

**PUBLIC SERVICE (AMENDMENT)  
ACT.**

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**Act No. 10, 1929.**

**An Act to provide for the determination of salaries of certain public servants; to provide for the constitution of Promotions Committees; to amend the Public Service Act, 1902, the Public Service (Superannuation) Act, 1903, the Public Service (Amendment) Act, 1910, the Public Service (Amendment) Act, 1919; to repeal the Public Service (Amendment) Act, 1922; and for purposes consequent thereon or incidental thereto. [Assented to, 5th April, 1929.]**

George V.  
No. 10, 1929.

**B**E it enacted by the King'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.** (1) This Act may be cited as the "Public Service (Amendment) Act, 1929," and shall be read with the Public Service Act, 1902, as amended by subsequent Acts. Short title.

(2) The Public Service Act, 1902, as so amended, is in this Act referred to as the Principal Act.

**2.** (1) The Public Service (Amendment) Act, 1922, is hereby repealed. Repeal of Act No. 36, 1922.

(2) The hearing and determination by the tribunal constituted under subsection three of section eleven of the Public Service Act, 1902, as inserted by section two of the Public Service (Amendment) Act, 1922, of any appeal or reference which is pending at the commencement of this Act may be proceeded with and completed, and the decision of the tribunal be carried into effect in all respects as if this Act had not been passed. Saving of pending appeals and references.

**3.**

No. 10, 1929.

Further amend-  
ment of Act No.  
31, 1902.

Sec. 10.

**3.** The Principal Act is amended—

- (a) by omitting from section ten the words “ upon Commissioners by Letters Patent by the Royal Commissioners Evidence Act, 1901 ; and all the provisions of the said Act shall ” and by inserting in lieu thereof the words “ by the Royal Commissions Act, 1923, on a commission, and the chairman shall have the powers of a chairman, within the meaning of Division 1 of Part II of the said Act ; and the said Act, section thirteen and Division 2 of Part II excepted shall ” ;
- Sec. 14 (1). (b) (i) by omitting from subsection one of section fourteen all words after the word “ accord-ingly ” and by inserting in lieu thereof the following paragraph :—  
After such provision has been made the officer or employee shall be entitled to sue for and recover the amount of his salary, fee, or allowance so determined.
- (ii) by omitting subsection two of the same section.
- Sec. 22 (1). (c) by omitting from subsection one of section twenty-two the words “ persons whose offices the Governor ” and by inserting in lieu thereof the words “ officers whose offices the Governor, on the recommendation of the Board, and ”
- Sec. 23. (d) by inserting in section twenty-three after the word “ duties ” the words “ in the opinion of the Board ” ;
- Sec. 24. (e) by omitting from section twenty-four the words “ with the approval of the Governor ” ;
- Secs. 25, 26. (f) by omitting from sections twenty-five and twenty-six the word “ persons ” wherever occurring and by inserting in lieu thereof the word “ officers ” ;
- Sec. 27 (2). (g) by omitting subsection two of section twenty-seven and by inserting the following new subsection :—  
(2) For the purposes of this section the Board may from time to time appoint such persons as may be required to be examiners to  
conduct

conduct examinations in the prescribed manner. Each such person shall be appointed for a period not exceeding twelve months at any one time.

No. 10, 1929.

- (h) (i) by omitting from section thirty-one the words "the number of appointments proposed to be made"; Sec. 31.
- (ii) by omitting from the same section the words "and the number of competitors to be admitted to such examination";
- (i) (i) by omitting from section thirty-two the words "Except as hereinafter provided" and by inserting in lieu thereof the words "Unless the Board otherwise recommend"; Sec. 32.
- (ii) by inserting in the same section after the words "six months" the words "or such longer period as the Board directs";
- (iii) by omitting from the same section the words "confirm or annul such appointment" and by inserting in lieu thereof the words "confirm such appointment or during or after such period may annul such appointment";
- (j) (i) by inserting in subsection one of section thirty-six after the word "Governor" the words "on the recommendation of the Board"; Sec. 36.
- (ii) by omitting from the same subsection the words "and without requiring compliance with the requirements of section thirty-three";
- (iii) by omitting from subsection two of the same section the words "has been informed of the proposal to make such appointment and";
- (iv) by inserting in the same subsection after the word "filling" the words "and available for";
- (k) by omitting from section thirty-nine the word "sixteen" wherever occurring and by inserting in lieu thereof the word "fifteen"; Sec. 39.

No. 10, 1929.

Sec. 60.

