, structure design in accordance with A.A.S.H.O. H 20—S 16 loading.

Width between kerbs—

- (a) length up to 30 feet—formation width;
(b) length over 30 feet—20 feet.

9. Grids—opening of 20 feet and a minimum width of 6 feet, steel construction on concrete foundations.

IN WITNESS WHEREOF this agreement has been executed by the parties the day and year first above written.

SIGNED for and on behalf of THE COMMONWEALTH OF AUSTRALIA by the Right Honourable ROBERT GORDON MENZIES, the Prime Minister of the Commonwealth, in the presence of—

ROBERT MENZIES

W. H. SPOONER

SIGNED for and on behalf of THE STATE OF QUEENSLAND by the Honourable GEORGE FRANCIS REUBEN NICKLIN, the Premier and Chief Secretary of the State, in the presence of—

FRANK NICKLIN

ALAN FLETCHER

Added by
No. 38, 1966,
s. 9.

SECOND SCHEDULE

Section 3A

AN AGREEMENT made the 29th day of April One thousand nine hundred and sixty-six.

Between THE COMMONWEALTH OF AUSTRALIA (in this agreement called “the Commonwealth”) of the one part and THE STATE OF QUEENSLAND (in this agreement called “the State”) of the other part and intended to be supplemental to an agreement made on the thirtieth day of November, 1962, between the Commonwealth and the State (in this agreement called “the principal agreement”).

WHEREAS—

- (a) by the principal agreement provision was made in relation to the grant by the Parliament of the Commonwealth of financial assistance to the State to enable the State to carry out works in connexion with roads to be used for the transport of beef cattle;

- (b) the principal agreement was approved and the financial assistance to the State on the terms and conditions contained in the principal agreement was authorized by the Parliament of the Commonwealth by the *Queensland Beef Cattle Roads Agreement Act 1962*;
- (c) the Commonwealth and the State have agreed, subject to the approval of the respective Parliaments of the Commonwealth and of the State, that further financial assistance should be granted to the State in connexion with roads to be used as aforesaid:

NOW IT IS HEREBY AGREED as follows:—

1. This agreement shall have no force or effect and shall not be binding upon either party until it is approved by the Parliament of the Commonwealth and the Parliament of the State.

2. When this agreement has been approved by the Parliament of the Commonwealth and the Parliament of the State, the principal agreement shall be construed and take effect as amended by this agreement.

3. Clause 4 of the principal agreement is amended—

- (a) by deleting from sub-clause (1) the words and figures “Eight million three hundred thousand pounds (£8,300,000)” and inserting in their place the words and figures “Twenty million five hundred thousand dollars (\$20,500,000)”;
- (b) by deleting from sub-clause (3) the words and figures “after the thirtieth day of June, 1961,” and inserting in their place the words and figures “during the period commencing on the first day of July, 1961, and ending on the thirtieth day of June, 1967.”.

4. Clause 11 of the principal agreement is amended by inserting immediately after the citation “*Commonwealth Aid Roads Act 1959*”, wherever it appears, the following words and citation “or of section 4 of the *Commonwealth Aid Roads Act 1964*”.

5. The First Schedule to the principal agreement is amended by inserting at the end thereof—

- “7. Dingo and Mt. Flora 149 miles.
- 8. The Battery and Townsville 72 miles.
- 9. Mareeba and Laura 160 miles.
- 10. The Lynd and Charters Towers 160 miles.”.

IN WITNESS WHEREOF this agreement has been executed by the parties the day and year first above written.

SIGNED for and on behalf of THE COMMONWEALTH OF AUSTRALIA by the Right Honourable JOHN McEWEN, the Acting Prime Minister of the Commonwealth, in the presence of—

J. McEWEN

FIONA O’CONNOR

SIGNED for and on behalf of THE STATE OF QUEENSLAND by the Honourable GEORGE FRANCIS REUBEN NICKLIN, the Premier and Chief Secretary of the State, in the presence of—

FRANK NICKLIN

J. A. SEWELL

NOTE

- 1. The *Queensland Beef Cattle Roads Agreement Act 1962-1973* comprises the *Queensland Beef Cattle Roads Agreement Act 1962* as amended by the other Acts specified in the following table:

Queensland Beef Cattle Roads Agreement Act 1962-1973

Act	Number and year	Date of Assent	Date of commencement
<i>Queensland Beef Cattle Roads Agreement Act</i> 1962	No. 104, 1962	14 Dec 1962	1 Feb 1963 (<i>see Gazette</i> 1963, p. 415)
<i>Queensland Beef Cattle Roads Agreement Act</i> 1966	No. 38, 1966	12 Sept 1966	1 Dec 1966 (<i>see Gazette</i> 1966, p. 5997)
<i>Statute Law Revision Act</i> 1973	No. 216, 1973	19 Dec 1973	31 Dec 1973

QUEENSLAND GRANT (BUNDABERG IRRIGATION WORKS) ACT 1970

TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	Interpretation
4.	Grant of financial assistance
5.	Power of Minister to vary description of work
6.	State to carry out irrigation and other works
7.	Provision relating to carrying out of works
8.	Information to be furnished by State in relation to expenditure
9.	Advances
10.	Overpayments
11.	Appropriation

THE SCHEDULE

Matters in respect of which financial assistance is granted

An Act to grant Financial Assistance to the State of Queensland in connexion with the Construction of Irrigation Works near Bundaberg.

1. This Act may be cited as the *Queensland Grant (Bundaberg Irrigation Works) Act 1970*.¹ Short title.

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹ Commence-
ment.

3. (1) In this Act, "the State" means the State of Queensland. Interpret-
ation.

(2) A reference in this Act to the construction of the Bundaberg Irrigation Works shall be read as a reference to the carrying out of the works and the doing of the other things referred to in the Schedule to this Act.

4. (1) Subject to this Act, there are payable to the State, by way of financial assistance, amounts equal to the amounts expended by the State after the commencement of this Act on the construction of the Bundaberg Irrigation Works. Grant of
financial
assistance.

(2) The amounts payable to the State under this Act shall not exceed, in the aggregate, Twelve million eight hundred thousand dollars.

Power of
Minister to
vary
description
of work.

5. Where the State so requests, the Minister may from time to time, by instrument in writing, direct that this Act shall have effect in relation to a work referred to in the Schedule to this Act as if the description in that Schedule of that work were varied in such manner as is specified in the instrument.

State to carry
out irrigation
and other
works.

6. The State is not entitled to financial assistance under this Act unless the Minister is satisfied that reasonable progress has been made by the State in carrying out the construction of tidal barrages and irrigation and ancillary works that are complementary to the works referred to in the Schedule to this Act.

Provision
relating to
carrying out
of works.

7. The State is not entitled to financial assistance under this Act in relation to expenditure by the State in carrying out a particular work—

- (a) where the Minister has requested the State to furnish information in relation to the design or construction of the work—unless the State has duly furnished that information;
- (b) unless the Minister is satisfied that the design and construction of the work are in accordance with the purposes for which the work was proposed by the State; and
- (c) where the expenditure was incurred under a contract providing for the expenditure of more than Five hundred thousand dollars—unless the contract was entered into with the approval of the Minister.

Information
to be
furnished by
State in
relation to
expenditure.

8. The State is not entitled to financial assistance under this Act in relation to particular expenditure by the State unless the State has furnished to the Treasurer—

- (a) a statement in respect of that expenditure in a form approved by the Treasurer, accompanied by a certificate of the Auditor-General of the State certifying that the expenditure shown in the statement was incurred on the construction of the Bundaberg Irrigation Works; and
- (b) such further information, if any, as the Treasurer requires in respect of that expenditure.

Advances.

9. The Treasurer may, at such times as he thinks fit, make advances of such amounts as he thinks fit to the State on account of an amount that may become payable under this Act to the State.

Overpay-
ments.

10. Payment to the State under this Act of any amount (including an advance) is subject to the condition that the State will repay to the Commonwealth, on demand by the Treasurer, the amount by which, at the time of the demand, the total of the amounts (including advances) paid to the State under this Act exceeds the total of the amounts that have become payable to the State under section 4 of this Act.

11. Amounts payable to the State under this Act are payable out of the Consolidated Revenue Fund, which is appropriated accordingly. Appropriation.

THE SCHEDULE

Section 3 (2)

MATTERS IN RESPECT OF WHICH FINANCIAL ASSISTANCE IS GRANTED

1. The construction of a dam on the Kolan River about forty-seven miles upstream from the mouth of the river, being a dam of a height sufficient to store approximately 475,000 acre-feet of water.

2. The construction of auxiliary embankments and of spillway and outlet works.

3. The construction of access roads to the dam and to the spillway and outlet works.

4. The relocation of roads and other services that may be affected by the storage of water in the dam.

5. The construction of a pumping station at the dam, and a channel for the conveyance of water from the dam to Gin Gin and to the Burnett River.

6. The carrying out of works incidental to any of the works referred to in the preceding paragraphs of this Schedule.

7. The establishment of construction camps required in connexion with the carrying out of any of the works referred to in the preceding paragraphs of this Schedule and the provision of services necessary for those camps, including the construction of roads and the provision of power, water, sewerage and telecommunication facilities.

8. The acquisition of land that is required for the carrying out of any of the works referred to in the preceding paragraphs of this Schedule or may be affected by any of those works.

NOTE

1. Act No. 32, 1970; assented to 23 June 1970.

QUEENSLAND GRANT (DAWSON RIVER WEIRS) ACT 1973

TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	Definition
4.	Grant of financial assistance
5.	Power of Minister to vary description of work
6.	Provision relating to carrying out of work
7.	Information to be furnished by State in relation to expenditure
8.	Advances
9.	Overpayments
10.	Appropriation

SCHEDULE

Matters in respect of which financial assistance is granted

An Act to grant Financial Assistance to the State of Queensland in connexion with the Construction of a Weir at Baralaba on the Dawson River, and of an Associated Weir.

- | | |
|---|---|
| <p>1. This Act may be cited as the <i>Queensland Grant (Dawson River Weirs) Act 1973</i>.¹</p> | <p>Short title.</p> |
| <p>2. This Act shall come into operation on the day on which it receives the Royal Assent.¹</p> | <p>Commencement.</p> |
| <p>3. In this Act, "State" means the State of Queensland.</p> | <p>Definition.</p> |
| <p>4. (1) Subject to this Act, there are payable to the State, by way of financial assistance, amounts necessary to reimburse the State in respect of moneys expended by the State, after the commencement of this Act, in carrying out the works, and doing the other things, referred to in the Schedule.</p> | <p>Grant of financial assistance.</p> |
| <p>(2) The amounts paid to the State under this Act shall not exceed, in the aggregate, Five hundred and fifty thousand dollars.</p> | |
| <p>5. Upon request by the State, the Minister may, from time to time, direct in writing that this Act have effect in relation to a work referred to in the Schedule as if the description in that Schedule of that work were varied in such manner as the Minister specifies in the direction.</p> | <p>Power of Minister to vary description of work.</p> |

Provision
relating to
carrying out
of work.

6. The State is not entitled to financial assistance under this Act in relation to expenditure by the State in carrying out a particular work—

- (a) where the Minister has requested the State to furnish information in relation to the design or construction of the work—unless the State has duly furnished that information;
- (b) unless the Minister is satisfied that the design and construction of the work are in accordance with the purposes for which the work was proposed by the State; and
- (c) where the expenditure was incurred under a contract providing for the expenditure of more than Two hundred thousand dollars—unless the contract was entered into with the approval of the Minister.

Information
to be
furnished by
State in
relation to
expenditure.

7. The State is not entitled to financial assistance under this Act in relation to particular expenditure by the State unless the State has furnished to the Treasurer—

- (a) a statement in respect of that expenditure in accordance with a form approved by the Treasurer, accompanied by a certificate of the Auditor-General of the State certifying that, in his opinion, the expenditure shown in the statement was incurred in carrying out works, or doing other things, referred to in the Schedule; and
- (b) such further information, if any, as the Treasurer requires in respect of that expenditure.

Advances.

8. The Treasurer may, at such times as he thinks fit, make advances of such amounts as he thinks fit to the State on account of an amount that may become payable under this Act to the State.

Over-
payments.

9. Payment to the State under this Act of any amount (including an advance) is subject to the condition that the State will repay to Australia, on demand by the Treasurer, the amount by which, at the time of the demand, the total of the amounts (including advances) paid to the State under this Act exceeds the total of the amounts that have become payable to the State under section 4.

Appropri-
ation.

10. Amounts payable to the State under this Act are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

SCHEDULE

Section 4

MATTERS IN RESPECT OF WHICH FINANCIAL ASSISTANCE IS GRANTED

1. The construction of a weir on the main stream of the Dawson River at Baralaba, and of a weir on an anabranch of the Dawson River that flows out of that river upstream from the site

of the proposed weir at Baralaba and re-enters that river downstream from that site, being weirs of sufficient height to store approximately 11,000,000 cubic metres of water.

2. The construction of outlet works in connexion with the weirs.
 3. The construction of access roads to the weir sites.
 4. The relocation of roads and other services that may be affected by the construction of the weirs and by the storage of water by the weirs.
 5. The clearing of timber from the area to be covered by the water to be stored by the weirs.
 6. The carrying out of works incidental to any of the works referred to in the preceding paragraphs of this Schedule.
 7. The establishment of construction camps required in connexion with the carrying out of any of the works referred to in the preceding paragraphs of this Schedule and the provision of services necessary for those camps, including the construction of roads and the provision of power, water, sewerage and telecommunication facilities.
 8. The acquisition of land that is required for the carrying out of any of the works referred to in the preceding paragraphs of this Schedule or may be affected by any of those works.
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NOTE

1. Act No. 206, 1973; assented to 19 December 1973.

QUEENSLAND GRANT (KINCHANT DAM) ACT 1973

TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	Definition
4.	Grant of financial assistance
5.	Power of Minister to vary description of work
6.	Provision relating to carrying out of work
7.	Information to be furnished by State in relation to expenditure
8.	Advances
9.	Overpayments
10.	Appropriation

SCHEDULE

Matters in respect of which financial assistance is granted

An Act to grant Financial Assistance to the State of Queensland in connexion with the Construction of a Dam on Sandy Creek near Mount Kinchant in that State.

- | | |
|---|---|
| <p>1. This Act may be cited as the <i>Queensland Grant (Kinchant Dam) Act 1973</i>.¹</p> | <p>Short title.</p> |
| <p>2. This Act shall come into operation on the day on which it receives the Royal Assent.¹</p> | <p>Commencement.</p> |
| <p>3. In this Act, "State" means the State of Queensland.</p> | <p>Definition.</p> |
| <p>4. (1) Subject to this Act, there are payable to the State, by way of financial assistance, amounts necessary to reimburse the State in respect of moneys expended by the State, after the commencement of this Act, in carrying out the works, and doing the other things, referred to in the Schedule.</p> | <p>Grant of financial assistance.</p> |
| <p>(2) The amounts paid to the State under this Act shall not exceed, in the aggregate, Five million dollars.</p> | |
| <p>5. Upon request by the State, the Minister may, from time to time, direct in writing that this Act have effect in relation to a work referred to in the Schedule as if the description in that Schedule of that work were varied in such manner as the Minister specifies in the direction.</p> | <p>Power of Minister to vary description of work.</p> |

Provision
relating to
carrying out
of work.

6. The State is not entitled to financial assistance under this Act in relation to expenditure by the State in carrying out a particular work—

- (a) where the Minister has requested the State to furnish information in relation to the design or construction of the work—unless the State has duly furnished that information;
- (b) unless the Minister is satisfied that the design and construction of the work are in accordance with the purposes for which the work was proposed by the State; and
- (c) where the expenditure was incurred under a contract providing for the expenditure of more than Five hundred thousand dollars—unless the contract was entered into with the approval of the Minister.

Information
to be
furnished by
State in
relation to
expenditure.

7. The State is not entitled to financial assistance under this Act in relation to particular expenditure by the State unless the State has furnished to the Treasurer—

- (a) a statement in respect of that expenditure in accordance with a form approved by the Treasurer, accompanied by a certificate of the Auditor-General of the State certifying that, in his opinion, the expenditure shown in the statement was incurred in carrying out works, or doing other things, referred to in the Schedule; and
- (b) such further information, if any, as the Treasurer requires in respect of that expenditure.

Advances.

8. The Treasurer may, at such times as he thinks fit, make advances of such amounts as he thinks fit to the State on account of an amount that may become payable under this Act to the State.

Over-
payments.

9. Payment to the State under this Act of any amount (including an advance) is subject to the condition that the State will repay to Australia, on demand by the Treasurer, the amount by which, at the time of the demand, the total of the amounts (including advances) paid to the State under this Act exceeds the total of the amounts that have become payable to the State under section 4.

Appro-
priation.

10. Amounts payable to the State under this Act are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

SCHEDULE

Section 4

MATTERS IN RESPECT OF WHICH FINANCIAL ASSISTANCE IS GRANTED

1. The construction of a dam on the northern branch of Sandy Creek near Mount Kinchant, being a dam of a height sufficient to store approximately 48,100,000 cubic metres of water.

2. The construction of auxiliary embankments and of spillway and outlet works in connexion with the dam.
 3. The construction of access roads to the dam, and to the spillway and outlet works.
 4. The relocation of roads and other services that may be affected by the construction of the dam and by the storage of water by the dam.
 5. The clearing of timber from the area to be covered by the water to be stored by the dam.
 6. The carrying out of works incidental to any of the works referred to in the preceding paragraphs of this Schedule.
 7. The establishment of construction camps required in connexion with the carrying out of any of the works referred to in the preceding paragraphs of this Schedule and the provision of services necessary for those camps, including the construction of roads and the provision of power, water, sewerage and telecommunication facilities.
 8. The acquisition of land that is required for the carrying out of any of the works referred to in the preceding paragraphs of this Schedule or that may be affected by any of those works.
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NOTE

1. Act No. 207, 1973; assented to 19 December 1973.

QUEENSLAND GRANT (MARABOON DAM) ACT 1968

TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	Interpretation
4.	Grant of financial assistance
5.	Power of Minister to vary description of work
6.	State to carry out irrigation and other works
7.	Provision relating to carrying out of works
8.	Information to be furnished by State in relation to expenditure
9.	Advances
10.	Overpayments
11.	Appropriation

THE SCHEDULE

Matters in respect of which financial assistance is granted

An Act to grant Financial Assistance to the State of Queensland in connexion with the construction of a Dam on the Nogoa River near Emerald in that State.

1. This Act may be cited as the *Queensland Grant (Maraboon Dam) Act 1968*.¹ Short title.

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹ Commence-
ment.

3. (1) In this Act, “the State” means the State of Queensland. Interpret-
ation.

(2) A reference in this Act to the construction of the Maraboon Dam shall be read as a reference to the carrying out of the works and the doing of the other things referred to in the Schedule to this Act.

4. (1) Subject to this Act, there are payable to the State, by way of financial assistance amounts equal to the amounts expended by the State on or after the twenty-first day of December, One thousand nine hundred and sixty-seven, on the construction of the Maraboon Dam. Grant of
financial
assistance.

(2) The amounts payable to the State under this Act shall not exceed, in the aggregate, Twenty million dollars.

- Power of Minister to vary description of work.** **5.** Where the State so requests, the Minister may from time to time, by instrument in writing, direct that this Act shall have effect in relation to a work referred to in the Schedule to this Act as if the description in that Schedule of that work were varied in such manner as is specified in the instrument.
- State to carry out irrigation and other works.** **6.** The State is not entitled to financial assistance under this Act unless the Minister is satisfied that reasonable progress has been made by the State in carrying out irrigation and other works for the purpose of using the water made available by the construction of the dam referred to in the Schedule to this Act.
- Provision relating to carrying out of works.** **7.** The State is not entitled to financial assistance under this Act in relation to expenditure by the State, whether incurred before or after the commencement of this Act, in carrying out a particular work—
- (a) where the Minister has requested the State to furnish information in relation to the design or construction of the work—unless the State has duly furnished that information;
 - (b) unless the Minister is satisfied that the design and construction of the work are in accordance with the purposes for which the work was proposed by the State; and
 - (c) where the expenditure was incurred under a contract providing for the expenditure of more than Five hundred thousand dollars—unless the contract was entered into with the approval of the Minister.
- Information to be furnished by State in relation to expenditure.** **8.** The State is not entitled to financial assistance under this Act in relation to particular expenditure by the State unless the State has furnished to the Treasurer—
- (a) a statement in respect of that expenditure in a form approved by the Treasurer, accompanied by a certificate of the Auditor-General of the State certifying that the expenditure shown in the statement was incurred on the construction of the Maraboon Dam; and
 - (b) such further information, if any, as the Treasurer requires in respect of that expenditure.
- Advances.** **9.** The Treasurer may, at such times as he thinks fit, make advances of such amounts as he thinks fit to the State on account of an amount that may become payable under this Act to the State.
- Over-payments.** **10.** Payment to the State under this Act of any amount (including an advance) is subject to the condition that the State will repay to the Commonwealth, on demand by the Treasurer, the amount by which, at the time of the demand, the total of the amounts (including advances) paid to the State under this Act exceeds the total of the amounts that have become payable to the State under section 4 of this Act.

