

**PUBLIC SERVICE ACT, 1979, No. 89**

**New South Wales**



ANNO VICESIMO OCTAVO

**ELIZABETHÆ II REGINÆ**

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**Act No. 89, 1979.**

An Act for the regulation of the Public Service of New South  
Wales. [Assented to, 16th May, 1979.]

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See also Public Service (Promotion Appeals) Amendment Act, 1979; Constitution (Public Service) Amendment Act, 1979; Industrial Arbitration (Public Service) Amendment Act, 1979; Crown Employees Appeal Board (Public Service) Amendment Act, 1979; and Statutory and Other Offices Remuneration (Public Service) Amendment Act, 1979.

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**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 :—

**PART I.**

**PRELIMINARY.**

**Short title.**      1. This Act may be cited as the "Public Service Act, 1979".

**Commence-  
ment.**            2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) For the purpose only of enabling the Board to be constituted in accordance with this Act on or after (but not before) the day appointed and notified under subsection (2), appointments may be made under Part II, and any other act, matter or thing may be done, before that day as if the whole of this Act commenced on the date of assent to this Act.

**Arrange-  
ment.**            3. This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–9.

PART II.—THE PUBLIC SERVICE BOARD OF NEW SOUTH WALES—ss. 10–35.

DIVISION 1.—*Preliminary*—s. 10.

DIVISION 2.—*Constitution of the Board*—ss. 11–26.

DIVISION 3.—*Procedure at meetings of the Board*—ss. 27–32.

DIVISION 4.—*Functions of the Board generally*—ss. 33–35.

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**PART III.—THE PUBLIC SERVICE OF NEW SOUTH WALES—  
ss. 36–48.**

**DIVISION 1.—*Nature and organisation of the Public Service*—ss. 36–44.**

**DIVISION 2.—*Department Heads*—ss. 45–48.**

**PART IV.—ADMINISTRATION AND MANAGEMENT OF THE  
PUBLIC SERVICE—ss. 49–119.**

**DIVISION 1.—*Special Division officers*—ss. 49–56.**

**DIVISION 2.—*Officers (other than Special Division officers)*—ss. 57–79.**

**DIVISION 3.—*Temporary employees*—s. 80.**

**DIVISION 4.—*Industrial matters*—ss. 81–84.**

**DIVISION 5.—*Discipline and conduct*—ss. 85–100.**

*Subdivision 1.—General—s. 85.*

*Subdivision 2.—Special Division officers—ss. 86–91.*

*Subdivision 3.—Officers (other than Special Division officers)—ss. 92–97.*

*Subdivision 4.—Miscellaneous—ss. 98–100.*

**DIVISION 6.—*Special inquiries*—ss. 101–104.**

**DIVISION 7.—*Efficiency audits*—ss. 105–107.**

**DIVISION 8.—*Management practices*—ss. 108, 109.**

**DIVISION 9.—*Miscellaneous*—ss. 110–119.**

**PART V.—EXTENDED LEAVE—ss. 120–123.**

**PART VI.—APPLICATION OF PROVISIONS TO DECLARED  
AUTHORITIES—ss. 124, 125.**

**PART VII.—GENERAL—ss. 126–135.**

**SCHEDULE 1.—DEPARTMENTS.**

**SCHEDULE 2.—ADMINISTRATIVE OFFICES.**

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SCHEDULE 3.—DECLARED AUTHORITIES.

SCHEDULE 4.—EXCLUDED POSITIONS.

SCHEDULE 5.—REPEALS.

SCHEDULE 6.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

**Interpre-  
tation.**

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“Administrative Office” means the group of staff comprising (wholly or in part) or attached to a body, organisation or group specified in Column 1 of Schedule 2;

“administrative unit” means—

- (a) a Department specified in a list;
- (b) a Department specified in a list, other than an office so specified as not forming part of that Department; or
- (c) an office specified in a list,

that list being a list in force under section 59 published in a notice in which that Department, that Department other than that office, or that office, as the case may be, is declared to be an administrative unit;

“appropriate Department Head” means—

- (a) where the expression is used in connection with a Department—the Head of the Department; or
- (b) where the expression is used in connection with an officer or temporary employee—the Head of the Department to which the officer or employee belongs;

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“appropriate Minister” means—

- (a) where the expression is used in connection with a Department—the Minister responsible for the Department; or
- (b) where the expression is used in connection with an officer or temporary employee—the Minister responsible for the Department to which the officer or employee belongs;

“Board” means the Public Service Board of New South Wales;

“declared authority” means an authority for the time being named in Schedule 3;

“Department” means a Department specified in Column 1 of Schedule 1, and, in accordance with section 7, includes an Administrative Office;

“Department Head” or “Head” means a Department Head referred to in section 46 (1), and, in accordance with section 7, includes the person who has and may exercise the functions of a Department Head in relation to an Administrative Office;

“disciplinary inquiry” means an inquiry held pursuant to the regulations in connection with a breach of discipline alleged to have been committed by an officer other than a Special Division officer;

“efficiency audit” means an examination of any Departmental functions and activities, for the purpose of assessing the extent to which any such functions and activities are being carried on in an efficient, economical and proper manner;

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“functions” includes powers, authorities and duties;

cf. 1902  
No. 31,  
s. 14B (2).

“industrial matters” has the meaning ascribed to that expression by section 5 (1) of the Industrial Arbitration Act, 1940, subject to the following modifications :—

- (a) the references to “employers” and “their employer” shall be read and construed as references to the Crown;
- (b) the references to “employees” shall be read and construed as references to officers and temporary employees;
- (c) the references to “any industry” and “an industry” shall be read and construed as references to the Public Service; and
- (d) the references to “industrial unions” and “trade union” shall be read and construed as references to any association or organisation representing any group or class of officers or temporary employees;

“officer” means a person employed in any capacity under Part IV, and includes—

- (a) a Special Division officer; and
- (b) an officer on probation,

but does not include a temporary employee;

“position” means a position in the Public Service;

“Public Service” means the Public Service of New South Wales, as referred to in section 36;

“Public Service Notices” means any document titled “Public Service Notices” published under the authority of the Minister or the Board;

“regulation” means a regulation under this Act;

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“Special Division officer” means an officer in the Special Division;

“Special Division position” means a position of Department Head created under section 45;

“special inquiry” means a special inquiry under section 101,

“staff” or “members of the staff” means officers or temporary employees or both;

“temporary employee” means a person temporarily employed under section 80;

“term officer” means a Special Division officer appointed or re-appointed for a term under section 51;

“Tribunal” means a Promotions Appeal Tribunal constituted under section 69H of the Public Service (Promotion Appeals) Act, 1902.

(2) A reference in this Act to the exercise of a function includes, where that function is a duty, the performance of that duty.

(3) A reference in this Act to the date of publication of the Public Service Notices is, in relation to any issue of that document, a reference to the date specified in that issue as the date of publication.

5. (1) Where a Department is established or abolished, or its name is changed, the Governor may, by proclamation published in the Gazette, amend Column 1 of Schedule 1 by inserting, omitting or amending the name of the Department accordingly. Amendment of Schedule 1 (Departments).

(2) The Governor may, by proclamation published in the Gazette, amend Column 2 of Schedule 1 by inserting opposite the name of a Department the title or other description of a position in the Department, or by omitting or amending that title or other description.

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(3) The Governor may, by proclamation published in the Gazette, omit Schedule 1 and insert instead a Schedule containing in Column 1 the names of Departments and containing in Column 2 the titles or other descriptions of positions in those Departments.

Amendment  
of Schedule  
2 (Adminis-  
trative  
Offices).

6. (1) The Governor may, by proclamation published in the Gazette, amend Column 1 of Schedule 2 by inserting, omitting or amending the title or other description of a body, organisation or group.

(2) The Governor may, by proclamation published in the Gazette, amend Column 2 of Schedule 2 by inserting the title or other description of an office or position, or by omitting or amending that title or other description.

(3) The Governor may, by proclamation published in the Gazette, omit Schedule 2 and insert instead a Schedule containing in Column 1 the titles or other descriptions of bodies, organisations or groups and containing in Column 2 the titles or other descriptions of offices or positions.

Application  
of Act to  
Administra-  
tive Offices.

7. (1) This Act applies to and in respect of an Administrative Office in the same way as it applies to and in respect of a Department, and references in this Act to a Department shall accordingly be read and construed as including references to an Administrative Office.

(2) This Act applies to the person who, pursuant to section 46 (2) or (3), has and may exercise the functions of a Department Head in the same way as it applies to and in respect of a Department Head, and references in this Act to a Department Head shall accordingly be read and construed as including references to such a person.

(3) Subsections (1) and (2) do not apply in relation to this section or section 5 or 46.



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8. Unless otherwise expressly provided, nothing in this Act affects the Industrial Arbitration Act, 1940.

Saving of Industrial Arbitration Act.  
cf. 1902 No. 31, s. 5A.

9. (1) Except where otherwise expressly provided, nothing in this Act applies to—

Act not to apply to certain positions.  
cf. 1902 No. 31, s. 5.

- (a) any position specified or referred to in Schedule 4; or
- (b) any position the salary or remuneration for which is fixed by statute or in accordance with the Statutory and Other Offices Remuneration Act, 1975, other than a position specified in Schedule 1,

or the person holding any such position.

(2) Subsection (1) does not operate to prevent section 54, 77, 99 or 130 from applying to or in respect of a person holding a position referred to in subsection (1) (b).

(3) Subsection (1) does not prevent a person holding a position referred to in that subsection from being or exercising any functions of a Department Head.

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**PART II.**

**THE PUBLIC SERVICE BOARD OF NEW SOUTH WALES.**

*DIVISION 1.—Preliminary.*

10. In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

Interpretation.

“Chairman” means the Chairman of the Board;

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“member” means a member of the Board, and includes the Chairman.

DIVISION 2.—*Constitution of the Board.*

- Constitution of the Board.**      **11.** There is hereby constituted a corporation under the corporate name of the “Public Service Board of New South Wales”.
- Com-  
position of  
the Board.**                      **12.** The Board shall consist of 3 members appointed by the Governor.
- Application  
of this Act  
to members.**                    **13.** The provisions of this Act (other than this Part) do not apply to or in respect of the appointment of a person as a member, and a member, in his capacity as a member, is not, except where expressly provided by this Act, subject to the provisions of this Act (other than this Part) during his term of office as member.
- Age of  
members.**                        **14.** A person who is of or above the age of 65 years shall not be appointed as a member or to act in the office of a member under section 18.
- Term of  
office.**                            **15.** Subject to this Act, a member—
- (a) shall be appointed for such term, not exceeding 7 years, as is specified in the instrument of appointment; and
  - (b) is eligible for re-appointment from time to time, on each occasion for such term, not exceeding 7 years, as is specified in the instrument of re-appointment.
- Chairman.**                        **16.** One of the members shall, by the instrument of his appointment or re-appointment as a member or by another instrument executed by the Governor, be appointed as Chairman of the Board.

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- 17.** (1) Each member is entitled to be paid—
- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
  - (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

Remuneration of members.

(2) The remuneration referred to in subsection (1) (a) is payable from the Consolidated Revenue Fund which is to the necessary extent hereby appropriated accordingly.

**18.** (1) In the event of the illness, suspension or absence of a member or in the event of a vacancy occurring in the office of a member (including in either case the Chairman), the Governor may appoint a person to act temporarily as a member during the illness, suspension or absence of the member or until the vacant office is filled, as the case may be.

Acting appointments.

(2) In the event of the illness, suspension or absence of the Chairman or in the event of a vacancy occurring in the office of the Chairman, the Minister may appoint a member to act temporarily as Chairman during the illness, suspension or absence of the Chairman or until the vacant office is filled, as the case may be.

(3) A person, while acting as a member pursuant to subsection (1) or as Chairman pursuant to subsection (2), shall have and may exercise all the functions of the member in whose office he acts or the Chairman, as the case may be, other than those conferred by section 30.

(4) An appointment under subsection (2) ceases to have effect if the Governor appoints a person under subsection (1) to act as Chairman.

(5) For the purposes of this section, the office of a member shall be deemed to be vacant while he is acting as Chairman pursuant to an appointment under subsection (1) or (2).

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(6) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a member, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted to be done by the member in whose office he is acting.

Vacation  
of office.

19. A member shall be deemed to have vacated his office—
- (a) if he dies;
  - (b) if he engages, during his term of office, in any paid employment outside the duties of his office without the approval of the Minister;
  - (c) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or allowances for their benefit;
  - (d) if he is absent from duty for 30 days in any 12 months, except on leave granted by the Minister;
  - (e) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
  - (f) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
  - (g) if he resigns his office by writing signed by him and delivered to the Minister and his resignation is accepted by the Governor;
  - (h) if he is removed from office under section 20; or
  - (i) upon his attaining the age of 65 years.

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**20.** (1) A member shall not be removed from office except in accordance with this section.

Removal  
from  
office.

(2) A member may be suspended from his office by the Governor for misbehaviour or incompetence.

cf. 1902  
No. 31,  
s. 8 (1).

(3) The Minister shall cause to be laid before each House of Parliament a full statement of the grounds of suspension of the member within 7 sitting days of that House after suspension.

(4) The suspension shall be lifted unless each House of Parliament, within 21 sitting days from the time when the statement was laid before it, declares by resolution that the suspended member ought to be removed from office.

(5) If each House does so declare within that period, the suspended member shall be removed from office by the Governor.

(6) For the purposes of this section, sitting days shall be counted, whether or not they occur during the same session.

**21.** On the occurrence of a vacancy in the office of a member, the Governor may, subject to section 14, appoint a person to the vacant office.

Filling  
of  
vacancy.

**22.** No matter or thing done by the Board, a member or any other person acting under the direction or as a delegate of the Board shall, if the matter or thing was done in good faith for the purpose of executing this Act, subject a member or person personally to any action, liability, claim or demand.

Protection  
from  
liability.  
cf. 1902  
No. 31,  
s. 7 (8).

**23.** (1) In this section—

“statutory body” means any body declared under section 25 to be a statutory body for the purposes of this Division;

Preserva-  
tion of  
rights of  
members.