(l) (i) by inserting in section sixty after the word "Board" where firstly occurring the words "except such as are held under the provisions of sections fifty-six and fifty-eight of this Act";

(ii) by omitting from the same section the words "of subsection (c) of section fifty-six when inquiring as to the truth of any charge made against an officer may conduct the inquiry" and by inserting in lieu thereof the words "of section eleven or paragraph (c) of subsection two of section fifty-six may conduct any inquiry or investigation under this Act";

Sec. 68.

(m) (i) by inserting at the end of subsection two of section sixty-eight the words "who may require such officer to resign such office or abstain from engaging in such employment";

(ii) by omitting subsection three of the same section;

Sec. 70.

(n) by omitting from section seventy the words "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 State any payment by way of pension, annual superannuation, retiring allowance, or gratuity, either directly or indirectly";

Sec. 6.

(o) by inserting in section seventy-six after the word "officer" the words "or employee."

Amendment of Act, No. 31, 1902.

4. (1) The Principal Act is further amended:—

(a) by inserting the following new section next after section five:—

5A. Save as otherwise expressly provided nothing in this Act shall amend or affect the provisions of the Industrial Arbitration Act, 1912, or the Industrial Arbitration (Amendment) Act, 1926, or any Act amending or replacing those Acts.

(b) by omitting section thirteen.

Saving of Industrial Arbitration Acts.

(2)

(2) The Public Service (Amendment) Act, 1910, is amended by omitting section six.

No. 10, 1929.

Consequential amendment of Act No. 21, 1910, s. 6.

(3) The Public Service (Amendment) Act, 1919, is amended by omitting section twelve.

Consequential amendment of Act No. 43, 1919, s. 12.

5. (1) The Principal Act is further amended:—

Further amendment of Act No. 31, 1902.

(a) by omitting section 14A as inserted by the Public Service (Amendment) Act, 1919, and by inserting in lieu thereof the following new section which shall be read as section 14A:—

14A. (1) The grades and salaries of officers, and the salaries of all other persons employed under the provisions of this Act, shall be determined from time to time in accordance with this section.

Determination of grades and salaries.

(2) The determination shall be made by the Board or by Salaries Committees.

(3) Each Salaries Committee shall consist of not less than three persons, who shall be appointed by the Board for the purpose.

At least one member of each Salaries Committee shall represent the officers or employees, and shall be selected as prescribed.

(4) In the case of officers and employees classified in the Special, Professional, and Clerical Divisions, the determination shall be made on or before the thirtieth day of June, one thousand nine hundred and twenty-nine, and thereafter on or before the thirtieth day of June in each second year.

(5) In the case of officers and employees classified in the Educational and General Divisions, the determination shall be made on or before the thirtieth day of June, one thousand nine hundred and thirty, and thereafter on or before the thirtieth day of June in each second year.

(6) The Board may vary any determination made by a Salaries Committee under this section.

(b)

No. 10, 1929.

Sec. 14B.

Agreements  
with associa-  
tions, &c.

- (b) by omitting section 14B, as inserted by the Public Service (Amendment) Act, 1922, and by inserting in lieu thereof the following section, which shall be read as section 14B:—

14B. The Board may enter into an agreement with any association or organisation representing any group or class of officer or employee as to salaries, fees, allowances, and grades, and may by regulations prescribe the salaries, fees, allowances, and grades so agreed upon.

Every such agreement shall bind all officers or employees in any such class or group, and no officer or employee, whether a member of such association or organisation or not, shall have any right of appeal from the terms of such agreement.

Consequential  
amendment of  
Act No. 43, 1919,  
s. 10.Further amend-  
ment of Act  
No. 31, 1932,  
ss. 16, 17.Provision for  
increase.Deduction  
for residence.

- (2) The Public Service (Amendment) Act, 1919, is amended by omitting section ten.

**6.** (1) The Principal Act is further amended—

- (a) by omitting sections sixteen and seventeen, and by inserting in lieu thereof the following sections:—

16. If at any time the Board is satisfied that an officer has, as a result of promotion or reorganisation, been allotted duties substantially different from or of greater importance than those on the basis of which his existing salary was assessed, proceedings may be taken by the Board to assess the value of such duties and determine the salary appropriate thereto, and the Board may assign such duties either to the officer previously performing them or may appoint or promote thereto, under and subject to the provisions of this Act, such officer as the Board may think most fitted and qualified therefor.

17. If any officer or employee is allowed to use, for the purpose of residence, any building belonging to the Government, the Board may direct that a fair and reasonable sum as rent thereof be deducted from the salary of such officer or employee, and the amount of such sum shall be fixed by the Board.