11. Amounts payable to the State under this Act are payable out of the Consolidated Revenue Fund, which is appropriated accordingly. Appropriation.

THE SCHEDULE

Section 3(2)

MATTERS IN RESPECT OF WHICH FINANCIAL ASSISTANCE IS GRANTED

1. The construction of a dam on the Nogoa River about twelve miles upstream from Emerald, being a dam of a height sufficient to store approximately 1,170,000 acre-feet of water.
 2. The construction of auxiliary embankments and of spillway and outlet works.
 3. The construction of access roads to the dam and to the spillway and outlet works.
 4. The relocation of roads and other services that may be affected by the storage of water in the dam.
 5. The carrying out of works incidental to any of the works referred to in the preceding paragraphs of this Schedule.
 6. The establishment of construction camps required in connexion with the carrying out of any of the works referred to in the preceding paragraphs of this Schedule and the provision of services necessary for those camps, including the construction of roads and the provision of power, water, sewerage and telecommunication facilities.
 7. The acquisition of land that is required for the carrying out of any of the works referred to in the preceding paragraphs of this Schedule or may be affected by any of those works.
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NOTE

1. Act No. 35, 1968; assented to 13 June 1968.

QUEENSLAND MEAT INSPECTION AGREEMENT ACT 1932

TABLE OF PROVISIONS

Section

1. Short title
2. Approval of Agreement

THE SCHEDULE

Agreement dated 6 April 1932

An Act to approve an Agreement entered into between the Commonwealth and the State of Queensland with respect to the inspection of meat at the Abattoir of the Queensland Meat Industry Board.

1. This Act may be cited as the *Queensland Meat Inspection Agreement Act 1932*.¹ Short title.

2. The Agreement made between the Commonwealth of Australia and the State of Queensland (a copy of which Agreement is set out in the Schedule to this Act) is approved. Approval of Agreement.

THE SCHEDULE

AGREEMENT made the sixth day of April One thousand nine hundred and thirty-two BETWEEN THE COMMONWEALTH OF AUSTRALIA (hereinafter called the "Commonwealth") of the first part AND THE STATE OF QUEENSLAND (hereinafter called the "State") of the second part WHEREAS heretofore officers of the Commonwealth have inspected meat slaughtered in Queensland and which is intended for export beyond the Commonwealth and officers of the State have inspected all other meat slaughtered in Queensland AND WHEREAS it is desirable in the public interests and to avoid duplication in services that the inspection of all meat slaughtered at the Abattoir of the Queensland Meat Industry Board should be performed by officers of one agency AND WHEREAS it has been agreed between the parties hereto that officers of the Commonwealth shall perform the inspection of all meat slaughtered at the said Abattoir whether intended for export beyond the Commonwealth or otherwise NOW IT IS HEREBY AGREED as follows:—

1.—

- (a) The Commonwealth shall appoint to the permanent service of the Commonwealth such of the officers of the State presently engaged in inspecting meat as shall be agreed upon by the Commonwealth Public Service Board of Commissioners and the Public Service Commissioner of Queensland;
- (b) Subject to this Agreement each officer so appointed shall be subject in all respects to the laws of the Commonwealth relating to the Public Service;

Queensland Meat Inspection Agreement Act 1932

- (c) On the determination of this Agreement from any cause whatsoever the State shall if required by the Commonwealth and the officer concerned reappoint to the State Service each officer of the Commonwealth who has been appointed to the permanent service of the Commonwealth pursuant to this Agreement.

2. The State may appoint as Inspectors under the Slaughtering Act of 1898 such of the Commonwealth's Meat Inspectors as may be selected by the Commonwealth Public Service Board of Commissioners and the Public Service Commissioner for the State of Queensland. It is hereby expressly declared and agreed that any appointment so made shall be solely for the purpose of giving to such Inspectors the status and powers of Inspector for the inspection of meat at the Abattoir of the Queensland Meat Industry Board within the meaning of the Slaughtering Act of 1898 and for no other purpose whatsoever.

3. The Commonwealth shall carry out on behalf of the State the inspection of all meat slaughtered at the Abattoir of the Queensland Meat Industry Board other than meat intended for export beyond the Commonwealth.

4. The State will pay to the Commonwealth on or before the thirtieth day of June in each year an amount representing the cost to the Commonwealth of the work of inspection of meat on behalf of the State as herein provided. Such cost shall comprise the following items, viz.—

- (i) the salaries and allowances of five Meat Inspectors Grade 1;
- (ii) the cost if any of providing relief of such Inspectors during leave of absence;
- (iii) a sum representing the annual charge ascertained by actuarial computation of superannuation and/or furlough accruing in respect of the Inspectors referred to in paragraph (i) above.

Such cost shall be ascertained and certified by the Auditor-General of the Commonwealth.

In the event of it being ascertained at any time that the volume of inspection work to be performed for the State is greater than can be efficiently performed by a staff of five Meat Inspectors Grade 1 such number may be increased after agreement with the Public Service Commissioner for the State of Queensland and thereupon the payment to be made to the Commonwealth shall be on the basis of such increased staff.

5. The Commonwealth will supply to the State such information as may be in its possession and as may reasonably be required by the State concerning meat inspected by the Commonwealth's Meat Inspectors in the Abattoir of the Queensland Meat Industry Board other than meat intended for export beyond the Commonwealth.

6. If during the continuance of this Agreement the powers and functions which are exercisable in relation to this Agreement by the Commonwealth Public Service Board of Commissioners the Public Service Commissioner of the State of Queensland or the Queensland Meat Industry Board shall cease to be exercisable by that body or person and shall be exercisable by some other body or person the reference in this Agreement to the aforesaid body or person shall be read as a reference to that other body or person.

7. This Agreement shall come into operation on the twenty-fifth day of November One thousand nine hundred and thirty-one and shall continue in force for a period of three years and thereafter until the expiration of not less than six months' notice in writing by either party of intention to determine it.

8. Any notice to be given by one party to the other party to this Agreement shall be deemed to have been duly given if signed by the Prime Minister or the Premier as the case may be on behalf of the party giving it and sent by prepaid post addressed to the Premier or Prime Minister as the case may be on behalf of the other party.

IN WITNESS whereof the Prime Minister of the Commonwealth of Australia for and on behalf of the Commonwealth of Australia and the Premier of the State of Queensland for and on behalf of the State of Queensland have signed this Agreement the day and year first above written.

SIGNED by the Prime Minister of the Commonwealth of Australia for and on behalf of the said Commonwealth in the presence of—

J. A. LYONS.

MARTYN M. THRELFALL.

SIGNED by the Premier of the State of Queensland for and
on behalf of the said State in the presence of—

A. E. MOORE.

G. W. WATSON.

NOTE

1. Act No. 15, 1932; assented to and commenced 17 May 1932.

QUEENSLAND TOBACCO LEAF MARKETING BOARD GUARANTEE ACT 1953

TABLE OF PROVISIONS

Section

1. Short title
2. Commencement
3. Definition
4. Treasurer may guarantee loans to Board

An Act to authorize the Commonwealth to Guarantee the Repayment of certain Loans to be made by the Commonwealth Bank of Australia to the Queensland Tobacco Leaf Marketing Board.

1. This Act may be cited as the *Queensland Tobacco Leaf Marketing Board Guarantee Act 1953*.¹ Short title.

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹ Commence-
ment.

3. In this Act, "the Tobacco Leaf Marketing Board" means The Tobacco Leaf Marketing Board which was constituted by Order in Council made on the twenty-second day of July, One thousand nine hundred and forty-eight, under *The Primary Producers' Organisation and Marketing Acts, 1926 to 1946* of the State of Queensland. Definition.

4. The Treasurer may, for and on behalf of the Commonwealth, guarantee— Treasurer
may
guarantee
loans to
Board.

- (a) the repayment to the Commonwealth Bank of Australia of any loans, not exceeding in the aggregate the sum of One hundred thousand pounds, that are, during the period of three months which commenced on the nineteenth day of March, One thousand nine hundred and fifty-three, made by that bank to the Tobacco Leaf Marketing Board; and
- (b) the payment to that bank of interest on those loans.

NOTE

1. Act No. 17, 1953; assented to 8 April 1953.

RAILWAY AGREEMENT (NEW SOUTH WALES AND SOUTH AUSTRALIA) ACT 1968

TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	Approval of agreement
4.	Payments under agreement

THE SCHEDULE

Agreement dated 2 October 1968

An Act relating to an Agreement between the Commonwealth and the States of New South Wales and South Australia with respect to the Construction of a Standard Gauge Railway from Broken Hill to Cockburn.

- | | |
|--|---------------------------|
| 1. This Act may be cited as the <i>Railway Agreement (New South Wales and South Australia) Act 1968</i> . ¹ | Short title. |
| 2. This Act shall come into operation on the day on which it receives the Royal Assent. ¹ | Commencement. |
| 3. The agreement a copy of which is set out in the Schedule to this Act is approved. | Approval of agreement. |
| 4. The payments by the Commonwealth to the States of New South Wales and South Australia provided for in the agreement referred to in the last preceding section may be made to those States, by way of financial assistance, on the terms and conditions contained in that agreement. | Payments under agreement. |

THE SCHEDULE

Section 3

AN AGREEMENT made the Second day of October One thousand nine hundred and sixty-eight between THE COMMONWEALTH OF AUSTRALIA of the first part, THE STATE OF NEW SOUTH WALES of the second part and THE STATE OF SOUTH AUSTRALIA of the third part.

WHEREAS—

- (a) in order to assist in the defence and development of Australia, to facilitate interstate trade and commerce and to secure maximum efficiency and economy in railway operation it is desirable that there should be a continuous uniform gauge railway between Sydney in the State of New South Wales and Perth in the State of Western Australia; and
- (b) to achieve that aim it is necessary that a standard gauge railway be constructed between Cockburn in the State of South Australia and Broken Hill in the State of New South Wales:

NOW IT IS HEREBY AGREED as follows:

PART I—PRELIMINARY

Definitions.

1. (1) In this agreement, unless the contrary intention appears—
 - “clause” means clause of this agreement;
 - “financial year” means a period of twelve calendar months ending on the thirtieth day of June;
 - “narrow gauge” means a gauge of three feet six inches;
 - “party” means a party to this agreement and “the parties” means all three parties to this agreement;
 - “rolling stock” means locomotives and other railway vehicles;
 - “standard gauge” means a gauge of four feet eight and one-half inches;
 - “State” means the State of New South Wales or the State of South Australia, as the context requires, and “the States” means both of those States;
 - “the Commonwealth” means the Commonwealth of Australia;
 - “the Minister” means the Minister of State for Shipping and Transport of the Commonwealth;
 - “the Railway” means the new standard gauge railway to be constructed in accordance with paragraph (a) of sub-clause (1) of clause 3;
 - “the Schedule” means the Schedule to this agreement;
 - “the work” means the work referred to in sub-clause (1) of clause 3; and
 - “the 1949 Agreement” means the agreement between the Commonwealth and the State of South Australia the execution of which was authorized by the Railway Standardization (South Australia) Agreement Act 1949 of the Parliament of the Commonwealth and which was approved by the Railways Standardization Agreement Act, 1949 of the Parliament of the State.

(2) Where in this agreement a Minister is referred to, the reference shall be deemed to include a member of the Federal Executive Council or of the Executive Council of the relevant State, as the case may be, for the time being acting for or on behalf of that Minister.

Approval of agreement.

2. (1) This agreement, other than sub-clause (2) of this clause, shall have no force or effect and shall not be binding on any party until it has been approved by the Parliament of the Commonwealth and the Parliament of each of the States.

(2) Each party agrees to take all practicable steps to seek the enactment, as soon as practicable, by its Parliament of legislation to approve this agreement and to make such provision as may be necessary on its part for the implementation of this agreement.

(3) Each party, so far as its power extends, agrees to provide for and secure the carrying out of this agreement in accordance with the legislation by which it is approved and is to be implemented.

PART II—THE RAILWAY WORK

The work.

3. (1) The work to which this agreement relates shall be—
 - (a) the construction of a new standard gauge railway on the route and according to the standards set out in the Schedule;
 - (b) the reconstruction of the existing yard of the New South Wales Commissioner for Railways at Crystal Street, Broken Hill, (excluding the extension of the passenger platform) in accordance with the standards set out in the Schedule;
 - (c) the construction at Broken Hill of such facilities as the Minister approves as being necessary to provide service to customers in place of facilities the use of which will not be appropriate to the operation of the Railway;
 - (d) the conversion to standard gauge for use in conjunction with standard gauge railway operations between Port Pirie and Broken Hill of such private sidings as are approved by the Minister for that purpose;
 - (e) the conversion to standard gauge for use between Port Pirie and Broken Hill of such privately owned rail tank cars as are approved by the Minister for that purpose;
 - (f) the construction and conversion of such rolling stock as the Minister approves as being required for standard gauge railway operations between Port Pirie and Broken Hill in

addition to such construction and conversion as are provided for by the 1949 Agreement; and

- (g) such other work as the Minister approves as being necessary to provide for the more efficient operation of the standard gauge railway between Port Pirie and Broken Hill.

(2) The work referred to in sub-clause (1) of this clause shall include—

- (a) the acquisition of land;
- (b) any work relating to a public road or other public service made necessary by the carrying out of the work and any work which by virtue of the Public Works Act, 1912, as amended, of the State of New South Wales, the New South Wales Commissioner for Railways is bound to provide; and
- (c) the purchase, construction, alteration and conversion, as the case may require, of railway lines, bridges, buildings, structures, roads, parking areas and associated drainage, depot and barrack facilities for staff, facilities for storage, servicing and maintenance of rolling stock, signalling, road protection and communication facilities, cranes, weighbridges, plant, rolling stock and all matters and things that are required for the completion of the work,

but shall not include operation or maintenance of any railway or any work which is being undertaken or is proposed to be undertaken independently of this agreement or which is for purposes outside the scope of this agreement, whether or not such work is carried out in conjunction with the work to which this agreement applies.

(3) To the extent that it is necessary for the more effective fulfilment of this agreement, the Schedule may be varied in such manner and to such extent as the Minister, upon the request or with the concurrence of the State or States concerned, approves and all references in this agreement to the Schedule shall be deemed to be to the Schedule as varied in accordance with this clause.

(4) The Commonwealth and the State of South Australia acknowledge that the work to be done under paragraphs (d) and (e) of sub-clause (1) of this clause is not work provided for by the 1949 Agreement.

4. (1) The State of South Australia shall arrange for the carrying out in accordance with this agreement of such parts of the work as are provided for by paragraphs (a), (c), (d), (e), (f) and (g) of sub-clause (1) of clause 3.

Responsibility for the work.

(2) The State of New South Wales shall arrange for the carrying out in accordance with this agreement of the part of the work provided for by paragraph (b) of sub-clause (1) of clause 3.

5. Each State shall, in collaboration and agreement with the Commonwealth and, when appropriate, with the other State, in relation to those parts of the work for which it is responsible—

Planning of the work.

- (a) prepare, or arrange for engineering consultants to prepare—
 - (i) a master plan of the work, including descriptions, completion programmes and appropriate procedures for performance;
 - (ii) plans and specifications for the work which shall incorporate the appropriate standards of design and construction established under this agreement; and
 - (iii) estimates of cost for the work; and
- (b) supply and make available to the Minister and, where appropriate, the other State copies of the master plan, plans, specifications and estimates.

6. (1) Each State shall carry out or cause to be carried out those parts of the work for which it is responsible with due diligence and efficiency and in accordance with the provisions of this agreement and with the master plan and the relevant plans and specifications.

Execution of the work.

(2) The States shall use all reasonable endeavours to secure the completion of the work by the first day of October, 1969.

7. The State of New South Wales shall—

- (a) authorize the State of South Australia to own, construct, operate and maintain the Railway; and
- (b) resume, appropriate or acquire all land required for the carrying out of the work and make available to the State of South Australia, subject to reimbursement of all costs reasonably incurred, all such land as is required for the construction, operation and

Authority for the Cockburn-Broken Hill Railway.

maintenance of the Railway, other than land resumed, appropriated or acquired for the purpose of a road or other public service, unconnected with the Railway, made necessary by the carrying out of this agreement.

Contracts to be let.

8. Except where it is established to the satisfaction of the Minister that it is undesirable to do so, the States shall invite public tenders and let contracts for the carrying out of work, but a State may in appropriate circumstances undertake as tenderer work for which tenders have been invited.

Inspection of work, etc.

9. The States shall permit any person authorized by the Minister from time to time to inspect the work and to inspect, take copies of or extracts from any plans, designs, tenders, accounts, records or documents relating to the work.

Execution of extra work.

10. The States or either of them may, at their own expense, carry out in conjunction with the work such other works, or provide such capacity or equipment in excess of the appropriate standards established under this agreement, as they consider necessary or desirable.

PART III—FINANCE

Provision of funds by the Commonwealth.

11. (1) Subject to the provisions of this Agreement, the Commonwealth shall provide the funds required to meet expenditure under this agreement.

(2) For the purposes of this agreement expenditure by a State means expenditure by a State under this agreement, including payments to engineers and consultants for engineering design and supervision, the cost of plant and equipment for use directly in carrying out the work and direct administrative expenditure necessarily incurred, less the value as approved by the Minister of rolling stock, plant, equipment, stores and materials which the State by reason of the implementation of this agreement is or will be able to release from use on or in relation to the railways to which the work is related.

(3) Where the Minister is satisfied that by reason of the implementation of this agreement rolling stock that is referred to in sub-clause (2) of this clause and that is suitable for conversion is reasonably required for use on the narrow gauge railways of the Peterborough Division of the South Australian Railways he may, to the extent that he is so satisfied, approve that the value of that rolling stock be not deducted in ascertaining expenditure under this agreement by the State of South Australia.

(4) The funds to be provided by the Commonwealth under this agreement shall include such funds as may be required to meet any payments not provided for by the preceding sub-clauses of this clause that the Minister and the Ministers for Transport of the States agree are a proper charge because of any matter arising out of this agreement.

Allocation of expenditure on rolling stock.

12. (1) The work provided for by paragraph (f) of sub-clause (1) of clause 3 of this agreement shall be carried out in conjunction with the conversion and construction of rolling stock under paragraph (b) of clause 5 of the 1949 Agreement in respect of the railway between Port Pirie and the South Australia-New South Wales border near Cockburn.

(2) Expenditure on the conversion and construction of rolling stock under the two agreements referred to in sub-clause (1) of this clause shall, for the purpose of the respective operation of those agreements, be allocated—

- (a) as to 88 per cent of the expenditure—to the 1949 Agreement; and
- (b) as to 12 per cent of the expenditure—to this agreement.

Limitations on Commonwealth funds.

13. The funds to be provided by the Commonwealth under this agreement shall not exceed—

- (a) in the case of the part of the work provided for by paragraph (c) of sub-clause (1) of clause 3—the sum of Four hundred thousand dollars (\$400,000), or such larger sum as the Minister may approve;
- (b) in the case of the part of the work provided for by paragraph (d) of sub-clause (1) of clause 3—such amount in respect of each siding, up to one-half of the cost of conversion, as the Minister approves;
- (c) in the case of the part of the work provided for by paragraph (e) of sub-clause (1) of clause 3—such amount in respect of each car, up to one-half of the cost of conversion, as the Minister approves;
- (d) in the case of the part of the work provided for by paragraph (f) of sub-clause (1) of clause 3—a sum that, when added to the cost of conversion and construction under paragraph (b) of clause 5 of the 1949 Agreement in respect of the railway between

Port Pirie and the South Australia-New South Wales border near Cockburn, does not result in a total sum of more than Thirteen million dollars (\$13,000,000);

- (e) in the case of any work provided for by paragraph (g) of sub-clause (1) of clause 3—such amount as the Minister approves.

