

**TRANSFERRED OFFICERS EXTENDED LEAVE
(AMENDMENT) ACT.**

Act No. 52, 1963.

An Act to make further provisions with respect to the entitlement to extended leave with pay of certain persons employed in the New South Wales public service or the service of certain State authorities; for this purpose to amend the Transferred Officers Extended Leave Act, 1961; and for purposes connected therewith. [Assented to, 13th December, 1963.]

**Elizabeth II,
No. 52, 1963**

BE

Transferred Officers Extended Leave (Amendment) Act.

BE it 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 :—

Short title and citation. 1. (1) This Act may be cited as the "Transferred Officers Extended Leave (Amendment) Act, 1963".

(2) The Transferred Officers Extended Leave Act, 1961, as amended by this Act, may be cited as the Transferred Officers Extended Leave Act, 1961-1963.

Amendment of Act No. 13, 1961. 2. The Transferred Officers Extended Leave Act, 1961, is amended—

Sec. 2. (Interpretation.) (a) (i) by inserting in subsection one of section two next before the definition of "Extended leave" the following new definition :—

"Commonwealth Reconstruction Training Scheme" means the Commonwealth Reconstruction Training Scheme established pursuant to the Re-establishment and Employment Act 1945, as amended by subsequent Acts, of the Parliament of the Commonwealth of Australia.

(ii) by inserting in the same subsection in the definition of "Extended leave" after the word "otherwise" the words "and includes any leave in the nature of extended leave by whatever name called";

(iii) by inserting in the same subsection next after the definition of "Governmental authority of the Commonwealth or another State" the following new definition :—

"Governmental service" means—

(a) service in the public service of the State or the public service of the Commonwealth or another State; or

(b)

- (b) service with a State authority No. 52, 1963 or with a governmental authority of the Commonwealth or another State, or service with the armed forces of the Commonwealth,

whether or not, in the case of a State authority or a governmental authority of the Commonwealth or another State, it had been declared as such at the time of the service with it.

- (iv) by inserting in the same subsection next after the definition of "State authority" the following new definition :—

"State employer" means—

- (a) an employer in the public service of the State; or
- (b) a State authority.

- (b) by omitting sections three and four and by inserting Subst. secs. 3 and 4, and new sec. 5. in lieu thereof the following sections :—

3. (1) Any person who is employed at, or at any time after, the commencement of this Act in the service of a State employer (in this section referred to as his "current employer") shall be entitled, for the purpose of calculating his entitlement to extended leave as an employee of his current employer, to have such of the prescribed periods, referred to in subsection two, three, four or five of this section, as are applicable to him reckoned as service with his current employer. Method of reckoning service of certain employees in the public service of the State and of certain State authorities.

(2) Where—

- (a) a person referred to in subsection one of this section—
 - (i) has had, at any time before he commenced his service with his current employer, any continuous governmental service that was continuous with any subsequent service that he had with a State employer, other than his current employer;
 - (ii)

Transferred Officers Extended Leave (Amendment) Act.

No. 52, 1963

- (ii) was under the age of sixty years when he commenced such subsequent service;
- (b) his service with that State employer was—
 - (i) a period of continuous service that was continuous with his service with his current employer; or
 - (ii) one of two or more periods of continuous service—
 - (a) each of which was continuous with another of them and was with a State employer; and
 - (b) one of which was continuous with his service with his current employer; and
- (c) his service with his current employer is continuous service,

then the period of continuous governmental service, referred to in subparagraph (i) of paragraph (a) of this subsection, and the period, or two or more periods, of continuous service, referred to in subparagraph (i) or (ii) of paragraph (b) of this subsection, shall be prescribed periods for the purpose of subsection one of this section.

(3) Where a person referred to in subsection one of this section—

- (a) has had, at any time before he commenced his service with his current employer, any continuous governmental service that was continuous with any subsequent service that he had with a State employer, other than his current employer;
- (b) was under the age of sixty years when he commenced such subsequent service;
- (c) is, under any Act, other than this Act, or under any regulation, by-law, award or industrial agreement, or by virtue of the conditions of his employment with his current employer, or by reason of any practice

Transferred Officers Extended Leave (Amendment) Act.

429

practice of his current employer, entitled, ^{No. 52, 1963}
but is not entitled by virtue of the provisions
of subsection two of this section, to have his
service with the State employer referred to in
paragraph (a) of this subsection reckoned,
for the purpose of calculating his entitlement
to extended leave, as service with his current
employer,

then the period of continuous governmental service,
referred to in paragraph (a) of this subsection, shall
be a prescribed period for the purpose of subsection
one of this section.

(4) Where a person referred to in subsection
one of this section—

- (a) is not entitled under subsection two of this
section to have any periods of service
reckoned as prescribed periods for the
purpose of subsection one of this section;
- (b) has had any continuous governmental
service that was continuous with his service
with his current employer;
- (c) was under the age of sixty years when he
commenced his service with his current
employer,

and his service with his current employer is
continuous service, then that period of continuous
governmental service shall be a prescribed period
for the purpose of subsection one of this section.

