

No. XXV.

An Act to provide for the better regulation PUBLIC SERVICE.
of the Public Service; and for other purposes. [23rd December, 1895.]

WHEREAS it is desirable to effect certain alterations and improve- Preamble.
ments in the organisation and control of the Public Service:
Be it therefore enacted by the Queen's Most Excellent Majesty, by and
with the advice and consent of the Legislative Council and Legislative
Assembly of New South Wales in Parliament assembled, and by the
authority of the same, as follows:—

1. After the commencement of this Act, sections three to Repeal.
forty-one inclusive, and sections fifty-seven to sixty-two inclusive, and
section sixty-four of the Civil Service Act of 1884, together with the
Civil Service Act Amendment Act of 1886 shall be, and the same are
hereby as from such date, repealed.

2. This Act may be cited as the "Public Service Act of 1895," Short title and
interpretation.
and in the construction thereof the words following shall have and
include the meanings hereinafter respectively assigned to them, unless
the same shall be inconsistent with the subject matter or context:—

"Board" means the Public Service Board appointed under this
Act.

"Governor" means Governor with the advice of the Executive
Council.

"Married woman" shall not include a widow.

"Minister" shall mean the responsible Minister of the Crown for
the time being administering the department in which the
officer in connection with whom the term is used is employed.

"Officer" shall mean and include all persons employed in any
capacity in those branches of the Public Service to which
this Act applies, but shall not include officers or persons
temporarily employed in terms of sections thirty-seven and
thirty-eight, or under any regulations made in pursuance of
subsection (III) of section nineteen.

"Permanent head" shall mean the Under Secretary of the depart-
ment in which the officer in connection with whom the term
is used is employed, and shall include respectively the Auditor
General, the Deputy Postmaster-General, and such other
officer as the Governor shall rank or class as such.

"Prescribed" means prescribed by this Act or the regulations
hereunder.

"This Act" means this Act and the regulations made hereunder.

3. Except where otherwise expressly provided herein, nothing Act not to apply to
certain public officers.
in this Act shall apply to the Judges of the Supreme Court or
District Courts, President and Commissioners of the Land Appeal
Court, Master in Equity or Lunacy, or to persons appointed by the
Senate of the Sydney University, Wardens of Colleges affiliated thereto,
Teachers of the Sydney Grammar School, or Crown Prosecutors; or
to any person appointed by the Commissioners for Railways under
the Government Railways Act of 1888, or any Act amending the
same, or to any persons employed under the Military and Naval Forces
Regulation Act or the Volunteer Force Regulation Act of 1867; or
to any person employed under the Police Regulation Act of 1862;
or to any officer of either House of Parliament or person employed in
either

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either of the Departments of the Legislature under the separate control of the President or Speaker, or under their joint control; or, except for the purposes of Parts V and VI hereof, to any person in the Public Service whose salary or remuneration is fixed by Statute.

Civil Service Board
to be dissolved, &c.

4. From the date of the commencement of this Act, the Civil Service Board appointed under the provisions of the Civil Service Act of 1884 shall be dissolved, and the right of the members thereof to receive any fee or emolument payable to them as such members shall thereupon cease; and in place of the said "Civil Service Board," the "Public Service Board," to be appointed as hereinafter provided, shall have, exercise, and perform all the powers, authority, and duties imposed upon the "Board" in such portions of the said Civil Service Act as are not hereby repealed.

Appointment and Constitution of Board.

Appointment of
Public Service Board.

5. (I) For the purpose of carrying out the provisions of this Act the Governor shall, within a reasonable time after the commencement of the Act, appoint a "Public Service Board," to consist of three persons, who shall be charged with the administration of this Act, and shall have the powers and authority and exercise the duties and functions hereinafter vested in or imposed upon the "Board."

(II) Each member of the Board shall be appointed for a term of seven years, and shall be eligible for re-appointment.

Chairman.

(III) One of such persons shall be appointed Chairman of the Board.

Quorum.

(IV) Any two members of the Board shall be a quorum, and, subject to the next following provision, shall have all the powers and authority by this Act conferred upon the Board.

Difference of opinion
of any two members
when sitting as
Board.

(V) If at any meeting of the Board, at which two members only are present, such members shall differ in opinion upon any matter, the determination of such matter shall be postponed until all the members are present.

Minutes of
proceedings.

(VI) The Board shall keep minutes of their proceedings in such manner and form as the Governor shall direct.

Illness, suspension,
or absence of member.

(VII) In case of the illness, suspension, or absence of any member of the Board, the Governor may appoint a deputy to act for such member during his illness, suspension, or absence; and every such deputy shall, during the time he shall act as deputy, have all the powers and authority of such member.

No action or suit
against members of
Board.

(VIII) No action or suit shall be brought or maintained against any person who is or shall have been a member of the Board for any nonfeasance or misfeasance in connection with the duties imposed upon him by this Act, nor shall any action, suit, or other proceeding lie, nor shall any costs be payable in respect of, any proceeding before the Board.

Salary of
members of Board.

(IX) Each of the three persons forming the Board shall receive in each and every year the sum of one thousand pounds as and by way of recompense, and such several sums of one thousand pounds payable respectively to the said persons shall be a charge upon and be paid out of the Consolidated Revenue, a special appropriation from which is hereby made for that purpose.

Tenure of office of
members of Board.

6. (I) A member of the Board may be removed for misbehaviour or incompetence:—

(a) A member of the Board may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except as hereinafter provided. The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven days after

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after such suspension if Parliament be in Session and actually sitting, and when Parliament is not in Session or not actually sitting within seven days after the commencement of the next Session or sitting.

- (b) A member of the Board suspended under this section shall be restored to office unless each House of Parliament shall, within twenty-one days from the time when such statement shall have been laid before it, declare by resolution that the said member ought to be removed from office, and if each House of Parliament shall within the said time so declare, the said member shall be removed by the Governor accordingly.

(II) A member of the Board shall be deemed to have vacated his office,—

- (a) if he shall engage in New South Wales during his term of office in any paid employment outside the duties of his office ;
- (b) if he shall become bankrupt, or shall compound with his creditors, or make an assignment of his salary for their benefit ;
- (c) if he shall absent himself from duty for a period of fourteen consecutive days except on leave granted by the Governor (which leave he is hereby authorised to grant), or shall become incapable of performing his duties ;
- (d) if he shall resign his office, by writing under his hand, addressed to the Governor.

