

1304

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1927.

---

## A BILL

To alter the constitution of the Public Service tribunal; to provide for the direct representation of employees thereon; to abolish salaries committees; to alter the limit of the lower grade in the Professional and Clerical Divisions of the Public Service; to amend the Public Service Act, 1902, and certain other Acts; and for purposes connected therewith.

---

*Public Service (Amendment).*

**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, 1927," and shall be read and construed with the Public Service Act, 1902, as amended by subsequent Acts. Short title and construction.

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

**2.** (1) The Principal Act is amended—

(a) by inserting at the end of section four the following definition :—

"Tribunal" means the Public Service Tribunal constituted under and in accordance with the provisions of this Act.

Amendment of Act No. 31, 1902, s. 11, and Act No. 36, 1922, s. 2 (a).  
(Public Service Tribunal.)

(b) by omitting section ten and by inserting in lieu thereof the following new section :—

10. The board for the purpose of conducting any inquiry or investigation under this Act and the tribunal for the purpose of carrying out any duty or function reposed in it by this Act shall have the same powers as are conferred by the Royal Commissions Act, 1923, upon commissioners appointed by letters patent under the Great Seal and all the provisions of that Act, Division 2 of Part II excepted, shall apply to witnesses summoned by and evidence received or given before the board or the tribunal as completely and effectually as if such witnesses had been summoned and such evidence received or given by virtue or under the authority of the said Act.

Power to summon witnesses, &c.

(c) by omitting subsections two, three, and four of section eleven ;

(d)

- (d) by omitting section 14A which was inserted by the Public Service (Amendment) Act, 1919, and by inserting in lieu thereof the following new section :—

Further amend-  
ment of Act No.  
31, 1902, s. 14A,  
as inserted by  
Act No. 43, 1919,  
and amended by  
Act No. 36, 1922.

14A. (1) The grade, salaries, fees, and allowances of officers, and the salaries, fees, and allowances of all other persons employed under the provisions of this Act, shall prior to the thirtieth day of June in the year one thousand nine hundred and twenty-seven, and thereafter before the same date in each second year, be determined by the board.

Determina-  
tion of grade  
and salary.

(2) Any such officer or person whose grade, salary, fees or allowances have been so determined by the board may appeal to the board therefrom.

(3) Nothing in this section shall affect the powers of the Court of Industrial Arbitration under the Industrial Arbitration Act, 1912, or any Act amending the same.

(4) The Board may enter into an agreement with any association or organisation representing any class of public servants, and any salaries so agreed upon may be prescribed by regulation.

- (e) by omitting section 14B which was inserted by the Public Service (Amendment) Act, 1922.
- (f) by inserting next after section 14A the following new section :—

New s. 14B.

14B. (1) There shall be a Public Service Tribunal constituted as provided in this section, and with the duties and functions therein set out.

Public  
Service  
Tribunal.

- (2) The tribunal shall consist of—
- (a) a chairman who is a stipendiary or police magistrate, or is a barrister or solicitor of not less than five years' standing, or where the chairman is absent from a meeting of the tribunal

a vice-chairman holding like qualifications each of whom shall be appointed to the office by the Governor for a term of two years.

When not sitting upon the tribunal the chairman and vice-chairman shall carry out such duties in the Public Service as the Governor directs.

- (b) such member of the board as the board appoints to sit on the tribunal on the hearing of any appeal;
- (c) an officer included in the division to which the appellant belongs and who has been elected for that purpose as in this section provided.

Before exercising any function as a member of the tribunal the chairman, vice-chairman, and members shall take the prescribed oath.

(3) The officers in each division mentioned in section twenty-one of this Act shall as soon as practicable after the commencement of the Public Service (Amendment) Act, 1927, and thereafter in every third year elect by ballot from amongst themselves a representative and his deputy to sit on the tribunal.

Any such deputy shall sit only in case of the death, illness, or absence of the representative.

Any vacancy among the officers elected shall be filled by election under this section.

The officers who may vote at and the mode of conducting elections shall be as prescribed.

(4) It shall be the duty of the secretary of the board to convene all meetings of the tribunal and to keep a record of all proceedings thereof and of the decisions arrived at, and to give to each appellant at least seven days' notice of the hearing of his appeal.

(5)

(5) Any officer may in the prescribed manner appeal to the tribunal in any case in which by this Act an appeal is given to an officer to the board.

