

PUBLIC SERVICE ACT, 1967-1975

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THE SCHEDULES

PUBLIC SERVICE ACT, 1967-1975

being

Public Service Act, 1967, No. 77 of 1967 [Assented to 30th November, 1967]¹;

as amended by

Public Service Act Amendment Act, 1968, No. 54 of 1968 [Assented to 19th December, 1968];
 Statutes Amendment (Public Salaries) Act, 1969, No. 83 of 1969 [Assented to 11th December, 1969];
 Statutes Amendment (Public Salaries) Act, 1970, No. 8 of 1970 [Assented to 27th August, 1970];
 Public Service Act Amendment Act, 1970-1971, No. 14 of 1971 [Assented to 1st April, 1971];
 Public Service Act Amendment Act, 1971, No. 23 of 1971 [Assented to 15th April, 1971];
 Statutes Amendment (Public Salaries) Act, 1971, No. 61 of 1971 [Assented to 14th October, 1971];
 Public Service Act Amendment Act (No. 3), 1971, No. 88 of 1971 [Assented to 25th November, 1971];
 Statutes Amendment (Public Salaries) Act, 1972, No. 76 of 1972 [Assented to 28th September, 1972];
 Statutes Amendment (Public Salaries) Act, 1973, No. 28 of 1973 [Assented to 20th September, 1973];
 Public Service Act Amendment Act, 1974, No. 38 of 1974 [Assented to 11th April, 1974]²;
 Public Service Act Amendment Act (No. 2), 1974, No. 126 of 1974 [Assented to 12th December, 1974];
 Public Service Act Amendment Act, 1974-1975, No. 2 of 1975 [Assented to 13th March, 1975];
 Statutes Amendment (Public Salaries) Act, 1974-1975, No. 19 of 1975 [Assented to 27th March, 1975]³;

and

Public Service Act Amendment Act, 1975, No. 110 of 1975 [Assented to 20th November, 1975].

An Act to consolidate and amend the law relating to the Public Service and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PART I

PRELIMINARY

1. This Act may be cited as the "Public Service Act, 1967-1975".

Short title.
 Citation
 amended by 110,
 1975, s. 1 (3).

2. This Act shall come into force on a day to be fixed by proclamation¹.

Commence-
 ment.

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

Parts, etc.
 S. 3 amended by
 14, 1971, s. 2 (a)
 (b); 2, 1975,
 s. 2.

PART I—PRELIMINARY, ss. 1-8.

PART II—THE PUBLIC SERVICE BOARD, ss. 9-24.

PART III—THE PUBLIC SERVICE—

DIVISION I—DEPARTMENTS AND PERMANENT HEADS, ss.
 25-28:

DIVISION II—CREATION AND ABOLITION OF OFFICES, s. 29:

¹ Came into operation 29th February, 1968: *Gaz.* 29th February, 1968, p. 675.

² Came into operation 1st July, 1974: see S. 2 of Act No. 38 of 1974.

³ The amendment of the Public Service Act, 1967-1975 by the Statutes Amendment (Public Salaries) Act, 1974-1975 has been incorporated in this reprint on the assumption that the reference to the Statutes Amendment (Public Salaries) Act, 1975 in the proclamation published in the *Gazette* on 28th August, 1975, p. 1126 purporting to bring that Act into operation on that date was an erroneous reference to the Statutes Amendment (Public Salaries) Act, 1974-1975.

DIVISION III—CLASSIFICATION, SALARIES, ALLOWANCES AND DEDUCTIONS, ETC., ss. 30-38:

DIVISION IV—FIRST APPOINTMENT OF OFFICERS, ss. 38a-45:

DIVISION V—FILLING OF VACANT OFFICES, ss. 46-57:

DIVISION VI—DISCIPLINE, ss. 58-76:

DIVISION VII—COMPULSORY TRANSFER, RETIREMENT, ETC., ss. 77-80:

DIVISION VIII—LEAVE OF ABSENCE, ss. 81-101:

DIVISION IX—COMMONWEALTH AND STATE OFFICERS, ss. 102-105:

DIVISION X—RETIREMENT OF OFFICERS, ss. 106-107.

PART IV—TEMPORARY OFFICERS, ss. 108-113.

PART V—MISCELLANEOUS, ss. 114-131.

Definitions.

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

“appellant” means an Officer who appeals under subsection (2) of section 48 of this Act:

“classification” means the arrangement of Offices or positions in classes and includes the allotment to Offices or positions of salaries or limits of salary and the expression “classify” bears a like meaning:

“Commissioner” means a Commissioner appointed under section 9 of this Act and includes the Commissioner nominated as Chairman of the Board and a deputy of a Commissioner while acting as such:

“Department” means Department of the Public Service which is for the time being in existence pursuant to the provisions of section 25 of this Act or the provisions of any other Act and has been declared under this Act or otherwise brought into existence before or after the commencement of the Public Service Act Amendment Act, 1974-1975:

“financial year” means any period of twelve months ending on the thirtieth day of June:

“Minister” means the Minister of the Crown for the time being administering the Department—

(a) in which the Officer, temporary Officer or person in connection with whom the expression is used, is employed or seeks to be employed;

or

(b) in which is created the Office, in connection with which the expression is used:

“nominated Officer” means an Officer nominated by the Board, under section 47 of this Act, for appointment to a vacant Office:

“Office” means an office created or deemed to be created under section 29 of this Act and not abolished under that section:

“Officer” means a person appointed to an Office and includes a person who, immediately before the commencement of this Act, was appointed or deemed to be appointed in a permanent capacity to the

Def. substituted
by 2, 1975,
s. 3 (a).

public service as defined by section 6 of the Public Service Act, 1936-1966:

“Permanent Head”—

Def. substituted
by 2, 1975,
s. 3 (b).

(a) in relation to a Department, means the person who is for the time being the holder of the Office of Permanent Head of that Department as provided by section 25 of this Act but, where there is no Office of Permanent Head as such of the Department for the purposes of this Act as provided by that section, means the person who for the time being has, by virtue of section 26 of this Act, all the powers and functions of Permanent Head in relation to that Department for the purposes of this Act;

and

(b) in relation to an Officer or temporary Officer, means the Permanent Head of the Department, or, as the case may be, the person who for the time being has, by virtue of section 26 of this Act, all the powers and functions of Permanent Head in relation to the Department, in which that Officer or temporary Officer is employed:

“public holiday” means a public holiday within the meaning of the Holidays Act, 1910-1959¹:

“recognized organization” means an organization for the time being recognized by the Board under section 115 of this Act and includes the Public Service Association of South Australia Incorporated:

“recreation leave” means leave to which an Officer is entitled under section 82 of this Act:

“temporary Officer” means a person employed or deemed to be employed under Part IV of this Act:

“the Board” means the Public Service Board constituted by section 9 of this Act:

“the Committee” means the Appointments Appeal Committee constituted by section 50 of this Act:

“the Public Service” means the Public Service as defined by section 8 of this Act:

“the Tribunal” means the Tribunal appointed under section 67 of this Act.

5. (1) The Acts and portions of the Acts mentioned in the first schedule to this Act are hereby repealed. Repeal and Savings.

(2) Notwithstanding the repeal effected by subsection (1) of this section—

(a) all persons, appointed permanently to the public service within the meaning of the Public Service Act, 1936-1966, or continued in office in that public service under an Act repealed by this Act and holding office at the commencement of this Act, shall remain in office as if this Act had been in force at the time when they were appointed and they had been appointed hereunder and this Act shall apply to them accordingly;

¹ Now Holidays Act, 1910-1975.

- (b) all persons who, at the commencement of this Act, are temporarily employed under or by virtue of any Act repealed by this Act, shall remain in such employment subject to the provisions of this Act;

and

- (c) all regulations, proclamations, determinations and returns made or published under any Act repealed by this Act which are in force at the commencement of this Act shall, except in so far as they are inconsistent with this Act and subject to this Act, be deemed to have been made or published under this Act and any references in any such regulations, proclamations, determinations or returns to any enactment repealed by this Act shall be construed as a reference to the corresponding provisions of this Act.

Reading of
references to
Public Service
Commissioner,
etc.

6. Any reference in an Act (other than this Act), regulation, rule, law, order of a court or commission, instrument, agreement or document of any kind to—

- (a) the Public Service Commissioner shall be read as reference to the Board;

- (b) The Public Service Board constituted by the Public Service Act, 1936-1966 shall be read as a reference to the Board;

and

- (c) the Public Service Act, 1936 as amended by any Act shall be read as a reference to this Act.

Vacation of
office of
Chairman and
members of
former Public
Service Board.

7. The Chairman and members of The Public Service Board constituted by the Public Service Act, 1936-1966, in office immediately before the commencement of this Act shall upon that commencement vacate their respective offices.

The Public
Service.

8. (1) The Public Service comprises all persons employed in any capacity in the service of the State other than—

- (a) the Judges of the Supreme Court;
- (b) the Judge in Insolvency;
- (c) the President of the Industrial Court;
- (d) the Agent-General;
- (e) the Auditor-General;
- (f) any officer of either House of Parliament or any person under the separate control of the President of the Legislative Council or the Speaker of the House of Assembly or under their joint control;
- (g) the South Australian Railways Commissioner¹ and all persons in the railway service within the meaning of the South Australian Railways Commissioner's Act, 1936-1965²;
- (h) any teacher appointed under the Education Act, 1915 or any Act amending or in substitution for that Act³;
- (i) any member of the police force;
- (j) any person acting in an honorary capacity;

¹ For interpretation of references in Acts to the South Australian Railways Commissioner see now s. 6 (4) and (5) of Railways Act, 1936-1975.

² Now Railways Act, 1936-1975.

³ The Education Act, 1915 and its amendments have been repealed and superseded by the Education Act, 1972 (now Education Act, 1972-1974.)

- (k) any person remunerated by fees, allowances or commission only;
 - (l) any person employed at hourly, daily or weekly wages or at piecework rates of payment;
 - (m) any person whose salary or remuneration is fixed by Act of Parliament;
 - (n) any person or class of persons in respect of whom it is provided by any Act that this Act shall not apply;
 - (o) any person employed by a Department in respect of which it is provided by any Act that this Act shall not apply;
 - (p) any person or class of persons to whom the Governor declares by proclamation that this Act shall not apply;
- and
- (q) a person employed by a Department to which the Governor declares by proclamation that this Act shall not apply.
- (2) Except so far as is inconsistent with any Act for the time being in force, the Governor may by proclamation declare that this Act or any specified provision of this Act shall from the time specified in that behalf—
- (a) apply to any of the persons or class of person mentioned or specified in this section;
- or
- (b) cease to apply to any person or class of person to whom by reason of a proclamation under this section this Act or any specified provision of this Act, as the case may be, applies or apply,
- and every such proclamation shall have effect according to its tenor.

PART II

PART II

THE PUBLIC SERVICE BOARD

9. (1) For the purposes of this Act there shall be constituted a board to be called the "Public Service Board". The Public Service Board.
- (2) The Board shall consist of three Commissioners appointed by the Governor and the Governor shall from time to time nominate one of them to be the Chairman of the Board and on the happening of a vacancy in the office of Commissioner, the Governor shall appoint a person to that vacant office.
- (3) Subject to subsection (5) of this section an appointment of a Commissioner shall be for a term not exceeding five years.
- (4) A person who is appointed a Commissioner shall, on the expiration of his term of office, be eligible for re-appointment.
- (5) Nothing in this Act contained shall be taken as authorizing a term of appointment which would result in a Commissioner remaining in office after attaining the age of sixty-five years.
10. For the purposes of this Act the person appointed Public Service Commissioner under the Public Service Act, 1936-1966, and in office immediately before the commencement of this Act shall be deemed to have been appointed a Commissioner and nominated as Chairman of the Board under subsection (2) of section 9 of this Act for the balance of the term for which he Former Public Service Commissioner to be first Chairman of the Board.

was appointed Public Service Commissioner or for a term of five years whichever is the shorter.

Terms and conditions of appointment of Commissioner.

11. Subject to this Part, the terms and conditions of appointment of a Commissioner shall be as determined by the Governor.

Appointment of Officer as Commissioner.

12. (1) If an Officer is appointed a Commissioner, his service as a Commissioner shall, for the purpose of determining all his existing and accruing rights, be counted as service in the Public Service.

(2) An Officer referred to in subsection (1) of this section shall, at the conclusion of his term or terms of office as a Commissioner if he has not then attained the age of sixty-five years, be entitled to be appointed to an Office which is, in the opinion of the Board, of a classification not less than the equivalent of the classification of the Office he previously occupied.

Appointment of deputy of Commissioner.

13. (1) In the case of illness, suspension or absence of any Commissioner, the Governor may appoint a person to act as the deputy of that Commissioner during that illness, suspension or absence, as the case may be, and the deputy shall, subject to subsection (3) of this section, whilst so acting, have all the powers and functions of that Commissioner.

(2) A deputy while so acting shall receive such remuneration for his services as the Governor determines, and where the deputy is an Officer, the remuneration so determined shall, if the Governor so directs, be in addition to his salary as an Officer.

