

SOUTH AUSTRALIA

GOVERNMENT MANAGEMENT AND EMPLOYMENT REGULATIONS, 1986

**REGULATIONS UNDER THE GOVERNMENT MANAGEMENT AND
EMPLOYMENT ACT, 1985**

Government Management and Employment Regulations, 1986

being

No. 117 of 1986: *Gaz.* 26 June 1986, p. 1668¹

as varied by

No. 55 of 1987: *Gaz.* 16 April 1987, p. 1043

No. 30 of 1988: *Gaz.* 10 March 1988, p. 576²

¹ Came into operation 1 July 1986: reg. 2.

² Came into operation 24 March 1988: reg. 2.

³ Came into operation 16 September 1993: reg. 2.

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

N.B. The following regulations have been disallowed:

No. 149 of 1993: *Gaz.* 24 June 1993, p. 2125 see *Gaz.* 16 September 1993, p. 1141.

No. 192 of 1993: *Gaz.* 26 August 1993, p. 939 see *Gaz.* 4 November 1993, p. 2179.

No. 210 of 1993: *Gaz.* 16 September 1993, p. 1271 see *Gaz.* 19 May 1994, p. 1226

2.

1. These regulations may be cited as the *Government Management and Employment Regulations, 1986*.

2. These regulations shall come into operation on 1 July, 1986.

3. In these regulations, unless the contrary intention appears—

"the Act" means the *Government Management and Employment Act, 1985*.

Annual Reports

4. A government agency's report to the Minister responsible for the agency must contain information (in a summarized form together with relevant statistics) with respect to the following matters:

- (a) the functions and objectives of the agency;
 - (b) the legislation administered by the agency;
 - (c) the organization of the agency including the number of employees, the number of employees at each classification level and the creation, classification and abolition of positions in the agency;
 - (d) the agency's operations, initiatives and achievements (including those with respect to planning, efficiency and effectiveness and, where appropriate, delivery of services to the community);
 - (e) equal employment opportunity programmes and other initiatives designed to ensure that employees in the agency have equal employment opportunities;
 - (f) management training and staff development programmes;
 - (g) health and safety programmes;
- and
- (h) the financial planning and performance of the agency and such other financial information in respect of the agency's operations as may be required to be reported to Parliament under any other Act.

5. The Commissioner's report to the Minister responsible for the administration of the Act must contain a description of the measures taken to establish and implement—

- (a) equal employment opportunity programmes;

and

- (b) management training and staff development programmes.

Disclosure of Pecuniary Interests

6. (1) The Commissioner must disclose to the Minister responsible for the administration of the Act and every Chief Executive Officer must disclose to the Commissioner the following information with respect to pecuniary interests—

- (a) the amount and nature of every financial benefit received during the preceding financial year by the Commissioner or Chief Executive Officer and the source of each such benefit;
- (b) the name of every company or other body, corporate or unincorporate, in which any paid office is held by the Commissioner or Chief Executive Officer;
- (c) the name or description of every company, partnership, association or other body in which a beneficial interest is held by the Commissioner or Chief Executive Officer;
- (d) a concise description of every trust in which a beneficial interest is held by the Commissioner or Chief Executive Officer and a concise description of every discretionary trust of which the Commissioner or Chief Executive Officer is a trustee or object;
- (e) the address or description of any land in which the Commissioner or Chief Executive Officer has a beneficial interest other than by way of security for any debt;

and

- (f) any other substantial interest of a pecuniary nature of which the Commissioner or Chief Executive Officer is aware and which might raise a material conflict between the Commissioner's or Chief Executive Officer's private interests and official duties as Commissioner or Chief Executive Officer.

(2) The disclosure must be made in writing within 60 days after the end of each financial year.

(3) In this regulation—

"financial benefit" means any remuneration, fee or other pecuniary sum received in respect of any services performed, office held or occupation or business engaged in by the Commissioner or the Chief Executive Officer, but does not include remuneration received under the Act.

Applications for Reclassification and Review of Classification

7. (1) An application by an employee under section 46(2) of the Act for reclassification of the employee's position must be made by the employee completing and signing a form of a kind approved by the Commissioner for that purpose and delivering it, or causing it to be delivered, to the Chief Executive Officer of the administrative unit in which the employee is employed.

4.

(2) An application by an employee under section 48(6) of the Act for a review of the classification of the employee's position must be made by the employee completing and signing a form of a kind approved by the Commissioner for that purpose and delivering it, or causing it to be delivered, to the Commissioner.