(b)

- (b) by omitting from section nineteen the words <sup>No. 10, 1929.</sup>  
 “Any officer dissatisfied with any decision of <sup>Sec. 19.</sup>  
 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” and by inserting in lieu  
 thereof the words:

(1) Any officer dissatisfied with any  
 decision or determination of the Board either  
 particular or general, in regard to salary,  
 seniority or 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 or deter-  
 mination.

- (c) by omitting subsections two, three, and four of <sup>Sec. 11.</sup>  
 section eleven and by inserting the following  
 new subsection in lieu thereof:—

(2) For the purpose of hearing any appeal  
 under the authority of this Act at which it  
 may be inconvenient for all members of the  
 Board to be present, the Board may delegate  
 any of its powers or functions to any one  
 member of the Board, and the decision of such  
 member shall be final.

- (d) (i) by omitting paragraph (b) of subsection <sup>Sec. 20.</sup>  
 one of section twenty;

- (ii) by omitting paragraph (h) of the same sub-  
 section and by inserting the following new  
 paragraph:—

(h) determining the mode of procuring,  
 keeping, and issuing stores or other  
 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.

(e)

No. 10, 1929.

New s. 26A.

Classification  
of officers.

Sec. 28.

Consequential  
amendment of  
Act No. 21, 1910,  
s. 10.Further amend-  
ment of Act No  
31, 1902.

Sec. 4.

Secs. 44, 45.

Temporary  
assistance.

(e) by inserting next after section twenty-six the following new section:—

26A. The officers of the Public Service shall from time to time be classified by the Board in the foregoing five divisions.

(f) (i) by inserting at the end of subsection two of section twenty-eight the following words:—

A person so admitted shall not, unless he is naturalised, be eligible for employment for more than six months after he becomes eligible for naturalisation.

(ii) by omitting from subsection three of the same section the word "shall" and by inserting in lieu thereof the word "need."

(g) by omitting section thirty-three.

(2) The Public Service (Amendment) Act, 1910, is amended by omitting section ten.

7. (1) The Principal Act is further amended—

(a) (i) by omitting from the definition of "officer" in section four the words "officers or" also the words "and forty-five";

(ii) by omitting from the same definition the words "subsection (c)" and by inserting in lieu thereof the words "paragraph (c) of subsection one";

(iii) by inserting in the same section after the definition of the word "Board" the following new definition:—

"Employee" means and includes all persons employed under the provisions of section forty-four but does not include an officer permanently employed.

(b) by omitting sections forty-four and forty-five and the short heading preceding section forty-four and by inserting in lieu thereof the following new short heading and section:—

*Employees.*

44. (1) Whenever the prompt despatch of the business of any department renders temporary assistance necessary, and the Board is unable



No. 10, 1929.

unable to provide such assistance from other departments, the Board shall select from the persons whose names are upon the register referred to in paragraph (c) of subsection one of section twenty, such person or persons as to the Board appear best qualified for such work.

(2) Such person or persons may be employed to perform such work for any period not exceeding four months, and, if necessary, may, with the sanction of the Board, be employed at the end of such period for any further periods not exceeding four months each if the Board, after investigation, certify that it would be in the public interest that such person should be so further retained.

(3) The services of any person employed temporarily may be dispensed with at any time by the Board or by the permanent head, subject to confirmation by the Board.

(c) by omitting from section forty-eight the words "three hundred and ninety-nine" wherever occurring and by inserting in lieu thereof the words "four hundred and fifty";

Sec. 48.

(d) (i) by omitting from paragraph (a) of subsection one of section forty-nine the words "if it appears that such appointment would result in the duties of such office being more efficiently performed than by selecting an officer from any other department";

Sec. 49 (1) (a)

(ii) by inserting at the end of the same subsection the following paragraph:—

In all cases, seniority shall be subordinated to considerations of special fitness.

(2) The Public Service (Superannuation) Act, 1903, is amended by omitting section three.

Consequential amendment of Act No. 8, 1903, s. 3.

**8.** The Principal Act is further amended by inserting the following new section next after section forty-nine:—

Further amendment of Act No. 31, 1902. New s. 49A.

49A. (1) When a recommendation is made to the Board for the promotion to a permanent position in a department of an officer other than the officer of that

Promotions committee.

No. 10, 1929.

that department who is next in order of seniority for such promotion, the Board shall refer such recommendation to a promotions committee which shall be constituted for the purpose by the Board.