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“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

(2) Subject to subsection (5) and to the terms of his appointment, where a member was, immediately before his appointment as a member—

- (a) an officer of the Public Service;
- (b) an officer employed by a statutory body;
- (c) a contributor to a superannuation scheme; or
- (d) a person in respect of whom provision was made by an Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

- (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as a member; and
- (g) shall be entitled to receive any deferred or extended leave and any pension or gratuity,

as if he had continued to be such an officer, contributor or person during his service as a member.

(3) A person's service as a member shall be deemed to be service as an officer or employee for the purposes of any law under which rights accrued or were accruing, under which he continues to contribute or by which he is entitled, as referred to in subsection (2).

(4) A member shall be deemed to be an officer or employee for the purpose of the superannuation scheme to which he is entitled to contribute under this section.

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(5) If a member—

- (a) would, but for this subsection, be entitled under subsection (2), to contribute to a superannuation scheme, or to receive any payment, pension or gratuity under a superannuation scheme; and
- (b) becomes a contributor to another superannuation scheme (whether upon his appointment as a member or at any later time while he holds office as a member),

he ceases to be so entitled and the provisions of subsection (4) cease to apply to or in respect of him.

(6) Subsection (5) does not prevent the payment to a member upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of his resignation, to be an officer or employee for the purposes of that scheme.

(7) A member is not, in respect of the same period of service, entitled to claim a benefit under this Act and another Act.

24. (1) In this section—

“retiring age” means—

- (a) in relation to a person who was, immediately before his appointment as a member, an officer of the Public Service—the age of 60 years; and
- (b) in relation to a person who was, immediately before his appointment as a member, an officer or employee of a statutory body—the age at which officers and employees (being officers or employees of the class to which that person belonged immediately before his appointment as a member), as the case may be, of that statutory body are entitled to retire;

Member entitled to re-appointment in former employment.

“statutory body” means any body declared under section 25 to be a statutory body for the purposes of this Division.

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(2) A person who ceases to be a member by reason of the expiration of his term of office or his resignation is, if he has not attained the retiring age, entitled to be appointed, where, immediately before his appointment as a member, he was—

- (a) an officer of the Public Service—to some position in the Public Service; or
- (b) an officer or employee of a statutory body—to some position in the service of that body,

not lower in classification and salary than that which he held immediately before his appointment as a member.

(3) The Board shall make a recommendation to the Minister respecting the appointment of a person to a position pursuant to subsection (2) (a), but the appointment need not be made in accordance with that recommendation.

(4) A member who is a person referred to in subsection (2) may not participate in a decision of the Board in relation to a recommendation respecting his appointment to a position pursuant to subsection (2) (a).

(5) An appointment pursuant to subsection (2) (a) shall be made by the Governor on the recommendation of the Minister.

(6) Nothing in this section prevents the appointment of a person who ceases to be a member by reason of the expiration of his term of office or his resignation, and who has attained the age of 60 years, from being appointed to some position in the Public Service subject to and in accordance with this Act.

Declaration  
of statutory  
bodies.

**25.** The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Division.

Presump-  
tions.

**26.** In proceedings by or against the Board, no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Board;



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- (b) the passing of any resolution of the Board;
- (c) the appointment of any member; or
- (d) the presence of a quorum at any meeting of the Board

*DIVISION 3.—Procedure at meetings of the Board.*

**27.** Two members constitute a quorum at any meeting of the Board.

Quorum.  
cf. 1919  
No. 31,  
s. 7 (4).

**28.** (1) The person appointed as Chairman shall preside at all meetings of the Board at which he is present.

Presiding  
member.

(2) If the person appointed as Chairman is not present at a meeting of the Board, the person (if any) appointed to act as Chairman under section 18 shall preside at that meeting.

(3) If neither of the persons referred to in subsections (1) and (2) is present at a meeting of the Board, the member chosen by the members present at that meeting shall preside at that meeting.

(4) Subject to sections 29 and 30—

- (a) a duly convened meeting of the Board at which a quorum is present is competent to transact any business of the Board;
- (b) questions arising at a meeting of the Board shall be determined by a majority of votes of the members present and voting; and
- (c) the person presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

**29.** If at any meeting of the Board, at which 2 members only are present, neither of whom is the Chairman or the person appointed under section 18 to act as Chairman, those members

Meetings.  
cf. 1919  
No. 31,  
s. 7 (5).

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differ in opinion upon any matter, the determination of the matter shall be postponed to a meeting at which the Chairman or that person is present.

Special powers of Chairman. cf. 1919 No. 31, s. 7 (5A).

**30.** If the Chairman disapproves of the decision of the Board, being a decision in favour of which he has not voted, with respect to any matter (whether the Chairman was or was not present when the decision was given)—

- (a) the matter shall be deferred for not less than 24 hours after the decision, or, if the Chairman was not present when the decision was given, for not less than 24 hours after it has been brought to his knowledge by communication in writing when the matter shall again be brought before the Board;
- (b) if the Chairman again disapproves of the decision of the Board, being a decision in favour of which he has not voted, the matter shall be determined according to the deliberate judgment of the Chairman, irrespective of the decision of the other members; and
- (c) if the Chairman so determines the matter—
  - (i) the Chairman shall enter or cause to be entered in the minutes of the proceedings of the Board his reasons at length for so determining the matter, and shall forward to the Minister a certified copy of the minute; and
  - (ii) any other member may also enter or cause to be entered in the minutes his reasons against the disapproval of the Chairman, and may forward to the Minister a copy of the minute.

**Minutes.**

**31.** The Board shall cause a record of its decisions and full and accurate minutes of the proceedings at its meetings to be kept.

**General procedure.**

**32.** The procedure for the calling of, and for the conduct of business at, meetings of the Board shall, subject to this Act, be as determined by the Board.

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 DIVISION 4.—*Functions of the Board generally.*


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- 33.** (1) The Board shall have and may exercise—
- (a) the functions conferred or imposed on it by or under this or any other Act; and
- (b) such other functions with respect to the administration and management of the Public Service as the Governor, by order published in the Gazette, determines, not (subject to subsection (3)) being functions that are the functions of a Department Head.

General  
functions  
of the  
Board.

(2) The Board may give advice and make recommendations to the Minister on the administration of this Act.

(3) Functions that would, but for this section, be the functions of a Department Head may be the subject of an order under subsection (1) (b) if the Minister certifies to the Governor that the functions require co-ordination or uniform management in connection with more than one Department.

(4) While an order under subsection (1) (b) is in force in relation to functions of the kind referred to in subsection (3), those functions shall, to the extent that the order so provides and subject to section 35, not be the functions of the Department Head, and references in this Act in relation to those functions to the Department Head shall accordingly be read and construed as references to the Board.

(5) Such staff as may be necessary to enable the Board to exercise its functions or to assist the Board in the exercise of its functions shall be employed under this Act.

(6) Without limiting the operation of any other provisions of this Act, the Board may, by its members, officers or delegates—

- (a) enter the premises of any Department;
- (b) require the production of and examine any documents in the custody of any member of the staff of any Department; and
- (c) require any member of the staff of any Department to answer questions,

for the purpose of enabling the Board to exercise its functions.

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(7) The powers conferred by subsection (6) shall not be exercised in relation to a Department except after consultation with the appropriate Department Head.

Directions  
to Board by  
Governor-  
in-Council.

**34.** (1) The Board shall comply with any directions given to it by the Governor with respect to the exercise of its functions, except in relation to—

- (a) the contents of a recommendation or report made by the Board; or
- (b) the Board's functions relating to—
  - (i) the determination of salaries, conditions of work, classification of work, gradings of officers, or any other industrial matters;
  - (ii) the appointment, promotion or discipline of any particular person; or
  - (iii) the hearing or determination of an appeal to the Board.

(2) A direction referred to in this section shall be given by order published in the Gazette.

Delegation  
by Board.

**35.** (1) This section applies to the functions conferred or imposed on the Board by or under this or any other Act, but does not apply to—

- (a) the power of delegation conferred by this section;
- (b) the function conferred or imposed by section 83, or by or under any other law, of entering into agreements relating to any industrial matters; and
- (c) the function of making regulations.

(2) The Board may, by instrument in writing, delegate—

- (a) in any case (including a case referred to in paragraph (b)), to—
  - (i) a member of the Board;
  - (ii) a Department Head; or
  - (iii) an officer employed in the Administrative Office of the Board; or

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(b) in the case of its functions in relation to an efficiency audit, special inquiry or disciplinary inquiry, to—

- (i) an officer not employed in the Administrative Office of the Board; or
- (ii) with the approval of the Minister—any other person,

the exercise of such of the functions to which this section applies as may be specified in the instrument of delegation, and may, by such an instrument, revoke wholly or in part any such delegation.

(3) Any function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation—

- (a) by the delegate; or
- (b) except in the case of a delegation to a person referred to in subsection (2) (b) (ii)—by the person for the time being acting in the place of the delegate.

(4) A delegation under this section may be made subject to such conditions or such limitations as to the exercise of any of the functions delegated, or as to time or circumstance, as may be specified in the instrument of delegation.

(5) Without limiting the generality of subsection (4), where, under this section, the Board delegates to any person any of its functions relating to the promotion of officers, being a function conferred on it under section 33 (1) (b), the delegation shall be subject to the condition that the delegate shall not exercise the function so as to promote an officer to a position if that officer is not, according to the rules governing the seniority of officers, the most senior officer eligible for promotion to that position.

(6) Notwithstanding any delegation under this section, the Board may continue to exercise all or any of the functions delegated.

(7) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section and within the terms of the delegation shall have the same force and effect as if the act or thing had been done or suffered by the Board.

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(8) A delegation under this section may be made to 2 or more persons jointly, or to one person only.

(9) Notwithstanding anything in this section, where the Board makes a delegation under this section in relation to—

(a) a special inquiry connected with a breach of discipline that may have been committed by a Special Division officer; or

(b) a disciplinary inquiry,

the decision of the case shall be determined by the Board.

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PART III.

THE PUBLIC SERVICE OF NEW SOUTH WALES.

DIVISION 1.—*Nature and organisation of the Public Service.*

**The Public Service.**

**36.** The Public Service of New South Wales consists of the persons who are for the time being employed under Part IV.

**Maximum number of staff of Department.**

**37.** (1) The maximum number of staff to be employed in a Department shall be as determined from time to time by the Minister, after receipt by him of a report from the Board, being such number as he determines to be necessary for the efficient, effective and economical management of the functions and activities of the Department.

(2) Before making a report to the Minister under subsection (1) in relation to a Department, the Board shall obtain a report from the appropriate Department Head.

**Staff establishment.**

**38.** (1) The staff establishment of a Department shall consist of—

(a) the position (if any) created under section 45 in relation to the Department; and

(b) such other positions, classified and graded by the Board, as are determined from time to time by the Board.

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(2) The Board shall ensure that the number of positions on the staff establishment of a Department is not lower than the number of staff for the time being determined under section 37 in relation to the Department.

(3) A position created under section 45 shall not be abolished by the Board nor shall the title of such a position be changed by the Board, and no other position on the staff establishment of a Department shall be created, abolished or otherwise dealt with under this section except after consultation with the appropriate Department Head.

(4) The Board may establish, abolish or change the name of any branch of a Department, but may not abolish or change the name of any branch as established by the Governor under section 49 of the Constitution Act, 1902.

(5) Where the Governor removes a branch from any Department and adds it to another Department under section 49 of the Constitution Act, 1902—

- (a) so much of the staff establishment of the firstmentioned Department as relates to the branch becomes correspondingly part of the staff establishment of the other Department; and
- (b) the staff of the branch continue to occupy their positions in the branch but as members of the staff of that other Department.

(6) In this section, "branch" means a branch or other part of a Department.

- 39.** (1) The Public Service is, for the purposes of this Act, divided into 5 principal Divisions, namely :—
- (a) the Special Division;
  - (b) the Professional Division;
  - (c) the Administrative and Clerical Division;
  - (d) the Educational Division;
  - (e) the General Division.

Divisions  
of the  
Public  
Service.  
cf. 1902  
No. 31,  
ss. 21, 26A.

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(2) The Board shall, from time to time, classify officers of the Public Service into those Divisions.

(3) Subsection (2) does not apply to the Special Division or Special Division officers.

Special  
Division.

**40.** The Special Division shall include all officers who are Department Heads occupying positions created under section 45.

Profes-  
sional  
Division.  
cf. 1902  
No. 31,  
s. 23.

**41.** The Professional Division shall include all officers in the Public Service whose positions or duties in the opinion of the Board 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 Public Service.

Administra-  
tive and  
Clerical  
Division.  
cf. 1902  
No. 31,  
s. 24.

**42.** The Administrative and Clerical Division shall include all such officers in the Public Service as the Board from time to time directs to be included in that Division.

Educa-  
tional  
Division.  
cf. 1902  
No. 31,  
s. 25.

**43.** The Educational Division shall include all such officers in the Public Service employed in the work of public instruction as the Board from time to time directs to be included in that Division.

General  
Division.  
cf. 1902  
No. 31,  
s. 26.

**44.** The General Division shall include all officers in the Public Service not included in the Special, Professional, Administrative and Clerical or Educational Divisions.

DIVISION 2.—*Department Heads,*

Creation of  
Department  
Head  
positions.

**45.** (1) Each position specified in Column 2 of Schedule 1 shall be deemed to be created by virtue of this Act.



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(2) Where the title or other description of a position is omitted from Column 2 of Schedule 1, the position shall be deemed to be abolished by virtue of this Act.

(3) Where this Act is amended by amending the title or other description of a position appearing in Column 2 of Schedule 1, the title or other description of the position shall be deemed to be correspondingly amended by virtue of this Act.

(4) Subsection (2) does not affect the powers of the Board under section 38 (1) in relation to the staff establishment of a Department.

**46.** (1) The person (not being a temporary employee) holding the position specified in Column 2 of Schedule 1 opposite the name or description of a Department shall, for the purposes of this Act, be the Department Head in relation to that Department.

(2) The person (not being a temporary employee) holding the position specified in Column 2 of Part 1 of Schedule 2 opposite the title or other description of a body, organisation or group shall have the status of a Department Head and shall, for the purposes of this Act, have and may exercise the functions of a Department Head in relation to the Administrative Office concerned.