(3) Where a deputy is appointed under subsection (1) of this section in the place of the Commissioner who is for the time being nominated or deemed to be nominated under subsection (2) of section 9 of this Act as Chairman of the Board the Governor may nominate a Commissioner other than the deputy so appointed to act as Chairman for the duration of the illness, suspension or absence as the case may be, and in that case the deputy so appointed shall not exercise the powers and functions of the Chairman of the Board as such.

Quorum and differences in opinion.

14. (1) Subject to subsection (2) of this section any two Commissioners shall form a quorum and shall have all the powers and functions conferred on the Board by this Act.

(2) If at a meeting of the Board at which two Commissioners only are present the Commissioners differ in opinion on a matter the determination of that matter shall be postponed to a meeting of the Board at which all three Commissioners are present.

Salaries and allowances of Chairman and Commissioners.
S. 15 amended by 83, 1969, s. 13; 8, 1970, s. 14; 61, 1971, s. 8; 76, 1972, s. 8; 28, 1973, s. 8; substituted by 19, 1975, s. 11.

15. (1) The Commissioner nominated as Chairman of the Board and each of the other Commissioners shall be paid respectively such salaries and allowances as the Governor may from time to time determine.

(2) A determination under subsection (1) of this section may be expressed to take effect on a day that occurs before the day on which the determination is made.

(3) The salaries and allowances referred to in subsection (1) of this section shall be a charge on the General Revenue of the State which is hereby to the necessary extent appropriated accordingly.

Removal or suspension of Commissioner.

16. (1) The Governor may remove a Commissioner from office on an address praying for the removal of that Commissioner being presented to the Governor from both Houses of Parliament during one session of Parliament, or from one House during one session and from the other House during the next

succeeding session, which sessions however need not be both during the same Parliament.

(2) Where a Commissioner is removed from office under subsection (1) of this section that office shall thereupon become vacant.

(3) The Governor may suspend a Commissioner from office for misbehaviour, incompetence or incapacity.

(4) A statement of the cause of a suspension under subsection (3) of this section shall be laid before both Houses of Parliament within seven days of that suspension, if the Parliament is then sitting, or, if the Parliament is not then sitting, then within seven days after the next meeting of the Parliament and unless within one month after the day when and during the same session as that statement is laid before Parliament an address from either House of Parliament praying for the removal from office of the Commissioner is presented to the Governor that Commissioner shall be restored to office but if such an address is so presented the Governor may remove that Commissioner from office and that office shall thereupon become vacant.

17. The office of a Commissioner shall become vacant if that Commissioner—

Vacation of office by Commissioner.

(a) except with the consent of the Governor engages in any paid employment outside the duties of his office;

(b) is adjudicated bankrupt, makes a composition for the benefit of his creditors for less than one hundred cents in the dollar, applies to take the benefit of any law in force in the State for the relief of bankrupt or insolvent debtors or makes an assignment of his salary for the benefit of his creditors;

(c) without leave being granted by the Governor, absents himself from duty for a period of twenty-eight days whether consecutive or not in any period of twelve months;

(d) dies or resigns his office by writing addressed to the Governor;

(e) becomes a member of either House of Parliament of the State or the Commonwealth;

or

(f) for any reason becomes, in the opinion of the Governor, incapable of performing his duties.

18. Subject to the provisions of section 14 and section 24 of this Act the powers and functions of the Board may be exercised notwithstanding a vacancy in the office of one Commissioner.

Vacancy in the office of Commissioner.

19. (1) In addition to the powers and functions elsewhere in this Act conferred on it, the Board shall have the following powers and functions:—

General powers and functions of Board.

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

(i) improved organization and procedures;

(ii) closer supervision of operations;

(iii) the simplification of operations and the abolition of unnecessary operations;

(iv) the co-ordination of operations;

(v) the limitation of the staff of Departments to actual requirements and the use of that staff to the best advantage;

(vi) the improvement of training of Officers;

and

(vii) the avoidance of unnecessary expenditure:

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

(c) to maintain a continuous system of checking to ensure the economical and efficient working of Departments and to standardize the carrying out of recurring operations;

and

(d) such other powers and functions in relation to the Public Service as are prescribed.

(2) In relation to all the matters specified in paragraphs (a) to (c) inclusive of subsection (1) of this section, the Board shall in the first place advise the Permanent Head of the Department concerned of its suggestions or proposals.

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

(4) Thereupon the Board may, if it thinks fit, report the matter to the Minister and if the Board's suggestions or proposals are not approved or adopted by the Minister within a reasonable time, the Board may report the matter to both Houses of Parliament either in a special report or in its report furnished under subsection (2) of section 23 of this Act.

Powers of entry
and inspection,
etc.

20. (1) The Board may at any time—

(a) enter the premises of any Department for the purpose of carrying out its duties;

(b) summon any person whose evidence appears to be material to the determining of any subject of inspection, inquiry or investigation being conducted by the Board;

and

(c) require the production of documents.

(2) The Board may examine any person, summoned under subsection (1) of this section, upon oath or otherwise touching the matter of any inspection, inquiry or investigation being conducted by the Board.

(3) If without reasonable cause (the proof of which shall lie upon him) a person summoned under this section, after being paid or tendered his reasonable expenses—

(a) fails to appear in accordance with the summons;

(b) fails or refuses to be sworn or to answer any question put to him by the Board;

or

(c) fails to produce any book, document or writing pursuant to that summons,

he shall be guilty of an offence.

Penalty: One hundred dollars.

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

21. (1) In the exercise of the powers and functions conferred on it by this Act the Board may hear and consider evidence, argument or representations and shall, so far as is practicable, before making any decision which will affect a significant number of members of a recognized organization—

Proceedings
before the
Board.

(a) notify that organization;

and

(b) hear any evidence, argument or representations from that organization,

but nothing in this subsection shall be construed as limiting or restricting the exercise or performance of any power or function of the Board conferred on it by this or any other Act.

(2) In its consideration of the matters referred to in subsection (1) of this section, the Board shall not be bound by rules or practice as to evidence but may inform itself on any matter in such manner as it thinks fit.

(3) Proceedings before the Board may be in public or in private or partly in public and partly in private as the Board thinks fit.

22. (1) The Board shall cause to be kept a record of all Officers showing with regard to each Officer—

Records of
Officers.

(a) the date of his birth and of his appointment to the Public Service;

(b) the Office he holds and the Offices, if any, he has held;

and

(c) the classification of those Offices.

(2) The Board shall at least once in every period of two years forward to the Governor a list of all Officers employed on the thirtieth day of June next preceding the day on which the list is forwarded together with the particulars referred to in subsection (1) of this section other than the particulars relating to Offices which each Officer has held.

(3) A copy of the list referred to in subsection (2) of this section shall be laid before Parliament within fourteen days of it being forwarded to the Governor, or if Parliament is not then sitting, within fourteen days after the commencement of the next sitting of Parliament.

23. (1) The Board shall submit for the consideration of the Governor reports as to any matters which by this Act are required to be, or may be, dealt with by the Governor.

Reports.

(2) The Board shall furnish to the Governor for presentation to the Parliament at least once in each year a report on the condition and efficiency of the Public Service and in that report there shall be set forth any changes and measures which the Board considers necessary.

(3) The Board shall in a report made in accordance with subsection (2) of this section draw attention to such breaches or evasions of this Act which may

PART II

have come under its notice which it considers are of sufficient importance to require being brought to the attention of Parliament.

Delegation by Board.

24. (1) The Board may, by writing under the hand of each Commissioner, delegate to any Commissioner, Officer, temporary Officer or person any of the powers or functions of the Board under this Act (except this power of delegation) so that the delegated powers or functions may be exercised by the delegate with respect to the matters or class of matters specified, or the place or locality defined, in the instrument of delegation.

(2) A delegation under subsection (1) of this section shall be revocable in writing at will, and no delegation shall prevent the exercise of any power or function of the Board.

(3) If, in pursuance of a delegation given to him under subsection (1) of this section, the delegate does any act, a Permanent Head of a Department affected by that act may request the delegate to refer the matter to the Board and in that event the act shall not be deemed to be an act of the Board until the action of the delegate has been endorsed by at least two Commissioners.

PART III

PART III

THE PUBLIC SERVICE

DIVISION I

DIVISION I—DEPARTMENTS AND PERMANENT HEADS

Departments and Offices.
Subsec. (1) substituted by 2, 1975, s. 4(a).

25. (1) Subject to this Act, on and after the commencement of the Public Service Act Amendment Act, 1974-1975—

(a) the Departments of the Public Service shall be—

(i) those in existence by virtue of this Act or any other Act immediately before the day of such commencement;

and

(ii) every Department brought into existence thereafter,

excepting every Department that is discontinued or has become part of some other existing Department or part of a new Department;

and

(b) the Offices of Permanent Head of the Departments of the Public Service shall be—

(i) those in existence immediately before the day of such commencement;

and

(ii) every Office of Permanent Head of a Department created thereafter,

excepting every Office of Permanent Head that is abolished.

Subsec. (2) substituted by 2, 1975, s. 4(a).

(2) Subject to this section—

(a) the name of each Department in existence by virtue of this Act or any other Act immediately before the day of commencement of the Public Service Act Amendment Act, 1974-1975, shall, until the name is changed or the Department is discontinued or has become

part of some other existing Department or part of a new Department, continue to be the name by which it was known for the purposes of this Act immediately before that day and shall, if the name is changed, be the name for the time being as so changed;

- (b) the name of each Department brought into existence on or after the day of commencement of the Public Service Act Amendment Act, 1974-1975, shall, until the name is changed or the Department is discontinued or has become part of some other existing Department or part of a new Department, continue to be the name assigned to it when it was so brought into existence and shall, if the name is changed, be the name for the time being as so changed;
- (c) the title of any Office of Permanent Head in existence immediately before the day of commencement of the Public Service Act Amendment Act, 1974-1975, shall, until the title is changed or the Office is abolished, continue to be the title by which it was known for the purposes of this Act immediately before that day and shall, if the title is changed, be the title for the time being as so changed;

and

- (d) the title assigned to any Office of Permanent Head created on or after the day of commencement of the Public Service Act Amendment Act, 1974-1975, shall, until the title is changed or the Office is abolished, continue to be the title assigned to it when it was so created and shall, if the title is changed, be the title for the time being as so changed.

(3) Subject to subsection (6) of this section after the commencement of the Public Service Act Amendment Act, 1974-1975, the Governor may from time to time, upon the recommendation of the Board, by proclamation, do any one or more of the following things:—

Subsec. (3)
substituted by 2,
1975, s. 4(a).

- (a) bring a Department into existence by declaring it to be a Department of the Public Service;
- (b) create, and assign a title to, an Office of Permanent Head of a Department;
- (c) discontinue a Department or part of a Department;
- (d) abolish the Office of Permanent Head of a Department that has been discontinued or that has been amalgamated with or become part of another Department;
- (e) form a new Department by amalgamating two or more Departments or parts of Departments or by amalgamating a part or parts of a Department or parts of two or more Departments with another Department and bring the new Department so formed into existence by declaring it to be a Department of the Public Service;
- (f) amalgamate one Department or part of a Department with another Department, that first mentioned Department or, as the case may be, that part of the Department thereby becoming part of the other Department;
- (g) assign a name to a new Department or a title to a newly created Office of Permanent Head of a Department or change the name of a Department or the title of the Office of Permanent Head of a Department.

PART III

DIVISION I

Subsec. (4)
substituted by 2,
1975, s. 4(a).

(4) A proclamation under subsection (3) of this section shall take effect upon such day as is fixed by the proclamation or, if no day is so fixed, on the day on which the proclamation is published in the *Gazette*.

Subsec. (5)
struck out by 2,
1975, s. 4(a).

* * * * *

Subsec. (6)
amended by 88,
1971, s. 2(a),
(b); 2, 1975, s. 4
(b), (c), (d).

(6) In a proclamation under subsection (3) of this section or in a subsequent proclamation the Governor may, and shall be deemed always to have had power to, provide for—

(a) the reading of a reference in any Act to a Department affected by a proclamation under that subsection as a reference to—

(i) a Department declared or renamed under that proclamation;

or

Subpara. (ii)
amended by 2,
1975, s. 4(b).

(ii) a Department assuming the functions of a Department that has been discontinued or has become part of some other existing or future Department pursuant to this section;

or

(b) the reading of a reference in an Act to an Office of Permanent Head affected by a proclamation under that subsection as a reference to—

Subpara. (i)
amended by 2,
1975, s. 4(c).

(i) an Office of Permanent Head created or the title of which is changed pursuant to this section;

or

Subpara. (ii)
amended by 2,
1975, s. 4(c),
(d).

(ii) a Permanent Head assuming the functions of the Office abolished pursuant to this section;

or

Para. (c)
inserted by 88,
1971, s. 2(b).

(c) the reading of a reference in an Act to any Officer as a reference to some other Officer;

or

Para. (ca)
inserted by 110,
1975, s. 2.

(ca) the reading of a provision, word or passage in any Act, which provision, word or passage—

(i) refers to any Department, Office, Officer or Permanent Head;

and

(ii) had previously been in operation, but, because of a change in the law, has become inoperative or incapable of application or interpretation or has become inconsistent with any provision of this Act or with any proclamation made and in force under this Act,

as some other provision, word or passage, as the case requires, and as shall be specified in the proclamation, with the object of bringing that Act into line with that change in the law;

or

- (d) the amendment, cancellation or the cessation of effect of any earlier proclamation relating to any matter referred to in this section,

Para. (d)
inserted by 88,
1971, s. 2(b).

and any such first mentioned or subsequent proclamation shall have, and shall be deemed always to have had, effect according to the tenor thereof as if it were enacted by this Act.