(2) Unless the Board considers it desirable a reference to a promotions committee shall not be made when the salary attached to the position to be filled exceeds seven hundred and fifty pounds per annum.

(3) A promotions committee shall consist of—

- (a) The permanent head of the department in which the proposed promotion is to be made, or an officer nominated by him;
- (b) an officers' representative who shall be an officer of the division in which the position to be filled is classified, and who shall be selected by or on behalf of the employees of that division in the manner prescribed;
- (c) an officer to be nominated by the other members of the committee or (failing agreement by them) by the Board.

(4) The committee shall inquire into the claims to the promotion in question of all officers proposed to be passed over, and shall report to the Board their opinion or opinions thereon.

(5) The Board shall take such report into consideration before arriving at its decision, and, if so desired by the officers' representative, shall hear him in support of the claims of any officer whose seniority may be adversely affected by the promotion recommended.

(6) The Board may make regulations to give effect to the provisions of this section.

9. (1) The Principal Act is further amended—

- (a) (i) by omitting paragraph (b) of subsection one of section fifty-six;
- (ii) by omitting from paragraph (g) of the same subsection the words "and such inefficiency or incompetency appear to arise from causes within his own control";
- (iii)

Further  
amendment of  
Act No. 31, 1902,  
s. 56.  
Sec. 56 (1).

- (iii) by inserting in paragraph (c) of subsection two of the same section after the words "charges made against him, the Board" the words "shall summon the officer concerned before it and";
- (iv) by omitting from the same paragraph the words "it may communicate its opinion to the Governor, who may thereupon appoint one or more persons" and by inserting in lieu thereof the words "it may appoint an officer of the Public Service, or, with the approval of the Governor, some other person or persons";
- (v) by inserting in paragraph (d) of the same subsection after the words "according to the nature of the offence" the words "impose one or more of the following punishments, namely";
- (b) by inserting the following new section next after section fifty-six :—

56A. (1) Where judgment has been given by any court against any officer or employee of the Public Service for the payment of any sum of money, the person in whose favour the judgment is given may serve on the permanent head of the department in which the officer or employee is employed a copy of the judgment certified under the hand of the registrar or other proper officer of the court by which the judgment was delivered, and a statutory declaration stating that the judgment has not been satisfied by the judgment debtor, and setting out the amount due by the judgment debtor under the judgment.

(2) Upon the service upon him of a copy of a judgment and a statutory declaration in pursuance of this section the permanent head shall, as soon as practicable, notify the judgment debtor in writing of the service of the copy judgment and statutory declaration, and require him to state in writing within a time

time to be specified by the permanent head whether the judgment has been satisfied, and, if so, to furnish evidence in support thereof, and if the judgment has not been satisfied, to state the amount then due under the judgment.

(3) If the officer or employee fails to prove to the satisfaction of the permanent head that the judgment has been satisfied, the permanent head may, from time to time, deduct from any moneys due to the officer or employee such sums as are, in his opinion, necessary to enable the judgment to be satisfied, and shall pay those sums to the judgment creditor :

Provided that in no case shall a deduction be made which will reduce the amount to be received by the officer or employee to less than four pounds per week, or to less than one-third of the amount which would, but for the provisions of this section, be payable to the officer or employee, whichever is the greater.

(4) Where more than one judgment and statutory declaration are served upon the permanent head in respect of one judgment debtor, the judgments shall be dealt with under this section in the order in which copies of the judgments are served upon the permanent head.

(5) A payment made to a judgment creditor in pursuance of this section shall, as between the State and the officer or employee, be deemed to be a payment by the State to the officer or employee.

(6) Any person to whom a payment has been made in pursuance of this section who fails to notify the permanent head immediately a judgment debt in respect of which the payment was made is satisfied shall be liable to a penalty not exceeding fifty pounds.

(7) If any payment made in pursuance of this section exceeds the amount due under the judgment, the excess shall be repayable  
by

by the department to the judgment debtor, and in default of payment may be recovered by the judgment debtor from the department in any court of competent jurisdiction.

No. 10, 1929.

(8) The foregoing provisions of this section shall not apply in relation to any officer or employee whose estate has been sequestrated either voluntarily or compulsorily for the benefit of his creditors and who has not yet obtained a certificate of discharge.

(c) by omitting section fifty-eight and by inserting in lieu thereof the following section :—

58. (1) If it comes to the knowledge of the Board that any officer is alleged to have been guilty of any of the offences specified in section fifty-six, the Board may deal with the matter in one of the modes following :—

Initiation by Board of Inquiry.