(3) The person (not being a temporary employee) holding the position specified in Column 2 of Part 2 of Schedule 2 opposite the title or other description of a body, organisation or group shall, for the purposes of this Act, have and may exercise the functions of a Department Head in relation to the Administrative Office concerned.

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(4) For the purposes of this Act, a reference in Schedule 1 or 2 to a body, organisation or group shall be deemed not to include a reference to any part thereof specified separately in either of those Schedules.

(5) Notwithstanding anything in this Act, any recommendation or other act, matter or thing, required by or under this Act to be made or done by a person who is a Department Head (or a person referred to in section 7 (2)) shall, if it is to be made or done by such a person in relation to—

(a) a position specified in Column 2 of Schedule 2; or

(b) the person holding that position,

be made or done by such Department Head as the Governor, by order published in the Gazette, determines in relation to the position.

(6) A provision contained in any Act enacted before the date of assent to this Act does not have any force or effect to the extent that it would, but for this subsection, operate—

(a) to make a person a Department Head; or

(b) to authorise or require a person to exercise any functions of a Department Head.

General  
responsi-  
bility of  
Department  
Head.

**47.** (1) A Department Head is responsible to the appropriate Minister for the general conduct and the efficient, effective and economical management of the functions and activities of the Department.

(2) For the purpose of exercising his responsibility under subsection (1), a Department Head may take such action as he deems appropriate and as is not inconsistent with the functions of the Board specified in this Act.

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**48.** (1) This section applies to the functions (other than this power of delegation) conferred or imposed on a Department Head by or under this Act, including any functions the exercise of which is delegated to him under this Act. <sup>Delegation by Department Heads.</sup>

(2) The Department Head may, by instrument in writing, delegate to any officer of the Department the exercise of such of the functions to which this section applies as may be specified in the instrument of delegation, and may, by such an instrument, revoke wholly or in part any such delegation.

(3) Any function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation—

(a) by the delegate; or

(b) if the instrument of delegation so provides and subject to the terms of the delegation—by another officer of the Department authorised by instrument in writing by the delegate in that behalf either generally or in a particular case or class of cases.

(4) A delegation or authorisation under this section may be made subject to such conditions or such limitations as to the exercise of any of the functions delegated, or as to time or circumstance, as may be specified in the instrument of delegation or authorisation.

(5) Without limiting the generality of subsection (4), where, under this section, the Department Head delegates to any officer any of his functions relating to the promotion of officers,

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the delegation shall be subject to the condition that the delegate shall not exercise the function so as to promote an officer to a position if that officer is not, according to the rules governing the seniority of officers, the most senior officer eligible for promotion to that position.

(6) Notwithstanding any delegation under this section, the Department Head may continue to exercise all or any of the functions delegated.

(7) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section or by another officer duly authorised in that behalf by the delegate shall have the same force and effect as if the act or thing had been done or suffered by the Department Head.

(8) The Department Head may, by an instrument in writing, revoke wholly or in part any authorisation of an officer under this section.

(9) An authorisation under this section shall be deemed to be revoked if the relevant delegation is revoked.

(10) Where the exercise of a function has been delegated by the Board to a Department Head, this section does not authorise him to sub-delegate the exercise of that function in contravention of any prohibition or limitation on sub-delegation imposed by the Board by the instrument of delegation or by any other instrument in writing.

(11) Section 40 of the Interpretation Act, 1897, applies to an authorisation under this section in the same way as it applies to a delegation.

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PART IV.

ADMINISTRATION AND MANAGEMENT OF THE PUBLIC SERVICE.

DIVISION 1.—*Special Division officers.*

**49.** (1) Where a vacancy exists in any Special Division position, the position may be filled—

Filling of vacant Special Division positions.

- (a) by the appointment, by way of transfer or promotion, of an officer, other than a term officer; or
- (b) by the appointment as a term officer of a person who, immediately before his appointment, was not an officer or by the appointment, by way of transfer or promotion, of a term officer,

subject to and in accordance with this Division.

(2) A temporary appointment may be made under subsection (1) (a) to a position to have effect while the holder of the position is suspended, sick or absent.

**50.** Appointments (whether by way of transfer or promotion or otherwise), including temporary appointments, to Special Division positions shall be made by the Governor.

Method of appointment.

**51.** (1) Subject to this Act, a person who was not an officer immediately before he became a Special Division officer—

Term of office of term officer.

- (a) shall be appointed for such term, not exceeding 7 years, as is specified in the instrument of appointment; and
- (b) is eligible for re-appointment from time to time, on each occasion for such term, not exceeding 7 years, as is specified in the instrument of re-appointment.

(2) The provisions of section 23 (subsection (2) (a) excepted) and section 24 (subsections (2) (a) and (3)–(6) excepted) apply to and in respect of a term officer in the same way as they apply to and in respect of a member of the Board.

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Removal of  
Special  
Division  
officers.

**52.** (1) The Governor may, for any cause which to him seems sufficient, remove an officer from a Special Division position.

(2) The Governor may direct that an officer removed from a Special Division position under subsection (1) shall be an unattached officer in the Special Division, and may revoke any such direction.

(3) While a direction under subsection (2) remains in force, the person to whom the direction relates shall be deemed to be a Special Division officer, although not holding a Special Division position, and to be entitled to salary at the rate at which it would be payable if he had not been removed from his position.

(4) Where—

- (a) an officer is removed from a Special Division position under subsection (1) and a direction was not given in relation to him under subsection (2); or
- (b) a direction under subsection (2) given in relation to an officer is revoked,

the officer ceases to be a Special Division officer unless he is (subject to and in accordance with this Act) appointed to another Special Division position.

(5) A term officer who ceases to be a Special Division officer pursuant to subsection (4) ceases to be an officer of the Public Service unless he is (subject to and in accordance with this Act) appointed to another position in the Public Service, and is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines (which determination is hereby authorised to be made).

(6) An officer referred to in subsection (4) (other than a term officer) who ceases to be a Special Division officer is, if he has not attained the age of 60 years, entitled to be appointed to some position in the Public Service not lower in classification and salary than that which he held immediately before he became a Special Division officer.

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(7) The Board shall make a recommendation to the Minister respecting the appointment of an officer to a position pursuant to subsection (6), but the appointment need not be made in accordance with that recommendation.

(8) An appointment under subsection (6) shall be made by the Governor on the recommendation of the Minister.

(9) Nothing in this section prevents the appointment of a person referred to in subsection (4) who ceases to be a Special Division officer, and who has attained the age of 60 years, from being appointed to some position in the Public Service subject to and in accordance with this Act.

**53.** (1) A term officer shall be deemed to have vacated his position—

Vacation of position by Special Division officer.

- (a) if he dies;
- (b) if he is absent from duty for 30 days in any 12 months, except on leave granted by the appropriate Minister;
- (c) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (d) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable; or
- (e) if he resigns his position by writing signed by him and delivered to the appropriate Minister and his resignation is accepted by the Governor.

(2) A Special Division officer (other than a term officer) shall be deemed to have vacated his position—

- (a) if he dies; or

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- (b) if he resigns his position by writing signed by him and delivered to the appropriate Minister and his resignation is accepted by the Minister administering this section.

(3) Nothing in this section affects any other provision by or under which a Special Division officer vacates his position.

Retirement  
of Special  
Division  
officers.  
cf. 1902  
No. 31,  
s. 66.

**54.** (1) A Special Division officer—

- (a) may retire from the Public Service upon his attaining the age of 60 years; or
- (b) may continue in the Public Service after he has attained that age, but—
- (i) may retire from the Public Service; or
- (ii) the Governor, on the recommendation of the Minister, may cause him to be retired from the Public Service,

at any time after he has attained that age and before he attains the age of 65 years.

(2) A Special Division officer who attains the age of 65 years shall, subject to subsection (3), thereupon retire or be retired by the Governor.

(3) Where—

- (a) the Board is of the opinion that it is in the public interest that a Special Division officer who is of or above the age of 65 years should continue to perform the duties of his position; and

(b) the officer agrees to continue to perform those duties, the officer's retirement may be deferred for a period not exceeding 12 months and thereafter, so long as the officer agrees to continue to perform those duties, from time to time for such periods, not exceeding 12 months, as the Board may fix, but notwithstanding any such deferment the Governor, on the recommendation of the Minister, may cause the officer to be retired at any time.



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(4) A term officer who is retired under this section is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines (which determination is hereby authorised to be made).

(5) Nothing in this section extends the term for which a term officer is appointed.

55. If a Special Division officer (other than a term officer) is found unfit to discharge or incapable of discharging the duties of his position, and his unfitness or incapacity appears likely to be of a permanent character, and has not arisen from actual misconduct on his part, or from causes within his control, the Governor, on the recommendation of the Minister, may cause him to be retired.

Incapable officer may be retired. cf. 1902 No. 31, s. 63.

56. Each Special Division officer is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

Remuneration of Special Division officers.

*DIVISION 2.—Officers (other than Special Division officers).*

57. (1) In this Division, "officer" does not include a term officer.

Non-application to Special Division.

(2) Nothing in this Division applies to or in respect of appointments to Special Division positions, and sections 77–79 do not apply to Special Division officers.

58. (1) This section has effect for the purpose of determining seniority for the purposes of this Act and the Public Service (Promotion Appeals) Act, 1902.

Seniority. cf. 1902 No. 31, s. 20A.

(2) Except as provided in subsections (3) and (4), an officer is senior to every other officer on a lower salary than the firstmentioned officer.

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(3) The relative seniority of officers who are within a group of officers prescribed for the purposes of this subsection shall be determined in accordance with the regulations made under section 133 (2) (a).

(4) An officer—

- (a) who is within a group referred to in subsection (3) is senior to any other officer who is within any other such group or who is not within any such group if that officer is on a lower salary than the firstmentioned officer; and
- (b) who is not within any group referred to in subsection (3) is senior to any officer within any such group who is on a lower salary than the firstmentioned officer.

(5) Where, pursuant to this section, the relevant seniority of officers is to be determined according to their salaries and 2 or more officers are on equal salaries, the relative seniority of those officers shall be determined in accordance with the regulations made under section 133 (2) (b).

Adminis-  
trative  
units.  
cf. 1902  
No. 31,  
s. 4A.

**59.** (1) The Board shall, whenever by reason of any change occasion requires, but at intervals of not more than 6 months, cause to be published in the Public Service Notices a notice containing a list and declaring—

- (a) that any Department specified in the list;
- (b) that any Department specified in the list, other than any office referred to in paragraph (c) and specified in the list as not forming part of that Department; and
- (c) that any office specified in the list, being an office in which officers are employed,

is an administrative unit for the purposes of this Act.

(2) Any list published in the Public Service Notices under subsection (1) ceases to be in force upon the next subsequent publication in the Public Service Notices of any such list.

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(3) A copy of the Public Service Notices containing a list and declaration purporting to be a list and declaration referred to in subsection (1) is evidence that—

- (a) any Department specified in the list;
- (b) any Department specified in the list, other than an office specified in the list as not forming part of that Department; or
- (c) any office specified in the list,

as the case may be, was on the date of publication of the issue of the Public Service Notices containing the list and declaration an administrative unit for the purposes of this Act and has, in the absence of proof of the publication of a later issue of the Public Service Notices containing such a list and declaration, since remained at all material times such an administrative unit.

(4) A reference in any list published under subsection (1) to a Department or office is a reference to that Department or office as established from time to time while the list is in force.

**60.** Where a vacancy exists in a position in a Department and the appropriate Department Head decides it is expedient to fill the vacancy, the position may be filled— **Filling of vacant positions.**

- (a) by the appointment, by way of transfer or promotion, of an officer; or
- (b) by the appointment of a person who, immediately before his appointment, was not an officer,

subject to and in accordance with this Division.

**61.** Except where otherwise provided, appointments (whether by way of transfer or promotion or otherwise) to positions in the Public Service shall be made by the Governor on the recommendation of the appropriate Department Head. **Method of appointment.**

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In-service  
appoint-  
ments.  
cf. 1902  
No. 31,  
s. 49.

**62.** (1) In this section, "efficiency", in relation to an officer eligible for appointment to a vacant position, means—

- (a) the possession by that officer of qualifications, determined by the Board in respect of that position, for the discharge of the duties of that position and his aptitude for the discharge of those duties; and
- (b) the merit, diligence and good conduct of that officer.

(2) In deciding to make a recommendation for the appointment of an officer to a vacant position, the appropriate Department Head shall, out of the group of officers eligible for appointment to the vacant position, prefer—

- (a) the officer whose efficiency is, in the opinion of the Department Head, greater than that of any other officer in that group; or
- (b) where, in the opinion of the Department Head, there is no officer in that group entitled to preference under paragraph (a), the officer who, under section 58, is senior to any other officer in that group.

(3) The reference in subsection (2) to an officer being eligible for appointment to a vacant position is a reference—

- (a) except as provided in paragraph (b)—to an officer holding a position in the administrative unit in which the vacant position exists at the time the decision of the Department Head is made; or
- (b) where an invitation to apply for appointment to the vacant position was published in the Public Service Notices or in a newspaper—to any officer who duly made application for appointment to the vacant position.

(4) A recommendation referred to in subsection (2) shall not be acted upon until the expiration of the time for lodging a notice of appeal under Part IIA of the Public Service (Promotion

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Appeals) Act, 1902, against the Department Head's decision to make the recommendation or where such a notice of appeal is lodged within that time until the appeal is determined under that Part.

63. (1) Except as provided in section 64 or 65, no appointment of a person who is not already an officer in the Public Service shall be made to a vacant position unless the Board gives a certificate under this section.

Outside  
appoint-  
ments:  
Board's  
certificates.  
cf. 1902  
No. 31,  
ss. 34 (2),  
35 (1).

(2) A certificate referred to in subsection (1) shall state—

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

(3) The regulations may prescribe requirements that are to be complied with before a certificate under this section is issued.

64. (1) If it is expedient or desirable in the interests of the Public Service to appoint a person who is not an officer already in the Public Service to the Professional or Educational Division, an appointment may be made to a vacant position accordingly.

Outside  
appoint-  
ments (Pro-  
fessional or  
Educational  
Division):  
special  
cases.

(2) No such appointment shall be made unless the Board has reported to the Governor that in its opinion there is no officer in the Public Service fit, qualified and available for appointment to the position.

cf. 1902  
No. 31,  
s. 36.