PART II.

ORGANISATION AND ADMINISTRATION OF SERVICE.

Powers and duties of the Board.

7. Within a reasonable time after the appointment of the Board, the permanent head of each Ministerial Department of the Public Service shall furnish the Board with a return showing the number of officers in such department, arranged under the head of the branches or sub-departments in which they may be immediately employed, the emoluments, salaries, allowances, and fees paid to, and an accurate description in detail of the duties performed by each officer, the date of his appointment, and the number of years he has been in the Service, and such return shall be transcribed or filed as a record of the Board.

8. As often as shall be necessary to carry out the directions and provisions of this Act, and to ensure the establishment and continuance of a proper standard of efficiency and economy in the Public Service, the Board shall, as far as practicable, personally inspect each department, and investigate the character of the work performed by every officer therein, and the efficiency, economy, and general working of such department, both separately and in its relation to other departments, and may, for such purpose, examine the permanent head of such department and such other witnesses as may appear to the Board to be necessary. And if the Board shall at any time find that a greater number of persons is employed in any department than it may determine to be necessary for the efficient working thereof such persons as are in excess may (if practicable) be transferred to any other department which, in the opinion of the Board, requires additional assistance, and if the persons so found to be in excess cannot be usefully and profitably employed in any other department, their services shall be dispensed with subject to the provisions of section sixty hereof.

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Board to grade officers and classify work.

9. Within such period after the commencement of this Act as the Governor may direct, and thereafter at intervals of not more than five years, the Board shall grade the officers employed in all departments of the Public Service to whom this Act applies, and classify as far as practicable the work performed by, or assigned to each officer or grade of officers, such grading and classification to be within the five principal divisions specified in section twenty-one, and to be respectively, according to fitness and to the character and importance of the work performed by or to be assigned to each officer or grade.

Board to determine the salaries, fees, or allowances payable to officers.

10. The Board shall from time to time determine what salary, fee, or allowance is fairly appropriate to the work to be performed by, or assigned to, each officer or grade of officers, or to be performed by or assigned to persons temporarily employed, and the salary, fee, or allowance so determined shall, subject to the necessary provision being from time to time made therefor by Parliament, be the salary payable in respect of such work accordingly. But for the half-year ending the thirtieth day of June, one thousand eight hundred and ninety-six, the salary payable to any officer shall be such as the Governor may, having due regard to the recommendation of the Board, assign to the office held by such officer: Provided that the said salary shall not exceed the rates determined by Parliament.

Temporary officers.

11. In all cases in which it shall appear to the Board that any person actually employed in the Public Service at the commencement of this Act has not been appointed by the Governor, the Board shall inquire into and consider the character of the work or duties performed by such person and the time during which he shall have been so employed, and if the Board shall determine that the employment, work, or duties of such person are in their nature such as should properly be designated permanent, and that the services of such person should be retained, then such person shall be considered as having become a permanent officer at and from the commencement of this Act, without examination or further probation, notwithstanding that he shall not have been appointed by the Governor, and the period of service of such person antecedent to the commencement of this Act shall be considered service for the purposes of section sixty: Provided that as to officers temporarily employed at the commencement of this Act, whose services are dispensed with, the Governor shall, on the recommendation of the Board, grant out of moneys provided by Parliament for the purpose a gratuity to each such officer at a rate not exceeding a fortnight's pay for each year of such service prior to the commencement of this Act.

Provisions where salary of officer in excess of value of work, &c.

12. If at any time the Board finds that any officer employed in any department of the Public Service is in receipt of a greater salary than the maximum determined by the Board to be fairly appropriate to the work performed by or assigned to such officer, such case shall be dealt with by the Board subject to the following provisions:—

- (i) If in the opinion of the Board such officer is fitted for or capable of performing work of a class equivalent to the amount of his salary, and such work is available in the same or another department, the Board may assign such work to such officer.
- (ii) If in the opinion of the Board such officer is unfitted for or incapable of performing work of a class equivalent to the amount of his salary, or if such work shall not be available, the Board shall reduce the salary of such officer to the maximum determined by the Board to be appropriate to the class of work actually performed by or assigned to him, and he shall have the option of continuing in the Service at such reduced salary, or of retiring therefrom as hereinafter provided.

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- (III) If any reduction of salary under the provisions of this section shall be certified by the Board to be made on the ground only that no work equivalent to the salary previously received by the officer affected is at the time of such reduction available, and the officer affected elects to continue in the Service at such reduced salary, such officer shall remain eligible for promotion as from the grade to which his salary before reduction was incident, notwithstanding such reduction, and shall be entitled to employment on the class of work to which his previous salary was appropriate as soon as a vacancy occurs therein in preference to any other officer of the same or a lower grade whose salary shall not have been reduced.
- (IV) If the reduction of salary referred to in the last preceding subsection shall exceed one-fourth of the salary previously paid to the officer affected, and such officer shall be a contributor to the Civil Service Superannuation Account, under the provisions of the Civil Service Act of 1884, such officer shall be entitled to retire from the Service and to receive the payment and gratuity mentioned in section sixty, subsection (I) of this Act; or if such officer shall not be a contributor to the Civil Service Superannuation Account, and he shall elect to retire from the Service by reason of the reduction aforesaid, he shall be entitled to receive on retirement the payment and gratuity mentioned in section sixty, subsection (II), of this Act.
- (V) If any reduction of salary under the provisions of this section shall exceed one fourth, and shall be certified by the Board to be made, on the ground that the officer affected is unfitted for or incapable of performing work equivalent to the amount of salary previously received by him, and such officer shall be a contributor to the Civil Service Superannuation Account, under the provisions of the Civil Service Act of 1884, but shall not be entitled to retire under the provisions of sections forty-three or forty-four of that Act, and such officer shall elect to retire from the Service by reason of such reduction of salary as aforesaid, he shall be entitled to receive the payment and gratuity mentioned in section sixty, subsection (I), of this Act :

Provided that if any reduction of salary under the provisions of this section shall not exceed one-fourth of the salary previously paid to the officer affected, such officer shall not be entitled to any allowance, payment, or gratuity on resignation or retirement by reason of such reduction, except such capital sum as he may have paid to the Civil Service Superannuation Fund, together with interest thereon at four and a half per centum.