14. (1) A State shall be entitled, subject to the limitations provided in clause 13, to receive the funds to be provided by the Commonwealth by payments of amounts equal to expenditure by the State under this agreement from time to time and of such additional amounts as are, in the opinion of the Minister, reasonably required as a working advance to meet expenditure incurred or to be incurred.

Payments to the States.

(2) A State shall not be entitled to receive payment from the Commonwealth in respect of expenditure the incurring of which is not approved or ratified by the Minister.

(3) A State shall not except in the case of a working advance be entitled to receive payment from the Commonwealth in respect of expenditure on the work which, in the opinion of the Minister, has not been directly incurred in carrying out the work.

(4) Each statement of expenditure on the work by a State forwarded to the Commonwealth in connexion with an application for a payment shall be certified—

- (a) by or on behalf of the New South Wales Commissioner for Railways or the South Australian Railways Commissioner, as the case may be, that the work in respect of which the expenditure was incurred has been carried out in accordance with the standards of construction provided for by this agreement; and
- (b) by the Auditor-General for the State that the expenditure has been properly made in accordance with this agreement.

15. A State shall not apply any payment made by the Commonwealth or any part thereof for any purpose other than that for which the payment was made.

Application of payments.

16. (1) The State of South Australia shall from its Consolidated Revenue pay to the Commonwealth an amount equal to three-tenths of the payments made under this agreement by the Commonwealth to the State in each financial year by fifty equal annual contributions on the thirtieth day of June in each year after the end of that financial year, together with interest on so much of that amount as has not been paid at the beginning of the financial year in which the contribution is due, calculated from the beginning of the last-mentioned financial year.

Repayments by the States.

(2) The rate of interest payable under sub-clause (1) of this clause shall be the rate payable on the long term loan last raised by the Commonwealth in Australia for public subscription prior to the end of the financial year in which the relevant payment was made by the Commonwealth.

(3) For the the purposes of this clause—

- (a) any payment made by the Commonwealth in respect of the part of the work provided for by paragraph (b) of sub-clause (1) of sub-clause 3 shall be deemed to be a payment made by the Commonwealth to the State of South Australia; and
- (b) any funds provided by the Commonwealth under sub-clause (4) of clause 11, or so much of such funds as the Minister approves, shall be deemed to be a payment made by the Commonwealth to the State of South Australia.

17. (1) Each State shall prepare and the State of South Australia shall submit to the Minister not later than the first day of April in each year an estimate in such detail and with such explanations as may be required by the Minister of the funds which it will request from the Commonwealth during the next succeeding financial year.

Estimates.

(2) Each State shall prepare and the State of South Australia shall submit to the Commonwealth not later than the thirty-first day of December in each year, and at such other times as the Minister may request, a revised estimate for the then current financial year, including explanations of any variations between the estimate and the revised estimate.

18. Each State shall—

- (a) keep full accounts and records of all financial transactions, work done, and plant, stores, materials and equipment used or disposed of, in connexion with the work; and
- (b) furnish to the Minister at intervals of not more than three months progress reports on the performance of the work, together with financial statements of expenditure on the work and on each item thereof.

Accounts, records and reports.

Audit.

19. (1) The accounts, books, vouchers, documents and other records of each State relating to the receipt or payment of money or to the receipt, custody or disposal of plant, stores, materials and equipment in connexion with the work shall be audited by the Auditor-General for the State.

(2) Until the work has been completed to the satisfaction of the Minister, a report on the audit and on the financial statements shall be furnished by the Auditor-General for the State to the Auditor-General for the Commonwealth at least once in each year and that report shall indicate—

(a) whether the financial statements are based on proper accounts and records and are in agreement with those accounts and records; and

(b) whether the receipt and expenditure of moneys is in accordance with this agreement, and shall include reference to such other matters arising out of the audit and financial statements as the Auditor-General for the State considers should be reported to the Auditor-General for the Commonwealth.

(3) Each State shall supply such other information as may be required by the Auditor-General for the Commonwealth and if he considers it necessary shall permit him to inspect and take copies or extracts from the accounts, books, vouchers, documents and other records of the State in connexion with the work.

PART IV—MISCELLANEOUS**Supply of information.**

20. (1) Each State shall furnish to the Minister all such information as the Minister shall reasonably request for the purpose of the exercise by him of his powers and functions under this agreement.

(2) Each State shall promptly inform the Minister of any matter which interferes with, or appears likely to interfere with, the accomplishment of its obligations under this agreement.

Collaboration.

21. The parties affirm the principle that there should be collaboration between them and their respective railway authorities regarding the standards of design and construction and the operation of rolling stock with a view to facilitating efficient inter-system traffic and co-ordinated services.

Approvals by Minister.

22. Where a matter is required by this agreement to be approved by the Minister, the Minister, before deciding the matter, shall, if so requested by the Minister for Transport of a State, confer with that Minister or, where appropriate, with the Ministers for Transport of the States.

Amendment of 1949 agreement.

23. Clause 23 of the 1949 Agreement is rescinded.

Notices.

24. Any notice or other communication to be given or made under this agreement by the Commonwealth or the Minister to a State shall be deemed a sufficient notice or communication if it is signed by or on behalf of the Minister and any notice or other communication to be given or made by a State to the Commonwealth shall be deemed a sufficient notice or communication if it is signed by or on behalf of the Minister for Transport of the State and in any case shall be duly given or made if it is delivered or sent in such manner as is from time to time arranged between the relevant Commonwealth and State authorities.

THE SCHEDULE

Clause 3.

PART A: ROUTE OF THE RAILWAY

The route of the Railway commences at the south western boundary of the Crystal Street yard in Broken Hill and proceeds generally south of the Barrier Highway to the New South Wales-South Australia border near Cockburn, an approximate distance of 30 miles.

PART B: STANDARDS**1. Earthworks:****Formation width—**

(a) Banks 20 feet

(b) Cuttings 22 feet or as necessary to meet drainage or other special requirements.

2. Grading:

Ruling grades—

- (a) Cockburn to Broken Hill 1 in 100
- (b) Broken Hill to Cockburn 1 in 120.

3. Main Line Curvature:

Minimum radius of 40 chains where practicable.

4. Sleepers:

10 inches x 5 inches x 8 feet 6 inches hardwood.

Main Line—2,420 per mile (for 240 feet rails), or equivalent for longer or shorter rails

Crossing Loops	} 2,150 per mile.
Arrival and Departure Tracks	
Other Sidings	

5. Rails:

Main Line—A.S. 94 lb x 240 feet nominal length

Crossing Loops—A.S. 94 lb x 240 feet maximum length

Arrival and Departure Tracks—A.S. 94 lb x 240 feet maximum length

Other sidings—A.S. 82 lb rail.

6. Dogspikes:

5¼ inches x ¾ inches without sleeper plates.

6¼ x ¾ inches with sleeper plates.

7. Sleeper Plates:

A.S. double shouldered plates on curves of 40 chains radius or less.

8. Rail Anchors:

2,800 per mile for 240 feet rails.

9. Ballast (measured at Bins):

3,000 cubic yards per mile for main line track circuited.

2,650 cubic yards per mile for station yard tracks.

10. Crossing Loops:

To provide for 3,300 feet standing.

11. Bridges and Culverts:

Cooper's E50 loading with impact as specified in Minute No. 6151 of 1962 Australian and New Zealand Railways Conference.

12. Track Centres:

To conform to measurements shown in signalling diagrams for standard gauge tracks approved by the railways authorities of the Commonwealth and the State of South Australia.

13. Structure Gauge:

To provide for width of 12 feet at height of 20 feet from rail level, and to comply with measurements shown on structure gauge diagrams and signalling diagrams approved by the railways authorities of the Commonwealth and the State of South Australia.

14. Signalling:

Automatic absolute block signalling for the main line from Cockburn to Broken Hill, excluding the Crystal Street yard.

15. Communications:

Three carrier telephone channels with VF telegraph superimposed.

Railway Agreement (New South Wales and South Australia) Act 1968

IN WITNESS WHEREOF this agreement has been executed as at the day and year first above written.

SIGNED on behalf of THE COMMONWEALTH OF AUSTRALIA by the Right Honourable JOHN GREY GORTON, the Prime Minister of the Commonwealth, in the presence of—

A. GOTTO

JOHN GORTON

SIGNED on behalf of THE STATE OF NEW SOUTH WALES by the Honourable ROBIN WILLIAM ASKIN, the Premier of that State, in the presence of—

G. M. GRAY

R. W. ASKIN

SIGNED on behalf of THE STATE OF SOUTH AUSTRALIA by the Honourable RAYMOND STEELE HALL, the Premier of that State, in the presence of—

J. S. WHITE

STEELE HALL

NOTE

1. Act No. 126, 1968; assented to 3 December 1968.

RAILWAY AGREEMENT (QUEENSLAND) ACT 1961

TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	Approval of Agreement
4.	Financial assistance to the State of Queensland

THE SCHEDULE

Agreement dated 27 September 1961

An Act relating to an Agreement between the Commonwealth and the State of Queensland with respect to the Collinsville-Townsville-Mount Isa Railway.

- | | |
|--|---|
| 1. This Act may be cited as the <i>Railway Agreement (Queensland) Act</i> 1961. ¹ | Short title. |
| 2. This Act shall come into operation on the day on which it receives the Royal Assent. ¹ | Commence-
ment. |
| 3. The agreement a copy of which is set out in the Schedule to this Act is approved. | Approval of
Agreement. |
| 4. The advances provided for in the agreement referred to in the last preceding section may be made, by way of financial assistance to the State of Queensland on the terms and conditions contained in that agreement, out of the Loan Fund, which is appropriated accordingly. | Financial
assistance to
the State of
Queensland. |

THE SCHEDULE

Section 3

AN AGREEMENT made the twenty-seventh day of September 1961, BETWEEN THE COMMONWEALTH OF AUSTRALIA (in this agreement called "the Commonwealth") of the one part and THE STATE OF QUEENSLAND (in this agreement called "the State") of the other part:

WHEREAS the existing facilities of the Collinsville-Townsville-Mount Isa railway line will be incapable of handling the mine products and other goods to be offered for transport over this line when the expansion of mining activity now taking place in the north-west region of Queensland is completed:

AND WHEREAS it is desirable in the interests of the people of the State and of the Commonwealth generally that the production and export of mineral and other products from the north-west region of Queensland should be expanded as extensively and as rapidly as possible:

AND WHEREAS the State wishes to improve and increase the rail facilities on the Collinsville-Townsville-Mount Isa line both to cater for the proposed increase in mine traffic and to facilitate the development of the north-west region of Queensland and has sought assistance from the Commonwealth for this purpose:

AND WHEREAS it is proposed that the Parliament of the Commonwealth be asked to grant financial assistance to the State under section 96 of the Constitution of the Commonwealth of Australia upon and subject to the terms and conditions set out in this agreement:

NOW IT IS HEREBY AGREED as follows:

Definitions.

1. In this agreement, unless the contrary intention appears:—

“the Commissioner” means the Commissioner for Railways as constituted under “The Railways Acts, 1914 to 1959” of the State of Queensland.

“the cost of the work” means the amount expended by the State on the work including—

- (a) payments made to the engineers for engineering design work or for administering or supervising the work;
- (b) the payments made to the engineers for an investigation of the efficiency of the organisation, operations and methods of the administration of the Northern Division of the Queensland Railways; and
- (c) interest paid on or before the 31st day of December, 1964, on money provided by the State and money advanced by the Commonwealth for the purposes of this agreement;

“the engineers” means Ford, Bacon & Davis, Incorporated, a corporation of the State of New Jersey in the United States of America;

“the line” means the Collinsville-Townsville-Mount Isa railway of the State, the route of which is more particularly described in the first schedule to this agreement;

“the State Trust Fund” means the Trust Fund opened by the State in pursuance of sub-clause (1) of clause 4 of this agreement;

“the Treasurer” means the Treasurer of the Commonwealth and includes a member of the Federal Executive Council for the time being acting for and on behalf of the Treasurer; and

“the work” means the work to be carried out by the State in pursuance of clauses 11 and 12 of this agreement, and more particularly described in the second schedule to this agreement.

Approval of Agreement.

2. (1) This agreement, other than the next succeeding sub-clause, shall have no force or effect and shall not be binding upon either party until it is approved by the Parliament of the Commonwealth and the Parliament of the State.

(2) The Governments of the Commonwealth and the State agree to endeavour to have this agreement approved by their respective Parliaments as soon as practicable after the date of this agreement.

(3) The State shall provide for or secure the performance by the Commissioner of his obligations under this agreement.

The making of advances.

3. Subject to compliance by the State with the terms of this agreement, the Treasurer will make advances, not exceeding in the aggregate Twenty million pounds (£20,000,000), to the State towards meeting the cost of the work, which advances shall be made in accordance with and subject to the terms of this agreement.

4. (1) The State shall open a Trust Fund into which shall be paid all moneys advanced by the Treasurer pursuant to this agreement, and all moneys provided by the State towards meeting the cost of the work. State to open a Trust Fund.
(2) All expenditure by the State on the cost of the work shall be met from moneys standing to the credit of the State Trust Fund.
(3) The State shall not use any moneys in the State Trust Fund except for meeting the cost of the work.
5. (1) The State may from time to time apply for advances from the Treasurer for the purpose of meeting the cost of the work and shall be entitled, subject to the provisions of this agreement, to receive advances from the Treasurer of two-thirds of the cost of the work from time to time and of such additional amounts as are, in the opinion of the Treasurer, reasonably required as a working balance. State entitled to receive advances.
(2) The Treasurer may withhold the making of any advances under this agreement if he is satisfied that the State is not carrying out the work in accordance with this agreement.
6. The State shall furnish to the Treasurer such documents and other evidence in support of each application for an advance as the Treasurer shall request, whether before or after the Treasurer shall have made any advance requested in the application. Supporting evidence.
7. (1) The State shall pay to the Commonwealth interest at the rate of five and one-half per centum per annum on the amount of the advances made by the Commonwealth and from time to time not repaid in accordance with sub-clause (1) of clause 8 of this agreement. Interest.
(2) Interest payable under this clause shall accrue on each advance from the date on which that advance is made.
(3) Interest under this clause in respect of the period up to and including the 31st day of December, 1964, shall be payable on the 30th day of June and the 31st day of December of each year.
8. (1) Subject to the provisions of this clause, the State shall repay to the Commonwealth the total amount of the advances made by the Treasurer to the State under this agreement, together with interest accruing from and including the 1st day of January, 1965, under clause 7 of this agreement, by forty equal semi-annual payments, the first payment to be made on the 30th day of June, 1965, and subsequent payments to be made on each succeeding 31st day of December and 30th day of June until the final payment on the 31st day of December, 1984. Repayments of advances and interest thereon.
(2) In addition to making payments in accordance with sub-clause (1) of this clause, the State may on the 30th day of June or the 31st day of December in any year, after having given to the Treasurer at least one month's notice in writing of its intention so to do, pay to the Commonwealth an amount of Five hundred thousand pounds (£500,000) or a multiple thereof. Interest at the rate of five and one-half per centum per annum shall accrue on amounts paid by the State under this sub-clause, calculated from the date of payments and compounded with half-yearly rests on each 30th day of June and 31st day of December.
(3) Subject to sub-clause (4) of this clause, the amount of each semi-annual payment due by the State under sub-clause (1) of this clause shall not be reduced.
(4) When on any 30th day of June or 31st day of December the payment due by the State under sub-clause (1) of this clause exceeds the amount by which the unrepaid balance of the advances made by the Commonwealth (together with interest accrued thereon up to and including that date) exceeds the total of the amounts paid by the State to the Commonwealth under sub-clause (2) of this clause together with the interest accrued in accordance with that sub-clause up to and including that date, the State shall pay to the Commonwealth the amount of the second-mentioned excess in lieu of the amount due under sub-clause (1) of this clause, and no further payments shall be required to be made by the State to the Commonwealth under this agreement.
9. The State shall prepare and submit to the Treasurer not later than the 31st day of May of each year a budget of proposed expenditure on the work during the next succeeding financial year and an estimate of the amount of advances which it will request from the Commonwealth during that financial year supported by such explanations as may be considered necessary by the Treasurer. Annual budget.

Audit.	<p>10. (1) The accounts, books, vouchers, documents and other records of the State and of the Commissioner relating to the payment of money or to the receipt, custody or disposal of plant, stores, materials and equipment in connexion with the work shall be audited by the Auditor-General for the State.</p> <p>(2) Until the work has been completed to the satisfaction of the Treasurer, a report on the audit and on the financial statements shall be furnished by the Auditor-General for the State to the Treasurer once in each year and that report shall indicate, <i>inter alia</i>—</p> <ul style="list-style-type: none"> (a) whether the financial statements are based on proper accounts and records and are in agreement with those accounts and records; and (b) whether the expenditure of moneys is in accordance with this agreement, <p>and shall include reference to such other matters arising out of the audit and financial statements as the Auditor-General for the State considers should be reported to the Treasurer.</p>
State to carry out certain work.	<p>11. (1) The State shall carry out or cause to be carried out with due diligence and efficiency and in conformity with sound engineering and financial practices and the provisions of this agreement, the work of improving the line and increasing the rail facilities in connexion therewith as more particularly specified in the next succeeding clause.</p> <p>(2) The State shall take all reasonable steps to ensure that the work is completed in accordance with this agreement not later than the 31st day of December, 1964.</p>
Description of the work.	<p>12. (1) A description of the work to be carried out by or on behalf of the State under this agreement is set out in the second schedule to this agreement.</p> <p>(2) The standards set out in the third schedule to this agreement shall be observed by the State and its contractors in the carrying out of the work.</p> <p>(3) To the extent that it is necessary for the more efficient fulfilment of the objectives of this agreement, the second and third schedules may be varied in such manner and to such extent as the State proposes and the Treasurer approves.</p>
Plans, Specifications and Estimates.	<p>13. The State shall—</p> <ul style="list-style-type: none"> (a) cause to be prepared detailed plans and specifications of the work and estimates of the cost of the work; and (b) ensure the incorporation in the said plans, specifications and estimates of the standards of design and construction established under this agreement.
Supervision and Administration.	<p>14. The State shall continue to engage the engineers to perform the necessary engineering design work, to prepare plans, specifications and contract documents, and generally to administer and supervise the carrying out of the work in accordance with the provisions of Part VII of "The Railways Acts, 1914 to 1959" and the agreements ratified thereby.</p>
Letting of contracts.	<p>15. The Commissioner shall invite tenders and let contracts for the carrying out of the work.</p>
Efficient operation of the Railways.	<p>16. (1) As it has already affirmed that it will do, the State will cause to be undertaken by the engineers an investigation of the efficiency of the organization, operations and methods of the administration of the Northern Division of the Queensland Railways and will request the engineers to submit recommendations for improving efficiency.</p> <p>(2) Upon receipt of the recommendations referred to in the last preceding sub-clause, the State shall promptly take all reasonable action to put them into effect.</p>
Supply of information.	<p>17. (1) The State shall furnish to the Treasurer all such information as the Treasurer shall reasonably request concerning expenditure on the work.</p> <p>(2) The State shall promptly inform the Treasurer of any condition which interferes with, or threatens to interfere with, the accomplishment by the State of its obligations under this agreement, or which increases, or threatens to increase, materially the cost of any major item of the work.</p>

18. Except as otherwise provided in this agreement, any action required or permitted to be taken and any documents required or permitted to be executed under this agreement on behalf of the Commonwealth may be undertaken or executed by the Treasurer or any person thereunto authorized in writing by him and any action required or permitted to be taken and any documents required or permitted to be executed under this agreement on behalf of the State of Queensland may be undertaken or executed by the Premier of that State or any person thereunto authorized in writing by him. Notices, &c.

THE SCHEDULES

FIRST SCHEDULE

Line of Railway

The line of railway is:

- (a) the railway which commences at Collinsville, approximately 50 miles south-west of Merinda, and extends to Mount Isa, approximately 600 miles west of Townsville, passing through the following places en route:
 - Merinda
 - Nome
 - Stuart
 - Mingela
 - Macrossan
 - Charters Towers
 - Pentland
 - Torrens Creek
 - Hughenden
 - Richmond
 - Julia Creek
 - Cloncurry
 - Malbon
 - Duchess;
- (b) the railway between Merinda and Bowen; and
- (c) the railway between Stuart and Townsville jetty.