(7) Power conferred on the Governor by subsection (6) of this section shall include power by proclamation to provide that any cancellation or cessation of effect of any earlier proclamation relating to any matter referred to in this section shall have, and be deemed to have had, effect as from a specified date, whether before or after the date of the proclamation, and whether before or after the date of the commencement of the Public Service Act Amendment Act (No. 3), 1971.

Subsec. (7)
inserted by 88,
1971, s. 2(c).

26. (1) Where, in relation to a Department, there is no Office of Permanent Head as such for the purposes of this Act—

Vesting of
powers of
Permanent
Head in holders
of certain
Government
appointments.
S. 26 substituted
by 2, 1975, s. 5.

- (a) if the Department was in existence immediately before the commencement of the Public Service Act Amendment Act, 1974-1975, the person who, by operation of this section as previously enacted and in force immediately before the day of such commencement, and by virtue of his office, had all the powers and functions of Permanent Head in relation to that Department shall, in the event of his continuing to hold that office, and until the Department is discontinued or has become part of some other existing Department or part of a new Department or until otherwise provided by proclamation under this section, continue to have all those powers and functions in relation to that Department for the purposes of this Act;

and

- (b) if the Department is brought into existence after the commencement of the Public Service Act Amendment Act, 1974-1975, the person who is for the time being the holder of the appointment which is the appointment the holder of which has all the powers and functions of Permanent Head in relation to that Department for the purposes of this Act shall, until the Department is discontinued or has become part of some other existing Department or part of a new Department or until otherwise provided by proclamation under this section, have all those powers and functions for the purposes of this Act accordingly.

(2) The Governor may, from time to time, by proclamation on the recommendation of the Board—

- (a) provide that, on and after a day specified therein, an appointment shall become the appointment the holder of which has the powers and functions of Permanent Head in relation to a Department specified therein for the purposes of this Act;
- (b) provide that an office or appointment shall on a day specified therein, cease to be the office or appointment the holder of which has all the powers and functions of Permanent Head in relation to a Department;

and

- (c) make such other provision incidental to or consequential on a provision or declaration contained in a proclamation made under

this section as is necessary or desirable for the proper and efficient administration of this Act and the Public Service.

(3) The Governor may, from time to time, upon a like recommendation—

(a) by a subsequent proclamation revoke an earlier proclamation made under this section;

(b) make a proclamation in substitution for one so revoked;

and

(c) by a subsequent proclamation vary or amend a provision or declaration contained in an earlier proclamation.

(4) A proclamation made under this section shall, by operation of this section, have effect according to the tenor thereof.

Register of
Departments.
S. 26a enacted
by 2, 1975, s. 6.

26a. (1) For the purposes of this Act the Board shall cause a register of Departments to be kept at the office of the Department of the Public Service Board.

(2) Subject to this section, there shall be maintained in the register, in such manner as the Board thinks proper, the names of the Departments in existence immediately before the day of commencement of the Public Service Act Amendment Act, 1974-1975, and of all Departments brought into existence thereafter.

(3) The register must show in relation to each Department the title of the Office of Permanent Head for the time being of that Department or, if there is no Office of Permanent Head as such for the purposes of this Act in relation to that Department, the title of the office or appointment the holder of which, by operation of section 26 of this Act, for the time being has all the powers and functions of Permanent Head for the purposes of this Act in relation to that Department.

(4) The Board shall, as often as occasion requires, remove from the register all references relating to Departments and to Offices of Permanent Head and offices and appointments that are no longer in existence and shall, for the purposes of the administration of this Act and of keeping the register up to date, cause to be entered in the register such alterations, corrections and annotations therein as the Board considers necessary or desirable.

(5) The Board shall within fourteen days after the commencement of the Public Service Act Amendment Act, 1974-1975, or such further time as the Minister for the time being responsible for the administration of this Act may allow, cause to be published in the *Gazette* a copy of the register showing, as at the time immediately preceding the day of such commencement, the names of the Departments and the title of the Office of Permanent Head of each Department or, as the case may require, the title of each office or appointment the holder of which had all the powers and functions of Permanent Head in relation to each Department of which there was no Permanent Head as such, and such other particulars (if any) as, in the Board's opinion, ought to be recorded therein.

(6) The Board shall, as soon as is reasonably possible after any alteration or correction is made to the register, and also whenever directed to do so by the Minister for the time being responsible for the administration of this Act, cause a copy of the register to be published in the *Gazette* incorporating the alteration or correction, if any, and specifying the date up to (and including) which the register had been made up at the time when it was reproduced as the copy so published.

PART III

DIVISION I

26b. A certificate purporting to be signed by a Commissioner or by an Officer acting under the written authority of a Commissioner certifying that on a day or during a period specified in the certificate a Department named therein was a Department of the Public Service or an Officer or person named or described therein was the Permanent Head or, as the case may be, had all the powers and functions of Permanent Head in relation to a Department so named or that an Office specified therein was the Office of Permanent Head of a Department so named, or, as the case may be, that an office or appointment was the office or appointment the holder of which had all the powers and functions of Permanent Head in relation to the Department for the purposes of this Act shall, in all courts and before all tribunals, in the absence of proof to the contrary, be evidence of the matters so certified without proof that the person who signed the certificate was a Commissioner or an Officer acting under the written authority of a Commissioner or that the signature on the certificate was the signature of a Commissioner or of an Officer acting under such authority.

Certificate to be evidence.
S. 26b enacted by 2, 1975, s. 6.

27. Subject to section 19 of this Act the Permanent Head of a Department shall be responsible for its general working and for all the business thereof and shall advise the Minister on all matters relating to that Department and shall in addition to those duties perform such other duties in his capacity as Permanent Head as the Governor or the Minister directs.

Duties of Permanent Head.

28. (1) A Permanent Head may, with the approval of the Board, by writing under his hand delegate to an Officer or temporary Officer all or any of his powers and functions under this Act (except this power of delegation) so that the delegated powers and functions may be exercised by the delegate with respect to the matters or class of matters specified or the place or locality defined in the instrument of delegation.

Delegation by Permanent Head.

(2) A delegation under subsection (1) of this section shall be revocable in writing at will, and no delegation shall prevent the exercise of any power or function by the Permanent Head.

DIVISION II—CREATION AND ABOLITION OF OFFICESDIVISION II

29. (1) The Governor may on the recommendation of the Board—

(a) create an Office in a Department;

or

(b) abolish an Office in a Department.

(2) All offices and positions in the public service as defined by section 6 of the Public Service Act, 1936-1966, in existence immediately before the commencement of this Act shall be deemed to have been created as Offices under subsection (1) of this section.

Creation and abolition of Offices.

DIVISION III—CLASSIFICATION, SALARIES, ALLOWANCES AND DEDUCTIONS, ETC.DIVISION III

30. (1) Every Permanent Head shall be paid such salary as is determined, in accordance with this section, by the Governor on the recommendation of the Board.

(2) A recommendation made under subsection (1) of this section shall be published in the *Gazette* and the Governor shall not determine a salary so recommended until the expiration of fourteen days from the date of that publication.

Salaries of Permanent Head.

(3) A Permanent Head to whom a recommendation under this section relates may, within the time specified in subsection (2) of this section request in writing the Board to reconsider its recommendation, on the grounds stated in the request, and the Board shall reconsider its recommendation accordingly.

(4) A recommendation under this section may provide that the salary recommended be payable from a day earlier than the day on which that salary is determined in accordance with this section and the Governor may determine accordingly.

Returns by
Board.

31. (1) Subject to this section, for every Office other than the Office of Permanent Head the Board may make returns—

(a) classifying each Office by specifying—

(i) the limits of annual salary and the amount of annual increment of salary of each Office or class of Offices;

and

(ii) the level of salary beyond which the occupant of that Office or class of Offices may not advance until he has complied with requirements specified in the return;

(b) altering the description of an Office;

(c) fixing any special payment or allowance for any special circumstances connected with the work of any Office;

(d) determining the conditions upon which Officers shall be entitled to increments of salary;

and

(e) varying or adding to any return previously made by the Board or rescinding any such return and making a new return in lieu thereof.

(2) Every Officer occupying an Office referred to in subsection (1) of this section shall be paid not less than the minimum salary specified or deemed to be specified by the Board under this section.

(3) A return made under subsection (1) of this section shall be published in the *Gazette* and shall, subject to this section and to section 32 of this Act, take effect on publication.

Subsec. (4)
amended by 2,
1975, s. 7.

(4) The Board shall, before it publishes a return in accordance with subsection (3) of this section, transmit a copy of that return to the Minister for the time being responsible for the administration of this Act.

Subsec. (5)
amended by 2,
1975, s. 7.

(5) The Minister for the time being responsible for the administration of this Act may, in relation to a return transmitted to him under subsection (4) of this section and within twenty-one days after that transmission, make a submission to the Board.

Subsec. (6)
amended by 2,
1975, s. 7.

(6) The Board shall consider a submission made under subsection (5) of this section and advise the Minister for the time being responsible for the administration of this Act of its decision thereon.

(7) An Officer aggrieved by the application of a return under this section to his Office may within thirty days after the publication of that return appeal to the Board by notice in writing in the prescribed form setting out the grounds of his appeal.

(8) The Board shall hear and determine an appeal made under subsection (7) of this section and any return made in consequence of determination under

this subsection shall be expressed to take effect on the day on which the return, in relation to which the appeal was made, took effect.

(9) In determining an appeal pursuant to subsection (8) of this section the Board shall hear any representation from the Officer appealing or made on his behalf by an officer of a recognized organization of which that Officer is a member.

32. (1) Subject to this section, the Board may, where a return under subsection (1) of section 31 of this Act raises the salary attributable to an Office, direct that the return shall have effect from a day earlier than the day of publication of the return. Retrospective operation of returns.

(2) Where a return referred to in subsection (1) of this section is made in consequence of an application made to the Board, the Board shall not direct that the return shall have effect from a day earlier than the day on which that application was made.

33. (1) Subject to this Division every Officer in relation to whose Office there is for the time being specified under subparagraph (i) of paragraph (a) of subsection (1) of section 31 of this Act an annual increment of salary, and who has complied with any requirement specified under subparagraph (ii) of that paragraph in relation to that Office, shall be entitled to receive such increment of salary until that Officer is receiving the maximum salary fixed by the Board in respect of that Office. Increments.

(2) Notwithstanding anything in subsection (1) of this section, an Officer otherwise entitled to receive an increment shall not receive that increment when the Board is satisfied, on a report from the Permanent Head, that the conduct or diligence of the Officer has not been satisfactory.

(3) On receiving a report referred to in subsection (2) of this section the Board may deprive the Officer concerned of any increment he would otherwise be entitled to receive until it is satisfied, on a report from the Permanent Head, that the conduct and diligence of the Officer is satisfactory.

34. If an officer is appointed to an Office or is appointed to act temporarily in an Office, the Board may direct that the Officer shall be entitled to receive an increment of salary from such time as is fixed by the Board, notwithstanding the fact that the Officer concerned has not held that Office for a year. Accelerated incremental advance.

35. (1) The Board may direct that an Officer perform temporarily duties other than or in addition to the duties on which his classification is based. Other duties allowance.
Subsec. (1) amended by 14, 1971, s. 3 (a).

(2) Where an Officer performs for more than one week, duties other than duties on which his classification is based, the Board may authorize payment of such allowance to that Officer in respect of those duties as the Board determines and where the duties so performed constitute the whole or substantially the whole of another Office the allowance so authorized shall be not less than the difference, if any, between the salary of the Officer and the minimum salary payable in respect of that other Office. Subsec. (2) amended by 2, 1975, s. 8.

* * * * * Subsec. (3) amended by 14, 1971, s. 3 (b); struck out by 38, 1974, s. 3.

36. (1) The Board may—

(a) fix all or any of the following allowances which may be paid to an officer—

- (i) travelling allowance;
- (ii) allowance in lieu of quarters;
- (iii) meal allowance;
- (iv) living away from home allowance;
- (v) locality allowance;
- (vi) allowance in lieu of overtime;
- (vii) shift work allowance;
- (viii) allowances for work on public holidays or weekends;
- and

(ix) allowances in respect of any other prescribed matter,
and determine the circumstances or conditions in or under which
any such allowance shall be payable;

and

(b) fix the charges payable by, or deductible from the salary or wages
of, an Officer for the following items—

- (i) board;
- (ii) lodging;
- (iii) meals;
- (iv) fuel;
- (v) light;
- (vi) water;
- (vii) power;
- (viii) rations;
- and

(ix) any other prescribed goods or services,
provided by the Government of the State.

(2) An allowance or charge fixed under this section may be expressed to take effect from the day on which it is fixed, from a day before that day or from a day subsequent to that day and shall take effect accordingly.

37. (1) The Board may, in respect of any building or part of a building belonging to or leased by the Crown which is occupied by an Officer as a residence whether as lessee or otherwise, from time to time fix the rent or other payment to be paid by that Officer in respect of that occupation and the Board may direct that any rent or other payment for the time being so fixed shall be deducted from the salary or wages of that Officer.