(3) An application referred to in subregulation (1) or (2) may be withdrawn by notice in writing signed by the applicant and delivered to the Chief Executive Officer or Commissioner, as the case may require.

Applications and Selection of Applicants for Positions

8. (1) Subject to this regulation, where applications are to be sought for the purpose of filling a position or establishing a pool of applicants pursuant to section 51 of the Act, the Commissioner or Chief Executive Officer, as the case may be, shall cause a notice calling for applications to be issued and published in accordance with this regulation.

(2) Before applications are called, statements must be prepared in a form approved by the Commissioner specifying—

(a) the duties of the position to be filled, or the type of position for which the pool is to be established, as the case may be;

and

(b) the kind of person required for the position or type of position.

(3) A notice calling for applications must—

(a) describe the position to be filled, or the type of position for which the pool is to be established, as the case may be;

(b) specify the classification level of the position or type of position or the annual salary or limits of annual salary applying to the position or type of position;

(c) specify any essential qualifications for the position or type of position;

(d) specify the employee to whom any inquiries should be directed and the place from which copies may be obtained of the statements specifying the duties of the position or type of position and the kind of person required for the position or type of position;

(e) specify the address to which applications must be sent;

(f) specify the day and time before which applications must be received (being not less than 13 days, or, if the Commissioner or Chief Executive Officer, as the case may be, is satisfied that special circumstances exist, not less than 6 days), from the date of issue of the notice.

(4) The notice may include such other information as the Commissioner or Chief Executive Officer, as the case may be, considers appropriate.

5.

(5) Copies of the notice must be issued to all relevant government agencies and must be kept posted for a period of not less than 13 days from the date of issue of the notice at such locations as will ensure that a copy is readily available for inspection by each relevant public employee who attends at his or her usual place of employment during that period.

(6) Where applications are to be sought from persons in addition to relevant public employees, a notice shall be issued and published in accordance with the preceding provisions of this regulation, and, in addition, an advertisement or advertisements calling for applications shall be published in such manner as the Commissioner or Chief Executive Officer, as the case may be, considers appropriate.

(7) Subject to subregulation (8), an advertisement referred to in subregulation (6) must include such information as is required by subregulation (3) to be included in the notice and may include such other information as the Commissioner or Chief Executive Officer, as the case may be, considers appropriate.

(8) Where—

(a) applications had been called in respect of an office under the repealed Act;

and

(b) the office had not been filled as a result of the call before the commencement of these regulations,

an advertisement referred to in subregulation (6) calling for applications for the purpose of first filling the position corresponding to that office after the commencement of these regulations need not comply with the requirements of subregulation (7) but shall include such information as the Commissioner or Chief Executive Officer, as the case may be, considers appropriate.

(9) Where applications are to be sought for the purpose of filling a base grade position or establishing a pool of applicants for the purpose of filling base grade positions, a notice calling for applications need not be issued and published in accordance with this regulation, but an advertisement or advertisements calling for applications shall be published as referred to in subregulations (6) and (7).

(10) In this regulation—

"relevant government agency" means a government agency in or by which relevant public employees are employed:

"relevant public employee" means—

(a) a person appointed to the Public Service;

or

(b) a public employee of a class of public employees for the time being determined by the Commissioner for the purposes of this regulation:

6.

"usual place of employment" means, in relation to a relevant public employee whose employment involves work at varying locations, the place to which the employee usually reports for the allocation of duties.

9. (1) Any application made in response to a notice or advertisement published under regulation 8 must be in writing directed to the person specified for that purpose in the notice or advertisement.

(2) Applications must be received at the address specified in the notice or advertisement not later than the day and time specified for that purpose in the notice or advertisement.

(3) Where the Commissioner or Chief Executive Officer, as the case may be, is satisfied that special circumstances exist, an application may be accepted after the day and time specified.

(4) An applicant may be required to supply to the Commissioner or Chief Executive Officer, as the case may be—

(a) a certified extract of the applicant's birth entry from an official register of births or some other satisfactory evidence of age;

and

(b) evidence of qualifications, experience, character or any other matter that may be relevant in assessing the applicant's merit.

(5) Every applicant shall answer the Commissioner's or Chief Executive Officer's questions truthfully and the information provided in the application shall be true and correct to the best of the applicant's knowledge and belief.