SECOND SCHEDULE

Description of the Work

Item Number	Particulars
1.	Surveys and soils investigations as necessary at sites of proposed new construction.
2.	Main Line roadway— <ol style="list-style-type: none"> (a) Regrading and minor deviations as necessary to obtain ruling gradient, approximately 80 miles. (b) Major deviations at Haughton and Burra Ranges, approximately 9 and 4 miles respectively. (c) Improvement of vertical curves where necessary. (d) Relaying of 242 miles of track between Richmond and Duchess. (e) Construction of duplicate lines between Nome and Stuart, approximately 6.5 miles.
3.	Bridges and culverts— <ol style="list-style-type: none"> (a) Replacing all bridges and trestles between Hughenden and Duchess—a total length of about 31,500 ft—with new bridges and culverts. Replacing culverts in the section Hughenden—Duchess as necessary to support the proposed design loading. (b) Construction of a new bridge at Macrossan over the Burdekin River. (c) Construction of new bridges and culverts at deviations where required.

- (d) Construction of culverts and bridges for duplicate track between Nome and Stuart.
- (e) Construction of approaches to proposed bridges and culverts.
- 4. Construction of drainage works to alleviate flood conditions.
- 5. Construction of new passing loops or extension of existing ones. Approximately 70 passing loops in 66 locations between Collinsville and Mount Isa.
- 6. Yard alterations, additions and facilities at Collinsville, Hughenden, Cloncurry and Mount Isa.
- 7. Construction of new classification yard at Partington including service facilities.
- 8. Construction of fuel storage facilities at two locations.
- 9. General Office building for Northern Division at Townsville.
- 10. Extension of existing Diesel Electric Locomotive shed at Townsville.
- 11. Installation of automatic power signalling Nome–Stuart.
- 12. Purchase of not more than fifteen Diesel Electric Locomotives.
- 13. Purchase or rebuilding of about five hundred wagons of various types.
- 14. Improvement of telephone-telegraph lines between Townsville and Mount Isa.

THIRD SCHEDULE

Standards

- 1. Ruling grades:
 - (a) Townsville–Hughenden 1 : 90
 - (b) Hughenden–Mount Isa 1 : 125
 - (c) Mount Isa–Hughenden 1 : 125
 - (d) Hughenden–Townsville 1 : 90
- 2. Earthworks: Compacted embankments and subgrade.
- 3. Track:
 - (a) Sleepers: Hardwood—2,420 per mile for welded track and 2,640 per mile for bolted track.
 - (b) Ballast: Crushed stone, crushed gravel, pit-run gravel, cinders or coarse sand; in main line 1,500 cubic yards per mile in old road bed or on new subgrade. Sub ballast to be provided as necessary.
 - (c) Rail: for main track, between Townsville–Mile 114, Richmond–Duchess, Nome–Stuart, and at major deviations, at least Australian standard 82 lb. For passing loops in section Richmond–Duchess, Australian standard 82 lb. All other rail 82 lb. or 60 lb. new or part worn, depending on availability.
 - (d) Fish plate assemblies, spikes and rail anchors as required.
- 4. Bridges: Steel or concrete superstructure on concrete substructure. Cooper's E-50 loading.
- 5. Culverts: Reinforced concrete pipe or corrugated metal pipe. Cooper's E-50 loading.
- 6. Passing loops: Length to be determined on the basis of operating 90-ton Diesel Electric Locomotives double headed between Stuart and Hughenden and single in all other sections of the line. Turnouts for passing loops generally 1:12. All other turnouts to conform to existing angles. Trackwork as described under Item 3.
- 7. Signalling: Automatic power signalling in Nome–Stuart section.
- 8. Office building: One or two stories high, masonry, air-conditioned structure.

IN WITNESS WHEREOF this agreement has been executed by the parties the day and year first above written.

SIGNED for and on behalf of THE COMMONWEALTH OF AUSTRALIA by the Right Honourable ROBERT GORDON MENZIES, the Prime Minister of the Commonwealth, in the presence of—

A. L. MOORE

ROBERT MENZIES

SIGNED for and on behalf of THE STATE OF QUEENSLAND by the Honourable GEORGE FRANCIS REUBEN NICKLIN, the Premier and Chief Secretary of the State, in the presence of—

R. B. McALLISTER

FRANK NICKLIN

NOTE

1. Act No. 92, 1961; assented to 27 October 1961.

RAILWAY AGREEMENT (QUEENSLAND) ACT 1968

TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	Approval of agreement
4.	Financial assistance to the State of Queensland

THE SCHEDULE

Supplemental Agreement dated 6 May 1968

An Act relating to a Supplemental Agreement between the Commonwealth and the State of Queensland with respect to the Collinsville-Townsville-Mount Isa Railway.

- | | |
|--|--|
| 1. This Act may be cited as the <i>Railway Agreement (Queensland) Act</i> 1968. ¹ | Short title. |
| 2. This Act shall come into operation on the day on which it receives the Royal Assent. ¹ | Commencement. |
| 3. The agreement a copy of which is set out in the Schedule to this Act is approved. | Approval of agreement. |
| 4. The advances provided for in the agreement referred to in the last preceding section may be made, by way of financial assistance to the State of Queensland on the terms and conditions contained in that agreement, out of the Loan Fund, which is appropriated accordingly. | Financial assistance to the State of Queensland. |

THE SCHEDULE

Section 3

SUPPLEMENTAL AGREEMENT

A SUPPLEMENTAL AGREEMENT made the Sixth day of May, One thousand nine hundred and sixty-eight between THE COMMONWEALTH OF AUSTRALIA (in this agreement called 'the Commonwealth') of the one part and THE STATE OF QUEENSLAND (in this agreement called 'the State') of the other part.

WHEREAS—

- (a) by an agreement between the Commonwealth and the State made the twenty-seventh day of September, 1961 (in this agreement called 'the Principal Agreement') provision was made for the Commonwealth to grant financial assistance to the State for the purposes of improving and increasing the rail facilities on the Collinsville-Townsville-Mount Isa railway line;

- (b) the Principal Agreement was approved, and the payment of financial assistance to the State on the terms and conditions provided thereby was authorised, by the Parliament of the Commonwealth by the Railway Agreement (Queensland) Act 1961;
- (c) the Principal Agreement was approved and ratified by the Parliament of the State by 'The Collinsville-Townsville-Mount Isa Railway Agreement Act of 1961';
- (d) it is proposed by the Commonwealth and the State that the financial assistance to be provided by the Commonwealth to the State under the Principal Agreement shall include a further amount, not exceeding Six hundred thousand dollars (\$600,000), which was incurred by the State on the work but which was not ascertained as being a cost of the work until after the thirtieth day of June, 1965, when the State became liable to commence repayments to the Commonwealth of advances made by the Commonwealth under the Principal Agreement; and
- (e) in order to establish beyond doubt that the said amount may be advanced under the Principal Agreement and to provide for the manner in which the State is to repay that amount to the Commonwealth, it is desirable that an agreement supplemental to the Principal Agreement be entered into between the Commonwealth and the State and requisite that the approval of the Parliament of the Commonwealth shall have been accorded to that supplemental agreement;

NOW IT IS HEREBY AGREED as follows:—

Approval of
agreement.

1. This agreement shall have no force or effect and shall not be binding on either party until it has been approved by the Parliament of the Commonwealth.

Operation of
agreement.

2. When this agreement has been approved by the Parliament of the Commonwealth, it shall come into force as an agreement supplemental to and to be read in conjunction with the Principal Agreement and the Principal Agreement shall be construed and have effect as affected by this agreement.

Additional
advance.

3. Subject to compliance by the State with the provisions of the Principal Agreement as affected by this agreement, the Treasurer may in addition to the advances made under the Principal Agreement prior to the date of this agreement, make a further advance to the State of an amount not exceeding Six hundred thousand dollars (\$600,000), towards the cost incurred by the State in completing the work.

Interest.

4. (1) The State shall pay to the Commonwealth interest on the amount of the advance made by the Treasurer to the State under this agreement and for the time being not repaid by the State at the rate provided by clause 7 of the Principal Agreement in respect of advances made under the Principal Agreement.

(2) Interest payable under this clause shall accrue from the date on which the advance is made.

Repayment of
advances and
interest thereon.

5. Subject to the provisions of sub-clauses (2) (3) and (4) of clause 8 of the Principal Agreement, the State shall repay to the Commonwealth the amount of the advance made by the Treasurer to the State in accordance with this agreement, together with interest accruing from the date upon which the advance was made, by equal semi-annual instalments, the first payment to be made on the thirtieth day of June, or the thirty-first day of December, whichever is the earlier date, that next succeeds the payment of the advance, and subsequent payments to be made on each succeeding thirtieth day of June and thirty-first day of December until the final payment on the thirty-first day of December, 1984.

Application of
the Principal
Agreement.

6. Except where inconsistent with the provisions of this agreement, the advance to be made by the Treasurer in accordance with this agreement shall, for the purposes of the operation of the Principal Agreement as affected by this agreement, be deemed to be an advance under the Principal Agreement.

Definitions.

7. Words and expressions used in this agreement to which meanings are attributed by the Principal Agreement shall, except where the contrary intention appears, have for the purposes of this agreement the respective meanings so attributed to them.

IN WITNESS WHEREOF this agreement has been executed as at the day and year first above written.

SIGNED for and on behalf of THE COMMONWEALTH OF AUSTRALIA by the Right Honourable JOHN GREY GORTON, the Prime Minister of the Commonwealth, in the presence of—

J. G. GORTON

C. L. HEWITT

SIGNED for and on behalf of THE STATE OF QUEENSLAND by the Honourable JACK CHARLES ALLEN PIZZEY, the Premier of the State, in the presence of—

J. C. A. PIZZEY

C. H. CURTIS

NOTE

1. Act No. 41, 1968; assented to 19 June 1968.

RAILWAY AGREEMENT (TASMANIA) ACT 1971

TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	Approval of agreement
4.	Payments under agreement

THE SCHEDULE

Agreement dated 5 October 1971

An Act relating to an Agreement between the Commonwealth and the State of Tasmania with respect to certain Railway Works.

- | | |
|---|---------------------------------|
| 1. This Act may be cited as the <i>Railway Agreement (Tasmania) Act</i> 1971. ¹ | Short title. |
| 2. This Act shall come into operation on the day on which it receives the Royal Assent. ¹ | Commence-
ment. |
| 3. The agreement a copy of which is set out in the Schedule to this Act is approved. | Approval of
agreement. |
| 4. The payments by the Commonwealth to the State of Tasmania provided for in the agreement referred to in the last preceding section may be made to that State, by way of financial assistance, on the terms and conditions contained in that agreement, out of the Consolidated Revenue Fund, which is appropriated accordingly. | Payments
under
agreement. |
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THE SCHEDULE

Section 3

AN AGREEMENT made the fifth day of October One thousand nine hundred and seventy-one Between THE COMMONWEALTH OF AUSTRALIA (in this agreement called "the Commonwealth") of the one part and THE STATE OF TASMANIA (in this agreement called "the State") of the other part.

WHEREAS—

- (a) it is desirable in the interests of Tasmania and of Australia generally that a woodchips industry capable of providing woodchips for export be established and developed in the Bell Bay region;
- (b) the State has proposed that the railway works described in this agreement be carried out to facilitate the transport of timber for the said industry;
- (c) the State has requested the Commonwealth to provide financial assistance to the State towards meeting the cost of carrying out those railway works;

- (d) the Commonwealth has agreed to request the Parliament of the Commonwealth to authorize the grant of financial assistance to the State to the extent and upon the terms and conditions set out in this agreement:

NOW IT IS HEREBY AGREED as follows:—

Definitions.

1. (1) In this agreement, unless the contrary intention appears—

“clause” means clause of this agreement;

“financial year” means a period of twelve months ending on the thirtieth day of June;

“Schedule” means Schedule to this agreement and, in the event that the Schedule is at any time varied, means the Schedule as so varied;

“the Minister” means the Minister for Shipping and Transport of the Commonwealth;

“the Treasurer” means the Treasurer of the Commonwealth; and

“the works” means the railway works described in the Schedule.

(2) Where in this agreement a Minister is referred to, that reference shall be deemed to include any other Minister of the Commonwealth or of the State or any member of the Federal Executive Council or of the Executive Council of the State, as the case may be, who may for the time being be acting for and on behalf of the Minister referred to.

Approval of Agreement.

2. This agreement shall have no force or effect and shall not be binding on either party until it has been approved by the Parliament of the Commonwealth and the Parliament of the State.

Financial Assistance.

3. (1) Subject to compliance by the State with the provisions of this agreement, the Commonwealth will, in accordance with and subject to the provisions of this agreement, provide financial assistance to the State in an amount equal to seventeen twentieths ($17/20$) of the expenditure on the works.

(2) The amount of the financial assistance to be provided by the Commonwealth under this agreement shall not exceed—

- (a) in respect of the new railway referred to in paragraph 1 of Part I of the Schedule—the sum of Two million nine hundred and seventy-five thousand dollars (\$2,975,000); and
- (b) in respect of the railway works referred to in paragraphs 2, 3, and 4 of Part I of the Schedule—the sum of One million two hundred and seventy-five thousand dollars (\$1,275,000).

Expenditure on the Works.

4. For the purposes of this agreement expenditure on the works means expenditure incurred by the State on or in connection with the works on and after the seventh day of April, 1971 and includes planning, design and administrative expenses directly relating to carrying out the works but does not include expenses that would have been or would be incurred whether or not the works were carried out.

Advances.

5. (1) The Treasurer may, at such times and in such amounts as he thinks fit, make advances on account of the payments that the Commonwealth may become liable to make under clause 7.

(2) An amount, or part of an amount, advanced by the Treasurer under this clause may be deducted by the Commonwealth from an amount that subsequently becomes payable under clause 7 or, if no further amounts will become payable under that clause, shall be refunded by the State to the Commonwealth at the request of the Treasurer.

Use of Advances.

6. The State shall ensure that an amount, or any part of an amount, advanced to the State and not refunded under the last preceding clause is not used or applied except for the purpose of meeting or of reimbursing to the State expenditure on the works.

Payments of Financial Assistance.

7. The Commonwealth will, at the request of the State, from time to time and subject to the provisions of this agreement make payments to the State of the financial assistance to be provided to the State under this agreement in amounts equal to seventeen twentieths ($17/20$) of the expenditure on the works.

8. (1) The State shall furnish to the Treasurer such documents and other evidence to justify the making of an advance under clause 5 or to show how an amount, or any part of an amount, advanced under that clause has been used or applied, or to support a request by the State for a payment under clause 7, as the Treasurer may at any time reasonably request, whether the request by the Treasurer is made before or after the Commonwealth has made any relevant advance or payment.

Supporting
Financial
Evidence.

(2) Any statement of expenditure by the State forwarded to the Commonwealth in connexion with a request for a payment under clause 7 shall be certified as to its correctness by the Auditor-General of the State.

9. (1) Subject to the provisions of clause 10, the State shall repay to the Commonwealth ten seventeenths (10/17) of each of the advances made to the State under clause 5 and not refunded as provided in sub-clause (2) of that clause and of each of the payments made to the State under clause 7 by sixty (60) equal consecutive half-yearly payments.

Repayments by
State.

(2) The first payment by the State under sub-clause (1) of this clause shall be payable on the fifteenth day of December, 1972—except that in the event that an advance or a payment is made by the Commonwealth to the State on or after that date the first payment by the State in respect of that advance or payment shall be payable on the fifteenth day of June or the fifteenth day of December next succeeding the date on which the advance or payment was made by the Commonwealth—and subsequent payments shall be payable on each succeeding fifteenth day of June and fifteenth day of December until the full amount of the portion that is repayable of the advance or payment has been paid.

10. The State may at any time after giving to the Treasurer notice of at least one month of its intention to do so, repay the whole, or a part not being less than One hundred thousand dollars (\$100,000), of so much of an advance or payment as is repayable by the State to the Commonwealth under clause 9 as remains unrepaid, together with interest on the amount repaid accrued to the date of payment in accordance with clause 11.

Prepayments.

11. (1) Interest payable by the State to the Commonwealth shall accrue on so much of the amount of each advance or payment to the State as is repayable to the Commonwealth by the State as has not for the time being been repaid or, in the case of an advance, repaid or refunded to the Commonwealth calculated from the date on which the advance or payment was made by the Commonwealth at the rate provided in this clause in respect of the advance or payment.

Interest.

(2) The State shall pay the interest for the time being accrued under this clause on the fifteenth day of June and the fifteenth day of December in each year.

(3) The rate at which interest accrues and is payable by the State under this clause in respect of an advance or payment shall be the rate of yield to maturity of the loan of the longer or longest term of the last loan raising by the Commonwealth in Australia for public subscription prior to the date upon which the advance or payment was made by the Commonwealth.

12. (1) The State shall furnish, at the request of the Minister, such information in relation to the design and construction of the works as he may require.

Approval of
Works.

(2) The State shall not be entitled to financial assistance under this agreement, except by way of advances under clause 5, in relation to expenditure on any work comprising a part of the works, whether incurred before or after the date of this agreement, unless the design of the work has been approved by the Minister as being in accordance with the purposes of this agreement.

13. The State shall ensure that the works are constructed in accordance with such designs as are approved by the Minister and are carried out efficiently and in conformity with sound engineering and financial practices.

Execution of the
Works.

14. To the extent that it is necessary for or more conducive to the efficient fulfilment of the objective of providing railway works to facilitate the transport of timber for the said woodchips industry, the Schedule to this agreement may be varied in such manner and to such extent as the State proposes and the Minister approves.

Variation of
Schedule.

15. The State may, at its own expense, carry out such other work in conjunction with the works or carry out the works at such standards in excess of the appropriate standards established under this agreement as the State considers necessary or desirable.

Extra Work.

Contracts.

16. (1) Except where it is established to the satisfaction of the Minister that it is undesirable to do so, the State shall invite public tenders and let contracts for the carrying out of the works.

(2) The State shall not let contracts for the performance of any part of the works to a value in excess of Two hundred and fifty thousand dollars (\$250,000) for any one contract without obtaining the prior approval of the Minister.

Inspection.

17. The State shall permit persons authorized by the Minister at all reasonable times to inspect the works and to have access to, and all reasonable facilities to take copies of or extracts from, the plans, drawings, accounts, records and other documents relating to the works.

Estimates.

18. The State shall prepare and submit to the Treasurer not later than the thirtieth day of April in each year, or by such other date or dates as the Treasurer may from time to time specify, statements showing the amounts, if any, that the State estimates it will request the Commonwealth to provide for the State under this agreement during the next succeeding financial year.

Financial Statements.

19. The State shall—

- (a) keep full accounts and records of all financial transactions, work done, and plant, stores, materials and equipment used or disposed of, in connexion with the carrying out of the works; and
- (b) furnish to the Treasurer, as soon as possible after the completion of each financial year in which there is expenditure on the works, financial statements showing expenditure on the works up to the preceding thirtieth day of June, the latest estimate of the complete cost of the works, and the estimated amounts of annual expenditure necessary to complete the works.

Audit.

20. (1) The accounts, books, vouchers, documents and other records of the State relating to the carrying out of the works shall be subject to audit by the Auditor-General of the State.

(2) Until such time as the total amount of the financial assistance to be provided to the State under this agreement has been provided by the Commonwealth and supporting evidence to the satisfaction of the Treasurer in relation to all amounts paid or advanced is furnished by the State, a report on the audits and on the financial statements in respect of each financial year shall be furnished by the Auditor-General of the State to the Treasurer as soon as possible after the completion of the financial year, indicating, inter alia—

- (a) whether the financial statements are based on proper accounts and records and are in agreement with those accounts and records; and
- (b) whether the expenditure of moneys is in accordance with this agreement,

and including reference to such other matters arising out of the audits and financial statements as the Auditor-General of the State considers should be reported to the Treasurer.

Notices.

21. Any notice, request or other communication given or made to the State for the purposes of this agreement on behalf of the Commonwealth or by a Commonwealth Minister shall be a sufficient notice if it is in writing signed by the appropriate Commonwealth Minister or a person authorized in writing by him, and any notice, application, request or other communication given or made to the Commonwealth or a Commonwealth Minister for the purposes of this agreement on behalf of the State shall be a sufficient notice if it is in writing signed by the appropriate State Minister or any person thereunto authorized in writing by him.