(2) For the purposes of subsection (1) of this section a rent or other payment fixed under subsection (2) of section 32a of the Public Service Act, 1936-1966, shall be deemed to be a rent or other payment fixed under subsection (1) of this section.

38. (1) Any determination by the Governor under section 28 of the Public Service Act, 1936-1966, and in force immediately before the commencement of this Act, shall have effect as if it was a determination under section 30 of this Act.

Saving of former determinations, returns, etc.

(2) Any return made under section 29 or continued in operation under subsection (5) of section 30 of the Public Service Act, 1936-1966, and in force immediately before the commencement of this Act shall, so far as it is within the powers conferred on the Board by subsection (1) of section 31 of this Act, have effect as if it were a return made by the Board under section 31 of this Act.

DIVISION IV—FIRST APPOINTMENT OF OFFICERS

DIVISION IV

38a. In this Division the expression "appointing authority" in relation to a person means—

Definition of "appointing authority".
S. 38a enacted by 14, 1971, s. 4.

(a) where that person has been or is to be appointed to an Office by the Governor, the Governor;

and

(b) where that person has been or is to be appointed to an Office by the Board, the Board.

38b. (1) Subject to this Division, the Board may appoint a person to an Office to which this section applies.

Board may appoint to certain Offices.
S. 38b enacted by 14, 1971, s. 4.

(2) This section shall apply to an Office having an annual salary or, in the case of an Office having limits of annual salary, a lower limit of annual salary equal to or less than the amount for the time being declared for the purpose of this section.

(3) The Governor may by proclamation declare an amount of salary to be an amount of salary declared for the purposes of this section and may by proclamation vary or revoke that declaration.

(4) Nothing in this section shall abrogate, limit or restrict the power of the Governor to appoint a person to an Office.

39. The appointing authority shall not appoint a person to an Office unless that person—

First appointment.
S. 39 amended by 14, 1971, s. 5 (a), (b).

(a) is a British subject;

(b) has satisfied the Board by medical examination or otherwise as to his health and physical fitness;

and

(c) has attained any educational or vocational standard prescribed either generally or in relation to an Office or class of Offices.

40. (1) Except as otherwise provided in this Act, every person first appointed to an Office in the Public Service shall be appointed, in the first instance on probation for a period of six months or such other period, not exceeding in all two years, as the Board may in any particular case from time to time fix.

Admission on probation.
Subsec. (1) amended by 126, 1974, s. 2.

(2) The services of a person appointed on probation in accordance with subsection (1) of this section may be dispensed with by the appointing authority at any time during his period of probation.

Subsec. (2) amended by 14, 1971, s. 6 (a).

DIVISION IV

Subsec. (3)
amended by 14,
1971, s. 6 (b).

(3) At the conclusion of the period of probation referred to in subsection (1) of this section the appointing authority shall—

(a) confirm the appointment;

or

(b) annul the appointment,

of the person concerned.

Annulment of
appointment.

41. No person whose appointment has been annulled under paragraph (b) of subsection (3) of section 40 of this Act shall be eligible for appointment as a probationer at any time within twelve months from the date of that annulment.

Appointment
without
examination or
probation.
Subsec. (1)
amended by 14,
1971, s. 7.

42. (1) If in any particular case it appears to the Board that it is desirable or expedient in the public interest to appoint a person to an Office in the Public Service without probation, then the appointing authority may so appoint that person.

(2) Without limiting the generality of the powers conferred by subsection (1) of this section a person may be appointed under that subsection if—

(a) being a person not in the employ of the Government of the State, the Board is of the opinion that he has sufficient superiority of qualifications and aptitude for the position to be filled to justify his appointment in preference to any Officer who is available for the position;

(b) he is a person employed in the service of the State otherwise than as an Officer;

or

(c) he is a person who before or after the commencement of this Act was employed in the service of the State.

Re-appointment
of former
Officers of the
State.

43. Where a person was at any time whether before or after the commencement of this Act appointed or transferred to the employment of the Commonwealth and was at the time of that appointment or transfer, as the case may be, employed permanently in the service of the State, he shall, subject to anything prescribed, be eligible for appointment to an Office without probation.

Re-appointment
of persons who
have resigned
from the Public
Service to
become
candidates at
elections.

44. (1) Where the Board is satisfied that—

(a) a person who was an Officer—

(i) resigned from the Public Service in order to become a candidate for election as a member of a House of Parliament of the State or Commonwealth;

(ii) was a candidate at the election;

and

(iii) failed to be elected;

and

- (b) the resignation took effect not earlier than one month before the date on which nominations for the election closed,

the Governor may, on application by that person within two months after the declaration of the results of that election re-appoint that person to the Public Service on the same salary as he had immediately before his resignation.

(2) A person may be re-appointed under this section whether or not he is within the appropriate age limits (if any) prescribed for appointment or possesses the prescribed educational requirement, if any.

(3) A person may be re-appointed under this section without probation.

(4) A person re-appointed under this section shall be deemed to have continued in the Public Service as if he had not resigned but had been on leave of absence without pay granted under section 98 of this Act during the period from the day on which his resignation became effective to and including the day immediately preceding the day on which he was so re-appointed.

45. Notwithstanding anything in any other Act, every appointment to an Office shall be made as provided for in this Act and not by any other person or authority.

Appointment to Office to be in accordance with this Act.

DIVISION V—FILLING OF VACANT OFFICES

DIVISION V

46. (1) When a vacancy occurs in the Office of a Permanent Head or where, in the opinion of the Board, a vacancy is likely to occur in such an Office the Board may, in the prescribed manner, call for applications for appointment to that Office.

Vacancy in an Office of Permanent Head.
Subsec. (1) amended by 126, 1974, s. 3 (a), (b).

(2) The Governor may, from amongst the persons making application for appointment to the Office referred to in subsection (1) of this section, appoint a person to that Office on it being or becoming a vacant Office.

Subsec. (2) amended by 14, 1971, s. 8 (a), (b); 126, 1974, s. 3 (c), (d).

47. (1) When a vacancy occurs in an Office other than an Office of Permanent Head or where, in the opinion of the Board, a vacancy is likely to occur in such an Office the Board may, in the prescribed manner, call for applications for appointment to that Office.

Vacancy in other office.
Subsec. (1) amended by 126, 1974, s. 4 (a), (b).

(2) The Board may from amongst the Officers making application for appointment to the Office referred to in subsection (1) of this section, having regard to the relative efficiency of the Officers, nominate an Officer for appointment to the Office.

Subsec. (2) amended by 126, 1974, s. 4 (c).

(3) For the purposes of this Division—

(a) “efficiency” means special qualifications and aptitude for the discharge of the duties of the Office to be filled and, in addition in the case of Offices specified when applications are called for, special qualifications and aptitude for the discharge of the duties of Offices of a higher status than the Office to be filled together in each case with merit and good and diligent conduct;

(b) “Officer” includes any officer of either House of Parliament or any person under the separate control of the President of the Legislative Council or the Speaker of the House of Assembly or under

their joint control, who immediately before his first appointment as such an officer or his first employment as such a person was—

(a) an officer within the meaning of the Public Service Act, 1936-1966;

or

(b) an Officer within the meaning of this Act.

Appeals.

48. (1) A nomination made under subsection (2) of section 47 of this Act shall be notified in the prescribed manner and shall be subject to the right of appeal to the Committee.

Subsec. (2)
amended by 126,
1974, s. 5.

(2) An appeal under this section shall be made in such form and in such manner and within such time as is prescribed and may be made by any Officer who applied for appointment to the Office and who considers that he is more entitled to appointment to the Office than the Officer nominated under subsection (2) of section 47 of this Act.

Action when no
appeal made.
S. 49 amended
by 126, 1974,
s. 6.

49. Where no appeal is made within the time prescribed under subsection (2) of section 48 of this Act then the Governor may appoint the nominated Officer to the Office on it being or becoming a vacant Office.

Appointments
Appeal
Committee.

50. (1) For the purposes of this Act, there shall be an Appointments Appeal Committee which shall consist of a Chairman and two members.

(2) The Chairman, who shall be a special magistrate and one member of the Committee, who shall be an Officer, shall be appointed by the Governor.

(3) The other member of the Committee shall—

(a) be selected by the appellant from amongst the Officers comprising the panel referred to in section 51 of this Act;

or

(b) where there is more than one appellant and those appellants do not agree on the selection of an Officer in accordance with paragraph (a) of this subsection, be appointed by the Governor from amongst the Officers comprising that panel.

(4) The Chairman and members of the Committee shall receive such allowances as the Governor determines.

Constitution of
panel.

51. (1) For the purposes of section 50 of this Act, there shall be constituted a panel consisting of the Officers nominated, in accordance with this section, by each of the recognized organizations.

(2) Each recognized organization may nominate one Officer and in addition, one Officer for each twenty per centum of the number of Officers for the time being in the Public Service, who are members of the organization.

Proceedings
before
Committee.

52. (1) When an appeal has been made in accordance with subsection (2) of section 48 of this Act the Committee shall—

(a) give or cause to be given to the appellant, the Board and the nominated Officer notice of the time and place where the appeal will be heard;

Para. (b)
amended by 126,
1974, s. 7.

(b) hear and consider any relevant evidence, information or argument submitted by or on behalf of the appellant, the Board, the

Permanent Head of the Department in which the Office is located and the nominated Officer;

and

- (c) determine the appeal in such manner as it deems just having regard to the relative efficiency of the appellant and the nominated Officer.

(2) An officer of a recognized organization, of which a nominated Officer or appellant is a member, may present evidence or argument on behalf of that nominated Officer or appellant, as the case may be, and an Officer may perform a like function on behalf of the Board or Permanent Head.

53. (1) At the conclusion of the hearing of an appeal under this Division the Committee shall report to the Board that— Determination of appeal, etc.

- (a) it upholds the appeal and recommends the appointment of the successful appellant named in the report;

or

- (b) it dismisses the appeal.

(2) When a report is made in accordance with subsection (1) of this section the Governor may appoint to the Office on it being or becoming a vacant Office the nominated Officer or the successful appellant as the case requires. Subsec. (2) amended by 126, 1974, s. 8.

(3) For the purposes of this section, a report referred to in subsection (1) of this section concurred in by not less than two of the persons constituting the Committee shall be deemed to be a report of the Committee. Subsec. (3) inserted by 14, 1971, s. 9.

54. Any Officer may decline an offer of nomination for appointment without prejudice to his right of future nomination for appointment. Right of Officers to decline nomination, etc.

55. (1) If the Board is satisfied that—

- (a) an Officer is for any reason not available to perform the duties of his Office;

and

- (b) in all the circumstances, that Officer is not likely to become available to perform those duties,

then notwithstanding anything in section 29 of this Act the Board may by notice in writing create an Office, in this section referred to as an "interim Office", of the same designation and classification as that Office. Interim Offices. S. 55 substituted by 14, 1971, s. 10.

(2) Subject to this section this Act shall apply to and in relation to an interim Office as if that interim Office were an Office.

(3) So soon as a vacancy occurs in an Office in relation to which an interim Office has been created under this section the occupier of that interim Office may be appointed to that Office without regard being had to the matter contained in sections 46, 47, 48, 49, 52 and 53 of this Act and upon that appointment that interim Office shall be abolished.

(4) If—

- (a) the occupant of an Office, in relation to which the interim Office has been created, again becomes available to perform the duties of that Office;

or

DIVISION V

- (b) the Office in relation to which the interim Office has been created is occupied by a person available to perform those duties otherwise than as is provided for in subsection (3) of this section,

then that interim Office shall thereupon be abolished and the occupier of the interim Office shall cease to be the occupier of the interim Office and shall revert to the Office, if any, he held immediately before he was appointed to that interim Office.

Preservation of the powers of the Governor to make appointments otherwise than under this Division.

56. Nothing in this Division shall be construed or held to abrogate or restrict any right or power of the Governor to make an appointment to an Office in the Public Service otherwise than under this Division.

Order for appointment.

57. (1) The Governor may by order appoint an Officer to an Office classified at not less than the salary or limits of salary applicable to the Office occupied by that Officer immediately before the making of that order.

(2) An Officer shall not refuse or fail to comply with an order made under subsection (1) of this section.

(3) Notwithstanding anything in this Division contained no appeal under this Division shall lie in respect of an appointment made under subsection (1) of this section.

DIVISION VI

DIVISION VI—DISCIPLINE

Offences.

58. If any Officer—

- (a) commits a breach of the provisions of this Act or the provisions of any Act which is applicable to the Public Service, to the special position of that Officer or to the duties of that Officer;
- (b) wilfully disobeys or disregards any lawful order made or given by any person having authority to make or give the order;
- (c) by word or conduct displays insubordination;
- (d) is negligent, careless or indolent in the discharge of his duties;
- (e) is inefficient or incompetent through causes which are within his own control;
- (f) uses intoxicating liquor or drugs to excess;
- (g) conducts himself in a disgraceful, improper or unbecoming manner in his official capacity or otherwise;
- (h) is absent from duty without leave of absence or without reasonable cause (proof of which shall lie upon him);
- (i) otherwise than in the discharge of his duties, directly or indirectly discloses to any person information acquired in the course of his duties except by the direction or with the permission of the Minister;

or

- (j) without the permission of the Minister directly or indirectly and whether anonymously or otherwise, makes any communication or contribution or supplies any information to any newspaper or publication of a similar nature on any matter affecting the Public Service or any Department thereof or the business or the Officers

of the Public Service or any Department thereof or on his own Office or his own acts or duties as an Officer,

he shall be guilty of an offence and shall be liable to such punishment as may be determined under section 59 or section 64 of this Act.