(a) The Board may initiate an inquiry into the case and for that purpose shall inform the officer of 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 section fifty-six or section fifty-seven ; or

(b) The Board may suspend such officer, and in all other respects deal with the charge as though the officer concerned had been suspended by the permanent head or the Minister under the provisions of section fifty-six or section fifty-seven.

(d) by omitting section sixty-nine and by inserting the following new section :—

69. All notices of appointments, promotions, transfers, retirements, and removals of officers made under this Act with the approval of the Governor and the Executive Council, shall be published in a special Gazette to be issued weekly.

Special Gazette.

Every

**Public Service (Amendment) Act.****No. 10, 1929.**

Every such notice so published shall be conclusive evidence of the appointment, retirement, or removal specified in the notice.

Consequential amendment of Act No. 43, 1919, s. 9 (e) and (f).

(2) The Public Service (Amendment) Act, 1919, is amended by omitting paragraphs (e) and (f) of section nine.

Amendment of Act No. 31, 1902.

Sec. 7 (4).

**10.** (1) The Principal Act is further amended—

(a) by inserting at the end of subsection four of section seven the following words:—

No act or proceeding of the Board shall be invalid merely on account of the fact that there is at the time of the act or proceeding a vacancy in the office of chairman or of a member of the Board.

cc. 7 (7).

(b) (i) by inserting in subsection seven of section seven after the words “of any member of the Board” the words “or in case of the appointment of a member of the Board to act as chairman during the absence of the chairman”;

(ii) by inserting in the same subsection after the words “suspension or absence” where appearing secondly, the words “or while he is acting as chairman of the Board”;

Sec. 7 (10).

(c) by omitting subsection ten of section seven.

(2) The amendment made by paragraph (a) of subsection one of this section shall be deemed to have commenced upon the date of the commencement of the Public Service Act, 1902.

Amendment of Act No. 43, 1919.

**11.** The Public Service (Amendment) Act, 1919, is amended—

(a) by inserting in paragraph (1) of section seven after the word “right” the words “to extended leave of absence and”;

(b) by inserting after section thirteen the following new section:—

**13A.** (1) An officer who has acquired a right to extended leave with pay and—

(a) retires from the Public Service under the provisions of section sixty-seven of the Public Service Act, 1902, or

(b)

Gratuity in lieu of extended leave.

(b) is called upon to so retire under the provisions of subsection three of section sixty-six of the said Act,

No. 10, 1929.

shall be paid forthwith in lieu of such leave the money value thereof as a gratuity in addition to any gratuity to which he may be otherwise entitled. Any pension to which any such officer is entitled under the Superannuation Acts, 1916-1928, shall commence from the date upon which his extended leave, if taken, would have commenced.

(2) An officer who has acquired a right to extended leave with pay and retires from the Public Service under the provisions of subsection one of section sixty-six of the said Act shall be paid forthwith in lieu of such leave the money value thereof as a gratuity in addition to any gratuity to which he may otherwise be entitled.

Any pension to which any such officer is entitled under the Superannuation Acts, 1916-1928, shall commence from the date following that upon which his extended leave, if taken, would have terminated.

(3) Any pension to which any officer referred to in subsection one or subsection two of this section is entitled under the Civil Service Act, 1884, shall commence from the date following that upon which his extended leave, if taken, would have terminated.

- (c) (i) by inserting in section fourteen after the word "officer" where firstly occurring the words "or member of the Board";
- (ii) by adding at the end of the same section the following proviso:—

Provided that where payment of the money value of leave has been made under this section, no action may be brought against the Crown for payment of any amount in respect of such leave.

No. 10, 1929.

Appointment  
of certain  
officers.

**12.** (1) The Governor, on the recommendation of the Board, may, notwithstanding anything contained in the Principal Act, appoint as a permanent officer any person temporarily employed at the commencement of this Act, and who has then been so employed for a period of two years in the Public Service of New South Wales, subject to the following conditions and to such other conditions as may be prescribed by the Board :—

- (a) the Board shall be satisfied that the work performed by the person temporarily employed is permanent in character ;
- (b) the Board shall be satisfied as to the competency of such person, and that his appointment as a permanent officer is desirable in the public interest.

(2) All conditions imposed on persons appointed under the Principal Act shall apply to and be binding on persons appointed under this section, except those relating to age at the date of appointment and to the mode of appointment.

(3) The Board shall assign the position in seniority of persons appointed under this section, having regard to the claims of officers already in the Public Service.