(6) Where—

(a) applications had been called in respect of an office under the repealed Act;

and

(b) the office had not been filled as a result of the call before the commencement of these regulations,

an application made under the repealed Act in response to the call shall, in relation to any call for applications made for the purpose of first filling the position corresponding to that office after the commencement of these regulations, have effect as if it were an application made in accordance with these regulations in response to that subsequent call.

10. (1) This regulation applies to pools of applicants established or to be established for the purpose of filling positions other than base grade positions.

(2) Subject to this regulation, the selection of applicants for a pool to which this regulation applies must be made by a selection panel that includes an employee nominated by a recognized organization at the request of the Commissioner.

7.

(3) If a recognized organization fails to make a nomination at the request of the Commissioner within the period (being not less than 14 days) allowed by the Commissioner, then for the purposes of subregulation (2) the selection panel shall include, in place of a nominee of the recognized organization, an employee nominated by the Commissioner.

(4) The number of applicants selected for a pool to which this regulation applies must not be less than 4 nor exceed the number of positions to be filled from the pool.

(5) The process of selecting applicants for positions from those in a pool to which this regulation applies must be completed within 6 months from the establishment of the pool.

11. (1) In selecting applicants, whether for the purpose of filling positions directly or establishing pools of applicants and filling positions by selection from the pools—

(a) the respective merits of the applicants must be assessed having regard to the statements prepared pursuant to regulation 8(2) in relation to the positions or types of position in question;

and

(b) the procedures followed must in all other respects conform to procedures approved by the Commissioner.

(2) Any procedures approved by the Commissioner for the purposes of subregulation (1) must (in addition to giving effect to the requirements of the Act) be designed to ensure that selections are made fairly, openly and in accordance with established principles of personnel management.

Nominations

12. For the purposes of section 51(5) of the Act, an employee shall be nominated in accordance with regulation 13 if the employee is selected for a position the classification level of which is below any of the following classification levels—

(a) the second level in the classification structure for Executive Officers or, where the Commissioner so determines in relation to a particular position, the third level in that structure;

(b) the fifth level in the classification structure for Education Officers;

(c) the sixth level in the classification structure for Legal Officers;

or

(d) the eighth level in the classification structure for Medical Officers.

13. (1) Nomination of an employee for the purposes of section 51(5) of the Act shall be by notice published in the same manner as is prescribed by regulation 8(5) in relation to notices calling for applications.

8.

(2) A notice of nomination must specify—

(a) the name of the employee nominated;

(b) the position held by the employee;

and

(c) the position to which the employee has been nominated for reassignment.

(3) Publication of a notice of nomination in accordance with this regulation shall be sufficient advice to applicants of the outcome of their applications.

Promotion Appeals

14. (1) An appeal by an employee under section 53 of the Act against the nomination of an employee for reassignment to a position must be instituted by the employee completing and signing a form of a kind approved by the Commissioner for that purpose and delivering it, or causing it to be delivered, to the Secretary to the Promotion and Grievance Appeals Tribunal.

(2) An appeal may be withdrawn by notice in writing signed by the appellant and delivered to the Secretary to the Promotion and Grievance Appeals Tribunal.

Excess Employees

15. Where an employee is transferred in pursuance of section 59 of the Act to a position that has a lower classification level than that of the position previously occupied by the employee, the employee shall, in the absence of an award or industrial agreement covering the matter, be entitled to be paid by way of additional salary, for such a period and subject to such conditions as may be determined by the Commissioner, an amount equal to the difference between the amount of salary to which the employee would have been entitled if the employee had continued to be employed at the higher classification level and the amount of the employee's salary at the lower classification level.

Mental or Physical Incapacity

16. (1) Where an employee undergoes a medical examination by a medical practitioner in pursuance of section 60 of the Act, the employee shall be furnished with a copy of any report upon that examination.

(2) Before any determination is made under section 60(3) in relation to an employee, the employee shall be allowed a period, being not less than 14 days from the date of receipt by the employee of the copies of any reports furnished to the employee under subregulation (1), within which the employee may furnish to the appropriate authority any medical reports obtained by the employee upon the employee's mental or physical condition.

Resignation

17. (1) Notice of an employee's resignation must be in writing signed by the employee and given to the Chief Executive Officer of the administrative unit in which the employee is employed (or the Commissioner in the case of a Chief Executive Officer) not less than 14 days before the resignation is to take effect.