59. (1) If the Permanent Head has reason to believe that an Officer may have committed an offence under section 58 of this Act but that the nature of that offence does not require more than an admonition to the Officer concerned, the Permanent Head may call upon that Officer for an explanation and if, after consideration of that explanation, he is of the opinion that the Officer has committed the offence he may admonish the Officer. Admonition.

(2) An admonition given under subsection (1) of this section shall thereupon be reported in writing to the Board.

(3) Where the Officer concerned is dissatisfied with an action of the Permanent Head under subsection (1) of this section that Officer may, within seven days of being informed of that action, appeal in writing to the Board stating the ground of his dissatisfaction and the Board shall inquire into and consider that appeal and the Board shall—

(a) confirm that admonition;

or

(b) annul that admonition,

and the decision of the Board shall be final.

(4) Notwithstanding anything in this section, where the Board is of the opinion that the offence in respect of which an admonition was administered under this section should not, in all the circumstances, have been dealt with by way of admonition the Board may—

(a) annul that admonition;

and

(b) direct the Permanent Head to charge, in accordance with section 60 of this Act, the Officer concerned.

60. (1) Where there is reason to believe that an Officer other than a Permanent Head may have committed an offence under section 58 of this Act and the nature of that offence is such that in the opinion of the Permanent Head it should not be dealt with under section 59 of this Act, or the Board has made a direction under paragraph (b) of subsection (4) of section 59 of this Act, then the Permanent Head shall charge the Officer concerned by serving that Officer with a written statement of the particulars of the alleged offence. Charges.

(2) Upon being served with a statement in accordance with subsection (1) of this section the Officer concerned may, within seven days of such service, reply in writing stating whether he admits or denies the truth of the charge and giving any explanation he desires in relation thereto.

(3) If a reply referred to in subsection (2) of this section is not made in accordance with that subsection the Officer concerned shall be deemed to have denied the truth of the charge.

61. (1) Where, in the opinion of the Permanent Head the nature or circumstances of the offence alleged to have been committed are such that the Officer concerned should not continue in the performance of his duties, the Permanent Head may suspend the Officer concerned from Office by serving that Officer with written notice of suspension. Suspension.

(2) A suspension effected under subsection (1) of this section may be imposed prior to, at the time of or subsequent to the charging of the Officer concerned and may be removed at any time by the Permanent Head.

(3) Unless the Board otherwise directs, an Officer suspended under this section shall be entitled to his salary, wages or allowances in respect of that period of suspension.

(4) Notwithstanding anything in this section on a charge being found or reported not to have been proved, a suspension imposed under this section in respect of that charge shall thereupon be removed and the Officer concerned shall, where the Board has made a direction under subsection (3) of this section, be entitled to receive the salary, wages or allowances that he would have been entitled to receive but for that direction.

Consideration
by Permanent
Head.

62. After considering the charge made in accordance with subsection (1) of section 60 of this Act and the reply and explanation, if any, given by the Officer concerned under subsection (2) of that section and after making such further inquiries and investigation as he considers necessary, the Permanent Head shall—

(a) if the Officer concerned admits the truth of the charge, report the facts relating thereto, to the Board;

(b) if he is of the opinion that though the Officer denies the truth of the charge on the face of the matter a case has been made against the Officer concerned, report the facts relating thereto to the Board;

or

(c) if he is of the opinion that the charge has not been proved, report the fact to the Board.

Action by the
Board on
receipt of a
report.

63. The Board may—

(a) on receiving a report under paragraph (a) of section 62 of this Act deal with the Officer concerned under section 64 of this Act;

and

(b) on receiving a report under paragraph (b) of section 62 of this Act by hearing determine whether or not the charge is proved and if it finds the charge proved deal with the Officer concerned under section 64 of this Act.

Imposition of
penalties.
Subsec. (1)
amended by 14,
1971, s. 11 (a).

64. (1) Subject to section 66 of this Act, where—

(a) the Officer concerned admits the truth of the charge;

or

(b) the Board finds the charge is proved,

then the Board may impose all or any of the following penalties—

(i) deprive the Officer concerned of his recreation or other leave of absence during, or in respect of a specified period;

(ii) if the Officer concerned is already suspended under section 61 of this Act, further suspend that Officer for such period as it thinks fit or in any other case suspend the Officer concerned for such period as it thinks fit and in either case such further suspension or suspension shall have effect to deprive the Officer concerned of his salary, wages or allowances in respect of the period of further suspension or suspension, as the case may be;

(iii) recommend to the Governor that the Officer concerned be reduced to an Office having a lower salary or limits of salary than the Office he occupies or recommend to the Governor that the Officer concerned be transferred to an Office in another location or recommend that the Officer concerned be so reduced and transferred;

(iiia) recommend to the Governor that the salary of the Officer concerned be reduced by a stated amount for a stated period;

Para. (iiia) inserted by 14, 1971, s. 11 (a).

or

(iv) recommend to the Governor that the Officer concerned be dismissed from the Public Service.

(2) On receiving a recommendation made under paragraph (iii), paragraph (iiia) or paragraph (iv) of subsection (1) of this section the Governor may, notwithstanding anything in any other Act but subject to section 66 of this Act give effect to that recommendation.

Subsec. (2) amended by 14, 1971, s. 11 (b), (c), (d).

65. Where there is reason to believe that an Officer being a Permanent Head may have committed an offence against section 58 of this Act then sections 59, 60, 61, 62, 63 and 64 of this Act shall have effect as if the words "the Minister" were substituted for the words "the Permanent Head" and *mutatis mutandis* the words "Permanent Head" were substituted for the word "Officer".

Alleged offences by Permanent Head.

66. An Officer aggrieved by a decision of the Board, other than a decision to make a report referred to in subsection (1) of section 74 of this Act, under this Division may within the prescribed time and in the prescribed manner appeal to a Tribunal constituted under section 67 of this Act.

Appeal to Tribunal.
S. 66 amended by 14, 1971, s. 12.

67. For the purposes of this Division there shall be a Tribunal consisting of—

Appointment of a Tribunal.

(a) a judge or a special magistrate who shall be Chairman;

(b) a member, being an Officer and not of the Department in which the Officer concerned is or, being suspended, was employed;

and

(c) a member being a person nominated by the Officer concerned from the persons constituting the panel provided for under section 69 of this Act,

appointed by the Governor, for the purpose of the appeal.

68. A member of the Tribunal shall receive such remuneration for his services as the Governor determines, and where the member is an Officer the remuneration so determined shall, if the Governor so directs, be in addition to his salary as an Officer.

Remuneration for members of Tribunal.

69. (1) For the purposes of this Division, there shall be a panel consisting of the Officers nominated, in accordance with this section, by each recognized organization.

Constitution of panel.

(2) Each recognized organization may nominate one Officer and in addition, one Officer for each twenty per centum of the number of Officers for the time being in the Public Service, who are members of the organization.

Inquiry, etc.,
by Tribunal.

70. (1) Where an appeal is made in accordance with section 66 of this Act the Tribunal shall—

(a) fix a time and place for the hearing of the appeal;

and

(b) at the time and place fixed under paragraph (a) of this subsection or at such other time and place to which it may from time to time adjourn make such inquiry and investigation as it considers necessary and shall determine that—

(i) the appeal is upheld;

or

(ii) the appeal is dismissed,

and shall make such order as to it seems just and shall, at the request of a party to the proceedings, give reasons for its decision.

(2) Without limiting the generality of the power to make an order under subsection (1) of this section where the appeal is against the severity of the punishment imposed by the Board under section 64 of this Act the order may vary the punishment imposed by the Board under that section by substituting for the punishment imposed any other punishment that the Board is empowered to impose under that section.

Subsec. (3)
inserted by 14,
1971, s. 13.

(3) For the purposes of this Division, a determination, order or other decision of the Tribunal concurred in by not less than two of the persons constituting the Tribunal shall be deemed to be a determination, order or other decision, as the case may be, of the Tribunal.

Effect of order.
S. 71 amended
by 2, 1975, s. 9.

71. On an order being made under section 70 of this Act the decision of the Board appealed from shall be deemed to be varied in the manner specified in the order.

Representation.

72. (1) The Officer concerned may be represented before the hearing of the Board, or Tribunal, as the case may be, by counsel, solicitor or agent and on a finding that the charge is not proved may be reimbursed with such expenses necessarily incurred as the Governor may, on the recommendation of the Board or Tribunal, approve.

(2) The charging authority may be represented by counsel, solicitor or agent.

(3) In this section the “charging authority” means, the Permanent Head or Minister, as the case requires.

Criminal
offences by
Officers.

73. (1) Subject to subsection (2) of this section where an Officer is charged with a criminal offence, any proceedings which have been commenced under this Division in connection with the facts constituting that offence shall be stayed.

(2) Nothing in subsection (1) of this section shall be deemed to affect any suspension that may have been imposed on an Officer under subsection (1) of section 61 of this Act and a final order or finding of a court other than a finding of guilty shall have effect as a finding or report referred to in subsection (4) of that section.

PART III

DIVISION VI

74. (1) Where an Officer is convicted of a criminal offence, the Board may, if it is of the opinion that it is not in the public interest that the Officer concerned should continue in the Public Service or should not continue in the Office he occupied before he was so convicted, subject to subsection (1a) of this section report accordingly to the Governor.

Convicted Officer may be dismissed, etc. from the Service.
Subsec. (1) amended by 14, 1971, s. 14 (a).

(1a) Before making a report pursuant to subsection (1) of this section the Board shall take such steps as are reasonably practicable to bring the substance of the report to the notice of the Officer concerned.

Subsec. (1a) inserted by 14, 1971, s. 14 (b).

(2) On receiving a report under subsection (1) of this section the Governor may dismiss that Officer from the Public Service or transfer him to another Office.

(3) Where an Officer has been dismissed or transferred under subsection (2) of this section and the conviction referred to in subsection (1) of this section has been subsequently quashed or he has received a pardon or the conviction has been otherwise nullified or he has been released from prison as a result of an inquiry into the conviction, he may be appointed by the Governor, without examination and without probation, to the Public Service at the same classification as he had immediately before that dismissal or transfer.

75. (1) Nothing in this Division contained shall be deemed to prevent the Permanent Head or Board as the case may be, from proceeding in the absence of the Officer concerned when after due inquiry the Permanent Head, or Board as the case may be, is of the opinion that that absence arises out of the fault of the Officer concerned and an imposition, finding or report, as the case may be, shall not be invalid by reason of the fact that the proceedings took place in the absence of the Officer.

Hearing in absence of Officer.

(2) Notwithstanding anything in subsection (1) of this section contained the Tribunal on good cause being shown by the Officer concerned may vary an imposition, finding or report made in accordance with that subsection.

76. Nothing in this Act shall be construed or held to abrogate or restrict the right or power of the Crown, under any other Act or at common law, to dispense with the services of any Officer or temporary Officer.

Saving of right of Crown to dispense with services of Officers.

DIVISION VII—COMPULSORY TRANSFER, RETIREMENT, ETC.

DIVISION VII

77. Where the Board finds that there are more Officers engaged in work than is necessary for the efficient and economical performance of that work it shall, in relation to each of those Officers it considers to be in excess of the number required for that performance and who is referred to for the purpose of this section as an "excess Officer"—

Excess Officers.

(a) recommend to the Governor that the excess Officer be transferred to another Office having a classification equal to the classification of the Office occupied by him and if no such Office is available so recommend that he be transferred to an Office being available having a lower classification than the classification of the Office occupied by him;

or

(b) in any other case, so recommend that the excess Officer be retired from the Public Service.

78. (1) Where it appears to the Board that an Officer is—

Incapacity, etc., of Officer.

(a) inefficient or incompetent in the discharge of the duties of his Office;

DIVISION VII

(b) unfit to discharge those duties;

or

(c) otherwise incapable of discharging those duties,

the Board, after making such inquiry as seems to it desirable, may—

(i) recommend to the Governor that the Officer be retired from the Public Service;

or

(ii) so recommend that the Officer be transferred to an Office having a classification equal to or lower than the classification of the Office he occupied.

(2) Where a retirement is effected under paragraph (i) of subsection (1) of this section on the ground of injury or illness the date of that retirement may, with the consent of the Officer concerned, be fixed at a date earlier than the recommendation of the Board to retire that Officer.

Power of Governor to transfer or retire.

79. The Governor on receiving a recommendation under and in accordance with this Division may in accordance with the recommendation transfer or retire the Officer to whom the recommendation relates.

Transfer under this Division to take effect forthwith.

80. Notwithstanding anything in Division V of this Part contained an appeal under that Division shall not lie in respect of a transfer under and in accordance with this Division.

DIVISION VIII

DIVISION VIII—LEAVE OF ABSENCE

Definition of "working week", etc.

81. For the purposes of this Division—

"working week" means the number of working days occurring in a calendar week:

and

"working day" means a day on which an Officer is normally required to work.

Entitlement of Officer to a grant of recreation leave.