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(3) All such reports shall be laid before each House of Parliament as soon as practicable after the appointment is made.

(4) An appointment under this section may be made without examination or probation.

Outside  
appoint-  
ments:  
Teaching  
Service.  
cf. 1902  
No. 31,  
s. 36A.

**65.** (1) If it is expedient or desirable in the interests of the Public Service to appoint to the Professional, Educational, Administrative and Clerical or General Division a person who is then employed under the Teaching Service Act, 1970, an appointment may be made to a vacant position accordingly.

(2) An appointment under this section shall be made—

- (a) with the concurrence of the Director-General of Education;
- (b) with the written consent of the appointee;
- (c) subject to such conditions (if any) as the Board may specify; and
- (d) without examination or probation.

(3) A person ceases to be employed under the Teaching Service Act, 1970, upon his being appointed pursuant to this section.

Medical  
examina-  
tion.  
cf. 1902  
No. 31,  
s. 27 (1)  
(a).

**66.** A person is not eligible for permanent appointment to the Public Service unless he satisfies a medical examination as to his health, as provided for by the regulations.

Educa-  
tional  
require-  
ments.  
cf. 1902 No.  
31, ss. 27,  
28 (1), (3),  
29-31.

**67.** (1) Subject to this Division, a person shall not be appointed to a position as an officer unless he has successfully passed the prescribed examination.

(2) Candidates for employment in the General Division need not be required to pass any examination referred to in subsection (1).

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(3) The regulations may make provision for or with respect to the competitive examination of persons desiring to enter the Public Service, and in particular for or with respect to—

- (a) the nature and standard of the examinations to which candidates are required to submit themselves;
- (b) the times and places at which the examination shall be held, and the manner of holding them; and
- (c) any fee (not exceeding \$1) to be paid by candidates.

(4) For the purposes of examinations referred to in subsection (3), the Board may from time to time appoint such persons as may be required to be examiners to conduct examinations in the prescribed manner, and each such person shall be appointed for a period not exceeding 12 months at any one time.

(5) Examinations referred to in subsection (3) shall be held separately for the Professional, Administrative and Clerical and Educational Divisions and shall be designed to test the attainments, fitness and aptitude of candidates for employment in the respective Divisions.

(6) The times and places at which candidates are to comply with the requirements of this Act and present themselves for examination referred to in subsection (3) shall be so arranged that persons living in country districts shall have reasonable facilities in the district in which they live for competing for employment or attempting examinations without the necessity for attendance in Sydney.

(7) Adequate public notice in a Sydney daily newspaper shall be given of any examination referred to in subsection (3).

**68.** (1) Subject to this Division, every person admitted to the Public Service as an officer shall, in the first instance, be appointed to a position on probation for a period of 6 months or such longer period as the appropriate Department Head directs. Appoint-  
ments on  
probation.  
cf. 1902 No.  
31, s. 32.

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(2) Without affecting any other provision of this Division, an appointment may, if the Board so approves, be made without probation.

(3) The period for which a person is appointed on probation may not be in excess of 2 years, except with the concurrence of the Board.

Confirma-  
tion or  
annulment  
of appoint-  
ments on  
probation.  
cf. 1902 No.  
31, s. 32.

**69.** (1) Where a person has been appointed to a position on probation under section 68, the Governor may, on the recommendation of the appropriate Department Head, based on inquiry and report—

- (a) after the period of probation—confirm the appointment;  
or
- (b) during or after the period of probation—annul the appointment.

(2) If a person's appointment is annulled under subsection (1), he ceases to be an officer unless he is appointed to another position as an officer.

(3) Nothing in section 94 prevents the Governor from exercising at any time his power to annul an appointment under subsection (1).

Appoint-  
ment of  
retired  
officers.  
cf. 1902  
No. 31,  
s. 46.

**70.** (1) An officer who has been retired from the Public Service or whose services have been dispensed with under section 113 may be appointed to a vacant position.

(2) An appointment under this section shall be made by the Governor on the recommendation of the Board, and shall not be made except after consultation by the Board with the Head of the Department to which the officer is appointed.

(3) An appointment under this section may be made without examination or probation.



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(4) This section applies to an officer only if he has not attained the age of 60 years before the Board makes the recommendation referred to in subsection (2).

**71.** (1) Except where the Board otherwise directs, every vacant position to which an appointment is proposed to be made under this Division shall be advertised in the Public Service Notices or in such other manner as the Board determines. Advertising of vacancies.

(2) Where a Department Head makes a recommendation for an appointment to a vacant position, he shall, as prescribed, furnish to the Board a report as to the manner in which subsection (1) was complied with in relation to the vacancy.

**72.** (1) The Board shall cause to be published in the Public Service Notices at intervals of not more than one month brief particulars in a form determined by the Board of any decision, made under section 62, of a Department Head to make a recommendation to the Governor to appoint any officer to fill a vacant position, particulars of which have not previously been published in the Public Service Notices in accordance with this subsection. Publication of decisions to make recommendations under section 62. cf. 1902 No. 31, s. 49A.

(2) Any officer who is proceeding on duty outside the State for a period exceeding 6 weeks or on leave for a period exceeding 6 weeks, and who has made application, in the prescribed form, to the appropriate Department Head, is entitled to have sent to him during that period by the Department Head, by pre-paid post addressed to him at the address specified in that application, a copy of all Public Service Notices published during that period.

(3) Each Department Head shall, in accordance with the regulations, notify the Board of all recommendations made by him of the kind referred to in subsection (1).

**73.** (1) There shall be 2 series of grades in the Professional Division and the Administrative and Clerical Division called the higher and lower grades. Higher and lower grades. cf. 1902 No. 31, s. 48.

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(2) Every officer classified in either of those Divisions who is engaged in the performance of work entitling him for the time being to an annual salary of not less than the specified amount applicable to him shall be deemed to be included in the higher grade of that Division.

(3) Every officer classified in either of those Divisions who is engaged in the performance of work entitling him for the time being to an annual salary of less than the specified amount applicable to him shall be deemed to be included in the lower grade of that Division.

(4) A reference in this section to the specified amount is a reference to such amount as may from time to time be determined by the Board, either generally or in respect of officers belonging to any specified class of officers.

Promotion  
to higher  
grades.  
cf. 1902  
No. 31,  
s. 50.

**74.** (1) No person is eligible for promotion from the lower to the higher grades of the Professional Division and Administrative and Clerical Division unless he has obtained the appropriate qualification.

(2) For the purposes of subsection (1), the appropriate qualification, in relation to either of those Divisions, is whichever of the following qualifications is determined by the Board in respect of that Division :—

- (a) the qualification obtained by passing the examination referred to in subsection (3) for promotion to the higher grades of that Division;
- (b) the qualification obtained by passing such examinations conducted by such institutions as may be determined by the Board, in respect of that Division; or
- (c) the qualification referred to in paragraph (a) together with the qualification referred to in paragraph (b).

(3) The Board shall, from time to time as may appear necessary, cause examinations for promotions from the lower to the higher grades in those Divisions to be held by the examiners

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appointed under section 67, which examinations shall be open to all officers employed in the lower grades of those Divisions who, at the date on which they present themselves for examination, have been at least 3 years in the Public Service as officers.

**75.** (1) Notwithstanding section 62 (4) but subject to section 76, an officer may be temporarily appointed to a position which is vacant or the holder of which is suspended, sick or absent. Temporary appointments.

(2) An appointment of an officer under subsection (1) to a position in a Department shall be made—

- (a) if the officer is already an officer of the Department—  
by the appropriate Department Head with the concurrence of the Board; or
- (b) if the officer is not already an officer of the Department—  
by the Board at the request of the appropriate Department Head.

**76.** (1) Except with the approval of the Board, an officer may not, by way of temporary appointment, be employed to carry out the duties of a permanent position for a period in excess of 6 months. Restriction on temporary appointment.

cf. 1902 No. 31, s. 46a.

(2) The Board shall not give its approval for the purposes of subsection (1) unless it is satisfied that it should be given having regard to the exigencies of the Public Service.

**77.** (1) An officer—

- (a) may retire from the Public Service upon his attaining the age of 60 years; or
- (b) may continue in the Public Service after he has attained that age, but—

(i) may retire from the Public Service; or

Retirement of officers.  
cf. 1902 No. 31, s. 66.

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(ii) the Governor, on the recommendation of the appropriate Department Head, may cause the officer to be retired from the Public Service,

at any time after he has attained that age and before he attains the age of 65 years.

(2) An officer who attains the age of 65 years shall, subject to subsection (3), thereupon retire or be retired by the Governor.

(3) Where—

(a) the Board is of the opinion that it is in the public interest that an officer who is of or above the age of 65 years should continue to perform the duties of his position; and

(b) the officer agrees to continue to perform those duties, the officer's retirement may be deferred for a period not exceeding 12 months and thereafter, so long as the officer agrees to continue to perform those duties, from time to time for such periods, not exceeding 12 months, as the Board may fix, but notwithstanding any such deferment the Governor, on the recommendation of the appropriate Department Head, may cause the officer to be retired at any time.

Incapable  
officer  
may be  
retired.  
cf. 1902  
No. 31,  
s. 63.

**78.** If an officer is found unfit to discharge or incapable of discharging the duties of his position, and his unfitness or incapacity appears likely to be of a permanent character, and has not arisen from actual misconduct on his part, or from causes within his control, the Governor may, on the recommendation of the Board, cause him to be retired.

Vacation  
of position.

**79.** An officer shall be deemed to have vacated his position—

(a) if he dies; or

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- (b) if he resigns his position by writing signed by him and delivered to the appropriate Department Head and his resignation is accepted by the Board.

*DIVISION 3.—Temporary employees.*

**80.** (1) Where the appropriate Department Head is of the opinion that it is necessary to do so, he may, subject to the regulations, temporarily employ a person who has appropriate qualifications to carry out work in the Department.

*Temporary employees.*  
cf. 1902  
No. 31,  
s. 44.

(2) The appropriate Department Head, with the concurrence of the Director-General of Education and with the written consent of the person concerned, may temporarily employ a person employed under the Teaching Service Act, 1970, to carry out work in the Department and thereupon that person shall cease to be employed under that Act.

(3) A person referred to in subsection (1) or (2) may be employed for a period not exceeding 4 months, but may, from time to time, be employed at the end of that period or any subsequent period for a further period not exceeding 4 months if the Department Head, subject to the regulations, so approves.

(4) Notwithstanding subsection (3), a person may not be employed under this section for—

- (a) a continuous period in excess of 12 months; or  
(b) 2 or more periods that together are in excess of 12 months in any period of 2 years,

except with the concurrence of the Board.

(5) The services of a temporary employee may be dispensed with at any time by the Department Head, after consultation with the Board.

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 DIVISION 4.—*Industrial matters.*


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Role of  
Board in  
industrial  
proceed-  
ings.

**81.** The Board shall, for the purposes of any proceedings relating to officers or temporary employees, held before a competent tribunal having power to deal with industrial matters, be deemed to be the employer of the staff of the Public Service.

Determina-  
tions.  
cf. 1902  
No. 31,  
s. 14.

**82.** (1) Except in so far as provision is otherwise made by law, the salary, wages or other remuneration of officers (other than Special Division officers) and temporary employees shall be as may be determined from time to time by the Board.

(2) An officer or temporary employee may sue for and recover the amount of his salary, wages or other remuneration the subject of a determination under this section.

Agree-  
ments.  
cf. 1902  
No. 31,  
s. 14B.

**83.** (1) The Board may enter into an agreement with any association or organisation representing any group or class of officers or temporary employees as to any industrial matters.

(2) An agreement referred to in subsection (1) shall bind all officers and temporary employees in the class or group affected by the agreement, and no such officer or employee, whether a member of the association or organisation with which the agreement was entered into or not, shall have any right of appeal against the terms of the agreement.

(3) This section does not apply in relation to the remuneration of or allowances payable to Special Division officers.

Powers of  
Board.

**84.** The Board may, by its members, officers or delegates—

- (a) enter the premises of any Department;
- (b) require the production of and examine any document in the custody of any member of the staff of any Department; and

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(c) require any member of the staff of any Department to answer questions,  
for the purpose of enabling the Board to exercise its functions under this Division.

*DIVISION 5.—Discipline and conduct.*

*Subdivision 1.—General.*

**85.** An officer who—

- (a) commits any breach of this Act or the regulations;
- (b) engages in any misconduct;
- (c) uses intoxicating beverages or drugs to excess;
- (d) wilfully disobeys, or wilfully disregards, any lawful order made or given by a person having authority to make or give the order;
- (e) is negligent, careless, inefficient or incompetent in the discharge of his duties; or
- (f) engages in any disgraceful or improper conduct,

is guilty of a breach of discipline.

Breaches of discipline.  
cf. 1902  
No. 31,  
s. 56 (2).

*Subdivision 2.—Special Division officers.*

**86.** Where the appropriate Minister (not being the Minister) reports to the Minister that he has reason to believe, or the appropriate Minister (being the Minister) has reason to believe, that a Special Division officer may be guilty of a breach of discipline, the Minister—

Special inquiry.

- (a) shall—if the officer is under suspension under section 89;  
or
- (b) may—if the officer is not under suspension under that section,

direct, under section 101, that a special inquiry be conducted in relation to the matter.

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Punishment  
for breaches  
of dis-  
cipline.  
cf. 1902  
No. 31,  
s. 56  
(5)-(8).

**87.** (1) Where an alleged breach of discipline is dealt with by a special inquiry referred to in section 101 and the officer concerned is found to have committed the breach or admits to the person or persons dealing with the breach that he committed the breach, the Governor, on the recommendation of the Board, may—

- (a) approve of the imposition of any one or more of the following punishments, that is to say, that the officer be—
- (i) cautioned;
  - (ii) reprimanded;
  - (iii) fined;
  - (iv) except in the case of a term officer—reduced to a lower classification or position in the Public Service, whether or not in the Special Division; or
- (b) dismiss him from the Public Service or direct that he resign, or be allowed to resign, from the Public Service within such period as may be specified in the direction.

(2) Where the Governor, in the exercise of his powers under this section, directs that an officer resign, or be allowed to resign, from the Public Service within a period specified in the direction, and the officer does not resign within that period, the Governor, on the recommendation of the Board, may dismiss the officer from the Public Service.

