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.]
B E 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: —

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

2. The Transferred Officers Extended Leave Act, 1961,
is amended—

(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-estab­
lishment 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 what­
ever 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)
Transferred Officers Extended Leave (Amendment) Act.

(b) service with a State authority 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 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.

(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)
(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
practice of his current employer, entitled, 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
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.

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
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.

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
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 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.

(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 Recon­
struction 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 Rights
any other Act, or under any regulations made under
any other Act, of any person to extended leave.

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.

(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,
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.