13. If at any time any office or any particular work or division of work has become of greater importance, or the duties incident thereto more onerous or extensive than at the date of the last general classification, the permanent head of the department may draw the attention of the Board thereto, and the Board may thereupon, if it thinks fit, alter the classification of such office or work, and determine the salary appropriate thereto under the provisions of section ten, and may assign such office or work either to the officer previously employed therein, with the necessary change of grade, or may treat such office or work as vacant or new, and appoint or promote thereto under and subject to the provisions of this Act such officer as the Board may think most fit and qualified therefor.

14. The Board may in the first instance exercise, provisionally only, any of the powers and authorities by this Act conferred upon it, and without regard to the times or periods fixed for the general grading

Provision for increase of importance of work or office.

Power of Board may be exercised provisionally.

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grading and classification of the Public Service may make such alterations in such grading and classification either as affecting officers or departments as the Board may from time to time consider desirable.

Appeals to Board in respect of grade or classification.

15. Any officer dissatisfied with any decision of the Board, either particular or general, in regard to grade affecting him, or to the classification of the work performed by or assigned to him, may forward to the Board within thirty days after such decision shall have been made or given a notice of appeal, setting forth the grounds of his dissatisfaction, and the Board shall thereupon consider such appeal and the grounds thereof, and any further evidence in relation thereto which the Board may deem necessary for the proper determination of such appeal, and may allow or disallow such appeal, and the decision of the Board thereon shall be final.

Power of Board to summon witnesses.

16. The Board, for the purpose of conducting any inquiry or investigation under this Act, shall have the same powers and authority to summon witnesses and receive evidence as are conferred upon Commissioners by Letters Patent by the Act forty-fourth Victoria number one; and all the provisions of the said Act shall apply to witnesses so summoned, and evidence so received and given, as completely and effectually as if such witnesses had been summoned, and such evidence had been received or given, by virtue or under the authority of the said Act.

For purpose of inquiry Board may delegate powers.

17. For the purpose of conducting an inquiry or investigation under the authority of this Act outside of Sydney, at which it may be inconvenient for all the members of the Board to be present, the Board may delegate any of its powers or functions to any one member of the Board or, with the approval of the Governor, to any fit person or persons, but the decision on the case shall be determined by a majority of the Board.

Board to report on state of Public Service to Governor.

18. The Board shall furnish to the Governor for presentation to Parliament at least once in each and every year a report on the condition and efficiency of the Public Service, and of their proceedings, and indicate the changes and measures necessary in its opinion for the improved working thereof or of any department or subdivision thereof. The Board shall in such report draw attention to any breaches or evasions of this Act which may have come under notice.

Power to make regulations.

19. The Board shall have power to make regulations for (amongst other purposes hereinafter mentioned)—

- (I) the arrangement of the Service in its prescribed divisions and the facilitation of the working thereof; the classification of the work therein; the grading of officers; the specification and assignment of work, duties, and offices; the determination of the order and conditions of promotion; the regulation of the transference or exchange of duties, work, or offices; appeals to the Board; the determination of amounts or rates of salary, wages, fee, or allowance appropriate to work, duties, or offices, or classes thereof; and the regulation of the payment of such salaries, wages, fees, or allowances;
- (II) regulating and determining the scale on which officers shall insure their lives, and other matters in connection with the carrying out of the provisions of section sixty-three hereof;
- (III) regulating and determining who are fit and proper persons to be employed in temporary employment, and for causing the names of such persons desiring employment to be enrolled in a register to be kept for that purpose;
- (IV) regulating the hours of attendance and the conditions on which leave of absence may be granted, and the duration of such leave, subject to any rights already acquired under the Civil Service Act of 1884;

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- (v) regulating the performance of and payment for extra service ;
- (vi) determining the dates, times, or periods of time at or within which shall be done all acts and things directed by this Act to be done, and in respect of which no dates, times, or periods of time may be herein specifically provided ;
- (vii) regulating the amount and nature of the security to be given for the fidelity of officers in those cases in which the Board may deem it to be necessary, and the nature and extent of any special allowances to be made to officers in respect of travelling and other necessary expenses ; the increased cost of living in distant parts of the Colony or otherwise ; and generally for the maintenance of discipline, order, economy, and efficiency in the Service, and the carrying out of the objects and provisions of this Act ;
- (viii) determining the mode of procuring stores or other material or requisites for the Public Service, and providing for and regulating the inspection of stores, material, or requisites, and examining and auditing the books and accounts of officers in charge of stores, materials, and requisites, and for taking stock thereof, and for investigating and examining all contracts, accounts, invoices, requisitions, orders, and vouchers in any way relating to stores, material, or requisites for the Public Service : Provided always that the Governor may determine and carry out methods of procuring supplies for the Public Service other than by public tender, and independently of regulations framed by the Board ;
- (ix) facilitating and securing the better selection of suitable persons for appointment and promotion as officers belonging to the General Division employed in any Department, and retaining the services of those of such persons as are found most fit ;
- (x) providing for the services of those not so retained being either dispensed with or transferred to another department or branch of the Public Service as may be thought desirable ; and
- (xi) providing for the admission into the Public Service in special cases to be indicated in such regulations and upon such terms and conditions as may be therein prescribed :

Provided that the Board may affix to breaches of any regulations under this Act, or prescribe for minor offences against discipline a fine or penalty not exceeding fifty pounds, according to the nature and gravity of the offence, but no regulations made hereunder shall in any manner alter or affect duties which by any Act now or hereafter to be in force are or may be required to be performed.

20. Where in this Act any provision empowers the Board to make regulations for any purpose such provision shall also be taken to empower the Board, from time to time, to repeal, alter, and amend such regulations or any of them.

Power to make regulations involves power to repeal or amend.

All regulations to be made by the Board, and any repeal, alteration, or amendment of the same as soon as the same shall have been approved by the Governor and published in the *Gazette* shall have full force and effect, and such regulations shall be laid as soon as may be before both Houses of Parliament.

Publication of regulations in *Gazette*.

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PART III.

DIVISIONS OF SERVICE.

Examination, Appointment, &c.

Divisions of Service. 21. (I) The Public Service shall for the purposes of this Act consist of five principal divisions, that is to say:—

The Special Division.
The Professional Division.
The Clerical Division.
The Educational Division.
The General Division.