(3) Without limiting the operation of section 10 of the Crown Employees Appeal Board Act, 1944, where the Board decides—

- (a) to recommend that—
- (i) approval be given to the fining of an officer, as referred to in subsection (1) (a) (iii)—that decision shall be deemed to be a decision of the nature referred to in section 10 (1) (d) of that Act;



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(ii) he be reduced to a lower classification or position, as referred to in subsection (1) (a) (iv)—that decision shall be deemed to be a decision of the nature referred to in section 10 (1) (b) of that Act; or

(iii) he be dismissed from the Public Service, as referred to in subsection (1) (b) or (2)—that decision shall be deemed to be a decision of the nature referred to in section 10 (1) (c) of that Act,

notwithstanding that the recommendation has not been acted on; or

(b) to recommend that an officer be directed to resign from the Public Service, as referred to in subsection (1) (b)—that decision shall be deemed to be a decision of the nature referred to in section 10 (1) (e) of that Act.

(4) An appointment pursuant to subsection (1) (a) (iv) shall be made by the Governor on the recommendation of the Board, and any other punishment pursuant to subsection (1) (a) shall be imposed by the Board.

**88.** Where a Special Division officer is convicted in New South Wales of an offence that is punishable, either on indictment or on summary conviction, by imprisonment for a term of 12 months or more, or is convicted elsewhere than in New South Wales of an offence that, if it were committed in New South Wales, would be an offence so punishable, the Governor, on the recommendation of the Board, may impose on that officer, or approve of the imposition on him of, any one or more of the punishments that may be imposed under section 87 as if that officer had, in accordance with this Subdivision, been dealt with for a breach of discipline and were liable to those punishments.

Punishment where officer guilty of a serious offence.  
cf. 1902 No. 31, s. 61 (1).

**89.** (1) Where the appropriate Minister has reason to believe that a Special Division officer—

Suspension.  
cf. 1902 No. 31, s. 57.

(a) may be guilty of a breach of discipline; or

(b) is charged with having committed an offence referred to in section 88,

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that officer may be suspended from duty by the appropriate Minister, until the matter has been dealt with.

(2) Subject to the Crown Employees Appeal Board Act, 1944, any salary payable to a person as an officer during his suspension under this section shall be withheld and if—

- (a) he is found, as referred to in section 87 (1), to have committed the breach of discipline or admits, as referred to in that subsection, that he committed the breach; or
- (b) he is convicted of the offence,

as the case may be, shall, unless the Governor otherwise directs, be forfeited unless the salary was due to him before his suspension.

(3) The suspension of an officer under this section may be removed by the Governor or the appropriate Minister at any time.

(4) The appropriate Minister (not being the Minister) shall report the suspension to the Minister forthwith after imposing the suspension.

Term  
officers.

**90.** Where a term officer is dismissed from the Public Service under this Subdivision, the term for which he was appointed shall be deemed to have expired, and no compensation is payable.

Other  
powers  
not  
affected.

**91.** (1) Nothing in this Subdivision prevents the Governor from exercising at any time his powers under any provision of this Act not contained in this Subdivision.

(2) Where a person ceases to be a Special Division officer pursuant to section 52, a breach of discipline or an offence alleged to have been committed while he was such an officer may only be dealt with as if he had not ceased to be such an officer.

*Subdivision 3.—Officers (other than Special Division officers).*

Non-  
application  
to Special  
Division.

**92.** Except where expressly provided, nothing in this Subdivision applies to Special Division officers.

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**93.** (1) A breach of discipline alleged to have been committed by an officer shall be dealt with by the Board.

**Procedure for dealing with breaches of discipline.**  
cf. 1902 No. 31, ss. 56 (3), (4), 58.

(2) Subject to this Subdivision, the regulations may—

(a) make provision for or with respect to the manner of dealing with alleged breaches of discipline; and

(b) prescribe all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Subdivision.

(3) The provisions of section 102 apply to and in respect of a disciplinary inquiry in the same way as they apply to and in respect of a special inquiry.

**94.** (1) Where an alleged breach of discipline is dealt with in accordance with the regulations and the officer charged is found to have committed the breach or admits to the person or persons dealing with the breach that he committed the breach, the Board—

**Punishment for breaches of discipline.**  
cf. 1902 No. 31, s. 56 (5)-(8).

(a) may decide to impose on the officer any one or more of the following punishments, that is to say, it may decide to—

(i) caution the officer;

(ii) reprimand him;

(iii) fine him;

(iv) reduce his salary or reduce him to a lower classification or position in the Public Service;

(b) may decide to dismiss him from the Public Service or to direct that he resign, or be allowed to resign, from the Public Service within such period as may be specified in the direction; or

(c) in the case of an officer on probation—may decide to annul his appointment.

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(2) Where the Board, in the exercise of its powers under this section, decides to direct that an officer resign, or be allowed to resign, from the Public Service within a period specified in the direction, and the officer does not resign within that period, the Board may decide to dismiss the officer from the Public Service.

(3) Subject to section 10 of the Crown Employees Appeal Board Act, 1944, a decision of the Board under subsection (1) or (2) may be given effect to at any time, but a decision of the Board under subsection (1) (b) or (c), or under subsection (2), to dismiss an officer from the Public Service or to annul his appointment shall not be given effect to except with the approval of the Governor.

(4) Without limiting the operation of section 10 of the Crown Employees Appeal Board Act, 1944, where the Board decides—

- (a) to dismiss an officer from the Public Service, as referred to in subsection (1) (b) or (2)—that decision shall be deemed to be a decision of the nature referred to in section 10 (1) (c) of that Act, notwithstanding that the approval of the Governor, as referred to in subsection (3), has not been obtained; or
- (b) to direct that an officer resign from the Public Service, as referred to in subsection (1) (b)—that decision shall be deemed to be a decision of the nature referred to in section 10 (1) (e) of that Act.

(5) An appointment pursuant to subsection (1) (a) (iv) shall be made by the Board.

Punishment  
where  
officer  
guilty of a  
serious  
offence.  
cf. 1902 No.  
31. s. 61 (1).

**95.** Where an officer is convicted in New South Wales of an offence that is punishable, either on indictment or on summary conviction, by imprisonment for a term of 12 months or more, or is convicted elsewhere than in New South Wales of an offence that, if it were committed in New South Wales, would be an

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offence so punishable, the Board may impose on that officer any one or more of the punishments that may be imposed under section 94 (1) as if that officer had, in accordance with that subsection, been dealt with for a breach of discipline and were liable to those punishments.

96. (1) In this section—

“prescribed officer” means—

(a) a person who is occupying or acting in—

(i) any position in the Public Service; or

(ii) any other position,

that is prescribed as a position for the purposes of this definition; and

(b) an officer or Special Division officer who is prescribed as an officer for the purposes of this definition;

“the senior officer”, in relation to an officer charged as referred to in subsection (2), means the senior officer in the branch or section of the Department in which the officer charged is employed.

(2) Where an officer—

(a) is, in accordance with the regulations, charged with a breach of discipline; or

(b) is charged with having committed an offence referred to in section 95,

that officer may be suspended from duty by the Board, a prescribed officer or the senior officer, until the charge has been dealt with.

Suspension of officers. cf. 1902 No. 31, s. 57.

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(3) Subject to the Crown Employees Appeal Board Act, 1944, any salary payable to a person as an officer during his suspension under this section shall be withheld and if—

- (a) he is found, as referred to in section 94 (1), to have committed the breach of discipline or admits, as referred to in that subsection, that he committed the breach; or
- (b) he is convicted of the offence,

as the case may be, shall, unless the Board otherwise directs, be forfeited unless the salary was due to him before his suspension.

(4) Where the suspension of an officer under this section was imposed—

- (a) by the Board—it may be removed by the Board at any time;
- (b) by a prescribed officer—it may be removed by the Board, or that officer, at any time; or
- (c) by the senior officer—it may be removed by the Board, the appropriate Department Head, or the senior officer, at any time.

(5) The regulations may—

- (a) provide that a prescribed officer may only exercise his powers under this section in respect of officers of such class as may be specified or described in the regulations; and
- (b) require a suspension imposed by a prescribed officer or a senior officer under this section to be reported in such manner as may be prescribed.

**Officer  
whose  
address is  
unknown.  
cf. 1902  
No. 31,  
s. 59.**

**97.** (1) If the address for the time being of an officer is unknown to the Board, all notices, orders or communications relating to any charges against him shall be posted to the address of the officer last known to the Board, and compliance with this subsection shall be deemed a sufficient service on the officer of any such notices, orders or communications.

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(2) If within any time specified in any such notice, order or communication no answer is received by the Board to an inquiry asking whether the officer admits the truth of the charges brought against him, he shall be deemed to deny the truth of those charges, and the Board may inquire into and deal with those charges in the absence of the officer.

*Subdivision 4.—Miscellaneous.*

**98.** Where an officer becomes bankrupt or makes any composition, arrangement or assignment for the benefit of his creditors, he shall forthwith give to the Board notice thereof, accompanied by an explanation in writing of the cause of his bankruptcy or of his making the composition, arrangement or assignment, and shall, within such period as may be specified by the Board, furnish to the Board such further information with respect to the cause of his bankruptcy or of his making the composition, arrangement or assignment as may be required by the Board.

Officers to report bankruptcy, etc. cf. 1970 No. 4, s. 40.

**99.** (1) Except with the permission of the Board, which permission may be withdrawn at any time, and subject to any other Act expressly applicable to officers, an officer shall not—

Other employment. cf. 1902 No. 31, s. 68.

- (a) 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 it is carried on by a corporation, company, firm or individual;
- (b) engage in or undertake any such business, whether as principal or agent; or
- (c) engage in or continue in the private practice of any profession, occupation or trade, or enter into any employment, whether remunerative or not, with any corporation, company, firm or individual so engaged.

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(2) If an officer is the holder of any office or position, or is engaged in any employment whatever other than in connection with the duties of his position under the Crown, he shall at once notify the fact to the Board, which may require the officer to resign the office or position or abstain from engaging in the employment.

(3) Nothing in this section prevents an officer from accepting and continuing to hold any office in any society founded under the law relating to friendly societies for the benefit only of public servants.

Fines to  
be stopped  
from salary.  
cf. 1902  
No. 31,  
s. 64.

**100.** Where a fine is imposed under this Division on an officer, the accountant of the Department to which the officer belongs, or any other relevant paying officer, shall, on receiving notice of the fine, deduct the amount thereof, from the salary payable to the officer, in such manner as the Board directs.

DIVISION 6.—*Special inquiries.*

Special  
inquiries.

**101.** The Minister may direct that a special inquiry in relation to any matter connected with a Department (including a matter connected with a breach of discipline that may have been committed by a Special Division officer) be conducted by the Board, and the Board shall comply with the direction.

Powers of  
Board at  
special  
inquiries.

**102.** (1) The Board may, by its members, officers or delegates, enter the premises of any Department in connection with and for the purposes of a special inquiry.

(2) In connection with and for the purposes of a special inquiry—

(a) each member of the Board shall have the powers, authorities, protections and immunities conferred on a commissioner by Division 1 of Part II of the Royal



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Commissions Act, 1923, and the member presiding shall have the powers and authorities conferred on the Chairman of a commission within the meaning of that Act;

- (b) if the Board delegates its functions under this Act in relation to the inquiry to only one person—that person shall have the powers, authorities, protections and immunities conferred on a commissioner by Division 1 of Part II of that Act; or
- (c) if the Board delegates its functions under this Act in relation to the inquiry to 2 or more persons—each of those persons shall have the powers, authorities, protections and immunities conferred on a commissioner by Division 1 of Part II of that Act, and the person presiding shall have the powers and authorities conferred on the Chairman of a commission within the meaning of that Act,

and the provisions of that Act, with the exception of section 13 and Division 2 of Part II, shall, with any necessary adaptations, apply to and in respect of the inquiry and to or in respect of any witness or person summoned by or appearing before the Board or that person or those persons, as the case may be.

**103.** (1) Persons, Departments and other bodies may, if the person conducting a special inquiry so approves, be represented at the inquiry by a barrister, solicitor or agent. Procedure at special inquiries.

(2) The person conducting a special inquiry is not bound by the rules of evidence but may inform himself on any matter in such manner as he thinks appropriate.

(3) The person conducting a special inquiry may, in respect of a matter not dealt with by or under this Act, give directions as to the procedure to be followed at or in connection with the inquiry.

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Reports of  
special  
inquiries.

**104.** (1) The Board shall, as soon as practicable, prepare a report on the conduct and findings, and any recommendations, of a special inquiry.

(2) The Board shall furnish the Minister and the appropriate Minister each with a copy of the report.

(3) The appropriate Minister shall cause a copy of the report, together with information as to any action taken or proposed to be taken in relation to the subject of the report, to be laid before each House of Parliament within 30 sitting days of that House after the day on which he was furnished with a copy of the report.

(4) For the purposes of subsection (3), sitting days shall be counted, whether or not they occur during the same session.

**DIVISION 7.—Efficiency audits.**

Efficiency  
audits.

**105.** (1) The Board shall, as approved or directed by the Minister, conduct efficiency audits.

(2) An efficiency audit may, if the Minister so approves or directs, be conducted in relation to—

- (a) the functions and activities of one Department only;
- (b) a part only of the functions and activities of one Department; or
- (c) the functions and activities of more than one Department in related matters.

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(3) Except in so far as the Minister otherwise approves or directs—

- (a) the Board shall consult with the Department Head concerned before commencing to conduct the efficiency audit;
- (b) the Board shall afford the Department Head an opportunity to nominate such number of officers to participate in the conduct of the efficiency audit as the Board determines; and
- (c) any officers so nominated may participate in the conduct of the efficiency audit.

**106.** The Board may, by its members, officers or delegates—

Powers of Board at efficiency audits.

- (a) enter the premises of any Department;
- (b) require the production of and examine any documents in the custody of any member of the staff of any Department; and
- (c) require any member of the staff of any Department to answer questions,

in connection with and for the purposes of an efficiency audit.

**107.** (1) The Board shall, as soon as practicable, prepare a report on the conduct and findings, and any recommendations, of an efficiency audit.