(2) The Chief Executive Officer or the Commissioner, as the case may be, may, if of the opinion that it is appropriate to do so—

- (a) accept a shorter period of notice;
- (b) refuse to allow withdrawal of a notice of resignation.

Grievance Appeals

18. (1) An application by an employee for review of an administrative act under section 64 of the Act must be made by the employee completing and signing a form of a kind approved by the Commissioner for that purpose and delivering it, or causing it to be delivered, to the Secretary to the Promotion and Grievance Appeals Tribunal.

(2) An application for review may be withdrawn by notice in writing signed by the applicant and delivered to the Secretary to the Promotion and Grievance Appeals Tribunal.

19. The following classes of administrative acts are excluded from review by the Promotion and Grievance Appeals Tribunal under section 64 of the Act—

- (a) appointment of a person to the Public Service;
- (b) assignment of a person to a position upon the person's appointment to the Public Service;
- (c) nomination of an employee for reassignment to a position;
- (d) reassignment of an employee to a position, being a reassignment made pursuant to section 51(5) or 53(6) of the Act;
- (e) reassignment of an employee to a position pursuant to section 52(3) of the Act, being an employee occupying a senior position;
- (f) a decision upon an application for reclassification;
- (g) a determination of the Commissioner under section 29 of the Act;
- (h) an instruction issued by the Commissioner under section 30(b) or (c) of the Act;
- (i) termination of an appointment under section 50 of the Act;
- (j) a determination of the Commissioner under section 56 of the Act;
- (k) a direction of the Commissioner under section 57 of the Act.

Employment Outside the Public Service

20. (1) An employee may engage in remunerative employment or in an occupation or business outside the Public Service if the employee—

(a) is a part-time employee;

or

(b) obtains the permission of the Chief Executive Officer of the administrative unit in which the employee is employed, or, where the employee is a Chief Executive Officer, the permission of the Minister responsible for the administrative unit.

(2) The Chief Executive Officer or the Minister, as the case may be, may withdraw permission given under this regulation.

(3) The Chief Executive Officer or the Minister, as the case may be, shall when deciding whether to give permission or withdraw permission under this regulation have regard to the following considerations:

(a) whether the employment, occupation or business is to be, or has been, conducted outside the hours of duty of the employee;

(b) whether the employment, occupation or business is likely to affect, or has affected, the performance of the employee's official duties;

and

(c) whether the employment, occupation or business may give rise, or has given rise, to a conflict or potential conflict of interest with the employee's official duties.

Disclosure of Information

21. (1) An employee is authorized to disclose information gained in the employee's official capacity, or comment on any matter affecting the Public Service or the business of the Public Service—

(a) if the disclosure or comment is required to be made as part of the employee's official duties;

(b) if the disclosure or comment is made with the permission of the Chief Executive Officer of the administrative unit in which the employee is employed (or in the case of a Chief Executive Officer, the Minister responsible for the administrative unit);

or

(c) if the disclosure or comment—

(i) is of such a nature and made in such circumstances as to create no reasonably foreseeable possibility of prejudice to the Government in the conduct of its policies;

11.

(ii) is not made with a view to securing a pecuniary or other advantage for the employee or any other person;

and

(iii) is not made contrary to any law or lawful instruction or direction.

(2) An employee is authorized to comment on any matters affecting the Public Service or the business of the Public Service if the comment is made by the employee in the employee's capacity as a member of the governing body of a recognized organization.

Disciplinary Appeals

22. (1) An appeal by an employee under section 72 of the Act against a finding of a disciplinary authority or against disciplinary action proposed to be taken or recommended by a disciplinary authority must be instituted by the employee completing and signing a form of a kind approved by the Commissioner for that purpose and delivering it, or causing it to be delivered, to the Secretary to the Disciplinary Appeals Tribunal.

(2) An appeal may be withdrawn by notice in writing signed by the appellant and delivered to the Secretary to the Disciplinary Appeals Tribunal.

Service and Receipt of Notices

23. (1) A record shall be kept in each administrative unit of the residential address of each employee employed in the unit and, for that purpose and for the purposes of section 83 of the Act, an employee must—

(a) when so required by the Chief Executive Officer, notify the Chief Executive Officer in writing of the employee's current residential address;

and

(b) when there is any change in the employee's residential address notify the Chief Executive Officer in writing of the employee's new residential address.