Subsec. (1) amended by 14, 1971, s. 15 (a), (b).

82. (1) Subject to section 64 and section 86 of this Act, an Officer is entitled to a grant of recreation leave in accordance with this Division at the rate of three working weeks for each year of his service the whole of which occurred before the first day of July, 1971, and at the rate of four working weeks for each year of his service the whole or any part of which year occurred after that day and that entitlement shall accrue from whole month to whole month.

(2) Where, in the opinion of the Board, special circumstances exist in relation to the work of an Officer, the Board may increase the entitlement to recreation leave under subsection (1) of this section of that Officer by such amount not exceeding one working week as the Board directs.

Grant of leave.

83. (1) Subject to section 84 of this Act, the Permanent Head shall grant to an Officer—

(a) the recreation leave to which he is entitled in respect of the first year of his service before the expiration of the financial year next following the expiration of that year of service;

and

- (b) the recreation leave to which he is or may become entitled in respect of each subsequent year of service during the financial year within which that subsequent year of service expires.

(2) Where leave is granted under paragraph (b) of subsection (1) of this section before the expiry of the year of service in respect of which the Officer is entitled to that leave and the Officer terminates or has his service terminated before the expiry of that year of service, the Board may require that Officer to pay to the Treasurer of the State a sum calculated by the Board as being the monetary value of leave granted in respect of which service has not been performed by that Officer.

(3) Where an Officer who is entitled in accordance with subsection (1) of section 82 of this Act to recreation leave terminates or has his service terminated before he is granted that leave he shall, unless the Board in a particular case otherwise directs, be paid a sum calculated by the Board as being the monetary value of that leave.

(4) An Officer shall not refuse or fail to take the leave granted to him in accordance with this section.

84. Where in the opinion of the Board the interests of the Department or some other special circumstances justify it, the Board may approve the granting of leave to an Officer otherwise than in accordance with subsection (1) of section 83 of this Act in which case the Permanent Head shall grant recreation leave to that Officer in accordance with the directions of the Board.

Accumulation of leave.
S. 84 amended by 2, 1975, s. 10.

* * * * *

S. 85 repealed by 14, 1971, s. 16.

86. (1) The Governor may, by notice published in the *Gazette* in relation to Departments specified in the notice, direct—

Closure of Offices, etc.
S. 86 redesignated s. 86 (1) by 14, 1971, s. 17.

- (a) that all or any of the offices of a Department shall be closed to the public;

or

- (b) that all or any of the offices of a Department shall provide a limited service to the public, on the days specified in the notice.

(2) Where in consequence of the publication of a notice under subsection (1) of this section an Officer, who but for that publication would be required to work on any of the days specified in the notice, is not required so to work, unless the Board directs otherwise, that Officer shall subject to subsection (3) of this section be deemed to have been granted, pursuant to section 83 of this Act, one working day's recreation leave for each of those days on which he is not so required to work.

Subsec. (2) inserted by 14, 1971, s. 17; amended by 126, 1974, s. 9(a).

(3) Where pursuant to subsection (2) of this section an Officer is not required to work on a day and in respect of that day, if it had been a day on which he was required to work, that Officer would have been granted leave pursuant to section 87 of this Act, then that Officer shall not be deemed to have been granted pursuant to section 83 of this Act one working day's recreation leave for that day.

Subsec. (3) inserted by 126, 1974, s. 9(b).

87. (1) In the case of illness or other pressing necessity the Permanent Head may grant to an Officer in accordance with the prescribed conditions leave of absence with pay in an amount not exceeding the leave standing to the credit of that Officer.

Leave on account of sickness, etc.

DIVISION VIII

Subsec. (2)
substituted by
14, 1971, s. 18.

(2) For the purposes of this section, the leave standing to the credit of an Officer, appointed before the commencement of this Act, shall be calculated as follows:—

- (a) where the amount of leave granted during the prescribed period exceeded the annual allowance by deducting the amount by which the leave so granted exceeded the annual allowance from the accumulated credit of that Officer;

and

- (b) where the amount of leave granted during the prescribed period did not exceed the annual allowance, by adding the difference between the amount of the leave so granted and the annual allowance to the accumulated credit of the Officer,

and in either case by adding to the total so arrived at, on each first day of July which occurs after the commencement of this Act, the annual allowance and deducting from that total as from time to time ascertained the number of working days in respect of which leave has been granted under this section.

Subsec. (2a)
inserted by 14,
1971, s. 18.

(2a) In subsection (2) of this section—

“annual allowance” in relation to an Officer, means an amount equal to two working weeks and two working days, except in the case of an Officer appointed on or after the first day of January, 1968, where, in relation to that portion of that Officer’s service which occurred before the thirtieth day of June, 1968, the expression means an amount equal to one working week and one working day:

“accumulated credit” in relation to an Officer, means an amount of leave expressed in working days that would have stood to the credit of the Officer on the thirtieth day of June, 1967, calculated in accordance with the practice which then obtained and as if the passage “not exceeding sixteen weeks in the case of officers whose continuous service does not exceed ten years, and” and the passage “in the case of officers whose continuous service exceeds ten years” did not appear in subsection (2) of section 74 of the Public Service Act, 1936-1966”:

“leave granted during the prescribed period” in relation to an Officer, means the amount of leave granted pursuant to subsection (2) of section 74 of the Public Service Act, 1936-1966, during the period commencing on and including the first day of July, 1967, and concluding on and including the twenty-eighth day of February, 1968, expressed as working days.

Subsec. (3)
amended by 2,
1975, s. 11.

(3) For the purposes of this section, the leave standing to the credit of an Officer, appointed after the commencement of this Act, shall be determined—

- (a) in a case where the Officer is appointed after the thirtieth day of June in a year and before the first day of January in the next succeeding year by crediting that Officer with—

- (i) one working week and one working day on appointment;

and

- (ii) one working week and one working day on the first day of January next succeeding his day of appointment,

and thereafter two working weeks and two working days for each first day of July which occurs during his period of service;

and

- (b) in a case where an Officer is appointed after the thirty-first day of December in a year and before the first day of July in the next succeeding year, by crediting that Officer with one working week and one working day on appointment and thereafter two working weeks and two working days for each first day of July which occurs during his period of service,

and in each case deducting from the total so obtained the number of working days in respect of which leave has been taken under this section.

88. Notwithstanding anything in section 87 of this Act, an Officer shall—

Limitation on
grant of leave in
certain cases.

- (a) during his first six months of service not be entitled to a grant of leave under subsection (1) of that section exceeding in the aggregate one working week and one working day;

and

- (b) during the first twelve months of that service not be entitled to such a grant exceeding in the aggregate two working weeks and two working days.

* * * * *

S. 89 repealed
by 14, 1971,
s. 19.

90. (1) Subject to section 64 of this Act and this section, an Officer who has had not less than ten years continuous service whether or not portion of that service occurred before the commencement of this Act is entitled to the following leave of absence by way of long service leave—

Long service
leave.

- (a) in respect of the first ten years of continuous service ninety days leave on full pay or one hundred and eighty days leave on half pay;

and

- (b) in respect of each continuous year's service thereafter nine days' leave on full pay or eighteen days leave on half pay.

(2) The Board may on the application of an Officer grant to that Officer all or portion of the leave to which that Officer is entitled pursuant to subsection (1) of this section subject to such conditions as may be imposed by the Board relating to—

Subsec. (2)
substituted by
14, 1971,
s. 20(a).

- (i) the time at which that leave may be granted;

and

- (ii) the minimum period of that leave which may be granted at any one time.

(2a) Where a period of leave on half pay is granted pursuant to subsection (2) of this section for the purposes of this Act the first half of that leave shall be deemed to be leave with pay and the remaining half of that leave shall for those purposes be deemed to be leave without pay granted in accordance with section 98a of this Act.

Subsec. (2a)
inserted by 14,
1971, s. 20(a).

(3) For the purposes of this section the expression continuous service includes, where portion of that service occurred before the commencement of this Act, all service regarded or which would be regarded as continuous service for the purposes of section 75 of the Public Service Act, 1936-1966.

DIVISION VIII

(4) Every day occurring after the commencement of leave granted under this section and before the expiration of the period of that leave shall count as a day of such leave.

Subsec. (5)
amended by 14,
1971, s. 20(b).

(5) Where an Officer who is entitled to leave under this section—

- (a) is retired under section 77 of this Act;
- (b) is retired under section 78 of this Act;
- (c) retires or is retired under Division X of this Part;
- or
- (d) resigns,

before he has been granted that leave, the Board shall authorize payment to the Officer of a lump sum equal to the amount of salary he would have received in respect of that leave if he had been granted that leave on the day his resignation or retirement took effect.

Subsec. (6)
inserted by 14,
1971, s. 20(c).

(6) Where an Officer is dismissed, the Board may, having regard to the circumstances of his dismissal, authorize payment to that Officer of an amount equal to all or portion of the lump sum to which pursuant to subsection (5) of this section, the Officer would have been entitled if he had resigned and his resignation had taken effect on the day on which his dismissal took effect.

*Pro rata long
leave on
retirement, etc.*

91. (1) Where an Officer who has not less than five years' effective service—

- (a) is retired under section 77 of this Act;
- (b) is retired under section 78 of this Act by reason of injury or illness;
- (c) retires or is retired under Division X of this Part;
- (d) being a female, resigns on account of her pregnancy;
- (e) resigns for reasons which, in the opinion of the Board, arise from circumstances beyond his control,

before he or she is entitled to leave under section 90 of this Act, then the Board may authorize payment to that Officer of the monetary equivalent of his or her salary for nine consecutive calendar days for each year of effective service served by that Officer.

(2) For the purpose of this section and section 92 of this Act "effective service" means service which would under this Act count towards a grant of leave under section 90 of this Act.

*Payment for
pro rata long
leave on death.*

92. (1) Where an Officer who has not less than five years' effective service, dies before he is entitled to leave under section 90 of this Act then the Board shall authorize payment to the dependants or personal representatives of that Officer, as the case may be, of the monetary equivalent of the Officer's salary for nine consecutive calendar days for each year of effective service served by that Officer.

(2) Section 97 of this Act shall apply to and in relation to a payment required to be made under subsection (1) of this section as if that payment was a payment that the Board was authorized to make under subsection (1) of that section.

93. Where a person before or after the commencement of this Act retires on a pension under section 40 or section 47 of the Superannuation Act, 1926, as amended, or any corresponding subsequent enactment¹, and is subsequently appointed an Officer his continuous service before that retirement and his continuous service as an Officer shall be aggregated and be regarded as continuous service for the purposes of subsection (1) of section 90 of this Act but where, in respect of the continuous service before his retirement, the Officer has been granted, or received pay in lieu of, leave of a type similar to that provided for by section 90 of this Act, that Officer shall not be entitled to leave under that section in respect of that continuous service before his retirement.

Re-employment of certain pensioners.
S. 93 amended by 2, 1975, s. 12.

94. Where—

- (a) before the commencement of this Act the service of an officer within the meaning of the Public Service Act, 1936-1966, was terminated otherwise than by resignation, dismissal for misconduct or mental or physical incapacity;

or

- (b) after that commencement the service of an Officer is terminated under section 77 or section 78 of this Act,

and he is subsequently appointed an Officer within two years of that termination then his continuous service before that termination in respect of which he has not been granted, or received payment in lieu of, leave of a type similar to that provided for by section 90 of this Act and his continuous service after that appointment shall be aggregated and regarded as continuous service for the purposes of subsection (1) of section 90 of this Act.

Resumption of service within two years of termination.

95. Where—

- (a) before the commencement of this Act the service of an officer within the meaning of the Public Service Act, 1936-1966, was terminated otherwise than by resignation, dismissal for misconduct or mental or physical incapacity;

or

- (b) after that commencement the service of an Officer is terminated under section 77 or section 78 of this Act,

and that officer was again appointed an officer within the meaning of the Public Service Act, 1936-1966, or is appointed an Officer or that Officer is again appointed an Officer and the period between the termination was two years or more and the Board certifies that the appointment was sought and obtained as soon as was, in all the circumstances, reasonable after that termination and that the person concerned has completed not less than ten years continuous service either before that termination or after that appointment then the continuous service of that person before that termination in respect of which he has not been granted, or received payment in lieu of, leave of a type similar to that provided for by section 90 of this Act and after that appointment shall be aggregated and regarded as continuous service for the purposes of subsection (1) of section 90 of this Act.

Resumption of service after two years of termination.

¹ The Superannuation Act, 1926, and its amendments were repealed and superseded by the Superannuation Act, 1969, which in turn was repealed and superseded by the Superannuation Act, 1974.

DIVISION VIII

Leave in respect of service other than full-time service.
S. 96 substituted by 14, 1971, s. 21.

96. (1) In this Division a reference to service (other than such a reference in this section) in relation to an Officer shall be read as a reference to full-time service of that Officer.

(2) For the purposes of this Division, the service of an Officer shall not be regarded as full-time service unless that Officer is, in the terms of his employment, required to give his full time to the duties of his Office and the determination by the Board of the question whether an Officer is, or is not, in the terms of his employment, required to give his full time to the duties of his Office, shall be final.

(3) Notwithstanding anything in this Division, the Board may by notice in writing direct that all or any of the provisions of this Division shall apply with such modifications as are specified in the notice to and in relation to service, whether occurring before or after the commencement of this Act, of an Officer that is not full-time service and those provisions shall apply and have effect accordingly.