Reports of efficiency audits.

(2) The Board shall furnish the Minister and the appropriate Minister each with a copy of the report.

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 DIVISION 8.—*Management practices.*

 Management  
assistance  
and advice.

**108.** The Board may, with the agreement of the appropriate Department Head, provide a Department with such assistance and advice as will foster improvement in the efficiency or management practices of the Department.

 Reports on  
personnel  
practices  
and  
policies.

**109.** (1) The Board may require the appropriate Department Head to furnish to the Board a report upon such matters relating to the personnel policies and practices of a Department as the Board requires, and in particular may require inclusion in the report of information of a kind specified by the Board as to—

- (a) the personnel policies and practices respecting—
  - (i) the recruitment, selection, appointment, transfer, promotion or discipline of the staff of the Department; and
  - (ii) the means by which the job satisfaction and opportunities for personal development of the staff are promoted; and
- (b) the application of any such policies and practices to different groups of members of the staff.

(2) The Department Head shall comply with the Board's requirement under subsection (1) within such time and in such manner as the Board directs.

(3) The Board—

- (a) shall, at least once in each year, furnish to the Minister a report as to—
  - (i) its activities under this section during the period to which the report relates; and
  - (ii) the personnel policies and practices of the various Departments in respect of which reports by Department Heads have been furnished under this section during that period, having regard to the information contained in those reports and such other information as is available to the Board; and

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(b) may, at any time in addition to any report under paragraph (a), furnish to the Minister a report on the personnel policies and practices of any particular Department,

and may include in any such report such recommendations in relation to the personnel policies and practices of Departments as it considers appropriate.

(4) A report under subsection (3) may be included in the annual report of the Board under section 127, or may be separate from the annual report.

DIVISION 9.—*Miscellaneous.*

**110.** (1) Notice of all appointments, promotions, transfers, resignations, retirements and removals of officers made under this Act shall be published in a special Gazette to be issued, as far as practicable, weekly.

Special Gazette.  
cf. 1902  
No. 31,  
s. 69.

(2) A notice so published shall be conclusive evidence of the appointment, promotion, transfer, resignation, retirement or removal specified in the notice.

**111.** Where a person admitted to the Public Service as an officer does not have the status of a British subject, he shall cease to be eligible for employment as an officer of the Public Service on the expiration of 6 months after the date on which he becomes eligible to be granted a certificate of Australian citizenship, unless he has previously been granted such a certificate or has otherwise obtained the status of a British subject.

Requirements as to citizenship.  
cf. 1902  
No. 31,  
s. 28 (2).

**112.** (1) Where the Department Head considers it to be in the interests of the Department to do so, he may direct the transfer of an officer from one position in the Department to another position in the Department equivalent in classification and salary to the firstmentioned position, provided the officer possesses the qualifications referred to in section 62 (1) in respect of that other position.

Transfers within Department or between Departments.  
cf. 1902  
No. 31,  
s. 51  
(part).

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(2) Where the Board considers it to be in the interests of the Public Service to do so, it may, with the concurrence of both Department Heads concerned, direct the transfer of an officer from a position in one Department to a position in another Department equivalent in classification and salary to the firstmentioned position, provided the officer possesses the qualifications referred to in section 62 (1) in respect of the secondmentioned position.

(3) A transfer under subsection (1) shall be made by the Department Head, and a transfer under subsection (2) shall be made by the Board.

**Excess  
staff.**  
cf. 1902  
No. 31,  
s. 9 (2).

**113.** (1) If the Minister (after consideration of the report of a relevant efficiency audit or special inquiry), or the appropriate Department Head, is satisfied that a number of persons (referred to in this section as the "excess persons") are employed in a Department in excess of the number that appears to be necessary for the efficient, effective and economical management of its functions and activities, then—

- (a) subject to paragraph (b), the Board shall take such steps as are practicable to secure the transfer of the excess persons to vacant positions in any other Department at their existing salaries; and
- (b) if any such person cannot be usefully employed in any other Department, his services shall be dispensed with by the Board with the approval of the Governor.

(2) A transfer under this section shall be made by the Governor on the recommendation of the Board, and shall not be made except after consultation by the Board with the Head of the Department to which the officer is being transferred.

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**114.** (1) If the Minister (after consideration of the report of a relevant efficiency audit or special inquiry), or the appropriate Department Head, is satisfied that an officer employed in a Department is in receipt of a greater salary than the maximum fairly appropriate to the work performed by the officer—

Excessive salaries.  
cf. 1902 No. 31, s. 15.

- (a) subject to paragraph (b), the Department Head shall take such steps as are practicable to assign the officer work of a class appropriate to his salary; and
- (b) if the officer cannot be assigned sufficient work of the kind referred to in paragraph (a) or is unfitted for or incapable of performing work appropriate to his salary— subsection (2) applies to the officer.

(2) Where this subsection applies to an officer—

- (a) subject to paragraph (b), the Board shall take such steps as are practicable to secure his transfer, to a vacant position in any other Department, at his existing salary; and
- (b) if such a transfer cannot be made or the officer is unfitted for or incapable of performing the work attached to such a position—the Board—
  - (i) shall reduce his salary to the maximum determined by the Board to be appropriate to the work performed by him; and
  - (ii) may take such steps as are practicable to secure his transfer, to a vacant position in the Department to which he belongs or in any other Department, at that salary.

(3) If a reduction of salary of an officer under this section is certified by the Board to have been made on the ground only that appropriate work or an appropriate position is not available, the officer—

- (a) remains eligible for promotion as if his salary had not been reduced; and

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- (b) is entitled to employment on the class of work to which his previous salary was appropriate, or transfer to a position to which that class of work is attached, as soon as the appropriate work or an appropriate position becomes available, in preference to any other officer whose salary has not been reduced.

(4) A transfer under this section shall be made by the Governor on the recommendation of the Board, and shall not be made except after consultation by the Board with the Head of the Department to which the officer is being transferred.

Officer  
refusing  
promotion,  
appoint-  
ment or  
transfer.  
cf. 1902  
No. 31,  
s. 51.

**115.** (1) An officer who has been offered a promotion or appointment in the Public Service may be allowed to decline the promotion or appointment without prejudice to any rights that he would, had he not declined the promotion or appointment, have had to any future promotion or appointment.

(2) Where an officer refuses a transfer from one position to another under section 112, 113 or 114, the officer may be dismissed from the Public Service by the Board with the approval of the Governor, unless the Board is satisfied that the officer had a valid and sufficient reason for so refusing, in which case he may be allowed to decline the transfer without prejudice to any rights that he would, had he not declined the transfer, have had to any future promotion or appointment.

Appeals to  
Board.  
cf. 1902  
No. 31,  
s. 19.

**116.** (1) An officer dissatisfied with any decision or determination (whether particular or general) of the Board or a Department Head, being a decision or determination—

- (a) in regard to salary, seniority or grade affecting him, or to the classification of the work performed by or assigned to him; or



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- (b) against which he would, but for section 691 (2) (f) of the Public Service (Promotion Appeals) Act, 1902, have been entitled to appeal under that Act,

may forward to the Board, within 30 days—

- (c) after the date of publication of an issue of the Public Service Notices in which the decision or determination was notified; or
- (d) if the decision or determination was not notified in those Notices—after being officially notified in writing of the decision or determination,

a notice of appeal setting forth the grounds of his dissatisfaction.

(2) The Board shall consider the appeal and the grounds thereof, and any further evidence in relation thereto which the Board may deem necessary for the proper determination of the appeal, and may allow or disallow the appeal.

(3) The decision of the Board on the appeal shall be final and, if the appeal relates to a decision or determination of a Department Head, shall be deemed to be the decision or determination of the Department Head.

(4) An officer who is entitled to appeal to a Tribunal against any decision or determination of the nature referred to in subsection (1) is not entitled to appeal to the Board in respect of that decision or determination.

**117.** No person shall be appointed as a stipendiary magistrate unless—

- (a) he has attained the age of 35 years and is willing to reside permanently within the district in which he is appointed; and
- (b) he is, or is eligible for admission as, a barrister or solicitor of the Supreme Court.

Qualifica-  
tion for  
appoint-  
ment as  
stipendiary  
magistrate.  
cf. 1902  
No. 31,  
s. 37.

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**Right of Crown to dispense with services.**  
cf. 1902 No. 31, s. 65.

**118.** Nothing in this Act shall be construed or held to abrogate or restrict the right or power of the Crown, as it existed immediately before the commencement of this section, to dispense with the services of any person employed in the Public Service.

**No compensation.**  
cf. 1902 No. 31, s. 76.

**119.** Except as provided in this or any other Act, no officer or temporary employee is entitled to any compensation by reason of any reduction of his salary or in consequence of his services being dispensed with.

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**PART V.**
**EXTENDED LEAVE.**

**Leave of absence after years of service.**  
cf. 1919 No. 43, s. 13.

- 120.** (1) Subject to this section, an officer is entitled—
- (a) after service for 10 years, to leave for 2 months on full pay or 4 months on half pay; and
  - (b) after service in excess of 10 years, to—
    - (i) leave pursuant to paragraph (a); and
    - (ii) in addition, an amount of leave proportionate to his length of service after 10 years, calculated on the basis of 5 months on full pay, or 10 months on half pay, for 10 years served after service for 10 years.

(2) For the purpose of calculating the entitlement of a person to extended leave under this section at any time—

- (a) service referred to in this section includes service before the commencement of this Part;

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(b) there shall be deducted from the amount of extended leave to which, but for this paragraph, that person would be entitled—

(i) any extended leave, or leave in the nature of extended leave; and

(ii) the equivalent, in extended leave, of any benefit instead of extended leave or leave in the nature of extended leave,

taken or received by that person before that time, including any such leave taken, or benefit received, by that person pursuant to the Public Service (Amendment) Act, 1919, as in force at any time; and

(c) the provisions of the Transferred Officers Extended Leave Act, 1961, shall have effect,

but nothing in this subsection shall be construed as authorising, in respect of the same period of leave taken or the same benefit received, a deduction under both paragraph (b) and section 3 (7) of the Transferred Officers Extended Leave Act, 1961.

(3) Where the services of an officer with at least 5 years' service as an adult and less than 10 years' service are terminated by the Crown, the Governor or the Board for any reason other than the officer's serious and wilful misconduct or by the officer on account of illness, incapacity or domestic or other pressing necessity, he shall be entitled for 5 years' service to 1 month's leave on full pay and for service after 5 years to a proportionate amount of leave on full pay calculated on the basis of 3 months' leave for 15 years' service (that service to include service as an adult and otherwise than as an adult).

(4) For the purposes of subsection (3), "service as an adult", in the case of an officer employed to do any work for which the remuneration has been fixed by an award made under the Commonwealth Conciliation and Arbitration Act 1904, as subsequently amended, or made under the Industrial Arbitration Act, 1940, or has been fixed by an industrial agreement made pursuant to or registered under either of those Acts or an agreement or determination made pursuant to this Act, means the

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period of service during which the remuneration applicable to the officer was at a rate not lower than the lowest rate fixed under the award, industrial agreement, agreement or determination for an adult male or adult female in the same trade, classification, calling, group or grade as the officer.

(5) For the purposes of—

(a) subsection (1), “service” includes—

- (i) service under the Teaching Service Act, 1970;
- (ii) any period of leave without pay taken before the commencement of the Public Service and Other Statutory Bodies (Extended Leave) Amendment Act, 1963; and
- (iii) in the case of an officer who has completed at least 10 years’ service (any period of leave without pay taken before that commencement being included therein, and any period of leave without pay taken after that commencement being excluded therefrom)—any period of leave without pay, not exceeding 6 months, taken after that commencement; and

(b) subsection (3), “service” does not include any period of leave without pay whether taken before or after the commencement of the Public Service and Other Statutory Bodies (Extended Leave) Amendment Act, 1963.

Gratuity  
instead of  
extended  
leave.  
cf. 1919  
No. 43,  
s. 13A.

**121.** (1) An officer who has acquired a right to extended leave with pay under section 120, shall, on the termination of his services, be paid forthwith instead of that leave the money value thereof as a gratuity in addition to any gratuity to which he may be otherwise entitled.

(2) Any pension to which any such officer is entitled under the Superannuation Act, 1916, shall commence from the date on which his extended leave, if taken, would have commenced.

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**122.** (1) Where an officer has acquired a right under section 120 (1) to extended leave with pay and dies before entering upon it, or after entering upon it dies before its termination—

Payment of money value of leave not taken or completed.  
cf. 1919 No. 43, s. 14.

- (a) the widow or widower of the officer;
- (b) if there is no such widow or widower, the children of the officer; or
- (c) if there is no such widow, widower or children, the person who, in the opinion of the Board, was, at the time of the death of the officer, a dependent relative of the officer,

is entitled to receive the money value of the leave not taken, or not completed, computed at the rate of salary that the officer received at the time of his or her death less any amount paid to the officer in respect of the leave not taken, or not completed.

(2) Where an officer with at least 5 years' service as an adult and less than 10 years' service as referred to in section 120 (3) dies—

- (a) the widow or widower of the officer;
- (b) if there is no such widow or widower, the children of the officer; or
- (c) if there is no such widow, widower or children, the person who, in the opinion of the Board, was, at the time of the death of the officer, a dependent relative of the officer,

is entitled to receive the money value of the leave which would have accrued to the officer had his or her services terminated as referred to in section 120 (3), computed at the rate of salary that the officer received at the time of his or her death.

(3) Where there is a guardian of any children entitled under subsection (1) or (2), the payment to which those children are entitled may be made to that guardian for their maintenance, education and advancement.

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(4) Where there is no person entitled under subsection (1) or (2) to receive the money value of any leave not taken or not completed by an officer or which would have accrued to an officer, payment in respect thereof shall be made to the personal representatives of the officer.

(5) Any payment under this section shall be in addition to any payment due under the Superannuation Act, 1916.

(6) Where payment of the money value of leave has been made under this Act, no proceedings may be brought against the Crown or the Board for payment of any amount in respect of that leave.

Applica-  
tion of this  
Part to  
members of  
the Board.

**123.** The provisions of this Part apply to and in respect of members of the Board as if they were officers.

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 PART VI.