(2) In any proceedings, the date of receipt by an employee of any notice or document required or authorized to be given to or served on the employee may be proved by a certificate in writing certifying—

(a) that the copy of the notice or document on which the certificate is endorsed is a true copy of the notice or document in question;

and

(b) that the person making the certificate served the notice or document on the employee personally on the date specified in the certificate, or sent the notice or document on the date specified in the certificate by post addressed to the employee at the employee's residential address as last notified pursuant to subregulation (1).

12.

(3) Except where the Act or these regulations provide that a notice shall be given in writing, a notice may be given directly to an employee by word of mouth or by telephone or telegram.

(4) Where a notice or document is required or authorized to be given or delivered by or on behalf of an employee to a Chief Executive Officer or the Commissioner, the notice or document shall, if given or delivered to the employee for the time being occupying a position nominated by the Chief Executive Officer or Commissioner for the purpose of the receipt of such notices or documents, be deemed to have been given or delivered to the Chief Executive Officer or Commissioner, as the case may be.

Witness Fees

24. (1) For the purposes of clause 12 of schedule 3 of the Act a witness shall, subject to subregulation (2), be entitled to reimbursement of expenses in accordance with the Rules made under the *Local and District Criminal Courts Act, 1926*.

(2) Where an employee appears as a witness in proceedings before the Promotion and Grievance Appeals Tribunal or the Disciplinary Appeals Tribunal, the employee shall not be entitled to reimbursement in accordance with subregulation (1) but—

(a) shall be deemed not to be absent from work for the period for which the employee's presence is required for the purposes of the proceedings;

and

(b) shall, if attendance at the proceedings necessitates the absence of the employee from the employee's usual place of employment, be entitled to be reimbursed from the funds of the administrative unit in which the employee is employed for expenses in respect of travel, accommodation and meals in accordance with rates determined by the Commissioner.

Ordinary Business Hours

25. The ordinary business hours for the Public Service are 8.45 a.m. to 5.00 p.m. Monday to Friday inclusive.

Recreation Leave

26. (1) Recreation leave shall not be granted to an employee except upon application made by the employee to the Chief Executive Officer of the administrative unit in which the employee is employed.

(2) An application for recreation leave must be made by completing and signing a form of a kind approved by the Commissioner for that purpose.

(3) Subject to this regulation, recreation leave shall be granted so that—

(a) the recreation leave to which an employee is entitled in respect of the employee's first service year is taken before the expiration of the financial year next following the expiration of that first service year;

and

- (b) the recreation leave to which an employee is or would become entitled in respect of a subsequent service year is taken during the financial year within which that subsequent service year expires.

(4) For the purposes of subregulation (3), an employee shall be regarded as having taken recreation leave during a financial year if the leave or any remaining balance of the leave is taken in a continuous period commencing before the end of that financial year.

(5) Subject to this regulation, no recreation leave may be taken by an employee in anticipation of the leave accruing due to the employee—

- (a) unless the employee has completed the employee’s first year of service;
- (b) unless the employee also takes at the same time all recreation leave to which the employee is already entitled;
- (c) so that the leave taken in anticipation during a financial year exceeds that to which the employee would become entitled in respect of the service year expiring within that financial year.

(6) Nothing in this regulation operates so as to prevent an employee taking recreation leave deemed to have been granted to the employee by virtue of clause 3(2) of schedule 4 of the Act.

(7) The Chief Executive Officer of an administrative unit may, subject to any directions of the Commissioner, require or permit an employee employed in the unit to take recreation leave otherwise than in accordance with this regulation if of the opinion that it is appropriate to do so having regard to the organizational convenience of the unit or any other special circumstances.

(8) In this regulation—

"service year" in relation to an employee means the period of 12 months from the commencement of the employee’s service in the Public Service or any of the succeeding periods of 12 months.

27. Where an employee’s service consists in whole or in part of part-time service, the period of the recreation leave to which the employee is entitled and the salary to which the employee is entitled during the recreation leave shall be determined in accordance with directions issued by the Commissioner in relation to part-time employees for the purposes of this regulation.