(4) For the purpose of subsection (3) of this section "modification" includes the omission or addition of a provision or the substitution of a provision for another provision.

(5) A notice under subsection (3) of this section may be expressed to apply to the service that is not full-time service of—

- (a) a particular Officer;
- (b) an Officer of a class of Officers;
- or
- (c) Officers generally,

and shall apply and have effect accordingly.

Payment in respect of dependants of deceased Officers.

97. (1) If an Officer entitled to leave under section 90 of this Act dies—

- (a) before the commencement or during the currency of that leave;
- or
- (b) before the grant of that leave,

then the Board may in respect of that leave or the unexpired portion of that leave, as the case may be, authorize payment to the dependants of that deceased Officer of the amount of salary that would otherwise have been payable to that Officer if he had resigned on the date of his death.

(2) If the Officer referred to in subsection (1) of this section died without leaving dependants, the Board may authorize payment of the amount of salary referred to in that subsection to his personal representatives.

(3) A question as to—

- (a) whether or not there are any dependants in a particular case, or who are the dependants;
- or
- (b) what dependant or dependants shall be entitled to the benefit of a payment under subsection (1) of this section and if there is more than one dependant what proportion of that payment shall be made to each dependant,

shall be settled by the Board as it seems fit.

(4) In this section the expression—

“dependants” means members of the family of the Officer who were wholly or in part dependant on the earnings of that Officer at the time of his death;

“members of the family” includes wife or husband, parents, grandparents, step-parents, children, grandchildren, step-children, brothers, sisters, half-brothers and half-sisters.

98. (1) The Board may—

Special leave.
S. 98 substituted
by 14, 1971,
s. 22.

(a) grant to an Officer special leave with pay for any period not exceeding three weeks in any one year;

(b) grant to an Officer on account of sickness which, is in the opinion of the Board, caused by war service, special leave with pay for any period not exceeding the period (if any) prescribed for the purposes of this paragraph;

or

(c) recommend to the Governor that an Officer be granted special leave with pay or part pay for such period and upon such conditions as are specified in the recommendation.

(2) The Governor may grant the special leave referred to in paragraph (c) of subsection (1) of this section in accordance with the recommendation referred to in that paragraph.

(3) Special leave granted under this section shall be in addition to any other leave that an Officer may be entitled to under this Act.

98a. (1) The Board may grant to an Officer leave without pay for any period.

Leave without
pay.
S. 98a enacted
by 14, 1971,
s. 22.

(2) Subject to this Act, the Board may determine for what purposes, if any, and to what extent, if any, leave to which this subsection applies, shall be counted as service for the purposes of this Act.

(3) Subsection (2) of this section shall apply to and in relation to—

(a) leave without pay granted pursuant to the Public Service Act, 1936, as amended;

(b) leave without pay granted pursuant to section 98 of this Act as in force before the commencement of the Public Service Act Amendment Act, 1970-1971;

and

(c) leave without pay granted pursuant to this section.

(4) Nothing in this section shall affect any determination of—

(a) the Board made before the commencement of the Public Service Act Amendment Act, 1970-1971;

(b) the Public Service Board constituted under the Public Service Act, 1936, as amended;

and

DIVISION VIII

- (c) the Public Service Commissioner under the Public Service Act, 1936, as amended,

in relation to the matters referred to in subsection (2) of this section and such a determination shall be as valid and effectual as if it were a determination by the Board under this section.

Rights of transferred Officers.
Subsec. (1) amended by 14, 1971, s. 23 (a), (b).

99. (1) Where a person becomes an Officer and his service, whether before or after the commencement of this Act, as such is continuous with his service as—

- (a) an officer of the Public Service of the Commonwealth;
- (b) an officer of the Public Service of another State or a Territory of the Commonwealth;
- (c) an employee of the Council of the South Australian Institute of Technology;
- (d) an employee of the State otherwise than as an Officer;

or

- (e) an employee of an organization specified by proclamation, which the Governor is hereby empowered to make for the purposes of this paragraph,

for the purposes of section 82, section 87, sections 90 to 95 (inclusive) and section 97 of this Act his service in the capacity referred to in this subsection to the extent directed by the Board and subject to such conditions as may be imposed by the Board, shall be regarded as service as an Officer.

Subsec. (2) amended by 14, 1971, s. 23 (c), (d).

(2) In giving a direction under subsection (1) of this section the Board shall take into account—

- (a) the length of the service in the capacity referred to in that subsection;
- (b) the amount of leave similar to that provided for in section 82, section 87 or section 90 of this Act, as the case may be, taken by the Officer during the service referred to in paragraphs (a) to (e) inclusive of that subsection;

Para. (b) amended by 14, 1971, s. 23 (c).

- (ba) any payment made to the Officer in circumstances analogous to those referred to in sections 90 and 91 of this Act, in respect of the service referred to in paragraphs (a) to (e) inclusive of that subsection;

Para. (ba) inserted by 14, 1971, s. 23 (d).

and

- (c) the amount of leave that would have been attributable to the service referred to if he had remained in that service for such period as would have entitled him to be granted leave of absence of a kind similar to that referred to in section 82, section 87 or section 90 of this Act.

Employees of Group Laundry and Central Linen Service.

100. For the purposes of section 99 of this Act an employee of a hospital approved by the Minister for the purposes of section 76aa of the Public Service Act, 1936-1966, or by the Board for the purposes of this section who, on or after the first day of November, 1965, became an employee of the Government of the State at the Group Laundry and Central Linen Service of the Hospitals Department and whose service as such an employee was continuous with his service as an employee of that hospital shall be deemed to be an Officer having service with an organization prescribed under paragraph (e) of that section.

PART III

DIVISION VIII

101. For the purposes of this Division the continuity of service of an Officer shall not be deemed to be broken by absence on leave with pay or, unless the Board otherwise directs, by absence on leave without pay.

Continuity of Service.

DIVISION IX—COMMONWEALTH AND STATE OFFICERS

DIVISION IX

102. The fact that any person is an officer of the Public Service of the Commonwealth shall not thereby disqualify him from performing the duties of an Office in the Public Service.

Service in the Commonwealth not to disqualify for State service.

103. (1) The Governor may arrange with the Governor-General of the Commonwealth for the performance, by an officer of the Public Service of the Commonwealth, of any work or service, or for the executing of duties of any Office in the Public Service.

Discharge of State functions by Commonwealth Officer.

(2) In the case of an arrangement under subsection (1) of this section the Governor may by agreement with the Governor-General or otherwise make arrangements for determining—

(a) the rate of payment to be made by the Government of the State to the Government of the Commonwealth in respect of the service performed or the work done;

and

(b) any matters which may require to be adjusted with respect to the performance of those services or the execution of that work.

104. Where an Officer performs duties for the Commonwealth Government, the Governor may, by agreement with the Governor-General of the Commonwealth or otherwise, make arrangements for determining—

Discharge of Commonwealth functions by Officer.

(a) the rate of payment to be made by the Government of the Commonwealth to the Government of the State for the performance of those duties;

and

(b) any matters which may require to be adjusted with regard to the performance of those duties.

105. The Governor may, at the request of the Governor-General of the Commonwealth, authorize and cause any work or service to be performed for the Government of the Commonwealth and the Governor by agreement with the Governor-General or otherwise, may make arrangements for determining—

Arrangements for the performance of work or services for the Commonwealth.

(a) the rate of payment to be made by the Government of the Commonwealth for the performance of that work or service;

and

(b) any matters which may require to be adjusted with regard to the performance of that work or service.

DIVISION X—RETIREMENT OF OFFICERS

DIVISION X

106. Every Officer who has attained the age of fifty-five years shall be entitled to retire from the Public Service but may, subject to this Act, continue in the Public Service until he attains the age of sixty-five years.

Retirement of Officers.
S. 106 substituted by 38, 1974, s. 4.

PART III

DIVISION X

S. 107 repealed
by 126, 1974,
s. 10.

* * * * *

PART IV

PART IV

TEMPORARY OFFICERS

Temporary
employment.

108. (1) Whenever in the opinion of the Board the prompt dispatch of business of a Department renders assistance necessary, and the Board is unable to arrange for such assistance from other Departments the Board may engage temporarily such temporary Officers as appear to it to be best qualified for the work.

(2) Subject to any determination of the Board under section 110 of this Act the services of a temporary Officer may be dispensed with at any time by the Permanent Head or the Board.

Limitation on
period of
employment.

109. The continuous employment of a temporary Officer employed or deemed to be employed under section 108 of this Act 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 that the continued employment of that temporary Officer beyond the end of that first or succeeding year is necessary.

Terms and
conditions of
employment.

110. (1) Subject to this section the terms and conditions of employment including rates of pay of a temporary Officer shall be as determined by the Board.

(2) A determination under subsection (1) of this section may apply all or portion of this Act to a temporary Officer as if that temporary Officer was an Officer and this Act or that portion shall have effect accordingly.

(3) Division VIII of Part III of the Act shall apply to and in relation to a temporary Officer as if he was an Officer.

Persons
temporarily
employed under
previous Act.

111. A person who, immediately before the commencement of this Act was employed under section 49 of the Public Service Act, 1936-1966, in the public service as defined by that Act shall be deemed to be employed as a temporary Officer.

Temporary
employment of
over-age
persons.
Subsec. (1)
amended by 126,
1974, s. 11 (a).

112. (1) Notwithstanding anything in this or any other Act, the Board may engage as a temporary Officer a person who has attained the age of sixty-five years.

(2) Subject to this section, this Part shall apply to and in relation to a temporary Officer employed in accordance with subsection (1) of this section.

(3) A temporary Officer employed in accordance with subsection (1) of this section—

(a) shall not be eligible to be granted leave under section 90 of this Act;

Para. (b)
substituted by
126, 1974,
s. 11 (b).

(b) shall not continue to be employed under this Part after attaining the age of seventy years;

Para. (c)
amended by 2,
1975, s. 13.

(c) shall, if receiving a pension under the Superannuation Act, 1926, as amended, or under any corresponding subsequent enactment¹,

¹ The Superannuation Act, 1926, and its amendments, were repealed and superseded by the Superannuation Act, 1969, which in turn was repealed and superseded by the Superannuation Act, 1974.

subject to that Act or enactment, as the case may be, continue to receive that pension during his or her employment.

(4) A person who, immediately before the commencement of this Act, was employed under section 49a of the Public Service Act, 1936-1966 in the public service as defined by that Act shall be deemed to have been employed as a temporary Officer under this Part in accordance with this section.

113. The powers conferred on the Board by this Part shall not be exercised so as to prevent or delay the making of permanent appointments to Offices.

No delay in filling of vacancies.

PART V

PART V

MISCELLANEOUS

114. Nothing in this Act shall be read or construed as affecting the operation of the War Service (Preference in Employment) Act, 1943.

Application of War Service (Preference in Employment) Act, 1943.

115. (1) Where the Board is of the opinion that an organization being an association registered under Division VI of Part II of the Industrial Code, 1920-1966, or any corresponding subsequent enactment¹, represents the interests of a significant number of Officers, then the Board may by notice published in the *Gazette* declare that organization to be a recognized organization for the purposes of this Act.

Recognized organization. Subsec. (1) amended by 2, 1975, s. 14.

(2) Where the Board is of the opinion that an organization declared by notice under subsection (1) of this section no longer represents the interests of a significant number of Officers it may by a like notice declare that organization not to be a recognized organization for the purposes of this Act and thereupon that organization shall cease to be a recognized organization for the purposes of this Act and a member of a panel constituted under section 51 of this Act or a panel constituted under section 69 of this Act nominated by that organization shall thereupon cease to be such a member.

(3) Any recognized organization shall have the right to make submissions to the Board on any matter arising out of or in relation to the exercise or performance of any power or function of the Board under this Act and the Board shall consider any submission so made.

(4) For the purposes of this Act, the Public Service Association of South Australia Incorporated shall be deemed to be a recognized organization.

116. Where in or by any Act, order-in-Council, proclamation, rule, regulation, by-law, contract or agreement any duty, obligation, right or power is imposed or conferred upon any Officer as such that duty, obligation, right or power may during the temporary absence or incapacity of that Officer be performed by any Officer directed by the Governor, Board or Permanent Head as the case requires to perform and exercise the duties, obligation, rights and powers of that absent or incapacitated Officer in the same manner and to the same extent in all respects as they might have been respectively performed by that absent or incapacitated Officer and everything done under the provisions of this section shall be good and effectual for all purposes and against all persons whatsoever as if done by the absent or incapacitated Officer.

Performance of duties, etc., of Officer in his absence.

¹ Division VI of Part II of the Industrial Code, 1920-1966 was superseded by Part X of the Industrial Code, 1967, which in turn has been superseded by Part IX of the Industrial Conciliation and Arbitration Act, 1972 (now Industrial Conciliation and Arbitration Act, 1972-1975).

Grievances.

117. (1) An Officer having any grievance relating to his employment, or affected by any report or recommendation made by a Permanent Head may, where no other remedy is provided in this Act or in any other Act, and in such manner and within such time as are prescribed appeal to the Board.

(2) An appeal under this section shall be considered as prescribed by the Board and the Board shall thereupon give its decision on the appeal.