## APPLICATION OF PROVISIONS TO DECLARED AUTHORITIES.

Amendment  
of Schedule  
3 (declared  
authorities).

**124.** (1) The Governor may, by proclamation published in the Gazette, amend Schedule 3 by inserting, omitting or amending the name of any authority (whether incorporated or not).

(2) The Governor may, by proclamation published in the Gazette, amend Schedule 3 by inserting (in parentheses after the name of an authority), omitting or amending references to any of the prescribed provisions referred to in section 125.

(3) The Governor may, by proclamation published in the Gazette, omit Schedule 3 and insert instead a Schedule containing the names of authorities, with or without references as referred to in subsection (2).

(4) The name of an authority may only be included in Schedule 3 if the authority is established by or under an Act and it is, or its governing body is, constituted by one or more persons appointed by the Governor or a Minister.

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**125.** (1) Where an authority is a declared authority, the prescribed provisions (other than any of those provisions specified in Schedule 3 after the name of the authority) shall be deemed to apply to and in respect of the authority, and so apply as if any reference in such a provision to—

Applica-  
tion of  
provisions  
to declared  
authorities.

- (a) a Department or the Head of a Department were a reference to the authority; and
- (b) staff of a Department were a reference to staff of the authority.

(2) For the purposes of this section, the prescribed provisions are section 33 (6) and (7), section 37 and Divisions 6, 7 and 8 of Part IV.

(3) The provisions of section 33 (6) and (7) apply only in connection with and for the purposes of the other prescribed provisions.

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**PART VII.**
**GENERAL.**

**126.** Nothing in Part IV affects anything in the Justices Act, 1902, or the Superannuation Act, 1916.

Certain  
other Acts  
not  
affected.

**127.** (1) The Board shall, as soon as practicable after 30th June in each year, furnish to the Minister for presentation to Parliament a report of its activities, and those of its Administrative Office, during the period of 12 months ending on that date.

Report.

(2) The report may contain such recommendations as the Board thinks appropriate.

(3) The Minister shall cause a copy of the report to be laid before each House of Parliament as soon as practicable after he receives the report.

**128.** Nothing in this Act shall be construed as restricting the ordinary and necessary departmental authority of any Minister with respect to the direction and control of staff and work.

Saving as  
to  
Ministers.  
cf. 1902  
No. 31,  
s. 52  
(proviso):

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Construc-  
tion of  
certain  
references.

**129.** (1) In any other Act, in any instrument made under any Act or in any other instrument of any kind (enacted, made or executed whether before or after the commencement of this section), except in so far as the context or subject-matter otherwise indicates or requires—

- (a) a reference to this Act shall be read and construed as including a reference to the Public Service (Promotion Appeals) Act, 1902;
- (b) a reference to the “Public Service Board” shall be read and construed as a reference to the Board constituted by this Act;
- (c) a reference to the “Public Service” or the “public service” shall be read and construed as a reference to the Public Service within the meaning of this Act;
- (d) a reference to a “Public Servant” or a “public servant” shall be read and construed as a reference to an officer or temporary employee within the meaning of this Act;
- (e) a reference to an office in the Public Service shall be read and construed as including a reference to a position in the Public Service; and
- (f) a reference to a Department Head shall be read and construed as including a reference to a person who has and may exercise the functions of a Department Head.

(2) Subsection (1) does not apply to particular references specified for the purposes of this subsection by the Governor by order published in the Gazette (which order the Governor is hereby authorised to make).

Deduction  
for  
residence.  
cf. 1902  
No. 31,  
s. 17.

**130.** (1) Except as provided in subsection (2), if any officer or temporary 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 the officer or employee, and the amount of the sum shall be fixed by the Board.



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(2) If any officer or temporary employee is allowed to use, for the purpose of residence, any building or part of a building or any land vested in or managed by the Public Servant Housing Authority of New South Wales or the Teacher Housing Authority of New South Wales, an amount fixed by the Authority concerned in respect of rent shall be deducted from the salary of that officer or employee and paid to the Authority concerned.

**131.** (1) Where judgment has been entered in any court against any officer or temporary employee for the payment of any sum of money, the person in whose favour the judgment is entered may serve on the Head of the Department to which the officer or temporary employee belongs—

Attachment  
of salary  
or wages of  
officers and  
temporary  
employees.  
cf. 1902  
No. 31,  
s. 56A.

- (a) a copy of the judgment certified under the hand of the Registrar or other proper officer of the court in which the judgment is entered; and
- (b) 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) As soon as practicable after the service upon him of a copy of a judgment and a statutory declaration in pursuance of this section, the Department Head shall notify the judgment debtor in writing of his service of the copy of the judgment and statutory declaration, and require him to state in writing within a time to be specified by the Department 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 temporary employee fails to prove to the satisfaction of the Department Head that the judgment has been satisfied, the Department Head may—

- (a) from time to time cause to be deducted from any money due to the officer or temporary employee such sums as are, in his opinion, necessary to enable the judgment to be satisfied; and

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(b) apply those sums in the manner hereafter in this section provided,

but in no case shall a deduction be made which will reduce the amount to be received by the officer or temporary employee to less than a sum per week equivalent to the amount ascertained in accordance with subsection (4).

(4) The amount which, pursuant to subsection (3), is to be ascertained in accordance with this subsection shall be ascertained by deducting \$8—

- (a) in the case of a male officer or temporary employee, from the basic wage for adult males; and
- (b) in the case of a female officer or temporary employee, from the basic wage for adult females,

in force within the meaning of Part V of the Industrial Arbitration Act, 1940, immediately before the deduction under subsection (3) is made.

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

(6) Any deductions made under subsection (3) from money due to an officer or temporary employee shall, as between the State and the officer or employee, be deemed to be a payment by the State to the officer or employee.

(7) Any person to whom a payment has been made in pursuance of this section who fails to notify the Department Head immediately the judgment debt in respect of which the payment was made is satisfied, or is deemed to be satisfied, is liable, upon conviction before a court of petty sessions, to a penalty not exceeding \$100.

(8) If any deduction made in pursuance of subsection (3) from money due to a judgment debtor exceeds the amount due under the judgment against the judgment debtor, the excess shall be repayable by the Department to the judgment debtor, and in default of payment may be recovered by the judgment debtor from the Crown in any court of competent jurisdiction.

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(9) This section does not apply in relation to any officer or temporary employee who is an undischarged bankrupt.

(10) Out of the sums deducted under subsection (3) there shall be retained by the Department Head, to be paid by him to the Treasurer for credit of the Consolidated Revenue Fund, an amount equal to 5 per cent (or such other percentage as the Governor may, by order, notify in the Gazette, which order the Governor is hereby authorised to make) of those sums, and the balance of those sums shall be paid to the judgment creditor.

(11) Where a payment is made to a judgment creditor under subsection (10), the Department Head shall forward to the judgment creditor a statement showing—

- (a) the sums deducted under subsection (3) in respect of the judgment from money due to the officer or temporary employee concerned;
- (b) the amount retained by the Department Head under subsection (10) out of those sums; and
- (c) the balance of those sums paid to the judgment creditor under subsection (10).

(12) Upon payment being made under subsection (10) to the judgment creditor, the judgment creditor shall credit the officer or temporary employee concerned with the sums referred to in subsection (11) (a), as shown in the statement forwarded to the judgment creditor, and the judgment in respect of which the payment was made shall for all purposes be deemed to be satisfied to the extent of those sums, as so shown.

(13) In this section, “judgment” includes a judgment against joint defendants.

**132.** A document purporting to be an issue of the Public Service Notices is admissible in evidence in any proceedings, including proceedings before a Tribunal, and shall, until the contrary is proved, be deemed to be a copy of an issue of the Public Service Notices.

Evidence  
as to  
Public  
Service  
Notices.  
cf. 1902  
No. 31,  
s. 4 (6).

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Regulations. **133.** (1) The Board may make regulations, not inconsistent with this Act, for or with respect to—

- (a) any matter that by this Act or the Public Service (Promotion Appeals) Act, 1902, is required or permitted to be prescribed; or
- (b) any matter that is necessary or convenient to be prescribed for carrying out or giving effect to—
  - (i) sections 33 (3) and 39;
  - (ii) Divisions 2, 3, 4, 6, 7 and 9 of Part IV;
  - (iii) Subdivisions 3 and 4 of Division 5 of Part IV; and
  - (iv) Part V and this Part (other than this section).

(2) Without affecting the generality of subsection (1), the regulations may make provision for or with respect to—

- (a) determining the seniority of officers within any group of officers referred to in section 58;
- (b) determining the seniority of officers whose salaries are equal;
- (c) the procedures to be adopted for selecting as between candidates for vacant positions (other than Special Division positions), but not so as to limit the power of a Department Head to make any recommendation in relation to the filling of a vacancy;
- (d) determining who are fit and proper persons eligible to become temporary employees;
- (e) the transfer of officers between Departments;
- (f) the hours of attendance of staff;
- (g) the leave which may be granted to staff;
- (h) travelling and subsistence allowances for staff (other than Special Division officers), allowances for the increased cost of living in distant parts of the State, and other allowances for staff;

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- (i) the procedures to be adopted consequent on the appointment of a person to a position;
- (j) the performance of the duties of suspended, sick or absent staff by other staff;
- (k) the procuring of stores, equipment, materials and services for the Public Service;
- (l) providing for admission into the Public Service in special cases; and
- (m) the procedures in respect of appeals to the Board.

(3) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

(4) A regulation is by this Act required to be approved by the Governor before taking effect.

(5) The regulations may affix to breaches of any regulations, or prescribe for minor offences against discipline, a fine not exceeding \$100, according to the nature and gravity of the offence.

(6) Nothing in the regulations alters or affects any duties that by any Act are required to be performed.

(7) Notwithstanding anything in subsection (2) (k) or <sup>cf. 1902</sup> in the regulations, the Governor may determine and carry out any <sup>No. 31,</sup> methods of procuring stores, equipment, materials and services <sup>s. 20 (1)</sup> for the Public Service, whether or not by way of public tender. <sup>(h).</sup>

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**Repeals.** **134.** Each Act specified in Column 1 of Schedule 5 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed.

**Savings, transitional and other provisions.** **135.** Schedule 6 has effect.

Secs. 4, 5,  
45.

**SCHEDULE 1.****DEPARTMENTS.**

Column 1.	Column 2.
Department.	Department Head.
Department of Agriculture .. ..	Director-General of the Department.
Department of the Attorney General and of Justice.	Under Secretary of the Department.
Consumer Affairs Department .. ..	Director of the Department.
Department of Lands .. ..	Under Secretary of the Department and Registrar-General.
Department of Decentralisation .. ..	Director of the Department.
Ministry of Education .. ..	Under Secretary of the Ministry.
Department of Education .. ..	Director-General of the Department.
Department of Industrial Relations and Technology.	Under Secretary of the Department.
Department of Local Government ..	Under Secretary of the Department and Registrar-General.
Department of Mineral Resources and Development.	Under Secretary of the Department.
Police Department .. ..	Secretary of the Department.
Premier's Department .. ..	Secretary of the Department.
Public Works Department .. ..	Director of Public Works.
Department of Services .. ..	Under Secretary of the Department.
Department of Sport and Recreation ..	Director of the Department.
Department of Technical and Further Education.	Director of the Department.
Department of Tourism .. ..	Director of the Department.

*Public Service.*SCHEDULE 1—*continued.*DEPARTMENTS—*continued.*

Column 1.	Column 2.
Department.	Department Head.
Ministry of Transport . . . . .	Under Secretary of the Ministry.
The Treasury . . . . .	Under Secretary of the Treasury.
Department of Youth and Community Services.	Director of the Department.
Registry of Co-operative Societies . . . . .	Registrar of Co-operative Societies.
State Emergency Services . . . . .	Director of State Emergency Services.
State Fisheries . . . . .	Director of State Fisheries.
New South Wales Superannuation Office . . . . .	Under Secretary of the Office

## SCHEDULE 2.

## ADMINISTRATIVE OFFICES.

Secs. 4, 6,  
46.

## PART 1.

Column 1.	Column 2.
Body, organisation or group.	Person exercising functions of Department Head.
Auditor-General's Department . . . . .	Auditor-General.
Valuer-General's Department . . . . .	Valuer-General.
National Parks and Wildlife Service . . . . .	Director of National Parks and Wildlife.
Corporate Affairs Commission . . . . .	Commissioner for Corporate Affairs.
Corrective Services Commission of New South Wales.	Chairman of the Commission.
Forestry Commission . . . . .	Commissioner constituting the Forestry Commission.
Government Insurance Office of New South Wales.	General Manager of the Office.
Health Commission of New South Wales . . . . .	Chairman of the Commission.

*Public Service.*SCHEDULE 2—*continued.*ADMINISTRATIVE OFFICES—*continued.*PART 1—*continued.*

Column 1.	Column 2.
Body, organisation or group.	Person exercising functions of Department Head.
Housing Commission of New South Wales	Chairman of the Commission.
New South Wales Planning and Environment Commission.	Chairman of the Commission.
Public Service Board .. .. .	Chairman of the Board.
Soil Conservation Service .. .. .	Commissioner of the Service.
State Pollution Control Commission ..	Director of the Commission.
State Superannuation Board .. .. .	President of the Board.
The Workers' Compensation Commission of New South Wales.	Chairman of the Commission.

## PART 2.

Column 1.	Column 2.
Body, organisation or group.	Person exercising functions of Department Head.
Central Mapping Authority .. .. .	Director of the Authority.
Government Stores Department .. .. .	Manager of the Department.
Government Printing Office .. .. .	Government Printer.
Public Trust Office .. .. .	Public Trustee.
Land Commission of New South Wales ..	Chairman of the Commission.



*Public Service.***SCHEDULE 2—continued.****ADMINISTRATIVE OFFICES—continued.****PART 2—continued.**

Column 1.	Column 2.
Body, organisation or group.	Person exercising functions of Department Head.
Bathurst-Orange Development Corporation.	Chairman of the Corporation.
Builders' Licensing Board .. ..	Chairman of the Board.
New South Wales Meat Industry Authority.	Chairman of the Authority.
Staff under the Western Lands Commissioner.	Western Lands Commissioner.
State Lotteries Office .. .. .	Director of the Office.
State Dockyard Board of New South Wales.	Chairman of the Board.