Special Division. (II) The Special Division shall include all persons whose offices the Governor, by notification in the *Gazette*, shall declare to belong to such division: Provided that the Board may, whenever it may be deemed advantageous to the Public Service so to do, certify to the Governor that it is expedient to add any office to, or to abolish any office in the Special Division, and the Governor may, upon such certificate but not otherwise, add any office to the said Special Division or abolish any office therein. And any person appointed to or holding any office so added to such Special Division shall thereupon be included in such division.

Professional Division. (III) The Professional Division shall include all officers whose offices or duties require in the persons holding or performing them some special skill or technical knowledge, usually acquired only in some profession or occupation different from the ordinary routine of the Civil Service.

Clerical Division. (IV) The Clerical Division shall include all such officers as the Board, with the approval of the Governor, may from time to time direct to be included in such division.

Educational Division. (V) The Educational Division shall include all persons in the Public Service employed in the work of public instruction under or in connection with the Department of Public Instruction.

General Division. (VI) The General Division shall include all persons in the Public Service not included in the Special, Professional, Clerical, or Educational Divisions.

Board to provide by regulation for competitive and qualifying examinations. 22. The Board shall, subject to the approval of the Governor, make regulations for the competitive examination of persons desirous of admission into the Public Service. Such regulations shall prescribe a preliminary medical examination as to the health of the candidates, and shall determine the character and standard of the examinations or tests as to acquirements and efficiency to which candidates shall be required to submit themselves, and the times and places where the examinations shall be held, and the manner of holding the same, and shall prescribe a maximum and minimum age of candidates, and shall prescribe the fee to be paid by persons presenting themselves for examination, provided that the said fee shall not exceed ten shillings, and for the purposes of this section the Governor may, on the recommendation of the Board, appoint as many fit persons as may from time to time be required to be examiners to conduct examinations in the prescribed manner.

Appointments to be made from persons who are subjects of Her Majesty and who have passed the examinations. 23. No person shall be admitted to the Public Service unless he shall be a natural born or naturalised subject of Her Majesty, and (except as hereinafter provided) unless he shall have successfully passed the examination prescribed: Provided that with the permission of the Governor a person not a natural born or naturalized subject of Her Majesty may be so admitted: Provided also that candidates for employment in the General Division shall not be required to pass any examination other than the medical examination.

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24. Separate entrance examinations shall be held in connection with the Professional, Clerical, and Educational Divisions, and shall be designed to test the acquirements, fitness, and aptitude of candidates for employment in such divisions respectively.

Separate examinations to be held for the different Divisions.

25. It shall be the duty of the Board to so arrange the times and places when and where candidates are to comply with the requirements of this Act, and to present themselves for examination by the examiners appointed, that persons living in country districts shall have reasonable facility in the district in which they reside for competing for employment or passing such examinations without the necessity of attendance in Sydney.

Arrangement of times and places of examination.

26. It shall be the duty of the Board from time to time, as additions to the Public Service may be required, to give public notice thereof three times in a Sydney daily paper, stating the number of appointments proposed to be made, the division, grade, and salary, and the time and place of examination, and the number of competitors to be admitted to such examination.

Public notice of vacancies.

27. Except as hereinafter provided every person admitted to the Public Service shall, in the first instance, be admitted on probation only, and may be continued in such probationary position for a period of not less than six months. After the period of such probation shall have expired, the Governor may on the recommendation of the Board, based on inquiry and report, confirm or annul such appointment.

Admissions to Public Service to be on probation only.

28. Subject to the provisions of section thirty hereof no appointment of any person not already in the Service to any permanent office or position therein shall be made except at the instance of the Board or on the written request of the permanent head of a department to the Minister, to be transmitted by the Minister to the Board, or upon the written request of the Minister himself, addressed to the Board, and in any case only upon a certificate from the Board that such an appointment is required.

Conditions of new appointments.

29. The Board, in giving the certificate in the last section mentioned, shall in addition state therein—

Certificate of Board. Preliminary to appointment.

- (a) the name of the person proposed to be appointed ;
- (b) that there is no person in the Public Service fit or qualified and available for such appointment ; and
- (c) that a competitive examination under the provisions of this Act has been held, and that the person named in the certificate is the most successful candidate ; or
- (d) having regard to the nature of the appointment that examination is not required, or may be dispensed with under the provisions of this Act.

The Governor may thereupon appoint the person named in such certificate, subject to the provisions of section twenty-seven.

30. If in any special case it is expedient or desirable in the interests of the Public Service to appoint to the Special, Professional, or Educational Division some person who is not then in the Service, the Governor may appoint such person accordingly without either examination or probation, and without requiring compliance with the requirements of section sixty-three: Provided that no such appointment shall be made until the Board has been informed of the proposal to make such appointment, and has reported whether in its opinion there is any person in the Service capable of filling the position to which it is proposed that an appointment shall be made. All such reports shall be laid before Parliament.

Appointments in special cases.

31. No person shall be appointed to the office of Police Magistrate—

Qualification and appointment of Police Magistrates.

- (I) unless he be at the time of such appointment of the full age of thirty-five years or upwards, and be willing to reside permanently within the district in which he is appointed to act;

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(II) nor unless such person shall have passed the examination in law prescribed by regulations to be made as in the next following section provided.

Regulations for examination of persons qualifying for appointment as Police Magistrates.

32. The Board shall make regulations prescribing the subjects for and the nature and standard of the examination to be undergone by persons who desire to be appointed Police Magistrates; and who under the provisions of the last preceding section are required to pass such an examination before appointment.

Age of appointees to Clerical Division.

33. No person shall be appointed to the Clerical Division of the Public Service whose age at his last birthday, previous to appointment, was less than sixteen or more than thirty years, unless such person be at the time of appointment already in the Public Service, and no person shall be appointed to the General Division of the Public Service whose age at his last birthday, previous to appointment, was less than sixteen or (except as hereinafter provided) more than forty years, unless such person be at the time of his appointment already in the Public Service. In cases of special duties the Governor may, however, on the recommendation of the Board, extend the age from forty to forty-five years. But nothing in this section contained shall be taken to prevent the appointment of persons of any age to be messengers in the Telegraph Department or junior messengers.

General Division.