THE SCHEDULE**The Works****Part I: The Railway Works**

The railway works shall consist of—

- 1. A new 3 feet 6 inch gauge railway along the route set out in Part III.
- 2. A new railway bridge across the North Esk River in the vicinity of Launceston.
- 3. Railway marshalling lines adjacent to the proposed Dowling Street Freight Yard south of the North Esk River, near Launceston.
- 4. Up-grading where necessary of the existing railway between Launceston and the junction of the Bell Bay line with the North Eastern Line approximately 8 miles from Launceston.

Part II: Description of the Works

The railway works shall comprise the construction and carrying out of the new railway and other railway works set out in Part I, including, where appropriate—

- (1) surveys and soil investigations as necessary;
- (2) engineering design and planning;
- (3) provision of bridges, culverts and any other structures for the carriage of the railway over or under waterways, etc., and construction of drainage works as required;
- (4) construction of grade separations on major roads and level crossings on minor roads and tracks;
- (5) construction of all necessary passing loops, sidings and other yard facilities;
- (6) provision of necessary communication and signalling facilities;
- (7) replacing rail, sleepers and fastenings, easing curves and gradients (by deviation where necessary) and provision of additional ballast.

Part III: Route of the New Railway

The railway will commence at a suitable point on the existing railway between Launceston and Herrick known as the North Eastern Line, approximately 8 miles from Launceston.

The railway will proceed in a generally northerly direction for approximately 17 miles and extend by a spur line to the site of the proposed woodchip works near William Creek. From the junction with the spur line it will continue in a generally northerly direction for approximately 6 miles, and will then proceed in a generally westerly direction for approximately 4 miles, ending at the Bell Bay Wharf.

IN WITNESS WHEREOF this agreement has been executed by the parties as at the day and the year first above written.

SIGNED on behalf of THE COMMONWEALTH OF AUSTRALIA by THE RIGHT HONOURABLE WILLIAM McMAHON, Prime Minister of the Commonwealth, in the presence of—

WILLIAM McMAHON

G. R. FELL

SIGNED on behalf of THE STATE OF TASMANIA by THE HONOURABLE WALTER ANGUS BETHUNE, Premier of the State of Tasmania, in the presence of—

W. A. BETHUNE

K. J. BINNS

NOTE

1. Act No. 101, 1971; assented to 17 November 1971.

RAILWAY AGREEMENT (WESTERN AUSTRALIA) ACT 1961-1971

TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
2A.	Definitions
3.	Approval of Agreement
3A.	Approval of Amending Agreement
4.	Financial assistance to State of Western Australia

THE SCHEDULES

FIRST SCHEDULE

Agreement dated 2 October 1961

SECOND SCHEDULE

Agreement dated 9 August 1971

An Act relating to certain Agreements between the Commonwealth and the State of Western Australia in relation to certain Railways in that State.

Title amended
by No. 88, 1971,
s. 3.

1. This Act may be cited as the *Railway Agreement (Western Australia) Act 1961-1971*.¹

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

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹

Commence-
ment.

2A. In this Act, unless the contrary intention appears—

Definitions.
Inserted by
No. 88, 1971,
s. 4.

“the Agreement” means the agreement a copy of which is set out in the First Schedule to this Act;

“the Amending Agreement” means the agreement a copy of which is set out in the Second Schedule to this Act.

3. The Agreement is approved.

Approval of
Agreement.
Amended by
No. 88, 1971,
s. 5.

Approval of
Amending
Agreement.

Inserted by
No. 88, 1971,
s. 6.

Financial
assistance to
State of
Western
Australia.

Amended by
No. 88, 1971,
s. 7.

3A. The Amending Agreement is approved.

4. Moneys appropriated by the Parliament for the purposes of the Agreement as varied by the Amending Agreement may be paid to the State of Western Australia by way of financial assistance on the terms and conditions contained in the Agreement as so varied.

Heading
substituted by
No. 88, 1971,
s. 8.

THE SCHEDULES

FIRST SCHEDULE

Section 2A

AN AGREEMENT made the second day of October 1961, BETWEEN THE COMMONWEALTH OF AUSTRALIA (in this agreement called "the Commonwealth") of the one part and THE STATE OF WESTERN AUSTRALIA (in this agreement called "the State") of the other part:

WHEREAS in pursuance of an agreement approved by Act No. 67 of 1960 of the Parliament of Western Australia the State wishes to carry out certain railway work in the State of Western Australia in conjunction with the development of iron ore, iron and steel production in that State:

AND WHEREAS it is desirable in the interest of the people of the State of Western Australia and of the Commonwealth of Australia generally that the production of iron ore, iron and steel should be developed:

AND WHEREAS in order to assist in the defence and development of the Commonwealth of Australia, to facilitate interstate trade and commerce and to secure maximum efficiency and economy in railway operation, it is desirable that there should be a standard gauge railway between Kalgoorlie and Perth and other places in the State of Western Australia:

AND WHEREAS the State has requested the Commonwealth to provide financial assistance to the State for the purpose of carrying out the proposed railway work:

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:—

Division I—Preliminary

Definitions.

1. (1) In this agreement, subject to the context—

"completion date" means the later of the respective dates on which regular services on the section Kalgoorlie to Fremantle via Perth and Koolyanobbing to Kwinana of the standard gauge railway are commenced;

"financial year" means a period of twelve calendar months ending on the 30th day of June;

"narrow gauge" means a gauge of three feet six inches;

"party" means a party to this agreement;

"rolling stock" means locomotives and other railway vehicles and includes related spare parts;

"Schedule" means Schedule to this agreement;

"standard gauge" means a gauge of four feet eight and one-half inches;

"the Minister" means the Minister of State for Shipping and Transport of the Commonwealth;

"the standard gauge railway" means the standard gauge railway to be constructed under this agreement along the routes set out in the First Schedule; and

“the work” means all or any of the work referred to in sub-clauses (1) and (2) of clause 6 of this agreement.

(2) Where in this agreement a Minister is referred to, that reference shall be deemed to include any member of the Federal Executive Council or the Executive Council of the State, as the case may be, for the time being acting for and on behalf of that Minister.

2. (1) This agreement shall have no force or effect and shall not be binding upon either party until it is approved by the Parliaments of the Commonwealth and the State. Approval of Agreement.

(2) Each party agrees to take every practicable step to have this agreement approved by its Parliament without restriction or amendment as soon as practicable.

(3) Each party agrees, so far as its power extends, to provide for and secure the carrying out of this agreement.

3. (1) The objectives of this agreement are to achieve before the 31st day of December, 1968— Objectives of Agreement.

(a) the construction and establishment of the standard gauge railway and associated narrow gauge railway works on the routes specified in the First Schedule; and

(b) the provision, by purchase, construction or conversion, of rolling stock in numbers and capacity sufficient—

(i) to carry iron ore from Koolyanobbing to Kwinana on the standard gauge railway at the rate of 2,000,000 tons per annum; and

(ii) to the extent provided in the next succeeding sub-clause, to carry general traffic on the standard gauge railway.

(2) The estimates set out in the Second Schedule in regard to rolling stock are accepted by the parties as including minimum requirements for general traffic, but constituting, unless otherwise agreed under this sub-clause, the extent of the objectives of this agreement in that regard. The extent of the objectives in that regard may be varied by agreement between the parties following a review, which shall be carried out by the parties in or about the end of the year 1966, taking into account the quantity of rolling stock of the State suitable and fairly available for conversion to standard gauge and such other factors as are relevant at that time.

4. Subject to compliance by the State with the terms of this agreement, the Commonwealth will provide financial assistance to the State in the manner, to the extent and for the purposes herein provided. Provision of financial assistance by the Commonwealth.

5. Where agreement between the parties on any matter is required for the purposes of this agreement, the matter shall be decided by the Minister in agreement with the Minister for Railways of the State and, failing such decision, shall be determined by the Treasurer of the Commonwealth. Decision in case of dispute.

Division II—The Railway Work

6. (1) The State will carry out, or will use all reasonable endeavours to cause to be carried out, with due diligence and efficiency and in accordance with the relevant programme, procedures, plans and specifications for the time being agreed to by the parties under this agreement, the work specified in the Second Schedule with a view to the completion of the work before the 31st day of December, 1968. State to carry out the work.

(2) The work to be carried out by the State pursuant to the preceding sub-clause shall include the acquisition of land, the purchase, construction, alteration and conversion as the case may require of railway lines, bridges, buildings, structures, workshops, plant, rolling stock and all matters and things which are required for the completion of the work, but shall not include—

(a) operation or maintenance of any railway; or

(b) any work which is being undertaken or is proposed to be undertaken by the State independently of this agreement or which is for purposes outside the scope and objectives of this agreement, whether or not such work is carried out in conjunction with the work to which this agreement applies.

(3) The State may, at its own expense, carry out in conjunction with the work such other works, or provide such capacity or equipment in excess of the appropriate standards established under this agreement, as it considers necessary or desirable.

(4) To the extent that it is necessary for the more effective fulfilment of the objectives of this agreement, a Schedule may be varied in such manner and to such extent as the Minister, upon the request or with the concurrence of the State, approves and all references in this

agreement to a Schedule shall be deemed to be to that Schedule as varied in accordance with this clause.

Programme,
plans and
estimates.

7. The State, in collaboration and agreement with the Commonwealth, shall, from time to time—

- (a) prepare a programme of the work including appropriate procedures for its performance;
- (b) prepare plans, specifications and estimates of cost for the work;
- (c) incorporate in all such plans, specifications and estimates the appropriate standards of design and construction established under this agreement; and
- (d) supply or make available to the Minister as soon as possible copies of the programme, plans, specifications and estimates.

Contracts to be
let.

8. Except where it is established to the satisfaction of the Minister that it is undesirable to do so, the State shall invite public tenders and let contracts for the carrying out of the work.

Inspection.

9. The State shall permit any person authorized by the Minister from time to time to enter upon and inspect the work and to inspect, take copies of or extracts from any plans, designs, accounts, records or documents relating to the work.

Division III—Finance

Provision of
funds.

10. (1) Subject to the provisions of this agreement, the Commonwealth will provide the funds required to meet seventeen-twentieths of expenditure by the State on the work and the State will provide the funds required to meet three-twentieths of such expenditure.

(2) The State shall be entitled, subject to the provisions of this agreement, to receive payments from the Commonwealth of amounts equal to seventeen-twentieths of the expenditure made by the State on the work from time to time and of such additional amounts as are, in the opinion of the Minister, reasonably required as a working advance to meet expenditure incurred or to be incurred.

(3) For the purposes of this clause expenditure on the work shall include the administrative expenses directly related to the carrying out of the work and the cost of the preliminary survey, including expenditure incurred or made on the survey before the date of operation of this agreement and authorized by the Commonwealth otherwise than in accordance with this agreement.

(4) The amounts set out in the last column of the Second Schedule as the estimated cost of the work and the various components thereof are based solely on the cost of materials and labour and on operational requirements prevailing at the end of the year 1960 and are specified as an indication of the extent of the work and the relative amounts to be expended on each component thereof but otherwise do not impose any limitation on the amount to be expended by the State on the work or on any part thereof for the purposes of this clause.

Authorisation of
expenditure.

11. (1) The State will not be entitled to receive payments from the Commonwealth in respect of expenditure the incurring of which is not approved or ratified by the Minister.

(2) In exercising his powers under this clause the Minister shall have regard to the provisions of clause 3 of this agreement and to whether the work to which the expenditure relates is to be or has been carried out in accordance with the programmes, procedures, plans and specifications prepared in accordance with clause 7 of this agreement.

Payments by the
State.

12. (1) The State shall from its Consolidated Revenue pay to the Commonwealth an amount equal to ten-seventeenth of the payments made by the Commonwealth to the State in each financial year under clause 10 of this agreement and interest thereon in the following manner—

- (a) as to an amount equal to three-seventeenth of those payments—by fifty equal annual contributions commencing on the 30th day of June next following the end of that financial year, together with interest on so much of that amount as has not been paid at the beginning of the financial year in which the contribution is due, calculated from the beginning of that financial year; and
- (b) as to an amount equal to seven-seventeenth of each of those payments, together with interest as hereinafter provided in this clause and not paid under sub-clause (3) of this clause—by forty equal semi-annual payments of principal and interest commencing six calendar months after the completion date and continuing thereafter at intervals of six calendar months until the final payment is made.

(2) The interest payable under paragraph (b) of the last preceding sub-clause shall be calculated from the date on which the relevant payment was made by the Commonwealth and shall accrue on the amount referred to in that paragraph or on so much of that amount as for the time being remains unpaid by the State to the Commonwealth.

(3) The State may, in respect of the period prior to the completion date, pay on the 30th day of June in any year the whole or part of the interest accrued to that date in accordance with the last preceding sub-clause, but any interest so accrued and not so paid shall thereafter bear interest at the same rate and to the same extent as the payment by the Commonwealth to which it relates.

(4) The rate of interest payable by the State under this clause shall be the rate payable on the long term loan last raised by the Commonwealth in Australia for public subscription prior to—

- (a) for the purposes of paragraph (a) of sub-clause (1) of this clause—the end of the financial year in which the payments were made by the Commonwealth; and
- (b) for the purposes of paragraph (b) of sub-clause (1) of this clause—the date on which the relevant payment was made by the Commonwealth.

13. (1) The provisions of clauses 10, 11 and 12 of this agreement shall apply to expenditure by the State on the work during the period of twenty-four calendar months immediately following the completion date in respect of expenditure incurred not later than twelve calendar months after the completion date, except that for the purposes of the application of those clauses in pursuance of this clause the completion date referred to in paragraph (b) of sub-clause (1) and in sub-clause (3) of clause 12 of this agreement shall be read as a reference to a date twenty-four calendar months after the completion date.

Expenditure
after the
completion date.

(2) Except with the authority of the Minister the Commonwealth shall not be obliged at any time subsequent to twenty-four calendar months after the completion date to meet expenditure made by the State on any of the work.

14. (1) The State shall prepare and submit to the Minister not later than the 30th day of April in each year an estimate of the funds for which application will be made to the Commonwealth during the next succeeding financial year.

Estimates.

(2) The estimate shall be supported by appropriate explanations and by a statement or statements showing—

- (a) the total amounts provided by the Commonwealth and by the State and the total amount expended by the State on the work to a convenient date prior to such 30th day of April;
- (b) the further amount estimated to be expended by the State on the work and the further amounts estimated to be required to be provided by the Commonwealth and by the State for that purpose by the next succeeding 30th day of June; and
- (c) the estimated expenditure by the State on the work during the next succeeding financial year and the amount which the State proposes to request the Commonwealth to provide during that financial year.

(3) The State shall prepare and submit to the Minister not later than the 31st day of December in each year, and at such other times as the Minister may request, a revised estimate for the then current financial year including explanations of any variations between the estimate and the revised estimate.

15. The State shall—

- (a) keep full accounts and records of all financial transactions, work done, and plant, stores, materials and equipment used or disposed of, in connexion with the work; and
- (b) furnish to the Minister at intervals of not more than twelve months progress reports on the performance of the work, together with financial statements of expenditure on the work and on each item thereof, revised estimates of cost and the estimated amounts of annual expenditure necessary to complete the work.

Accounts, reports
and records.

16. (1) The accounts, books, vouchers, documents and other records of the State relating to the receipt or payment of money or to the receipt, custody or disposal of plant, stores, materials and equipment in connexion with the work shall be audited by the Auditor-General for the State.

Audit.

(2) A report on the audit and on the financial statements shall be furnished by the Auditor-General for the State to the Auditor-General for the Commonwealth at least once every year and such report shall indicate, inter alia—

- (a) whether the financial statements are based on proper accounts and records and are in agreement with those accounts and records; and
- (b) whether the receipt and expenditure of moneys are in accordance with this agreement,

and shall include reference to such other matters arising out of the audit and financial statements as the Auditor-General for the State considers should be reported to the Auditor-General for the Commonwealth.

(3) The State shall supply such further information as may be required by the Auditor-General for the Commonwealth and if he considers it necessary shall permit him to inspect and take copies or extracts from the accounts, books, vouchers, documents and other records of the State in connexion with the work.

(4) Any statement of expenditure by the State forwarded to the Commonwealth in connexion with an application for funds in accordance with clause 10 of this agreement shall be certified as to its correctness by the Auditor-General for the State.

Division IV—Miscellaneous

State to furnish information.

17. The State shall, from time to time on request by the Minister, furnish to him such documents and other information as he may reasonably require for the purpose of the exercise by him of his powers and functions under this agreement.

Interchange of rolling stock.

18. The parties affirm the principle that there should be collaboration between them and their respective railway authorities regarding the standards of design and construction and the operation of rolling stock with a view to facilitating efficient inter-system traffic and co-ordinated services.

Notices.

19. Any notice or other communication to be given hereunder by the Commonwealth or the Minister to the State shall be deemed sufficiently given if signed by or on behalf of the Minister and any notice or other communication to be given by the State to the Commonwealth shall be deemed sufficiently given if signed by or on behalf of the Minister for Railways of the State.

THE SCHEDULES

FIRST SCHEDULE

Route of Railways

The route of the standard gauge railway begins at the terminus of the Commonwealth standard gauge railway line at Kalgoorlie and is as follows:—

	Approximate Main Line Mileages
(a) Kalgoorlie to East Northam, parallel to the existing narrow gauge railway, except where deviations are necessary to attain the required grading as set out in the Second Schedule	357
(b) East Northam to Midland via Toodyay and the Avon River Valley	59
(c) Midland to Fremantle via Perth parallel to the existing narrow gauge railway	28
(d) Fremantle to Kwinana on the existing formation	12
(e) Midland to East Perth via Kewdale and Welshpool	11
(f) Kewdale to Kwinana (including the works site referred to in the said recited agreement) via Cannington	23
(g) Southern Cross to Koolyanobbing	33
(h) Kalgoorlie to Kamballie	5
	528

Approximate
Main Line
Mileages

The routes of the associated narrow gauge railway works are—

(a) East Northam to Midland on the same route as the standard gauge railway	59
(b) Necessary deviations in the Northern and Great Southern Railways in the vicinity of Northam	15
	<hr/> 74 <hr/>

SECOND SCHEDULE

Particulars	Estimated cost £
1. Construction of standard gauge railway permanent way, including crossing loops and sidings—earthworks, ballast, sleepers, rails, fastenings and track laying	19,457,000
2. Construction of associated narrow gauge works, including provision of third rail between Fremantle and Kwinana and between Kalgoorlie and Kamballie	2,993,000
3. Construction of industrial or other special sidings	590,000
4. Bridges and culverts	2,241,000
5. Grade separation	325,000
6. New signalling facilities with automatic colour light signals between Kalgoorlie and Northam, Midland and Fremantle, Kewdale and Kwinana, Kewdale and East Perth and Fremantle and Kwinana; centralized traffic control between East Northam and Kewdale; and electric staff between Southern Cross and Koolyanobbing	2,516,000
7. Transfer facilities at Coolgardie, Merredin, Northam and Toodyay	225,000
8. Structural alterations to Midland Workshops	250,000
9. New passenger terminal East Perth	100,000
10. New carriage sheds East Perth	150,000
11. New station buildings	600,000
12. Additional land resumption	300,000
13. Equipment for transfer operations and workshops use	290,000
14. Marshalling and transfer facilities at Kewdale for standard gauge traffic	400,000
	<hr/> 30,437,000 <hr/>

15. Rolling Stock, standard gauge only—

	Number of Units	
Locomotives—		
Main line locomotives of capacities up to 2,000 gross brake horsepower each	22	
Transfer road-shunters of capacities up to 900 gross brake horsepower each	5	
Shunting locomotives of capacities up to 650 gross brake horsepower each	11	
	<hr/>	38
Passenger vehicles	55	3,700,000
Freight vehicles—		1,710,000
Ore wagons	155	
Open goods wagons	302	
Covered vans	310	
Flat wagons	209	
Livestock and special vehicles	162	
	<hr/>	1,138
		5,093,000

Particulars		Estimated cost £
Service vehicles	55	270,000
		<hr/> £10,773,000
Total		<hr/> £41,210,000 <hr/>

THIRD SCHEDULE

	Standards
Earthworks:	Formation width—
	(a) Banks 20' 0''.
	(b) Cuttings 22' 0''.
Grading:	Ruling grades—
	(a) Kalgoorlie to East Northam 1 in 150
	(b) East Northam to Midland 1 in 200
	(c) Midland to Fremantle via Perth as on existing route
	(d) Fremantle to Kwinana as on existing route
	(e) (i) Midland to Kewdale 1 in 200
	(ii) Kewdale to East Perth 1 in 100
	(f) Kewdale to Kwinana via Cannington 1 in 200
	(g) Southern Cross to Koolyanobbing 1 in 150
	(h) Kalgoorlie to Kamballie as on existing route
	All grades to be compensated for curvature.
Curvature:	Minimum radius of not less than 40 chains.
Sleepers:	Hardwood 9' x 4½' x 8' 0''; 2,640 to the mile.
Rails:	Australian standard 94-lb. material, welded to 270 feet lengths on straights, and lesser lengths on curves. All fishplates 6-hole angle, and notched for spikes.
Dogspikes:	5¾' by ¾'.
Sleeper Plates:	Australian standard double shouldered for 94-lb. rail.
Rail Anchors:	Average 3,676 to the mile.
Ballast:	1¼' crushed rock; 2,900 cubic yards to the mile.
Crossing Loops:	To be as for main line, 5,000 feet in length in the clear, with a cripple road with standing room of approximately 300 feet where necessary.
Sidings in Station Yards:	To be as for main line with ballast at 2,000 cubic yards to the mile.
	Centres of tracks to be 15' 0'' minimum.
Bridging:	Steel and concrete, designed for Cooper's E.50 loading.
Culverts:	Concrete, to be designed for Cooper's E.50 loading.
Signals:	Automatic colour light signals, with centralized traffic control superimposed between East Northam and Kewdale. Electric staff Southern Cross to Koolyanobbing.
Loading Gauge:	To provide for a minimum width of 8 feet at a height of 18 feet from rail level.