(3) An officer of a recognized organization, of which the Officer referred to in subsection (1) of this section is a member, may present evidence or argument on behalf of the Officer.

No compensation in consequence of operation of Act.

118. No Officer shall be deemed to be entitled to any compensation by reason of any reduction of his salary or other remuneration or any alteration of the limits of his salary or any alteration in the scale of his allowances or expenses made by or under the Acts repealed by this Act or by this Act or any Act amending this Act.

Officer not to engage in duties unconnected with his Office.

119. (1) Except pursuant to an arrangement authorized by Division IX of Part III of this Act or with the permission of the Board which permission may at any time be withdrawn, no Officer shall—

(a) accept or continue to hold office in or under the Government of the Commonwealth;

(b) accept or continue to hold or discharge the duties or to be employed in a paid office in connection with any banking, insurance, mining, mercantile or other commercial business whether the same is carried on by a corporation, company, firm or individual;

(c) engage in or undertake any such business whether as principal or agent;

(d) engage or continue in the private practice of any profession, trade or business 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 connection with the duties of his Office or Offices.

(2) Nothing in subsection (1) of this section contained shall be deemed to prevent an Officer from becoming a member or shareholder only of an incorporated company, or of any company or society of persons registered under an Act of this State or elsewhere.

(3) For the purposes of this section, the permission of a Minister given under and in accordance with the provisions of section 72 of the Public Service Act, 1936-1966 shall be deemed to be the permission of the Board given under subsection (1) of this section.

Disclosures regarding bankruptcy to be made to the Board.

120. Where an officer is adjudicated bankrupt, makes a composition for the benefit of his creditors for less than one hundred cents in the dollar, applies to take the benefit of any law in force in the State for the relief of bankrupt or insolvent debtors or makes any assignment of his salary for the benefit of his creditors, he shall make full disclosure of those facts to the Board.

Interests in contracts to be disclosed to Board.

121. Where an Officer becomes in any way interested whether financially or otherwise, otherwise than in the course of his duty, in any contract or agreement made by or on behalf of the State he shall make full disclosure of that interest to the Board.

122. (1) No action or suit shall be brought or maintained against any person or body for a misfeasance or non-feasance in connection with the carrying out or attempted carrying out of any provisions of this Act or of an Act repealed by this Act.

No action to lie in respect of discharge of the Act, etc.

(2) Except in so far as expressly provided in this Act no action, suit or other proceeding shall lie nor shall any costs be payable in respect of any proceeding before the Board or delegate thereof, the Permanent Head or delegate thereof, Tribunal or Committee.

123. (1) Any decision of the Board under this Act relating to salaries or conditions of service shall be subject to—

Operation of Industrial Code not affected.

(a) any award of the Industrial Commission of South Australia or of a conciliation committee within the meaning of the Industrial Conciliation and Arbitration Act, 1972, as amended¹;

Para. (a) amended by 2, 1975, s. 15 (a).

and

(b) any agreement filed under the Industrial Code, 1920-1966² or under any corresponding subsequent enactment.

Para. (b) amended by 2, 1975, s. 15 (b).

(2) Nothing in this section contained shall be construed as affecting the operation of the Industrial Code, 1920-1966² or of any corresponding subsequent enactment.

Subsec. (2) amended by 14, 1971, s. 24; 2, 1975, s. 15 (c).

124. (1) All public holidays shall be observed as holidays in the Public Service.

Holidays in the Public Service.

(2) The Governor may by proclamation at any time declare any day or part of a day to be a holiday in the Public Service, in addition to the days mentioned in subsection (1) of this section.

(3) The Board may require a Department or a part of a Department to be kept open in the public interest for the whole or part of a holiday in the Public Service and the Permanent Head may require the attendance and service of an Officer on that day.

125. (1) In the event of the address for the time being of an Officer being unknown to the Board, Permanent Head or Minister, as the case may be, all notices, orders, communications to or for that Officer may be posted to the last known address of that Officer and a notification of that posting published in the *Gazette*.

Notice to Officers whose address is unknown.

(2) Compliance with subsection (1) of this section shall, for the purposes of this Act, be deemed a sufficient service of the notice, order or communication on that Officer.

126. (1) Notwithstanding anything in this Act or any other Act, or in any regulation thereunder, so much of the provisions of Division VIII of Part III of this Act as relates to and in relation to—

Application of certain provisions of Part III to certain employees. S. 126 substituted by 54, 1968, s. 2.

(a) any entitlement to long service leave;

(b) any grant of long service leave;

or

(c) any payment in lieu of a grant of long service leave,

under this Act, shall apply and shall be deemed always to have applied to and in relation to any person in the employ of the State otherwise than as an

¹ Now Industrial Conciliation and Arbitration Act, 1972-1975.

² The Industrial Code, 1920-1966, has been repealed by the Industrial Code, 1967 (now Industrial Code, 1967-1972).

Officer or temporary Officer as if the service of that person in that employ were service as an Officer where the Board is of the opinion that—

- (d) in the conditions of employment of that person an entitlement, grant or payment of a kind similar to that entitlement, grant or payment is not otherwise provided for;

and

- (e) the circumstances of the service or of the termination of the service of the person are analogous to the circumstances set out in those provisions under which an entitlement, grant or payment is provided for in relation to the service or termination of service of an Officer.

(2) Notwithstanding anything in this Act or any other Act or in any regulation thereunder—

- (a) section 91 of this Act shall apply and shall be deemed always to have applied to and in relation to the retirement or resignation, after the commencement of this Act, of any person in the employ of the State otherwise than as an Officer as if the service of that person in that employ were service as an Officer where the Board is of the opinion that—

- (i) in the conditions of service of that person a payment of a kind similar to that referred to in that section is not otherwise provided for;

and

- (ii) the retirement or resignation took place in circumstances analogous to the circumstances referred to in that section in relation to a retirement or resignation of an Officer referred to in that section;

and

- (b) section 92 of that Act shall apply and shall be deemed always to have applied to and in relation to the death, after the commencement of this Act, of any person in the employ of the State otherwise than as an Officer as if the service of that person in that employ were service as an Officer where the Board is of the opinion that in the conditions of service of that person a payment of a kind similar to that referred to in that section is not otherwise provided for.

Application of
section 106 of
this Act.

127. (1) Notwithstanding anything in or under this or any other Act, the Governor may by proclamation apply all or portion of Division X of Part III of this Act to a person or class of persons in the employ of the State otherwise than as Officers and thereupon that section shall apply to the employment of that person or those persons as if that employment was as an Officer.

(2) Notwithstanding anything in subsection (1) of this section the Board may approve the employment of a person who—

- (a) has been retired;

or

- (b) would have been retired,

in consequence of a proclamation under that subsection, on such conditions as may be specified in the approval.

128. (1) Notwithstanding anything in this or any other Act, the—

(a) South Australian Railways Commissioner¹;

or

(b) the Minister of Education,

may employ temporarily any person who—

(c) being a male, has attained the age of sixty-five years;

or

(d) being a female, has attained the age of sixty years,

in the service of the South Australian Railways Commissioner¹ or as a teacher in the Education Department as the case may be.

(2) A person employed under subsection (1) of this section—

(a) shall be paid at the rates determined from time to time by the South Australian Railways Commissioner¹ or the Minister of Education, as the case may be, as being applicable to the class of work performed;

(b) shall not in the case of a person employed in the service of the South Australian Railways Commissioner¹ be eligible for a grant of leave under section 90 of this Act;

(c) shall if receiving a pension under the Superannuation Act, 1926, as amended, or under any corresponding subsequent enactment², subject to that Act or enactment, as the case may be, continue to receive that pension during that employment;

(d) shall if employed as a teacher in the Education Department not be employed in a position higher than that of temporary assistant;

and

(e) shall not continue in that employment after attaining—

(i) in the case of a male, the age of seventy years;

(ii) in the case of a female employed in the service of the South Australian Railways Commissioner¹, the age of sixty-five years;

or

(iii) in the case of a female employed as a teacher in the Education Department, the age of seventy years.

(3) The powers conferred by this section shall not be used so as to prevent or delay the making of appointments to vacancies occurring in offices and positions in the service of the South Australian Railways Commissioner¹ or the Education Department as the case may be.

129. Where the Governor or a Minister has power (express or implied) under this or any Act to fix the remuneration of any person employed in the service of the State, the Governor or the Minister shall also have power unless the Act expressly provides to the contrary—

(a) to vary the remuneration so fixed;

and

Employment of over-age persons in the temporary employment of the State.
Subsec. (1) amended by 23, 1971, s. 2 (a).

Para. (c) amended by 2, 1975, s. 16.

Subpara. (ii) substituted by 23, 1971, s. 2 (b).

Subpara. (iii) inserted by 23, 1971, s. 2 (b).

Subsec. (3) amended by 23, 1971, s. 2 (c).

Power of Governor or Minister in relation to certain salaries.

¹ For interpretation of references in Acts to the South Australian Railways Commissioner see now s. 6 (4) and (5) of Railways Act, 1936-1975.

² The Superannuation Act, 1926, and its amendments, were repealed and superseded by the Superannuation Act, 1969, which in turn was repealed and superseded by the Superannuation Act, 1974.

- (b) to declare that the rate of remuneration so fixed or varied shall come into operation on the day on which it is so fixed or varied or on any day before or after that day.

Regulations.

130. (1) The Governor may, on the recommendation of the Board, make such regulations as may be necessary or convenient for carrying into effect the provisions and objects of this Act including (but without limiting the generality of the foregoing) regulations for the purpose of—

- (a) prescribing the powers and functions of the Board in relation to the Public Service and regulating the performance by the Board of its powers and functions;
- (b) regulating the appointment of Officers;
- (c) facilitating the working of the Public Service;
- (d) prescribing the conditions under which Officers may be appointed to prescribed Offices or prescribed classes of Offices;
- (e) prescribing the form of and regulating exemptions from, medical examinations;
- (f) for regulating the holding and control of examinations and the payment of examiners;
- (g) for regulating the duties of Officers and the mode in which those duties shall be performed and for regulating the conduct of such Officers;
- (h) for prescribing the mode of registering applicants for temporary employment and of selecting persons for appointment from applicants so registered;
- (i) for regulating the hours of attendance of Officers and the keeping and signing of records of attendances or prescribing other methods of recording attendance;
- (j) for regulating any matter connected with the employment of Officers;
- (k) for regulating the granting of leave of absence;
- (l) for regulating the performance by and payment to Officers for extra services;
- (m) for fixing the maximum or minimum ages of persons who may be appointed to a specified Office or class of Office;
- (n) for determining the dates, times, or periods of time at or within which shall be done any things and 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;
- (o) for notifying vacancies and the method of applying for appointment to fill vacancies;
- (p) for prescribing the allowances to be paid to witnesses for their attendances and expenses;
- (q) for regulating all matters in connection with proceedings before the Board, the Tribunal or the Committee;
- (r) for prescribing where there is no provision in this Act, or no sufficient provision, in respect of any matter or thing necessary to

give effect to this Act, in what manner or form the want or insufficiency of provision shall be met;

and

(s) for the continuing in force of regulations made under an Act repealed by this Act to the extent that those regulations are not inconsistent with this Act.

(2) A regulation made under this Act shall not be invalid on the ground that it relates to events, things or circumstances which occurred before the passing of this Act.

(3) Any regulation made under this Act may be made to apply either generally or with respect to any particular case or class of cases, or any particular Office or Officer or class of Office or Officers, or the Officers in any particular place.

131. The moneys required for the purposes of this Act shall, except where express provision is made in this Act for any such moneys, be paid out of moneys provided by Parliament for such purposes.

Moneys
required for
purposes of
Act.

THE SCHEDULES

FIRST SCHEDULE

Section 5.

Public Service Act, 1936.
Public Service Act Amendment Act, 1937.
Public Service Act Amendment Act (No. 2), 1937.
Public Service Act Amendment Act, 1938.
Public Service Act Amendment Act, 1940.
Public Service Act Amendment Act, 1941.
Public Service Act Amendment Act, 1942.
Public Service Act Amendment Act, 1945.
Public Service Act Amendment Act, 1946.
Public Service Act Amendment Act, 1947.
Public Service Act Amendment Act, 1948.
Public Service Act Amendment Act, 1949.
Public Service Act Amendment Act, 1950.
Public Service Act Amendment Act, 1951.
Public Service Act Amendment Act, 1952.
Public Service Act Amendment Act, 1953.
Public Service Act Amendment Act, 1954.
Public Service Act Amendment Act (No. 2), 1954.
Section 10 and section 11 of the Statutes Amendment (Public Salaries) Act, 1955.
Section 5 of the Statutes Amendment (Public Salaries) Act, 1957.
Section 3 of the Statutes Amendment (Long Service Leave) Act, 1958.
Public Service Act Amendment Act, 1958.
Section 6 of the Statutes Amendment (Public Salaries) Act, 1959.
Section 6 of the Statutes Amendment (Public Salaries) Act (No. 2), 1960.
Section 7 of the Statutes Amendment (Public Salaries) Act, 1965.
Public Service Act Amendment Act, 1965-1966.
Section 6 of the Statutes Amendment (Public Salaries) Act, 1967.

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2nd and 3rd
Scheds. repealed
by 2, 1975,
s. 17.