No relation by blood or marriage of any member of the Board to be appointed to the Public Service during the time such member retains his office.

34. No person related by blood or marriage to any member of the Board shall, except with the approval of the Governor, in writing, be appointed to or promoted in the Public Service while the member of the Board to whom such person is so related shall continue to be a member of such Board: Provided that the Governor may, by notification in the *Gazette*, define the limits or degrees of relationship within which this section shall apply.

Regulations for appointment of women.

35. The Board may make regulations for facilitating the employment of women in those departments or branches of the Public Service in which it may seem desirable to employ them; and such regulations may determine the salary or wages to be paid to women employed on any particular work or class of work, and may provide generally for all matters relating to the examination of female candidates for employment, which may require special provision.

Married women not eligible for appointment except in special cases.

36. Except in the Department of Public Instruction no married woman shall be eligible for appointment to any office in the Public Service if her husband be already in the employment of the State, unless the Board shall certify in each case that there are special circumstances which make such appointment desirable.

Temporary employment.

37. Whenever in the opinion of the Minister the prompt despatch of the business of any department renders temporary assistance necessary, and the Board, upon being so informed, shall be unable to provide such assistance from other Departments, the Board shall select from the persons whose names are upon the register referred to in subsection (III) of section nineteen such person or persons as to the Board appear best qualified for such work:—

- (I) Such person or persons may be employed to perform such work for any period not exceeding three months, and if necessary, such person or persons may, with the sanction of the Board, be employed at the end of such period for any further period not exceeding three months, but shall not be so employed for more than three periods of three months each successively.
- (II) No person who has been temporarily employed in any department shall on the termination of his employment be eligible for temporary employment in the Public Service during the six months next following such termination.
- (III) The services of any person employed temporarily may be dispensed with at any time by the Minister or by the Board.

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38. Notwithstanding the provisions hereinbefore contained, the Minister may, in the case of temporary work, in the carrying out of any public work or scheme (if the Minister shall consider that it is for the public interest that the provisions of the last preceding section should not apply to such work or scheme) order that the temporary employment upon such work or scheme shall be until the completion of the same; and any person may, upon the recommendation of the Board, be temporarily employed in the Government Printing Office, or in the preparation of the Census Returns, for such time as may be necessary.

Provision as to
Public Works and
other departments.

39. No person shall be permanently appointed to any office in any penal establishment or gaol or reformatory school, probationary school, or receiving depôt, whether he be already an officer in the Public Service or not, unless and until he have served for twelve months on probation as an officer of some penal establishment or gaol or reformatory school, probationary school, or receiving depôt; and no person shall be permanently appointed to any office in any hospital for insane whether he be already an officer in the Public Service or not, unless and until he have served for twelve months on probation as an officer of some hospital or receiving house for insane.

Persons not to be
appointed in certain
cases without pro-
bationary service.

PART IV.

INTERNAL ADMINISTRATION.

Promotions, &c.

40. All promotions in and appointments to the Special Division shall, as far as practicable, and subject to the provisions of this Act, be from such Special Division, or from the higher grades of the Professional or Clerical Divisions, or from the Educational Division, and shall be made with regard to special qualifications and aptitude, as well as to seniority in grade or duration of service, seniority being subordinated to considerations of special fitness.

Order of
promotions, &c.

41. There shall be two series of grades in the Clerical and Professional Divisions, called the higher and the lower grades, and all officers engaged in the performance of work entitling them to a salary of three hundred pounds per annum and upwards, shall be deemed to be included in the higher grades of such divisions, and all officers engaged in the performance of work entitling them to a salary of less than three hundred pounds per annum, shall be deemed to be included in the lower grades of such divisions respectively.

Higher and lower
grades.

42. Whenever any vacancy occurs in any office or class of work within the higher and lower grades, respectively, of the Professional or Clerical, or in the Educational, or the General Division, if it be expedient to fill such vacancy, the Governor may, upon the recommendation of the Board, subject to the proviso hereto—

How vacancies to be
filled.

appoint thereto any officer of the department in which such vacancy occurs to fill such office, regard being had to the relative seniority and fitness respectively of the officers of such department, if it appear that such appointment would result in the duties of such office being more efficiently performed than by selecting an officer from any other department; or

appoint thereto any officer from any other department whom (on the ground of seniority combined with fitness) it appears desirable so to appoint;

“fitness”

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“fitness” in this section shall mean special qualifications and aptitude for the discharge of the duties of the office to be filled :

Provided that all promotions or appointments under this section, shall as far as practicable, and subject to the provisions of this Act, be from the same grade as that in which the vacancy occurs, or from the immediately inferior grade in the same series of grades or division, or from equivalent grades in some other division, so that such promotions or appointments shall be from a junior to a senior position in the same grade, or from an inferior to an immediately superior grade, in the same or a corresponding series of grades.

Examination before promotion to higher grades of Clerical and Professional Divisions.

43. (I) No person entering the Service after the passing of this Act shall be eligible for promotion from the lower to the higher grades of the Clerical and Professional Divisions unless he shall have passed the examination to be prescribed by the Board as preliminary to admission to those grades.

(II) The Board shall, from time to time as may appear necessary, cause examinations for promotions from the lower to the higher grades in the Clerical and Professional Divisions, to be held by the examiners appointed under the provisions of section twenty-two, which examinations shall be open to all officers employed in the lower grades of the Clerical and Professional Divisions, who, at the date on which they shall present themselves for examination, shall have been at least three years in the Public Service, and the names of the persons who shall have passed the required standard of examination shall be registered by the Board, and all vacancies in the higher series of grades in the two divisions mentioned which it may be considered expedient to fill, and which subject to the provisions of this Act may be filled from a lower series of grades, shall be filled by the appointment of those officers whose names shall appear in the register aforesaid :

Provided that this and the preceding sections of this part of this Act shall only be considered to operate after the Board shall have completed its first general grading and classification of the Public Service.

Board may allow officer to decline promotion.

44. The Board may, in any case, allow any officer to decline any offered promotion or appointment without prejudice to his right to any future promotion or appointment to which his grade and order of seniority and merit would, under the provisions of this Act, entitle him ; but no officer shall be allowed to refuse compliance with any order of the Board, directing his removal from one position to another, or from one division or department to another, and disregard of, or disobedience to, any such order shall be followed by dismissal, unless the officer concerned shall, in the judgment of the Board, justify such refusal by adducing some valid and sufficient reason therefor.