IN WITNESS WHEREOF the Prime Minister of the Commonwealth of Australia and the Premier of the State of Western Australia have signed this agreement for and on behalf of the Commonwealth of Australia and the State of Western Australia respectively.

SIGNED by the Prime Minister of the Commonwealth of Australia for and on behalf of the Commonwealth in the presence of—

ROBERT MENZIES

HUBERT OPPERMAN

SIGNED by the Premier of the State of Western Australia for and on behalf of the State in the presence of—

DAVID BRAND

C. W. COURT

SECOND SCHEDULE

Section 2A

Added by
No. 88, 1971,
s. 9.

THIS AGREEMENT made the ninth day of August One thousand nine hundred and seventy-one between THE COMMONWEALTH OF AUSTRALIA (in this agreement called "the Commonwealth") of the one part, and THE STATE OF WESTERN AUSTRALIA (in this agreement called "the State") of the other part is supplemental to an agreement (in this agreement referred to as "the Principal Agreement") made the second day of October, 1961 between the Commonwealth and the State in relation to the construction of a standard gauge railway between Kalgoorlie and Perth and other places in Western Australia and to the provision of financial assistance by the Commonwealth to the State for the purpose of the carrying out of that railway work.

WHEREAS the scope of work to be carried out under the Principal Agreement has been revised in accordance with plans prepared on behalf of the State and the Commonwealth and agreed to by them with the result that the amount of the work and the cost of carrying out the work have been increased and the time necessary for the carrying out of the work has been extended:

AND WHEREAS the Commonwealth and the State are desirous of varying the Principal Agreement so that provision is made for the grant of financial assistance by the Commonwealth to the State in respect of the work beyond the period during which assistance is to be granted in accordance with the provisions of the Principal Agreement:

NOW IT IS HEREBY AGREED as follows:—

1. (1) This agreement shall have no force or effect and shall not be binding on either party until it has been approved by the Parliaments of the Commonwealth and of the State.

Approval of
Agreement.

(2) Each party agrees to take all practicable steps to have this agreement approved by its Parliament without restriction or amendment as soon as practicable.

2. Upon coming into force and effect, this agreement shall be deemed to be incorporated and form part of the Principal Agreement and the Principal Agreement as varied by this agreement shall constitute the agreement between the Commonwealth and the State in relation to the said railway work and the provision of financial assistance in respect of that work and shall be known as "the Railway Agreement".

Operation of
Agreement.

3. Notwithstanding anything contained in the Principal Agreement or in this agreement, the funds to be provided by the Commonwealth in pursuance of the Railway Agreement shall not exceed One hundred and six million two hundred and fifty thousand dollars (\$106,250,000).

Limitation on
Commonwealth
Funds.

4. (1) Paragraph (b) of sub-clause (1) of clause 12 of the Principal Agreement is deleted and the following provision is inserted in its place—

Amendments in
relation to
payment by the
State.

(b) as to an amount equal to seven-seventeenths of each of those payments, together with interest as hereinafter provided in this clause and not paid under sub-clause (3) of this clause—by forty equal semi-annual payments of principal and interest commencing as follows—

- (i) in respect of payments made prior to the 15th day of June, 1969—on the 15th day of December, 1969;
- (ii) in respect of payments made during the period commencing on the 15th day of June, 1969 and ending on the 30th day of June, 1971—on the 30th day of December, 1971;

Railway Agreement (Western Australia) Act 1961-1971

- (iii) in respect of payments made during a financial year after the financial year ending on the 30th day of June, 1971—on the 30th day of December first occurring after the end of the financial year during which the payments are made.

(2) Clause 13 of the Principal Agreement is rescinded.

(3) The amendments made by this clause shall take effect as if they had been made immediately after the Principal Agreement came into force and acts consistent with the Principal Agreement as so amended that have been done in pursuance of the Principal Agreement prior to the coming into force of this agreement shall be deemed to have been done in pursuance of the Railway Agreement.

Use of funds for
other work.

5. (1) Notwithstanding anything contained in the Principal Agreement or in this agreement, but without prejudice to the provisions of clause 5 of the Principal Agreement, the Minister upon the request of the State, may approve the inclusion in the work to be carried out under the Railway Agreement of work associated with the standard gauge railway that may reasonably be carried out in substitution for any work referred to in sub-clauses (1) and (2) of clause 6 of the Principal Agreement.

(2) Expenditure in respect of which funds may be applied under sub-clause (1) of this clause shall for the purposes of the operation of the Railway Agreement be deemed to be expenditure by the State on the work.

IN WITNESS WHEREOF this agreement has been executed by the parties as at the date first above mentioned.

SIGNED on behalf of THE COMMONWEALTH OF AUSTRALIA by the Right Honourable WILLIAM McMAHON, the Prime Minister of the Commonwealth, in the presence of—

WILLIAM McMAHON

I. GRIGG

SIGNED on behalf of THE STATE OF WESTERN AUSTRALIA by the Honourable JOHN TREZISE TONKIN, the Premier of the State, in the presence of—

JOHN T. TONKIN

W. S. LONNIE

NOTE

1. The *Railway Agreement (Western Australia) Act 1961-1971* comprises the *Railway Agreement (Western Australia) Act 1961* as amended by the other Act specified in the following table:

Act	Number and year	Date of Assent and of commencement
<i>Railway Agreement (Western Australia) Act 1961</i>	No. 67, 1961	24 Oct 1961
<i>Railway Agreement (Western Australia) Act 1971</i>	No. 88, 1971	3 Nov 1971

RAILWAY EQUIPMENT AGREEMENT (SOUTH AUSTRALIA) ACT 1961

TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	Approval of agreement
4.	Financial assistance to the State of South Australia

THE SCHEDULE

Agreement dated 19 October 1961

An Act relating to an Agreement between the Commonwealth and the State of South Australia with respect to certain Railway Equipment.

- | | |
|--|---|
| 1. This Act may be cited as the <i>Railway Equipment Agreement (South Australia) Act 1961</i> . ¹ | Short title. |
| 2. This Act shall come into operation on the day on which it receives the Royal Assent. ¹ | Commence-
ment. |
| 3. The agreement a copy of which is set out in the Schedule to this Act is approved. | Approval of
agreement. |
| 4. Moneys appropriated by the Parliament for the purposes of the agreement referred to in the last preceding section may be paid to the State of South Australia by way of financial assistance on the terms and conditions contained in that agreement. | Financial
assistance to
the State of
South
Australia. |
-

THE SCHEDULE

Section 3

AN AGREEMENT made the nineteenth day of October, 1961 BETWEEN THE COMMONWEALTH OF AUSTRALIA (in this agreement called "the Commonwealth") of the one part and THE STATE OF SOUTH AUSTRALIA (in this agreement called "the State") of the other part:

WHEREAS the State wishes to improve the facilities for the carriage of ore on the railway from Broken Hill in the State of New South Wales to Port Pirie in the State of South Australia by the provision of twelve new diesel-electric locomotives and one hundred new ore wagons of narrow gauge:

AND WHEREAS it is agreed between the Commonwealth and the State that any expenditure on the acquisition of the said locomotives and wagons shall not be deemed to be an expenditure on a standardization work within the meaning of the Agreement made on the twentieth day of October, 1949, the execution of which was authorized by the Railway Standardization (South Australia) Agreement Act, 1949 of the Commonwealth and approved by the Railway Standardization Agreement Act, 1949 of the State:

AND WHEREAS the State intends that the locomotives and wagons shall be constructed in such a way as to be readily convertible to standard gauge when the said railway is converted to standard gauge as provided for in the said Agreement:

AND WHEREAS the State has sought financial assistance from the Commonwealth for the provision of such locomotives and wagons:

AND WHEREAS it is proposed that the Parliament of the Commonwealth be asked to grant financial assistance to the State under section 96 of the Constitution of the Commonwealth of Australia upon and subject to the terms and conditions set out in this agreement:

NOW IT IS HEREBY AGREED as follows:

Definitions.

1. (1) In this agreement, subject to the context—

“financial year” means a period of twelve calendar months ending on the thirtieth day of June;

“narrow gauge” means a gauge of three feet six inches;

“party” means party to this agreement;

“standard gauge” means a gauge of four feet eight and one-half inches; and

“the Minister” means the Minister of State for Shipping and Transport of the Commonwealth.

(2) Where in this agreement a Minister is referred to, that reference shall be deemed to include any member of the Federal Executive Council or the Executive Council of the State, as the case may be, for the time being acting for and on behalf of that Minister.

Approval of agreement.

2. (1) This agreement shall have no force or effect and shall not be binding upon either party until it is approved by the Parliament of the Commonwealth.

(2) Each party agrees, so far as its power extends, to provide for and secure the carrying out of this agreement.

Assistance for locomotives and wagons.

3. (1) Subject to compliance by the State with the provisions of this agreement the Commonwealth will in accordance with and subject to the provisions of this agreement provide financial assistance to the State for the purpose of the acquisition by the State of twelve diesel-electric locomotives each of approximately 900 horsepower and one hundred ore wagons which will be capable of conversion to wagons of 55 tons capacity upon standardisation.

(2) The total amount of financial assistance to be provided to the State by the Commonwealth under this agreement shall not exceed the expenditure by the State on the acquisition of the locomotives and wagons or one million three hundred and twenty-five thousand pounds (£1,325,000), whichever is the lesser.

Manner of construction of locomotives and wagons.

4. (1) The locomotives and wagons to be acquired by the State under clause 3 of this agreement shall be constructed for operation on narrow gauge track but in such manner as to facilitate their subsequent conversion for operation on standard gauge track.

(2) The State agrees that, notwithstanding anything contained in the said agreement made the twenty-ninth day of October, 1949, it will bear the cost of subsequently converting the locomotives and wagons to standard gauge.

Provision of funds.

5. (1) The Commonwealth will, at the request of the State from time to time and subject to the provisions of this agreement, make payments to the State of amounts equal to expenditure made by the State on the acquisition of locomotives and wagons and such additional amounts as are, in the opinion of the Minister, reasonably required as a working advance to meet expenditure incurred or to be incurred.

(2) The State shall not apply any payment or part thereof made to it by the Commonwealth under this agreement for any purpose other than that for which the payment was made.

(3) The State shall not be entitled to receive payment from the Commonwealth in respect of any expenditure which, in the opinion of the Minister, has not been or will not be directly incurred in the acquisition of the locomotives and wagons.

6. (1) The State shall from its Consolidated Revenue pay to the Commonwealth an amount equal to three-tenths of the payments made by the Commonwealth to the State in each financial year under clause 5 of this agreement by fifty equal annual contributions commencing on the thirtieth day of June next following the end of that financial year, together with interest on so much of that amount as has not been paid at the beginning of the financial year in which the contribution is due, calculated from the beginning of that financial year.

Payments by the State.

(2) The rate of interest payable by the State under this clause shall be the rate payable on the long term loan last raised by the Commonwealth in Australia for public subscription prior to the end of the financial year in which the payments were made by the Commonwealth.

7. The State shall submit to the Minister not later than the thirtieth day of April in each year an estimate of the payments for which request will be made to the Commonwealth during the next succeeding financial year.

Estimates.

8. (1) The State shall furnish to the Minister annually and at such other times as he may request a report and financial statement in connexion with expenditure by the State on the locomotives and wagons to be acquired by the State under this agreement.

Accounts and reports.

(2) Any statement of expenditure by the State forwarded to the Commonwealth in connexion with a request for a payment by the Commonwealth in accordance with clause 5 of this agreement shall, if so required by the Minister, be certified as to its correctness by the Auditor-General for the State.

9. The State shall from time to time on request by the Minister furnish to him such documents and other information as he may reasonably require for the purpose of the exercise by him of his powers and functions under this agreement.

Supply of information.

10. (1) The accounts and records of the State and the financial statements furnished by it relating to expenditure on the acquisition of the locomotives and wagons under this agreement shall be subject to audit by the Auditor-General for the State.

Audit.

(2) At least once each year and on completion of expenditure by the State in relation to the acquisition of the locomotives and wagons, the State shall furnish to the Minister and to the Auditor-General for the Commonwealth a report by the Auditor-General for the State on the audit of the accounts, records and financial statements, and such report shall indicate, inter alia—

- (a) whether the financial statements are based on proper accounts and records and are in agreement with those accounts and records; and
- (b) whether the expenditure by the State of all moneys provided by the Commonwealth for the purposes of this agreement has been in accordance with this agreement,

and shall include reference to such other matters arising out of the audit and the financial statements as the Auditor-General for the State considers should be reported to the Commonwealth.

11. Any notice or other communication to be given hereunder by the Commonwealth or the Minister to the State shall be deemed sufficiently given if signed by or on behalf of the Minister and any notice or other communication to be given by the State to the Commonwealth shall be deemed sufficiently given if signed by or on behalf of the Minister of Railways of the State.

Notices.

IN WITNESS WHEREOF the Prime Minister of the Commonwealth of Australia and the Premier of the State of South Australia have signed this agreement for and on behalf of the Commonwealth of Australia and the State of South Australia respectively.

Railway Equipment Agreement (South Australia) Act 1961

SIGNED by the Prime Minister of the Commonwealth of
Australia for and on behalf of the said Commonwealth in
the presence of—

ROBERT MENZIES

HUBERT OPPERMAN

SIGNED by the Premier of the State of South Australia for
and on behalf of the said State in the presence of—

T. PLAYFORD

G. F. SEAMAN

NOTE

1. Act No. 98, 1961; assented to 30 October 1961.

RAILWAY STANDARDIZATION (NEW SOUTH WALES AND VICTORIA) AGREEMENT ACT 1958

TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	Approval of Agreement

THE SCHEDULE

Agreement dated 12 September 1958

An Act to approve an Agreement between the Commonwealth and the States of New South Wales and Victoria in relation to the Standardization of a Railway between Sydney and Melbourne.

- | | |
|---|------------------------|
| 1. This Act may be cited as the <i>Railway Standardization (New South Wales and Victoria) Agreement Act 1958</i> . ¹ | Short title. |
| 2. This Act shall come into operation on the day on which it receives the Royal Assent. ¹ | Commencement. |
| 3. The Agreement a copy of which is set out in the Schedule to this Act is approved. | Approval of Agreement. |
-

THE SCHEDULE

Section 3

AGREEMENT made the twelfth day of September One thousand nine hundred and fifty-eight BETWEEN the COMMONWEALTH OF AUSTRALIA of the first part the STATE OF NEW SOUTH WALES of the second part and the STATE OF VICTORIA of the third part:

WHEREAS there are differences in gauge between the railways of the States:

AND WHEREAS, in order to assist in the defence and development of Australia, to facilitate interstate trade and commerce and to secure maximum efficiency and economy in railway operation, it is desirable that there should be a uniform gauge railway between Sydney in the State of New South Wales and Melbourne in the State of Victoria:

AND WHEREAS it is necessary, as part of the process of securing the uniform gauge railway, that a standard gauge railway be provided between Albury in the State of New South Wales and Melbourne aforesaid as hereinafter appears:

*Railway Standardization (New South Wales and
Victoria) Agreement Act 1958*

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:—

PART I—PRELIMINARY

Definitions.

1. (1) In this agreement, unless the context otherwise requires—

“betterment” means the provision of capacity or equipment in excess of appropriate standards established under this agreement and which, although not essential to or necessary for the standardization work, may conveniently or desirably be provided in conjunction with that work;

“party” means party to this agreement;

“standard gauge” means a gauge of four feet eight and one-half inches;

“standardization work” means any work specified in the Second Schedule to this agreement;

“the Commonwealth” means the Commonwealth of Australia;

“the Minister” means the Minister of State for Shipping and Transport of the Commonwealth;

“the standard gauge railway” means the standard gauge railway between Albury and Melbourne to be constructed under this agreement; and

“the States” means the State of New South Wales and the State of Victoria.

(2) Where in this agreement any Minister is referred to, that reference shall be deemed to include any member of the Executive Council for the time being acting for and on behalf of that Minister.

Ratification of
agreement.

2. (1) This agreement shall have no force or effect and shall not be binding upon any party until it is approved by the Parliaments of the Commonwealth and each of the States.

(2) Each party agrees to take every practicable step to have this agreement approved by its Parliament without restrictions or amendments as soon as practicable.

(3) Each party, so far as its power extends, agrees to provide for and secure the carrying out of this agreement and of any legislation by which it is approved.

Decision in
default of
agreement
between the
parties.

3. Where agreement among the parties on any matter is necessary for the purposes of this agreement and the parties fail to reach agreement, the matter shall be decided by the Minister in agreement with the Minister for Transport in the State or States and, failing any such decision, shall be determined by the Treasurer of the Commonwealth.

PART II—STANDARDIZATION WORK

Standards, plans,
specifications
and estimates.

4. (1) Subject to the observance of the standards specified in the Second Schedule to this agreement and any variation thereof as hereinafter provided, the parties shall, in collaboration and agreement with each other, establish common standards of design and construction in all matters and things essential to the establishment of the standard gauge railway.

(2) Each of the States shall, in collaboration with the Commonwealth—

(a) prepare detailed plans, specifications and estimates of cost for all works to be carried out by it in pursuance of this agreement;

(b) incorporate in all such plans, specifications and estimates the standards of design and construction established under this agreement;

(c) supply or make available to the Minister as soon as possible copies of the plans, specifications and estimates; and

(d) make the plans, specifications and estimates available to the other State and will not proceed with the implementation of the plans, specifications and estimates during the period of one calendar month following the date of despatch of the plans, specifications and estimates without the approval of the other State and of the Commonwealth.

(3) In the event of the other State advising the State proposing to carry out the work covered by the plans, specifications and estimates that it does not agree with the proposal or proposals, the matter shall be treated as a disagreement and decided or determined as provided in clause 3 of this agreement. Each such advice shall be submitted in writing to the other State and to the Minister within the period of one calendar month referred to in paragraph (d) of the last preceding sub-clause and shall set out in full the reasons for not agreeing with the proposal or proposals.

5. The route of the standard gauge railway is specified in the First Schedule to this agreement. Route of railway.

6. (1) Particulars of the standardization work to be carried out by the States under this agreement and estimates of the cost of the work are set out in the Second Schedule to this agreement. Particulars of work.

(2) To the extent that it is necessary for the more efficient fulfilment of the objectives of this agreement, the Second Schedule may be varied in such manner and to such extent as the Minister, with the concurrence of the States, approves and all references in this agreement to the Second Schedule shall be deemed to be to that Schedule as so varied.

(3) The States or either of them may convert to standard gauge or replace existing locomotives or rolling stock and purchase such spares as may be considered necessary provided that notwithstanding anything contained in clause 14 of this agreement the Commonwealth shall not be liable to provide funds for the purposes of this sub-clause in excess of the amount of £504,000 specified in Item 12 of the Second Schedule to this agreement.

7. The work to be carried out under clause 6 of this agreement shall include the purchase of land, the purchase, construction, alteration and conversion of railway lines, bridges, buildings, structures, workshops, plant, locomotives, rolling stock and all matters and things which are essential to the standardization work but shall not include— Works involved in conversion.