**SCHEDULE 3.**

Secs. 4, 124.

**DECLARED AUTHORITIES.**

The Board of Fire Commissioners of New South Wales.  
 The Water Resources Commission.  
 The Homebush Abattoir Corporation.  
 The Metropolitan Water Sewerage and Drainage Board.  
 The Local Government Superannuation Board.  
 The Department of Main Roads.  
 The Rural Bank of New South Wales.  
 The Maritime Services Board of New South Wales.  
 The Hunter District Water Board.  
 The Broken Hill Water Board.

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SCHEDULE 3—*continued.*DECLARED AUTHORITIES—*continued.*

**The Electricity Commission of New South Wales.**  
**The Department of Motor Transport.**  
**The Grain Elevators Board of New South Wales.**  
**The Sydney Farm Produce Market Authority.**  
**The Sydney Cove Redevelopment Authority.**  
**The Dairy Industry Authority of New South Wales.**  
**The Metropolitan Waste Disposal Authority.**  
**The New South Wales Retirement Board.**  
**The Public Transport Commission of New South Wales.**  
**The Totalizator Agency Board.**  
**The Greyhound Racing Control Board.**  
**The Trotting Authority of New South Wales.**  
**The Traffic Authority of New South Wales.**  
**The Electricity Authority of New South Wales.**  
**The Fish Marketing Authority.**  
**The Zoological Parks Board of New South Wales.**

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## Sec. 9.

## SCHEDULE 4.

## EXCLUDED POSITIONS.

**Judge of the Supreme Court.**  
**Judge of the District Court.**  
**Master (under the Supreme Court Act, 1970).**  
**Public Trustee.**  
**Director of State Lotteries.**  
**Crown Prosecutor.**  
**Public Defender.**  
**Any position to which an appointment may be made under the Police Regulation Act, 1899.**  
**Any position of officer of either House of Parliament or any position under the separate control of the President or Speaker, or under their joint control.**

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*Public Service.*

## SCHEDULE 5.

Sec. 134.

## REPEALS.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
43 Vic. No. 23 1902, No. 31	Public Instruction Act of 1880 .. Public Service Act, 1902 ..	Sections 3 and 23. The matter in section 1 relating to Parts II and III. Sections 2 and 3. Section 4 (2), (5) and (6). Sections 4A, 5, 5A and 6. Part II. Part III. Schedule titled " <i>Repeal of Acts</i> ".
1903, No. 8	Public Service (Superannuation) Act, 1903.	The whole Act.
1908, No. 10	Public Service (Superannuation) Act, 1908.	The whole Act.
1910, No. 21	Public Service (Amendment) Act, 1910.	The whole Act.
1912, No. 56	Public Service (Amendment) Act, 1912.	The whole Act.
1915, No. 40	Public Service (Temporary Officers) Act, 1915.	The whole Act.
1919, No. 43	Public Service (Amendment) Act, 1919.	The whole Act.
1923, No. 13	Public Trustee (Amendment) Act, 1923.	Section 5.
1929, No. 10	Public Service (Amendment) Act, 1929.	The whole Act.
1932, No. 30	Public Service (Amendment) Act, 1932.	The whole Act.
1934, No. 59	Charitable Collections Act, 1934	Section 20 (2).
1935, No. 14	Supreme Court and Circuit Courts (Prothonotary) Amendment Act, 1935.	The whole Act.
1937, No. 9	Industrial Arbitration (Amendment) Act, 1937.	Section 13 (1).
1937, No. 35	Statute Law Revision Act, 1937	So much of the Second Schedule as amended Act No. 31, 1902, Act No. 21, 1910, Act No. 56, 1912, Act No. 43, 1919, and Act No. 10, 1929.
1944, No. 19	Public Service (Amendment) Act, 1944.	The whole Act.
1947, No. 3	Justices (Amendment) Act, 1947	Section 3.
1948, No. 22	Supreme Court and Circuit Courts (Prothonotary) Amendment Act, 1948.	Section 2 (2).

*Public Service.*SCHEDULE 5—*continued.*REPEALS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1949, No. 5	Public Service (Amendment) Act, 1949.	The whole Act.
1953, No. 1	Public Service (Inquiries) Amendment Act, 1953.	The whole Act.
1953, No. 12	Public Service (Amendment) Act, 1953.	The whole Act.
1955, No. 1	Public Service (Amendment) Act, 1955.	The whole Act.
1955, No. 27	Public Service and Other Statutory Bodies (Long Service Leave) Act, 1955.	Section 2.
1956, No. 37	Public Service and Other Statutory Bodies (Extended Leave) Act, 1956.	Section 2 (1).
1957, No. 21	Public Service and Other Statutory Bodies (Extended Leave) Act, 1957.	Section 2.
1957, No. 28	Attachment of Wages Limitation Act, 1957.	Section 5.
1958, No. 5	Public Service and Other Statutory Bodies (Extended Leave) Act, 1958.	Section 2.
1959, No. 5	Public Service and Other Statutory Bodies (Extended Leave) Act, 1959.	Section 2.
1960, No. 19	Public Service and Police Regulation (Amendment) Act, 1960.	Section 2.
1961, No. 29	Industrial Arbitration (Basic Wage) Amendment Act, 1961.	So much of the First Schedule as amended Act No. 31, 1902.
1961, No. 62	Public Service and Statutory Salaries Adjustment (Amendment) Act, 1961.	The whole Act.
1963, No. 50	Public Service and Other Statutory Bodies (Extended Leave) Amendment Act, 1963.	Sections 2, 3 and 4.
1964, No. 37	Industrial Arbitration (Amendment) Act, 1964.	So much of the First Schedule as amended Act No. 31, 1902.
1965, No. 33	Decimal Currency Act, 1965	So much of the First Schedule as amended Act No. 31, 1902. The matter in the Second Schedule relating to Act No. 43, 1919.

*Public Service.*SCHEDULE 5—*continued.*REPEALS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1967, No. 71	Public Service and Other Statutory Bodies (Extended Leave) Amendment Act, 1967.	Section 2.
1967, No. 86	Industrial Arbitration (Basic Wage) Amendment Act, 1967.	Section 5 (2). The matter in the First Schedule relating to Act No. 31, 1902.
1969, No. 60	Public Defenders Act, 1969	Section 5.
1969, No. 64	Public Service (Amendment) Act, 1969.	The whole Act.
1970, No. 4	Teaching Service Act, 1970	Section 47 (3).
1971, No. 6	Public Service and Other Statutory Bodies (Extended Leave) Amendment Act, 1971.	Section 2.
1972, No. 37	Public Service (Amendment) Act, 1972.	The whole Act.
1973, No. 28	Public Service (Amendment) Act, 1973.	The whole Act.
1974, No. 14	Public Service (Amendment) Act, 1974.	The whole Act.
1974, No. 72	Technical and Further Education Act, 1974.	So much of Schedule 2 as amended Act No. 31, 1902.
1974, No. 86	Public Service and Crown Employees Appeal Board (Amendment) Act, 1974.	Sections 3 and 4 (b), (c) (i)-(v) and (d)-(n).
1974, No. 87	Public Service (Further Amendment) Act, 1974.	The whole Act.
1975, No. 27	Teacher Housing Authority Act, 1975.	So much of the Schedule as amended Act No. 31, 1902.
1975, No. 38	Public Servant Housing Authority Act, 1975.	So much of the Schedule as amended Act No. 31, 1902.
1976, No. 4	Statutory and Other Offices Remuneration Act, 1975.	So much of Schedule 5 as relates to sections 5 (1), 7 (9) and 8 (2) (b) of Act No. 31, 1902.
1977, No. 76	Public Service (Amendment) Act, 1977.	The whole Act.

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*Public Service.*


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Sec. 135.

## SCHEDULE 6.

## SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpre-  
tation.

1. (1) In this Schedule—

“appointed day” means the day appointed and notified under section 2 (2);

“former Board” means the Public Service Board appointed under the Public Service Act, 1902;

“new Board” means the Board established by this Act.

(2) In this Schedule, a reference to a subclause is, unless a contrary intention appears, a reference to a subclause of the clause in which the reference occurs.

Former  
members  
cease to  
hold office.

2. The persons holding office as members of the former Board immediately before the appointed day cease to hold office as such on the appointed day.

Rights of  
former  
members.

3. (1) A person holding office as a member of the former Board immediately before the appointed day is—

(a) if—

(i) he is not appointed as a member under this Act with effect from the appointed day; or

(ii) he is appointed as a member under this Act and his term of office as such expires, or he resigns, without his being re-appointed with effect from the expiry of the term or the time his resignation takes effect; and

(b) if he has not attained the age of 65 years,

entitled to be appointed to some position in the Public Service.

(2) The salary payable to a person referred to in subclause (1) shall not be lower than such salary as the Statutory and Other Offices Remuneration Tribunal from time to time determines in relation to him (which determination is hereby authorised to be made).

(3) A determination under subclause (2) shall be made so as to maintain, as far as practicable, the relationship existing immediately before the appointed day between the rate of salary payable to the person concerned and the rates of other relevant salaries.

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*Public Service.*

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SCHEDULE 6—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(4) Pending the making of a determination under subclause (2), a person referred to in subclause (1) shall continue to be paid at his existing rate of salary.

(5) The provisions of section 24 (3)–(5) apply to an appointment pursuant to this clause in the same way as they apply to an appointment pursuant to section 24 (2) (a).

4. (1) Subject to this clause, on and from the appointed day, a reference in any other Act to the “Public Service Act, 1902” shall be read and construed as a reference to the “Public Service Act, 1979”. References to Public Service Act, 1902.

(2) Subclause (1) does not apply where the reference is made exclusively in connection with a provision of the Public Service Act, 1902, not repealed by this Act or is made exclusively in connection with a Promotions Appeal Tribunal.

(3) Subclause (1) does not apply to the Public Service (Promotion Appeals) Amendment Act, 1979.

5. (1) A reference in any Act, in any instrument made under any Act or in any other instrument of any kind (enacted, made or executed before the appointed day) to the Board constituted by the Public Service Act, 1902, shall be read and construed as a reference to the Board constituted by this Act. References to former Board.

(2) The new Board is a continuation of, and the same legal entity as, the former Board.

6. (1) Any officers and employees appointed or employed under the Public Service Act, 1902, shall be deemed to be officers and temporary employees respectively employed under this Act.

(2) Where any procedures have been commenced before the appointed day in relation to the filling of a vacancy in the Public Service or the appointment of a person to any position in the Public Service, the procedures may be completed within 6 weeks after the appointed day as if this Act had not been enacted.

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*Public Service.*


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SCHEDULE 6—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(3) The certificate of the Board as to the time when procedures referred to in subclause (2) were commenced shall, unless the contrary is established, be taken for all purposes to be conclusive.

(4) Where any procedures are completed pursuant to subclause (2) in relation to any act, matter or thing, then for the purposes of and in connection with any appeals those procedures shall be deemed to have been completed before the appointed day.

(5) Nothing in subclauses (2)–(4) prevents any procedures referred to therein from being completed (wholly or in part) in accordance with this Act (this clause excepted).

Permanent  
Heads.

7. A reference in any Act, in any instrument made under any other Act or any other instrument of any kind (enacted, made or executed before the appointed day) to the Permanent Head of a Department shall, subject to section 46 (6), be read and construed as a reference to the appropriate Department Head.

Staff  
establish-  
ments.

8. The staff establishments of the Departments and the Administrative Offices, as in existence immediately before the appointed day, shall be deemed to have been determined pursuant to section 38.

Admini-  
strative  
units.

9. Any list and declaration in force under section 4A of the Public Service Act, 1902, immediately before the appointed day shall be deemed to be in force under section 59.

Divisions.

10. The persons included in the various Divisions mentioned in sections 23–26 of the Public Service Act, 1902, immediately before the appointed day shall, subject to this Act, be deemed to be members of the corresponding Divisions under this Act, until classified under this Act.

Public  
Service  
Board  
Notices.

11. A reference in this Act to Public Service Notices includes a reference to Public Service Board Notices, as referred to in the Public Service Act, 1902, issued before the appointed day.



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*Public Service.*

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SCHEDULE 6—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

12. Any determinations and agreements made or entered into by the former Board under the Public Service Act, 1902, shall be deemed to have been made or entered into under this Act. Deter-  
minations  
and  
agreements.
13. (1) Divisions 5 and 6 of Part IV apply to and in respect of acts and omissions committed or alleged to have been committed before as well as on or after the appointed day. Discipline.
- (2) Any disciplinary proceedings pending under the Public Service Act, 1902, immediately before the appointed day shall be deemed to be pending under this Act and may be continued, heard and disposed of accordingly.
- (3) Any suspension in force under section 57 of the Public Service Act, 1902, immediately before the appointed day shall be deemed to have been imposed under the appropriate provision of this Act.
14. Any appeals pending under section 19 of the Public Service Act, 1902, immediately before the appointed day shall be deemed to be pending under section 116, and may be heard and determined accordingly. Appeals.
15. Anything done or omitted under section 56A of the Public Service Act, 1902, shall be deemed to have been done or omitted under section 131. Judgments.
16. Any person retired under the Public Service Act, 1902, shall be deemed to be a person retired under this Act. Retire-  
ments.
17. The repeal by this Act of Part III of the Public Service Act, 1902, or of any other enactment does not affect any right to any pension, annual superannuation or retiring allowance. Pensions.
18. In the construction, and for the purposes of any Act, by-law, regulation, award, agreement or any other instrument or document whatever, of the same or a different kind or nature, any reference to, or to be read and taken to refer to, the Clerical Division of the Public Service shall be a reference to, or be read and taken to refer to, the Administrative and Clerical Division of the Public Service. References  
to Clerical  
Division.  
cf. 1963  
No. 50,  
s. 2 (2).

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*Public Service.*

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SCHEDULE 6—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

Regulations under Public Service Act, 1902. 19. Any regulations in force under the Public Service Act, 1902, immediately before the appointed day shall to the extent that they could have been made on or after that day be deemed to have been made under this Act.

Regulations. 20. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision made under subclause (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding the foregoing clauses of this Schedule (clause 3 excepted).

(5) A reference in any provision of this Act (this clause excepted) to regulations does not include a reference to regulations made under this clause.

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