Minister or permanent head may propose changes of officers or rearrangement of work.

45. When it appears to the Minister or permanent head of any department necessary or expedient for the more economic, efficient, or convenient working of such department, or any branch thereof, that any particular disposition of officers and rearrangement of work should be effected, the matter shall be referred to the Board for consideration and action : Provided that nothing in this Act contained shall be construed as restricting the ordinary and necessary departmental authority of such Minister or permanent head of any department with respect to the direction and control of officers and work.

Public Instruction.

Transfer of powers under Public Instruction Act.

46. Any power of appointment, dismissal, or control of officers conferred upon the Minister, or upon the Minister with the approval of the Governor, or conferred upon the Governor alone under the provisions of the Public Instruction Act of 1880, shall, after the commencement of this Act, be exercised by the Governor upon the recommendation

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recommendation of the Public Service Board, in accordance with the provisions of this Act, and not otherwise, and all officers or persons employed under the provisions of that Act shall be deemed to be under the control of the Board for the same purposes and to the same extent as the other branches of the Public Service to which this Act applies.

47. All regulations made under the provisions of the Public Instruction Act of 1880, having reference to the officers and persons employed thereunder shall, so far as the Board shall consider them applicable and consistent with the provisions of this Act, be applied by the Board in the exercise of their powers, duties, and functions under this Act in the organisation and administration of that branch of the Public Service.

Regulations made under Public Instruction Act may be retained and applied under this Act.

48. The Board shall have power to make regulations :—

- (I) Prescribing the nature and standard of the examinations to be held for admission to or promotions or appointments within the Educational Division.
- (II) Prescribing and defining such subdivisions of the Educational Division as may be necessary to facilitate the application of the provisions of this Act to the organisation and administration of that branch of the Public Service.
- (III) For determining the relative positions in order of precedence of teachers in each grade.
- (IV) Providing for increased scale of salary or allowance, without reference to grade, in special cases.
- (V) Providing for appeals to the Board from decisions of the Board concerning salary, grading, or classification of duty or work.
- (VI) Providing for penalties and fines for minor offences against discipline or order, or for breaches of the regulations.
- (VII) For other matters and things in connection with the above or similar objects.

Regulations as to Public Instruction.

Dismissals, Removals, &c.

49. If after the commencement of this Act any officer permanently employed in the Public Service—

Punishment of offences.

- be guilty of any breach of the provisions of this Act, or the regulations made thereunder; or
- be guilty of leaving the final judgment of any Court of law for the payment of any debt unsatisfied for the period of one month; or
- be guilty of any misconduct; or
- be guilty of habitually using intoxicating beverages to excess; or
- be guilty of any wilful disobedience or disregard of any lawful order made or given by any person having authority to give such order; or
- be negligent or careless in the discharge of his duties; or
- be inefficient or incompetent, and such inefficiency or incompetency appear to arise from causes within his own control;

or
 be guilty of any disgraceful or improper conduct ;
 then such officer shall be liable to dismissal or such other punishment as may be determined upon under the provisions of this section. Any officer, not being an officer included in the Special Division, charged with the commission of any such offence may be dealt with in one of the modes following :—

- (I) In emergent cases he may be temporarily suspended by the senior officer of the branch in which the offending officer is employed ; but such suspension shall be immediately reported to the permanent head of the department.

(II)

Public Service.

- (II) The permanent head, if he be of opinion that the alleged offence is not of so serious a nature that a report thereof should in the course of his duty be made to the Board, but after hearing such officer in his defence if he think that such offence has been committed by such officer, may reprimand or caution such officer only, and may thereupon remove the suspension.
- (III) If in any case the permanent head shall consider the offence is of so serious a nature that a report thereof should in the course of his duty be made to the Board, he may suspend such officer and forthwith report the officer so offending to the Board, and if such officer do not in writing admit the truth of the charges made against him the Board shall inquire as to the truth of such charges, or if the Board be of opinion that it is desirable that any such charges should be inquired into by some persons specially appointed for the purpose it may communicate its opinion to the Governor, who may thereupon appoint one or more persons to inquire as to the truth of such charges. Any such person or persons so appointed for such purpose shall have the same powers as the Board to summon and examine upon oath any witnesses whose evidence may be necessary or material, and shall, after fully hearing the case, report to the Board their opinion thereon.
- (IV) If any such charges be admitted as aforesaid, or be found by the Board or by the person or persons appointed as aforesaid to be proved, the Board may, according to the nature of the offence, reduce such officer to a lower grade in the Public Service, or to a lower salary, or fine him, or deprive him of his leave of absence during such time as the Board thinks fit, or with the approval of the Governor may dismiss such officer from the Public Service or require him to resign, and unless the Board otherwise orders, such officer shall forfeit all salary or wages except such as may have been due before his suspension.
- (V) If such charges be found by the Board or by persons appointed as aforesaid not to be proved the suspension shall be immediately removed.

Offences by officers
in Special Division.

50. If any officer in the Special Division shall be charged with any of the offences enumerated in section forty-nine, the Minister may suspend such officer and report the charge and suspension to the Board, and thereupon the Board shall inquire into the truth of the charge and deal with the matter in the manner provided in subsections (III), (IV), and (V) of the last preceding section.

Board may initiate
inquiry into mis-
conduct.

51. If it shall come to the knowledge of the Board that any officer is guilty of any conduct which in the opinion of the Board renders him unfit to continue in the Public Service, the Board may initiate an inquiry into the case, and for that purpose shall summon the officer concerned before it, and shall specify the charge against him and receive evidence thereon, and in all other respects deal with the charge as though it had arisen under the provisions of either of the two last preceding sections.

As to officers whose
address is unknown.

52. In the event of the address for the time being of any officer being unknown to the Board, all notices, orders, or communications relative to any charges against such officer shall be posted to the last-known address of such officer, and compliance with this section shall be deemed a sufficient service on such officer of any such notice or order: Provided that if within any time specified in such notice, order, or communication no answer is received by the Board to an inquiry asking whether the officer admits the truth of any charges brought

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brought against him, he shall be deemed to deny the truth of such charges, and the Board may inquire into and deal with such charges in the absence of the officer affected.