(a) operation or maintenance of the standard gauge railway;

(b) betterments; or

(c) any work being undertaken or proposed to be undertaken by the States or either of them in any rehabilitation programme which would be necessary independently of the standardization work.

8. The States or either of them may at their own expense carry out betterments in conjunction with the standardization work. Betterments.

9. Each of the States shall permit any person thereto authorized by the Minister or by the other State to enter upon and inspect any standardization work being carried out by that State and to inspect, take copies of or extracts from any plans, designs, accounts, records or documents relating to any standardization work. Inspection.

10. (1) Subject to the next succeeding clause, the States shall carry out and execute the standardization work as expeditiously as, and in the most economical manner, possible. Prompt execution of work.

(2) Except where it is established to the satisfaction of the Minister that it is undesirable to do so, the State or States shall call public tenders for the carrying out of the standardization work.

11. A party shall not incur any expenditure under this agreement until the Minister has given that party authority to incur the expenditure provided that the expenditure incurred by the State of Victoria prior to the execution of this agreement on work included in the Second Schedule to this agreement shall be deemed to have been executed with the authority of the Minister. No expenditure without consent.

PART III—FINANCE

12. (1) Subject to clauses 14 and 15 of this agreement, the Commonwealth shall bear fourteen-twentieths of the cost of the standardization work and the States shall each bear three-twentieths of the said cost. Liability for cost of work.

(2) For the purposes of this clause the cost of any work shall be deemed to include the administrative expenses necessary or incidental to the carrying out of that work.

*Railway Standardization (New South Wales and
Victoria) Agreement Act 1958*

(3) The cost of the standardization work shall be credited with the disposal value of plant, stores, materials and equipment which are purchased for the standardization work and not used, which are replaced as a charge to the standardization work, or which are rendered surplus as a result of the standardization work.

(4) The cost of the standardization work shall be deemed to be the estimated cost set forth in the Second Schedule to this agreement subject to any variation thereof approved by the Minister in pursuance of sub-clause (2) of clause 14 of this agreement.

**Provision of
funds and State
contributions.**

13. (1) Subject to the provisions of this agreement, the Commonwealth shall provide all funds to meet expenditure on the standardization work as and when required by the States.

(2) Each of the States shall, in respect of so much of the expenditure by the Commonwealth in any financial year as is to be borne by that State under clause 12 of this agreement, pay to the Commonwealth from revenue during the period of fifty years after the year of expenditure—

- (a) equal annual contributions of such amounts as will liquidate the expenditure so to be borne by it; and
- (b) interest on the amount of that expenditure outstanding at the end of each financial year.

(3) For the purpose of the preceding sub-clause the rate of interest shall be the rate payable on the last Commonwealth long-term loan raised in Australia for public subscription in the relevant year of expenditure.

**Estimation of
costs.**

14. (1) The estimated cost of the standardization work is based upon the cost of materials and labour at the date of execution of this agreement.

(2) In the event of a variation in the cost of either materials or labour or both or in the cost of any portion or portions of the standardization work through unforeseeable circumstances at any time during progress of the standardization work, the amount of any such variation shall, subject to the approval of the Minister, be regarded as a variation of the cost of the standardization work.

**Limit on
Commonwealth
expenditure.**

15. Except with the authority of the Minister, the Commonwealth shall not be obliged to meet expenditure on any of the standardization work incurred at any time subsequent to twelve calendar months after the commencement of a regular service on the standard gauge railway.

Annual budgets.

16. (1) The State or States shall prepare and submit to the Minister and to the other State not later than the 31st day of May in each year a budget of proposed expenditure during the forthcoming financial year.

(2) The budget shall be prepared so as to show the estimated expenditure in reasonable detail and shall be supported by such explanations as may be considered necessary by the Minister and the other State or either of them.

Audit.

17. (1) The accounts, books, vouchers, documents and other records of each State relating to the receipt or payment of money or to the receipt, custody or disposal of plant, stores, materials and equipment in connexion with the standardization work shall be subject to audit by the Auditor-General for that State.

(2) A report on the audit and on the financial statements shall be furnished by each Auditor-General to the Auditor-General for the Commonwealth at least once every year and such report shall indicate, inter alia,—

- (a) whether the financial statements are based on proper accounts and records and are in agreement with those accounts and records; and
- (b) whether the receipt and expenditure of monies are in accordance with this agreement, and shall include reference to such other matters arising out of the audit and financial statements as each Auditor-General considers should be reported to the Auditor-General for the Commonwealth.

(3) Each of the States shall supply such further information as may be required by the Auditor-General for the Commonwealth and if he considers it necessary shall permit him to inspect and take copies or extracts from the accounts, books, vouchers, documents and other records of the State in connexion with the standardization work.

18. Each of the States shall—

- (a) keep full accounts and records of all financial transactions, work done, and plant, stores, materials and equipment bought, used or disposed of, in connexion with the standardization work;
- (b) inform the Minister as soon as possible after it becomes apparent of any material change in the estimated cost of the standardization work;
- (c) furnish to the Minister at intervals of not more than six months progress reports and expenditure statements of each section of the standardization work and revised estimates of the cost of the work; and
- (d) supply to the Minister from time to time such further information as he may require.

Accounts, reports
and records.

19. Any notice or other communication to be given hereunder by the Commonwealth to the States or either of them shall be deemed sufficiently given if signed by or on behalf of the Minister and any notice or other communication to be given by the States or either of them to the Commonwealth or the other State shall be deemed sufficiently given if signed by or on behalf of the Ministers or Minister for Transport of the States or State respectively.

Notices.

FIRST SCHEDULE

ROUTE OF STANDARD GAUGE RAILWAY

The route begins at the Albury Railway Station and follows the existing 5' 3'' gauge railway:

Albury—Wodonga
Wodonga—Broadmeadows
Broadmeadows—Albion
Albion—West Footscray
West Footscray—South Kensington via Bunbury Street and Dynon Road
South Kensington—Melbourne (Spencer Street).

The route of the standard gauge railway shall, so far as is practicable, be parallel to and on the same grade as the existing 5' 3'' gauge railway and shall at no point be more than five (5) chains distant from the existing railway.

SECOND SCHEDULE

STANDARDIZATION WORK

Item No.	Particulars	Estimated Cost £
1.	Main line permanent way comprising new 4' 8½'' gauge track from Albury to Broadmeadows; conversion to 4' 8½'' gauge of one track Broadmeadows to Albion; new 4' 8½'' gauge track Albion to West Footscray; conversion to 4' 8½'' gauge of one track West Footscray—South Kensington; new 4' 8½'' gauge passenger line South Kensington to Spencer Street; including flyover near Broadmeadows	5,375,000
2.	Crossing loops, 18 locations between Melbourne and Albury	416,000
3.	Bridges and culverts	1,482,000
4.	Station yard alterations	350,000
5.	Land resumption	30,000
6.	Contribution to grade separation at locations recommended by the Victorian Interdepartmental Committee on Abolition of Level Crossings and approved by the Victorian Government	240,000
7.	Locomotives, carriage and waggon maintenance facilities (4' 8½'' gauge) at Dynon Road, including trackwork, structures and equipment	350,000
8.	Freight handling facilities (4' 8½'' gauge) at Dynon Road, including track, structures and equipment	215,000
9.	Level crossing protection	143,000

*Railway Standardization (New South Wales and
Victoria) Agreement Act 1958*

Item No.	Particulars	Estimated Cost £
10.	Alterations and adjustments to the existing signalling system—	
	Melbourne—Broadmeadows	£109,000
	Broadmeadows—Albury	204,000
		313,000
11.	Automatic power signalling with Centralized Traffic Control, Melbourne—Albury, including—	
	Signalling	£570,000
	C.T.C. machines, including carrier, repeating and field units	96,000
	Line work including C.T.C. control lines, signalling power supply and signal controls	471,000
	Telecommunication and inductive co-ordination of lines	171,000
		1,308,000
12.	Rollingstock:	
	Construction, conversion and spares	504,000
		£10,726,000

STANDARDS

Earthworks:	Except where it is necessary to provide from cuttings additional fill to banks, existing banks and cuttings shall be widened by sixteen (16) feet.
Grading:	As on the existing route.
Sleepers:	Hardwood 10'' x 5'' x 8' 6''; 2,464 to the mile.
Ballast:	1½'' crushed stone; 2,900 cubic yards to the mile.
Rail:	A.S. 94-lb. in 90 ft. lengths.
Dogspikes:	6'' x ¾''.
Sleeper Plates:	A.S. Double Shoulder for 94-lb. Rail.
Rail Anchors:	2,100 to the mile.
Bridges:	Steel and concrete: to Coopers E.60 loading. One of existing Goulburn River Bridges to be used for 4' 8½'' gauge track.
Culverts:	To suit earthworks and to Coopers E.60 loading.
Crossing Loops:	As for main line track; 2,900 feet long in the clear with cripple road at each end of approximately 300 feet standing room; centres 13 ft. to 16 ft.
Signalling:	Automatic power signalling.
Trackwork in Yards and Depots:	Rails and fastenings as for main line. Ballast 6'' to 8'' gravel.

IN WITNESS whereof the Prime Minister of the Commonwealth of Australia, the Premier of the State of New South Wales and the Premier of the State of Victoria have signed this agreement for and on behalf of the Commonwealth of Australia, the State of New South Wales and the State of Victoria respectively.

SIGNED by the Prime Minister of the Commonwealth of Australia for and on behalf of the said Commonwealth in the presence of—

SHANE PALTRIDGE

ROBERT G. MENZIES

SIGNED by the Premier of the State of New South Wales for and on behalf of the said State in the presence of—

K. N. COMMENS

J. J. CAHILL

*Railway Standardization (New South Wales and
Victoria) Agreement Act 1958*

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SIGNED by the Premier of the State of Victoria for
and on behalf of the said State in the presence
of—

HENRY E. BOLTE

W. J. JUNGWIRTH

NOTE

1. Act No. 83, 1958; assented to 10 October 1958.

RAILWAY STANDARDIZATION (SOUTH AUSTRALIA) AGREEMENT ACT 1949

TABLE OF PROVISIONS

Section

1. Short title
2. Commencement
3. Definition
4. Execution of Agreement authorized
5. Approval of loans for defence purposes

THE SCHEDULE

Railways Standardization Agreement (South Australia)

An Act to authorize the execution by or on behalf of the Commonwealth of an Agreement between the Commonwealth and the State of South Australia, in relation to the Standardization of certain Railways, to approve of the Raising of Loans for Defence Purposes (namely, the Standardization of those Railways), and for other purposes.

1. This Act may be cited as the *Railway Standardization (South Australia) Agreement Act 1949*.¹ Short title.

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹ Commencement.

3. In this Act, "the Agreement" means the Agreement the execution of which is authorized by this Act. Definition.

4. (1) The execution, by or on behalf of the Commonwealth, of an agreement between the Commonwealth of Australia and the State of South Australia substantially in accordance with the form contained in the Schedule to this Act is hereby authorized. Execution of Agreement authorized.

(2) The agreement so executed shall be deemed to have been approved by the Parliament of the Commonwealth.

5. Loans to the Commonwealth for defence purposes (namely, the standardization of railways in accordance with the Agreement) are approved. Approval of loans for defence purposes.

THE SCHEDULE

Section 4

RAILWAYS STANDARDIZATION AGREEMENT (SOUTH AUSTRALIA)²

AGREEMENT made the _____ day of _____, One thousand nine hundred and _____ between the COMMONWEALTH OF AUSTRALIA of the first part and the STATE OF SOUTH AUSTRALIA of the second part:

WHEREAS there are differences between the gauges of the railway lines of the parties:

AND WHEREAS, in order to assist in the defence and development of Australia, to facilitate interstate trade and commerce and to secure maximum efficiency and economy in railway operation, it is desirable to secure a uniform track gauge throughout the railway systems in Australia:

AND WHEREAS it is desirable, as part of the process of securing such uniform track gauge throughout the railway systems in Australia, that the railways of the State of South Australia be converted to standard gauge:

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:—

PART I—PRELIMINARY

Definitions.

1. (1) In this Agreement, unless the context otherwise requires—

“betterment” means the provision of capacity or equipment in excess of appropriate standards to be fixed under this Agreement and which, although not essential to or necessary for a standardization work, may conveniently or desirably be standardization in conjunction with such work;

“existing”, in relation to locomotives, rolling stock, or the capacity thereof, means existing at the time of the replacement or conversion of such locomotives or rolling stock;

“party” means party to this Agreement;

“standard gauge” means a gauge of four feet eight and one-half inches;

“standardization work” means any work and undertaking included in clauses 5 and 21 of this Agreement;

“the Commonwealth” means the Commonwealth of Australia;

“the Loan Fund” means the head of the Loan Fund of the Commonwealth styled “Standardization of Australian Railway Gauges” and specified in the Loan Acts under the authority whereof moneys are raised by the Commonwealth for the purposes of this Agreement;

“the Minister” means the Commonwealth Minister of State for Transport;

“the State” means the State of South Australia.

(2) Where in this Agreement any Minister is referred to, that reference shall be deemed to include any Minister for the time being acting for or on behalf of that Minister or any Minister appointed in substitution for that Minister.

Ratification of Agreement.

2. (1) This Agreement shall have no force or effect and shall not be binding upon either party until it is approved by the Parliaments of the Commonwealth and of the State.

(2) Each party agrees to take every practicable step to have this Agreement approved by its Parliament without restrictions or amendments as soon as possible.

(3) Each party, so far as its power extends, agrees to provide for and secure the execution and enforcement of this Agreement and of any legislation by which it is approved.

Decision in default of agreement between the parties.

3. Where a matter is required by this Agreement to be determined by agreement between the parties and the parties fail to reach agreement, the matter shall be decided by the Minister in agreement with the Minister of Railways of the State.

4. The State shall permit any person thereto authorized by the Minister to enter upon and inspect any standardization work being carried out by the State and to inspect any plans, designs, accounts, records and documents relating to any work specified in clause 5 of this Agreement.

Inspection.

PART II—WORKS FOR THE STANDARDIZATION OF RAILWAY GAUGES

5. The State shall carry out or execute, in accordance with the terms and conditions of this Agreement, the following works and undertakings, namely:—

Works to be executed.

- (a) Conversion to standard gauge of the entire South Australian 5' 3'' gauge system and of the 3' 6'' gauge lines of the South Eastern Division, the conversion to standard gauge of existing locomotives and rolling stock suitable for conversion, and the construction of standard gauge locomotives and rolling stock to the extent necessary to replace the existing capacity of all units unsuitable for conversion to standard gauge.
- (b) Conversion to standard gauge of the 3' 6'' gauge lines of the Peterborough Division of the South Australian Railways, the conversion to standard gauge of existing locomotives and rolling stock suitable for conversion, and the construction of standard gauge locomotives and rolling stock to the extent necessary to replace the existing capacity of all units unsuitable for conversion to standard gauge.
- (c) The provision of terminal facilities rendered necessary by the conversion of any line specified in the foregoing provisions of this clause.

6. The works to be carried out or executed under the last preceding clause shall include the purchase, construction and/or conversion of land, railway lines, structures, buildings, workshops, plant, locomotives, rolling stock and all matters and things which are essential to the establishment and/or operation of standard gauge lines of railway over the sections and routes set out in the last preceding clause, but not including—

Undertakings involved in or incidental to conversion.

- (a) operation or maintenance of railways, or
- (b) betterments.

7. (1) Betterments may be carried out in conjunction with the works specified in clause 5 of this Agreement.

Betterments, variation of types, and replacement of locomotives.

(2) The State may replace existing locomotives, rolling stock, or other assets, by locomotives, rolling stock or other assets of different types or kinds.

(3) For the purpose of facilitating standardization of locomotive design and construction any locomotives provided to replace existing locomotives and having a capacity of not more than ten per centum in excess of the capacity of the existing locomotives, shall be deemed to be of equal capacity to the existing locomotives and such excess capacity shall not be regarded as betterment.

8. The State hereby consents to the carrying out by the Commonwealth of any works which the Commonwealth is under this Agreement required to carry out in the conversion of its own railways within the territory of that State.

Consent by the State to construction of railways by Commonwealth.

9. (1) Any question arising as to the order in which the standardization works shall be carried out shall be determined by agreement between the parties.

Order of works.

(2) Any question arising as to the time at which any standardization works shall be commenced by any party shall be determined by agreement between the parties.

10. (1) The parties or their nominees shall, in collaboration and agreement with each other, establish and publish common standards of design and construction in all matters and things essential to the establishment of standard gauge railways and to the safe and efficient operation of interchange traffic including locomotives and all classes of rolling stock over the unified railways of Australia.

Standards, plans and designs.

(2) Each party shall—

- (a) prepare all preliminary plans and final designs and estimates for all works to be carried out by it pursuant to this Agreement; and
- (b) incorporate in all such plans, designs and estimates the standards of design and construction established under this Agreement.

Commence-
ment and
execution of
works.

11. A party shall not incur any expenditure debitable under this Agreement to the Loan Fund until the Minister has given the party written authority to incur that expenditure.

Disposal of
replaced assets.

12. The value of the whole or part of any asset owned by the State which is replaced by a new asset at the cost of the Loan Fund shall be determined from time to time by agreement between the parties and credited to the Loan Fund:

Provided that this clause shall not require the credit to the Loan Fund of the value of any locomotives and rolling stock unsuitable for conversion to standard gauge and retained by the State for use on its own system.

Ownership of
new locomotives
and rolling stock.

13. New locomotives and rolling stock, the cost of which is borne as provided in clause 14 of this Agreement, shall be the property of the State of South Australia.

PART III—FINANCE

Liability for cost
of works.

14. (1) Seven-tenths of the cost of the standardization works set out in clause 5 of this Agreement shall be borne by the Commonwealth and three-tenths of such cost shall be borne by the State.

(2) For the purposes of this clause the cost of any work shall be deemed to include the administrative expenses necessary or incidental to the carrying out of that work, and such expenses shall be apportioned between the parties in the manner specified in this clause in respect of that work.

Cost of
betterment and
certain
replacements.

15. The cost of any betterment, and any increased cost caused by any replacement of the kind mentioned in sub-clause (2) of clause 7 of this Agreement, shall not be debited to the Loan Fund but shall be borne by the State concerned.

Provision of
funds and State
contributions.

16. (1) The Commonwealth shall provide all funds required to carry out the standardization work specified in this Agreement.

(2) The State shall, in respect of so much of the expenditure by the Commonwealth under clause 14 of this Agreement in any financial year (in this clause called the year of expenditure) as is to be borne by the State, pay to the Commonwealth from revenue during the period of fifty years after the year of expenditure, equal annual contributions of such amounts as will liquidate the expenditure so to be borne by the State together with interest on the amount of that expenditure outstanding at the end of each financial year.

For this purpose the rate of interest shall be the rate of interest which is paid by the Commonwealth on the loan from which the expenditure was financed.

(3) From each annual contribution to be made by the State calculated in accordance with sub-clause (2) of this clause there shall be deducted an amount equivalent to Five shillings per centum of so much of the cost of standardization works incurred by the Commonwealth under this Agreement in the year of expenditure as is pursuant to clause 14 of this Agreement to be borne by the State.

Payments from
Loan Fund.

17. (1) Moneys provided by the Commonwealth from the Loan Fund shall be used for—

- (a) meeting all expenditure incurred in carrying out the standardization works;
- (b) making refunds to the State of any expenditure incurred by it before the execution of this Agreement in planning or preparing for the standardization works or in carrying out any work which the parties agree to treat as a standardization work; and
- (c) any damages, compensation or other expense arising out of or incidental to the execution of a standardization work.

(2) No payment shall be made out of the Loan Fund except on the written authority of the Minister.

18. Each party shall prepare annual budgets of all estimated expenditure under this Agreement. Annual budgets.

19. All accounts in connexion with the standardization works shall be subject to audit by the Auditor-General for the Commonwealth. Audit.

20. Each party shall—

- (a) keep full accounts and records of all financial transactions, work done and stores bought, used or disposed of, in connexion with the standardization works; and shall furnish to the Minister periodical reports and such details as he requires; and
- (b) permit the Auditor-General for the Commonwealth or of the State to inspect such accounts and records.

Accounts and records.