(5) Where a person referred to in subsection
one of this section is entitled under the foregoing
provisions of this section to have any period of
service with an employer reckoned as a prescribed
period for the purpose of subsection one of this
section, any other period during which such person
was employed by any employer shall be a prescribed
period for the purpose of subsection one of this
section if such person was entitled, under any Act,
other

Transferred Officers Extended Leave (Amendment) Act.No. 52, 1963
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other than this Act, or under any regulation, by-law, award or industrial agreement, or by virtue of the conditions of his employment with such firstmentioned employer, or by reason of any practice of such firstmentioned employer, to have that other period reckoned, for the purpose of calculating his entitlement to extended leave, as service with such firstmentioned employer.

(6) No period of service or employment shall be reckoned as a prescribed period for the purpose of subsection one of this section more than once.

(7) Where a person referred to in subsection one of this section has been granted by any of his employers and has taken—

(a) any extended leave in respect of a period of service or employment which, but for this subsection, he would have been entitled to have reckoned, for the purpose of calculating his entitlement to extended leave as an employee in the service of his current employer, as service with his current employer; or

(b) any other benefit in lieu of any such leave, the leave so granted and taken, or the leave in lieu of which the other benefit was so granted and taken, shall be deducted from any extended leave to which such person may become entitled in respect of his employment in the service of his current employer.

Qualifications on what amount to continuous periods of service and on the meaning of "continuous service", etc.

4. (1) (a) Subject to the provisions of subsection two of this section, a period of service (in this subsection referred to as "earlier service") of any person shall only be regarded, for the purposes of this Act, as being continuous with another period of service (in this subsection referred to as "later service") of that person where he
ceased

Transferred Officers Extended Leave (Amendment) Act.

43:1

ceased employment in the earlier service (otherwise than by reason of his dismissal on any ground except retrenchment or reduction of work) and, on the working day next following his so ceasing, commenced employment in the later service. No. 52, 1963

For the purposes of this paragraph, no account shall be taken of any interval between the time when any such person ceased his employment in the earlier service and the time when he commenced his employment in the later service if such interval did not exceed two months and such person had, before his ceasing to be employed in the earlier service, been accepted for employment in the later service.

For the purpose of calculating the said period of two months no account shall be taken of any period during which such person was engaged in a full-time course of training under the Commonwealth Reconstruction Training Scheme.

(b) Where the employer of a person in his earlier service furnishes to the employer of such person in his later service a certificate that such person's earlier service terminated by reason of his resignation being accepted—

- (i) following his being required by such first-mentioned employer, for disciplinary reasons, to resign;
- (ii) as an alternative to his being dismissed by such firstmentioned employer; or
- (iii) following his being charged with an offence against discipline in the service of such firstmentioned employer, such charge not having been finally determined in favour of or against such person before his resignation was accepted,

such

Transferred Officers Extended Leave (Amendment) Act.No. 52, 1963
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such termination shall, for the purposes of paragraph (a) of this subsection be deemed to be a dismissal, unless, in the case referred to in subparagraph (iii) of this paragraph, such firstmentioned employer further certifies that such person's service with him was in his opinion satisfactory.

(2) Where a person has had a period of service with the armed forces of the Commonwealth that was during, or partly during, a period of war in which the naval, military or air forces of the Commonwealth were engaged, or was wholly or partly service with the Korea and Malaya Operations Forces, that service shall only be regarded, for the purposes of this Act, as being continuous with another period of service with an employer where such person commenced employment in the service of that employer within twelve months after his ceasing his service with the armed forces of the Commonwealth.

For the purpose of calculating the said period of twelve months no account shall be taken of any period during which such person was engaged in a full-time course of training under the Commonwealth Reconstruction Training Scheme.

(3) A person's service with any employer shall not be deemed not to be continuous service by reason only that—

- (a) such person was dismissed from the service of such employer because of retrenchment or reduction in work if, within twelve months after his being so dismissed, he was again employed by such employer; or
- (b) such person ceased to be employed by such employer during any period during which such person was engaged in a full-time course of training under the Commonwealth Reconstruction Training Scheme,

but

but any period during which such person was not employed by such employer for the reason referred to in paragraph (a) or (b) of this subsection shall not be, for the purposes of this Act, reckoned as service with such employer. No. 52, 1963

(4) A reference in this section to a period during which a person was engaged in a full-time course of training under the Commonwealth Reconstruction Training Scheme shall be construed as a reference to a period commencing on the date on which that person first commenced to receive instruction in that training and ending on whichever of the following dates is the later : —

the date on which such person last received such instruction ; or

the date of publication of the result of any examination held at the end of the course in which such training was given and at which such person was a candidate.

5. Nothing in this Act affects the rights under any other Act, or under any regulations made under any other Act, of any person to extended leave. Rights under other Acts unaffected.

3. (1) The amendments made by section two of this Act shall be deemed to have commenced upon the twenty-fourth day of March, one thousand nine hundred and sixty-one. Retrospective operation of amendments made by section two of this Act.

(2) Where—

(a) any person was employed at, or at any time after, the commencement of the Transferred Officers Extended Leave Act, 1961, in the service of a State employer ; and

(b) such person has been granted and has taken—

(i) any extended leave in respect of any period of service that he was entitled, under the Transferred Officers Extended Leave Act, 1961,

Valuation of Land (Amendment) Act.No. 52, 1963

1961, to have, for the purpose of calculating his entitlement to extended leave as an employee in the service of his second employer, within the meaning of that Act, reckoned as service with his second employer; or

(ii) any other benefit in lieu of extended leave, then that period of service shall not be taken into account for the purpose of calculating such person's entitlement to extended leave under the provisions of that Act, as amended by this Act.