53. Neither officers nor departments shall be entitled to be represented by counsel, attorney, or agent at inquiries held by the Board. The Board or any persons appointed under the authority of subsection (III) of section forty-nine, when inquiring as to the truth of any charge made against an officer may conduct the inquiry without regard to legal forms, and shall direct itself or themselves by the best evidence it or they can procure or that is laid before it or them, whether the same be such evidence as the law would require or admit in other cases or not, and it shall be lawful for the Board or such persons (as the case may be) to receive or reject as it or they may deem fit any evidence that may be tendered. The Board shall keep a complete record of all such inquiries, which shall afterwards be available for reference.

Procedure at inquiries held by the Board.

54. If any officer be convicted of any felony or other infamous offence he shall be summarily dismissed, and if he become bankrupt or apply to take the benefit of any Act now or hereafter in force for the relief of insolvent debtors, or make an assignment for the benefit of his creditors, he shall be deemed to have committed an offence within the meaning of this Act, and his services shall thereupon be dispensed with unless such officer prove to the satisfaction of the Board that his pecuniary embarrassment has not been caused or attended by any fraud, extravagance, or dishonorable conduct.

Forfeiture of office in certain cases.

Reinstatement in the absence of fraud.

55. Where, at the date of the commencement of this Act, any Act or the regulations under any Act other than the Civil Service Act of 1884, specifically imposed or conferred upon any officer in the Public Service, any duty, power, or authority to be exercised in connection with any Department of the Service, such duty, power, or authority, and any obligation or right to exercise the same, shall remain unaffected by this Act, except in so far as such duty, power, or authority shall or may have relation to the classification, salary, and allowances of officers or persons employed in the Public Service.

Statutory powers and duties of officers confirmed in certain cases.

56. If any officer in the Public Service be at any time found to be unfit to discharge or incapable of discharging the duties of his office, and such unfitness or incapacity, appears likely to be of a permanent character, and has not arisen from actual misconduct on the part of such officer, or from causes within his own control, the Governor may, on the recommendation of the Board, cause the retirement of such officer, and may direct that compensation be granted to him in terms of section sixty hereof.

Services of incapable officer may be dispensed with.

57. The Paying Officer on receiving notice of any pecuniary penalty imposed upon any officer under the authority of this Act shall deduct the amount thereof from the salary of the officer incurring such penalty.

Fines to be stopped from salary.

58. Nothing in this Act, or in the Civil Service Act of 1884, shall be construed or held to abrogate or restrict the right or power of the Crown as it existed before the passing of the said Civil Service Act, to dispense with the services of any person employed in the Public Service.

Right of Crown to dismiss any public servant.

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PART V.

Pensions, Gratuities, &c.

Pensions, &c., not to be paid to public officers hereafter appointed.

59. No person who shall, after the commencement of this Act enter or become employed in any department of the Public Service to which this Act applies, or who shall not at the commencement of this Act be a contributor to the Superannuation Account under the provisions of the Civil Service Act of 1884, shall be allowed to become a contributor to or to acquire any right to any payment by way of pension, annual superannuation, retiring allowance, or gratuity out of such Superannuation Account. Nor shall any person to whom this Act applies, except as in the next succeeding section provided, receive out of the Consolidated Revenue of the Colony any payment by way of pension, annual superannuation, retiring allowance, or gratuity, either directly or indirectly.

Gratuities on retirement in what cases allowed.

60. If the services of any person permanently employed in the Public Service shall be dispensed with by the Board under the provisions of this Act otherwise than for an offence, then—

(i) if such person shall have been employed in the Public Service before and at the date of the commencement of this Act, and shall be a contributor to the Superannuation Account under the provisions of the Civil Service Act of 1884, but shall not be entitled to retire under sections forty-three and forty-four of that Act, such person shall receive a refund of the amount of his contributions to such Account, calculated to the date on which his services shall have been dispensed with, together with a gratuity not exceeding one month's pay for each year of service from the date of his permanent appointment, and a fortnight's pay in respect of each year of temporary service; such gratuity to be calculated on the average of his salary during the whole term of his employment, and to be payable only in respect to service prior to the commencement of this Act.

(ii) if such person shall have been employed in the Public Service before and at the date of the commencement of this Act, but shall not be a contributor to the said Superannuation Account, such person shall receive a gratuity not exceeding one month's pay for each year of service from the date of his permanent appointment, and a fortnight's pay in respect of each year of temporary service; such gratuity to be calculated on the average of his salary during the whole term of his employment, and to be payable only in respect to service prior to the commencement of this Act.

Calculation of allowances under Civil Service Act of 1884. How made.

61. The superannuation allowance referred to in section forty-eight of the Civil Service Act of 1884, and payable under that Act, shall, after the commencement of this Act, be computed upon the amount of salary and emoluments other than forage, equipment, or travelling allowances; and from and after the commencement of this Act, the four per centum deductions referred to in section fifty-three of the Civil Service Act of 1884, shall be made from the total value of salary and emoluments other than forage, equipment, or travelling allowances.

Officers may discontinue contributing to Superannuation Fund. Provisions in that event.

62. Any officer who at the commencement of this Act shall be a contributor to the Superannuation Account under the Civil Service Act of 1884, may, within twelve months thereafter, elect to discontinue contributing thereto, in which event he shall be entitled to receive from the said Account on his retirement from the Public Service for any cause

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cause other than an offence (or in the event of his death before retirement, his representative shall be entitled to receive) a refund of the amount paid thereto up to the date of his so electing, together with interest thereon at the rate of three per centum per annum from the date of his ceasing to contribute; and every officer who shall, under the provisions of this section, cease to contribute to the said Account shall thereupon cease to be entitled to any right in or benefit from such Account except such refund and interest aforesaid; but every such officer shall, on retirement, in addition to such refund and interest, be entitled to claim under subsection (II) of section sixty: Provided that all officers employed in the Public Service at the date of the commencement of this Act who shall then have been contributors to the Superannuation Account, and who shall, after the expiration of twelve months from the date aforesaid, continue to be employed in the Service and to contribute to the said Account, shall, notwithstanding anything in this Act contained, be entitled on retirement or removal from the Public Service otherwise than for an offence to all the rights and benefits conferred upon contributors to the Superannuation Account by the provisions of Part V of the Civil Service Act of 1884, and for the purpose of this proviso, such rights and benefits shall be deemed to include the right to superannuation allowance under sections forty-six and forty-eight of that Act as though their office were abolished where the officer who shall retire or be removed as aforesaid shall be otherwise within the terms of section forty-eight.