Sick Leave

28. (1) An employee shall not be granted sick leave in respect of an absence from work except where—

* * * * *

- (b) the employee, as soon as reasonably practicable, gave notice, or caused notice to be given, to the Chief Executive Officer of the reason for the absence and its probable duration;

(c) the employee—

(i) has made an application for the leave in accordance with this regulation;

and

(ii) in the case of an absence for a continuous period of more than 3 working days or if required by the Chief Executive Officer, has supported the application by furnishing a medical certificate or certificates in accordance with this regulation;

and

(d) the Chief Executive Officer of the administrative unit in which the employee is employed is satisfied that the employee was unfit for work for the period of the absence due to sickness or injury.

(2) An application by an employee for sick leave must be made by the employee completing and signing a form of a kind approved by the Commissioner for that purpose and delivering it, or causing it to be delivered, to the Chief Executive Officer.

(3) A medical certificate referred to in subregulation (1) must—

(a) be signed—

(i) by a person registered under the *Medical Practitioners Act, 1983*;

or

(ii) in the case of sickness or injury that gives rise to an absence for a continuous period of not more than 5 working days and would ordinarily be treated by such a person—by a person registered or licensed as a chiroprapist, chiropractor, dentist, occupational therapist, optician, physiotherapist, or psychologist or qualified as a speech pathologist;

(b) certify as to—

(i) the period (specifying its commencing and concluding days) for which the employee has been or will be unfit for work as a result of sickness or injury;

and

(ii) where the employee is suffering from a sickness of a contagious or infectious character, the date on which the employee's presence at work would no longer create any risk of contagion or infection.

(4) Where an employee is absent for a continuous period exceeding 1 working week the employee must for the purposes of subregulation (1)(c)(ii), if so required by the Chief Executive Officer, furnish medical certificates in respect of each working week and part of a working week for which the employee is absent.

(5) Where an absence of an employee is claimed by the employee to be or have been due to sickness or injury, the Chief Executive Officer may—

- (a) if satisfied that there are circumstances justifying such action, require the employee to submit to an examination by a specified person registered under the *Medical Practitioners Act, 1983*, at some reasonable time and place specified by the Chief Executive Officer;

and

- (b) if the employee refuses or fails to submit to an examination as required under paragraph (a), refuse to grant sick leave in respect of the absence.

(5a) The sick leave standing to the credit of an employee must be debited in hours and quarters of an hour according to the length of time (counted to the nearest quarter of an hour) for which the employee is absent on sick leave.

(6) In this regulation—

"working week" in relation to an employee means a period of 5 working days or, in the case of a part-time employee, a number of working days equal to the number of days on which the employee is required to work in a week.

Special Leave

29. (1) Special leave shall not be granted to an employee except upon application made by the employee by completing and signing a form of a kind approved by the Commissioner for that purpose and delivering it, or causing it to be delivered, to the Chief Executive Officer of the administrative unit in which the employee is employed.

(2) The purposes for which special leave with pay may be granted to an employee are to enable the employee—

- (a) to be absent for any reason arising directly from the death of a person closely related to the employee;
- (b) to be absent to care for a sick child who is a dependant of the employee;
- (c) to carry out or supervise removals where the employee changes house;
- (d) to attend Anzac commemoration marches (ex-service men and women only);
- (e) to attend emergency service calls;
- (f) to attend on jury service;
- (g) to attend military training;
- (h) to attend training courses in respect of counter disaster, civil defence or other emergency service activities;

- (i) to participate in international and national sporting events;
- (j) to rest where the employee has worked for extraordinary hours as required under the employee's terms of employment and no provision is made by the terms of employment for any additional remuneration in respect of the extraordinary hours;
- (k) to be absent for a period during which the employee is unfit for work due to a disability resulting from war service;

* * * * *

- (m) to be absent due to a matter of pressing or urgent necessity that requires the personal attention of the employee and cannot reasonably be attended to by the employee outside the employee's hours of duty;

or

- (n) to be absent for any other special reasons approved by the Commissioner.

(3) For the purposes of subregulation (2)(a), a person shall be regarded as being closely related to an employee if related in a manner (whether being by blood, marriage or otherwise) determined by the Commissioner for the purposes of that subregulation.

(4) Special leave with pay shall not be granted so that the period or aggregate of the periods of special leave with pay granted to an employee exceeds 15 days in a financial year unless the leave is granted for the purpose referred to in subregulation (2)(k) or is granted with the approval of the Commissioner, and then, in either such case, the maximum period of the leave shall be as determined by the Commissioner.

(5) An employee applying for special leave without pay on the ground—

- (a) that the employee is pregnant;

or

- (b) that the employee requires the leave to undertake the care of a young child not of school age of whom the employee is a parent,

shall be entitled to such period of such leave not exceeding 52 weeks as is required by the employee.