PART IV—SUPPLEMENTARY PROVISIONS

21. The Commonwealth shall undertake—

- (a) the conversion to standard gauge of the 3' 6'' gauge lines of the Commonwealth Railways from Port Augusta to Alice Springs, the conversion to standard gauge of existing locomotives and rolling stock suitable for conversion, and the construction of standard gauge locomotives and rolling stock to the extent necessary to replace the existing capacity of all units unsuitable for conversion to standard gauge;
- (b) the construction of a new standard gauge railway from Alice Springs to Birdum and the construction of the standard gauge locomotives and rolling stock necessary to operate this line; and
- (c) the conversion to standard gauge of the 3' 6'' gauge Commonwealth Railway line from Birdum to Darwin, the conversion to standard gauge of existing locomotives and rolling stock suitable for conversion and the construction of standard gauge locomotives and rolling stock to the extent necessary to replace the existing capacity of all units unsuitable for conversion to standard gauge.

Works to be undertaken by the Commonwealth.

22. The Commonwealth shall bear the cost of carrying out the works specified in the last preceding clause.

Cost of works undertaken by the Commonwealth.

23. The Commonwealth shall take all reasonable steps to ensure that the Silverton Tramway and the locomotives and rolling stock thereon shall be acquired and vested in The South Australian Railways Commissioner.

Acquisition and conversion of the Silverton Tramway.

NOTES

1. Act No. 83, 1949; assented to 28 October 1949.

2. For a copy of the Agreement as executed, *see* Statutory Rules 1949-1950, p. 895.

RAILWAYS (SOUTH AUSTRALIA) AGREEMENT ACT 1926

TABLE OF PROVISIONS

Section

1. Short title
2. Approval of Agreement

THE SCHEDULE

Agreement dated 18 September 1925

An Act to approve an Agreement made between His Majesty's Government of the Commonwealth of Australia and His Majesty's Government of the State of South Australia.

1. This Act may be cited as the *Railways (South Australia) Agreement Act 1926*.¹ Short title.

2. The Agreement made between His Majesty's Government of the Commonwealth of Australia and His Majesty's Government of the State of South Australia (a copy of which Agreement is set forth in the Schedule to this Act) is approved. Approval of Agreement.

THE SCHEDULE

AN AGREEMENT made this eighteenth day of September One thousand nine hundred and twenty-five BETWEEN THE COMMONWEALTH OF AUSTRALIA (hereinafter called the "Commonwealth") of the one part and THE STATE OF SOUTH AUSTRALIA (hereinafter called the "State") of the other part WHEREBY IT IS AGREED as follows:—

1. The Commonwealth will at its own expense forthwith upon the execution of this Agreement proceed to make any necessary surveys and prepare estimates for the purposes of the railways referred to in Clauses 4 and 5 hereof.

2. (a) The Commonwealth undertakes that as soon as the necessary surveys and estimates are complete it will introduce into and take all reasonable steps to have enacted by the Parliament of the Commonwealth legislation authorizing this Agreement to be performed by the Commonwealth.

(b) The State undertakes that as soon as practicable it will introduce into and take all reasonable steps to have enacted by the Parliament of the State legislation authorizing this Agreement to be performed by the State.

3. (a) Except as hereinbefore provided this Agreement shall not have any force or effect or be binding on either party unless and until—

- (i) it is approved by the Parliament of the Commonwealth and the Parliament of the State; and
- (ii) the State has given all necessary consents to the Commonwealth for the construction extension and working in the State of the railways hereinafter referred to.

(b) When granting its approval and consent the State shall by legislation authorize the Commonwealth and the Commonwealth Railways Commissioner to exercise for the purpose of the construction and working of the said railways at least all the powers and privileges held or exercisable by the State and/or the State Railways Commissioner in or under the Statutes relating to Railways in force in the State to the same extent as if the said railways were to be constructed and worked by the State or the State Railways Commissioner.

4. (a) The Commonwealth will at its own expense construct as a portion of the Trans-continental Railway to be constructed pursuant to the Agreement in the Schedule to the *Northern Territory Acceptance Act 1910* of the Commonwealth a railway whose northerly terminus shall be at Alice Springs in the Northern Territory.

(b) The said railway may be either—

- (i) a railway on a 3' 6" gauge extending to Alice Springs from Oodnadatta; or
- (ii) a railway on a 4' 8½" gauge extending to Alice Springs from a point on the Kalgoorlie to Port Augusta Railway east of Tarcoola;

(c) Subject to sub-clause (b) of this clause the point of commencement the route and the gauge of the said railway and all other matters connected therewith shall be determined by the Commonwealth regard being had at all times to the development of the country the cost of construction of, and the estimated revenue from the railway;

(d) The Commonwealth will commence to construct the said railway within six months after the approval and consent mentioned in Clause 3 hereof are obtained;

(e) Subject to the necessary approval and consent being obtained as aforesaid before the Thirtieth day of June 1926 and subject also to any interruptions of work or other circumstances not within the control of the Commonwealth the Commonwealth undertakes that the said railway will be open for traffic on the Thirtieth day of June 1929.

5. (a) The Commonwealth will at its own expense construct a railway on a 4' 8½" gauge from Port Augusta to Red Hill.

(b) The route of the said railway shall from a point near Port Pirie to Red Hill be as far as practicable the route recently recommended by the Railways Standing Committee of the State. The point at and the manner in which the said railway shall cross the State railway to Port Pirie shall be determined by agreement between the Railways Commissioners of the Commonwealth and of the State;

(c) Subject to sub-clause (b) of this clause the route and all other matters connected with the said railway shall be determined by the Commonwealth regard being had at all times to the development of the country the cost of construction and the estimated revenue from the railway.

(d) In approving and consenting to the said railway from Port Augusta to Red Hill the State may if it thinks fit provide that such approval and consent shall lapse and be of no effect if the construction of that railway is not commenced by the Commonwealth within a period to be specified by the Premier of the State not being less than three years from the date of such approval and consent.

6. (a) The State will at the expense of the Commonwealth during the construction of the said railway from Port Augusta to Red Hill lay a third rail on the 5' 3" railway of the State from Red Hill to the Central Railway Station in Adelaide so that under Clauses 5 and 6 hereof there will at the time of completion of the said railway from Port Augusta to Red Hill be a continuous railway on a 4' 8½" gauge from Port Augusta to the Central Railway Station in Adelaide.

(b) The place at the Central Railway Station in Adelaide at which the terminus of the said third rail shall be situated and the manner in which the railway with the said third rail shall be connected at Adelaide with other railways of the State shall be determined by agreement between the Railways Commissioners of the Commonwealth and of the State;

(c) If in the opinion of the Railways Commissioners of the Commonwealth and of the State it would be impracticable or dangerous on any portion of the said railway from Red Hill to Adelaide to use a railway with a third rail then in lieu of laying a third rail on such portion a new railway on a 4' 8½" gauge shall be constructed by the State at the expense of the Commonwealth over a route to be determined by agreement between the said Commissioners to take the place of the said portion of railway but so always that there will be a continuous railway on a 4' 8½" gauge from Port Augusta to the Central Railway Station in Adelaide.

(d) The Commonwealth may if it think fit supply to the State any rails fastenings sleepers or other material necessary for the purpose of carrying this clause into effect and the State shall in carrying this clause into effect use any rails fastenings sleepers and material so supplied by the Commonwealth. Any rails fastenings sleepers or other necessary material not so supplied by the Commonwealth shall be provided by the State at the expense of the Commonwealth.

7. The Commonwealth will at the expense of the State during the construction of the railway from Port Augusta to Red Hill lay from a point near Port Pirie to Red Hill a third rail on the said railway so that there will be a continuous railway on a 5'3" gauge from Adelaide to the said point near Port Pirie.

8. For the purpose of this Agreement the expense of laying a third rail or constructing a new railway under Clause 6 (c) hereof shall be deemed to include the expense of doing all work and providing all station facilities and points and apparatus necessary to enable both gauges of the railway to be used.

9. (a) The Commonwealth hereby grants to the State free of charge permanent running rights over each portion of any railway of the Commonwealth upon which a third rail has been laid under this Agreement (the extent and exercise of such rights to be determined by Agreement between the Railways Commissioners of the Commonwealth and of the State) together with the use in common with the Commonwealth of all stations yards buildings and other accessories used in connexion with such portion but so as not to interfere with the proper control working and maintenance by the Commonwealth of such portion.

(b) The State hereby grants to the Commonwealth free of charge permanent running rights over each portion of any railway of the State upon which a third rail has been laid under this Agreement (the extent and exercise of such rights to be determined by agreement between the Railways Commissioners of the Commonwealth and of the State) together with the use in common with the State of all stations, yards, buildings and other accessories used in connexion with such portion but so as not to interfere with the proper control working and maintenance by the State of such portion.

10. (a) Forthwith after a third rail has been laid upon a railway of the State under this Agreement the State Railway Comptroller of Accounts shall give to the Commonwealth a certificate stating the total cost to the State of the construction of the portion or portions of the railway upon which the third rail is laid.

(b) Forthwith after a third rail has been laid upon a railway of the Commonwealth under this Agreement the Commonwealth Railway Comptroller of Accounts shall give to the State a certificate stating the total cost to the Commonwealth of the construction of the portion of the railway upon which the third rail is laid.

(c) For the purpose of this clause the total cost of a portion of a railway shall not include the cost of laying the third rail on such portion but shall include the cost of station facilities used in connexion with the traffic upon such portion of the railway.

(d) Before any certificate is given under this Clause each party to this Agreement shall give to the other facilities for examining and checking the figures in relation to which the Certificate is proposed to be given and the data from which such figures are prepared and shall consider any representations made by the other in relation to the accuracy or the inclusion or exclusion of any items of ^{cost}~~cash~~ proposed to be included in the total cost to be stated in such Certificate; (Ltd.)
S.M.B.
J.G.

(e) A Certificate given under this clause shall as between the parties to this Agreement be conclusive evidence of the cost of construction of the portion or portions of the railway referred to in the Certificate.

11. (a) As from the date upon which a portion of a railway of the State upon which a third rail has been laid under this Agreement is first used by the Commonwealth for public traffic—

- (i) the Commonwealth shall keep accurate records on a ton-mile basis of the gross weight of all traffic of the Commonwealth over such portion; and
- (ii) the State shall keep accurate records on a ton-mile basis of the gross weight of all traffic of the State over such portion.

(b) As from the date upon which a portion of a railway of the Commonwealth upon which a third rail has been laid under this Agreement is first used by the State for public traffic—

- (i) the Commonwealth shall keep accurate records on a ton-mile basis of the gross weight of all traffic of the Commonwealth over such portion; and
- (ii) the State shall keep accurate records on a ton-mile basis of the gross weight of all traffic of the State over such portion:

(c) For the purpose of this clause traffic means wheeled traffic of every description including passenger goods mixed and other trains rail motor cars and light engines and the contents of such trains motors cars and engines;

(d) Before a certificate is given under this clause each party to this Agreement shall give to the other facilities for examining and checking the figures in relation to which the Certificate is proposed to be given and the data from which such figures are prepared and shall consider any representations made by the other in relation to the accuracy or the inclusion or exclusion of any items proposed to be included in the ton-mileage to be stated in such certificate;

(e) A certificate by the Commonwealth Railways Commissioner stating the ton-mileage of the traffic of the Commonwealth over a portion of railway shall be accepted by the State as conclusive evidence of the matter stated;

(f) A certificate by a State Railways Commissioner stating the ton-mileage of the traffic of the State over a portion of railway shall be accepted by the Commonwealth as conclusive evidence of the matter stated.

12. (a) In respect of each portion of a railway of the State upon which a third rail has been laid under this Agreement the Commonwealth shall during the continuance of this Agreement pay to the State sums calculated from time to time according to the following formula:—

$$\frac{\text{ton-mileage of Commonwealth}}{\text{total ton-mileage.}} \times (\text{interest plus working expenses}).$$

(b) In the said formula the expression—

“Ton-mileage of Commonwealth” means the ton-mileage of the traffic of the Commonwealth during the period in respect of which the calculation is made over the portion of railway as certified by the Commonwealth Railways Commissioner under clause 11 (d) hereof.

“Total ton-mileage” means the sum of the ton-mileage of the traffic of the Commonwealth and of the State respectively during the period in respect of which the calculation is made over the portion of railway as respectively certified by the Commonwealth Railways Commissioner and a State Railways Commissioner under clause 11 (d) and (e) hereof.

“Interest” means interest upon the total cost to the State of the construction of the portion of railway (as certified by the State Railway Comptroller of Accounts as aforesaid) for the period in respect of which the calculation is made at a rate certified by the Under Treasurer of the State to be equal to the average effective rate of interest paid during the said period by the State in respect of all loans of the State.

“Working expenses” means the total cost to the State during the period in respect of which the calculation is made of maintaining and working the portion of railway as distinguished from the locomotives and rolling stock thereon and includes the cost of maintenance and repairs to station facilities and the permanent way and works the cost of station and signal staffs and local supervision and all other charges properly attributable to the traffic on such portion of railway but does not include the expenses of train crews or of the provision, running or maintenance of locomotives and rolling stock;

(c) The first calculation for the purpose of this clause shall be in respect of the period commencing on the date when the portion of railway is first used by the Commonwealth for public traffic and ending on the thirtieth day of June next thereafter;

(d) After the end of the said first period each calculation for the purpose of this clause shall be in respect of the period of twelve months ending on the thirtieth day of June next after the termination of the preceding period;

(e) If any new railway is constructed under Clause 6 (c) hereof the Commonwealth will bear the whole cost of maintenance and repair of such new railway but the cost of working such new railway shall be included in the "working expenses" referred to in sub-clause (b) of this clause. For the purposes of this sub-clause the cost of maintenance and repair of station facilities used in connexion with the traffic on such new railway and the cost of station and signal staffs and local supervision and all charges (other than maintenance and the expenses of train crews or of the provision running or maintenance of locomotives and rolling stock) properly attributable to the traffic on such new railway shall be included in the cost of working such new railway.

13. (a) In respect of each portion of a railway of the Commonwealth upon which a third rail has been laid under this Agreement the State shall during the continuance of this Agreement pay to the Commonwealth sums calculated from time to time according to the following formula:—

$$\frac{\text{Ton-mileage of State}}{\text{Total ton-mileage}} \times (\text{interest plus working expenses}).$$

(b) In the aforesaid formula the expression—

"Ton-mileage of State" means the ton-mileage of the traffic of the State during the period in respect of which the calculation is made over the portion of railway as certified by a State Railways Commissioner under Clause 11 (e) hereof;

"Total ton-mileage" means the sum of the ton-mileages of the traffic of the State and of the Commonwealth respectively during the period in respect of which the calculation is made over the portion of railway as respectively certified by the Commonwealth Railways Commissioner and a State Railway Commissioner under clause 11 (d) and (e) hereof;

"Interest" means interest upon the total cost to the Commonwealth of the construction of the portion of railway (as certified by the Commonwealth Railways Comptroller of Accounts as aforesaid) for the period in respect of which the calculation is made at a rate certified by the Commonwealth Auditor-General to be equal to the average effective rate of interest paid by the Commonwealth during the said period in respect of all loans of the Commonwealth;

"Working expenses" means the total cost to the Commonwealth during the period in respect of which the calculation is made of maintaining and working the portion of railway as distinguished from the locomotives and rolling stock thereon and includes the cost of maintenance and repairs to station facilities and the permanent way and works the cost of station and signal staffs and local supervision and all other charges properly attributable to the traffic on such portion of railway but does not include the expenses of train crews or of the provision, running or maintenance of locomotives or rolling-stock;

(c) The first calculation for the purpose of this clause shall be in respect of the period commencing on the date when the portion of railway is first used by the State for public traffic and ending on the thirtieth day of June next thereafter;

(d) After the end of the said first period each calculation for the purpose of this clause shall be in respect of the period of twelve months ending on the thirtieth day of June next after the termination of the preceding period.

14. In this Agreement the words "station facilities" wherever occurring mean such buildings appurtenances conveniences matters and things as are determined by Agreement between the Railways Commissioners of the Commonwealth and of the State to be included within those words for the purposes of the clause in which those words appear.

15. The sums payable respectively by the Commonwealth and by the State under clauses 12 and 13 of this Agreement in respect of any period shall so far as they extend be set off against each other and if after such set off is made a balance remains due by either party to the other the party by whom such balance is due shall pay such balance to the party to whom it is due within one calendar month after demand has been made for payment thereof.

16. The State will grant to the Commonwealth free of charge—

- (a) any Crown lands and any leased lands of the Crown in respect of which the Commonwealth shall have acquired the rights of the lessees; and
- (b) any stone soil gravel and timber upon any Crown lands or leased lands of the Crown from which the State has a right to take the same

certified by the Commonwealth Railways Commissioner to be required by the Commonwealth in connexion with the construction maintenance or working of any railway which the Commonwealth may construct under this Agreement.

17. If the portion of the Transcontinental Railway mentioned in clause 4 hereof is to be constructed from a point on the Kalgoorlie to Port Augusta Railway then when such portion is open for traffic to a point as far north as Oodnadatta—

- (a) The Commonwealth may discontinue traffic on and if it thinks fit take up and remove the portion of the Port Augusta to Oodnadatta railway lying between Marree and Oodnadatta; and
- (b) the Commonwealth may if it thinks fit construct a new railway from Marree to a point on the Queensland border and the provisions of clause 16 hereof shall apply to such new railway; and
- (c) the route of the said railway from Marree to the Queensland border and all other matters connected therewith shall be determined by the Commonwealth regard being had at all times to the development of the country and the cost of construction of and the estimated revenue from the railway; and
- (d) the Commonwealth shall not without the consent of the State charge fares or rates for the transportation of passengers parcels or goods on the railway from Port Augusta to Marree exceeding the fares or rates charged by the State for the time being for the transportation of passengers parcels and goods of a similar class for a similar distance on the railways of the State and shall not without the like consent reduce the services provided at the present time on the said railway from Port Augusta to Marree.

18. If the portion of the Transcontinental Railway mentioned in clause 4 hereof is to be a railway extending from Oodnadatta to Alice Springs the Commonwealth shall not without the consent of the State charge fares or rates for the transportation of passengers parcels or goods on the railway between Port Augusta and Oodnadatta exceeding the fares or rates for the time being charged by the State for the transportation of passengers parcels and goods of a similar class over a similar distance on the railways of the State and shall not without the like consent reduce the services provided at the present time on the said railway from Port Augusta to Oodnadatta.

19. The provisions of clauses 17 and 18 shall apply and be binding on the parties hereto notwithstanding anything to the contrary contained in the Agreement in the Schedule to the *Northern Territory Acceptance Act 1910* or any amendment thereof.

20. The Commonwealth will not accept goods for transport where the transportation begins at Adelaide or at the point of crossing by the Commonwealth Railways of the State Railway to Port Pirie (hereinafter called "the Port Pirie Crossing") or between those places and ends at the said Port Pirie crossing or Adelaide or between those places.

21. The Commonwealth shall not without the consent of the State—

- (a) charge a lower sum for the transportation of any passengers parcels or goods from Adelaide to a station beyond the said Port Pirie crossing or from a station beyond the said Port Pirie crossing to Adelaide than the sum for the time being charged by the State for the transportation of passengers parcels or goods of a similar class and a similar quantity from Adelaide to the said Port Pirie crossing; or
- (b) charge for the transportation of passengers or parcels (where the transportation begins at Adelaide or at the said Port Pirie crossing or between those places and ends at the said Port Pirie crossing or Adelaide or between those places) lower fares or rates than the fares or rates for the time being charged by the State for a similar service between the same places.

22. Any notice or demand to be given or made by the Commonwealth to the State under this Agreement shall be deemed to have been duly given or made if signed by or on behalf of the Commonwealth Railways Commissioner and posted by prepaid post addressed to the South Australian Railways Commissioner.

23. Any notice or demand to be given or made by the State to the Commonwealth under this Agreement shall be deemed to have been duly given or made if signed by or on behalf of a State Railways Commissioner and posted by prepaid post addressed to the Commonwealth Railways Commissioner.

IN WITNESS whereof the Commonwealth of Australia and the State of South Australia have executed these presents.

Signed by the Prime Minister of the Commonwealth of Australia for and on behalf of the said Commonwealth in the presence of—

S. M. BRUCE.

W. C. HILL.

Signed by the Premier of the State of South Australia for and on behalf of the said State in the presence of—

J. GUNN.

W. C. HILL.

NOTE

1. Act No. 2, 1926; assented to and commenced 15 February 1926.