63. No probationer shall have his appointment confirmed until he shall have effected with some life assurance company carrying on business in New South Wales an assurance on his life providing for the payment of a sum of money at his death, or at the age of sixty, whichever event shall first happen. Such insurance shall be continued and the amount thereof fixed and increased from time to time in accordance with regulations made as herein provided in that behalf, and no policy of insurance so effected shall during the time such person remains in the Public Service be assignable either at law or in equity, and the property and interest under such policy of the person insured shall during the time aforesaid be wholly exempt from the operation of any laws now or hereafter to be in force relating to bankruptcy, and shall not be liable to be seized, levied upon, or sold, upon, by, or under any legal process: Provided that if such person shall be unable to insure his life, or shall be unable to insure his life without a loading of five years or more being made upon his age, and in such latter case shall be unwilling to insure his life, he shall not thereby be disqualified for appointment or promotion, but a prescribed deduction shall be made at prescribed times from such person's salary, which deductions shall be invested and accumulated in the prescribed manner, and such accumulations shall be protected as hereinbefore provided with respect to policies of insurance, and shall be paid in full, without any deduction, and with all interest accumulated thereon, to such person on his leaving the Public Service, or to his representatives on his death, whichever shall first happen.

Appointee to effect
an insurance on his
life.

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PART VI.

Miscellaneous.

No officer in the Public Service to engage in duties unconnected with his office.

64. Except with the express permission of the Governor, signified by notice published in the *Gazette*, which permission may be at any time withdrawn, no officer shall after the first day of January, one thousand eight hundred and ninety-six, accept or continue to hold or discharge the duties of or be employed in any paid office in connection with any banking, insurance, mining, mercantile, or other commercial business, whether the same be carried on by any corporation, company, firm, or individual; nor except as aforesaid shall any officer himself engage in or undertake any such business whether as principal or agent; nor engage or continue in the private practice of any profession. And if any officer is the holder of any office or is engaged in any employment whatsoever other than in connection with the duties of his office or offices under the Crown, he shall at once notify the fact to the Board, and if in the opinion of the Board it interferes with the due and proper discharge of his public duties, the Board shall require such officer to resign such first-mentioned office or to abstain from engaging in any such employment other than in connection with his duties under the Crown, and any officer failing to comply with the requirement of the Board shall be deemed guilty of misconduct within the meaning of section forty-nine of this Act: Provided that nothing herein contained shall be deemed to prevent any officer from accepting and continuing to hold any office in any society founded under the law relating to friendly societies for the benefit of public servants only.

Performance of duties and powers of officer in his absence.

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

Rent may be charged to officers residing in Government buildings.

66. If any officer not entitled to quarters is allowed to use, for the purpose of residence, any building belonging to the Government, the Governor may direct that a fair and reasonable sum as rent thereof be deducted from such officer's salary, and the amount of such sum shall be fixed by the Board.

No claim for compensation if salary reduced or services dispensed with.

67. Except as in this Act provided no officer in the Public Service shall be deemed to be entitled to any compensation by reason of any reduction of his salary, or in consequence of his services being dispensed with.

Officers between sixty and sixty-five years of age entitled or may be called upon to retire.

68. Every officer in the Public Service, whether appointed before or after the commencement of this Act, and whether he have attained the age of sixty years before or after the commencement of this Act, shall be entitled, if he desires so to do, having attained the age of sixty years, to retire from the Public Service; but any such officer may (unless called upon to retire as hereinafter provided) continue in the Public Service until he attains the age of sixty-five years. If any such officer continue in the Public Service after he shall have attained the

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the age of sixty years, he may at any time before he attain the age of sixty-five years be called upon by the Governor, acting upon the recommendation of the Board, to retire; and every such officer so called upon to retire shall retire accordingly.

69. Every officer, whether appointed before or after the commencement of this Act, if he attain the age of sixty-five years after the commencement of this Act, shall retire immediately on attaining that age, unless he is required, notwithstanding his age, to continue to perform his duty in the Public Service as hereinafter provided, and is willing so to do: Provided that the Governor may, notwithstanding that any officer has attained the age of sixty-five years (if the Board certify that in the interests of the Public Service it is desirable that such officer should continue in the performance of the duties of his office, or of any office in the Public Service to which he may be appointed, and if such officer be able and willing to do so) from time to time direct such officer to continue in the Service for such fixed time not exceeding twelve months (as the Governor in each case directs), or during pleasure: Provided also, that every officer who shall retire under the provisions of this or the last preceding section, and who shall not be a contributor to the Civil Service Superannuation Account, shall if otherwise within the provisions of the subsection be entitled to receive, on such retirement, the gratuity or allowance specified in subsection (11) of section sixty.

Officers on attaining the age of sixty-five to retire unless called upon to continue.

Officers of age of sixty-five may be continued in Public Service by Governor.

70. All notices of appointments, promotions, transfers, retirements, and removals of officers under this Act shall be published in a special *Gazette* to be issued weekly, and notification of every appointment shall appear in the *Gazette* within fourteen days from the date from which the appointment is to take effect, otherwise such appointment shall not be considered as valid for any purpose under this Act, and every such notice shall be deemed and taken to be conclusive evidence of every such appointment, retirement, or removal respectively.

Notices to be inserted in *Government Gazette*.

71. The Auditor-General shall have and exercise the same powers and duties in respect of the Civil Service Superannuation Account as are by the Audit Act of 1870 conferred and imposed upon him in reference to the "Public Account," and it shall be competent for the said Auditor-General to investigate the past operations upon the said Superannuation Account as well as future operations, but the authority hereby conferred upon the Auditor General shall not extend to requiring or demanding a refund of any moneys actually paid out of the said Superannuation Account before the date of the commencement of this Act.

Powers and duties of the Auditor-General in respect of the Civil Service Superannuation Account.

72. Notwithstanding anything in this Act contained the Board may recommend for any vacancy any officer who has been retired from the Public Service under the Civil Service Act of 1884 or of this Act, and such officer may be appointed without examination or probation: Provided that the officer so recommended shall not at the time of such recommendation have attained the age of sixty years.

Retired officers may be appointed.