(6) Where an employee is granted special leave without pay on the ground that the employee is pregnant and the employee applies for special leave without pay to undertake the care of the child born of the pregnancy, the period of the leave to care for the child shall not exceed the difference between 52 weeks and such portion (if any) of leave taken after the birth of the child as was special leave without pay granted on the ground of that pregnancy.

(7) Special leave without pay to undertake the care of a child may be granted to one or more employees but not so that—

(a) more than one employee has such leave in relation to the same child at the same time;

or

(b) the leave granted to the employee or employees in relation to the same child is for a period or periods in aggregate exceeding 52 weeks.

(8) For the purposes of subregulations (5), (6) and (7), every day occurring during a period of special leave without pay shall (whether it is a working day or not) be regarded as a day of that leave.

(9) Where, when an employee commences special leave without pay to undertake the care of a child, there is more than one child not of school age of whom the employee is a parent, the leave shall be deemed to have been granted to undertake the care of each such child.

Long Service Leave

30. (1) Long service leave shall not be granted to an employee except upon application made by the employee by completing and signing a form of a kind approved by the Commissioner and delivering it to the Chief Executive Officer of the administrative unit in which the employee is employed.

(2) Long service leave shall not be taken for a period of less than 14 consecutive calendar days unless the Chief Executive Officer approves a lesser period due to special circumstances.

(3) A Chief Executive Officer shall, in determining whether to permit an employee with not less than 7 years effective service to take *pro rata* long service leave, have regard to the organizational convenience of the administrative unit in which the employee is employed.

31. Where an employee employed at a higher classification level is transferred to some other position at a lower classification level—

(a) upon a recommendation made under section 77 of the repealed Act;

(b) upon a recommendation made under section 59 of the Act;

(c) upon a recommendation made under section 78 of the repealed Act on the ground that the employee was unfit to discharge the employee's duties due to injury or illness;

or

(d) upon a recommendation made under section 60 of the Act, the Commissioner shall determine the additional salary to which the employee is entitled during long service leave as being the difference between the amount of salary to which the employee would have been entitled if the employee had continued to be employed at the higher classification level and the amount of the employee's salary at the lower classification level.

32. Where the effective service of an employee includes part-time service, the employee may notify the Chief Executive Officer of the administrative unit in which the employee is employed that the employee wishes to receive the salary to which the employee is entitled during long service leave as if the employee's effective service had not consisted in whole or in part of part-time service, and, in that event—

- (a) the salary paid to the employee during the long service leave shall be paid at the rate applicable for full-time employment;

and

- (b) the period of the long service leave shall be determined in accordance with the directions of the Commissioner.

33. The period of service of an employee prior to termination of the employee's service under section 77 or 78 of the repealed Act, or section 59 or 60 of the Act, shall be counted as part of the employee's effective service for the purposes of schedule 4 of the Act—

- (a) where the employee is re-employed in the Public Service within a period of 2 years from the date of the termination;

or

- (b) where—

- (i) the employee is re-employed in the Public Service after a period of 2 years from the date of the termination;

and

- (ii) the Commissioner is satisfied that the employee sought re-employment as soon as reasonably practicable in the circumstances.

Adjustment to Leave Rights Based on Prior Service

34. (1) The following classes of officers or employees are prescribed for the purposes of clause 11 of schedule 4 of the Act—

- (a) officers or employees employed by bodies for the time being included in a list of bodies kept by the Commissioner with the approval of the Minister;

or

- (b) officers or employees specifically approved by the Minister for the purposes of that clause.

(2) In subregulation (1)—

"the Minister" means the Minister responsible for the administration of the Act.

APPENDIX

LEGISLATIVE HISTORY

Regulation 8(5):	substituted by 55, 1987, reg. 2(a)
Regulation 8(6):	varied by 55, 1987, reg. 2(b)
Regulation 8(10):	inserted by 55, 1987, reg. 2(c)
Regulation 28(1):	varied by 30, 1988, reg. 3(a)
Regulation 28(1)(a):	revoked by 30, 1988, reg. 3(b)
Regulation 28(3):	varied by 30, 1988, reg. 3(c)
Regulation 28(5a):	inserted by 30, 1988, reg. 3(d)
Regulation 29(2)(l):	revoked by 30, 1988, reg. 4