(6) The tribunal may also hear and determine appeals by an officer against the decision of the board with regard to his right to promotion or against the promotion of any other officer to the detriment of the appellant.

Any appeal relating to promotion shall be heard within thirty days from the date of the lodgment of the appeal.

(7) The tribunal may also hear and determine appeals by an officer against any punishment or suspension inflicted on him by the board.

(8) The tribunal may on any appeal confirm or modify any determination of the board or may make such order as it deems just in the circumstances of the case and every order of the tribunal shall be final and conclusive and shall be given effect.

(9) The appellant and the board in all cases and in the case of an appeal relating to promotion any officer who may be affected by the decision of the appeal shall be entitled to be represented by a barrister, solicitor, agent, or officer, who may examine witnesses and address the tribunal.

(10) The appellant and his counsel or agent shall be entitled to see any papers or reports relating to his case at least seven days before the time fixed for hearing the appeal and to take copies thereof at his own expense.

(11) Every appeal shall be by way of rehearing and the decision of the majority of the members of the tribunal sitting on any appeal shall be deemed to be the decision of the tribunal.

(12) The chairman or vice-chairman of the tribunal shall require every person to give his evidence on oath or declaration. (13)

(13) Regulations not inconsistent with this Act may make provision for—

- (a) the procedure before the board ;
- (b) the remuneration of the chairman, vice-chairman, and members of the tribunal ;
- (c) the expenses (if any) to be allowed to witnesses and how and by whom such expenses shall be paid ;
- (d) any other matter required or authorised by this section to be prescribed or which is necessary or convenient to be prescribed to give effect to this section.

(14) In this section "officer" includes any person employed in the Public Service under the provisions of this Act other than a teacher of the Educational Division.

(15) If the chairman is at the date of his appointment as such an officer of the Public Service, he shall in the event of his office on the tribunal terminating be eligible on the recommendation of the board to be appointed to some office in the Public Service corresponding in classification and salary to that which he held at the date of his appointment as chairman of the tribunal; and if at the date of his appointment as such chairman he is a contributor to the Superannuation Fund he shall continue to contribute thereto and shall be entitled to all such benefits as he is entitled to as such contributor under the Superannuation Act, 1916, as amended by subsequent Acts.

(2) The tribunal as constituted prior to the commencement of this Act may complete the hearing and determination of any appeal which has been heard or part heard by it and the tribunal as reconstituted under this Act may hear and determine any appeals which at the date of the commencement of this Act remain unheard.

Hearing of pending appeals may be completed.

(3) So much of paragraph (a) of section two of the Public Service (Amendment) Act, 1922, as inserted subsections three and four in section eleven of the Principal Act is hereby repealed.

(4)

(4) Section ten of the Public Service (Amendment) Act, 1919, is repealed.

(5) Section three and paragraphs (d) and (e) of section two of the Public Service (Amendment) Act, 1922, are repealed.

**3.** (1) The Principal Act is further amended by omitting from section forty-eight the words "three hundred and ninety-nine" wheresoever occurring and by inserting in lieu thereof the words "four hundred and fifty."

Further amendment of Act No. 31, 1902, s. 48, and Act No. 43, 1919, s. 9 (c).

(2) The amendment made by subsection one of this section shall not be so construed as to require any officer who has passed the prescribed examinations to enable him to be included in the higher grade to pass any further examination to qualify for inclusion in that grade.

(Higher grade limit.)

(3) Paragraph (c) of section nine of the Public Service (Amendment) Act, 1919, is repealed.

**4.** The Principal Act is further amended by inserting at the end of section thirty-six the following new subsection :—

Further amendment of Act No. 31, 1902, s. 36.

(4) When any officer has retired or retires from the Public Service upon his election to the Legislative Assembly he may, on ceasing to be a member of such Assembly, be appointed to some office in the Public Service corresponding in classification and salary to that which he held at the date of his retirement, without examination or probation.

**5.** Sections thirteen and fourteen of the Public Service (Amendment) Act, 1919, upon any reprint under the Amendments Incorporation Act, 1906, of the Public Service Act, 1902, may be reprinted after section seventy-five of that Act as sections 75A and 75B respectively, and in such reprint the words "of the Public Service Act, 1902," may be omitted from section thirteen, and the words "of this Act" may be printed in their place.

Authority to print ss. 13 and 14 of Act No. 43, 1919, as ss. 75A and 75B of Act No. 31, 1902, with a consequential amendment.