

**PUBLIC SERVICE (PROMOTION APPEALS)
AMENDMENT ACT, 1979, No. 90**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 90, 1979.

An Act to amend the Public Service Act, 1902, consequent on and in connection with the enactment of the Public Service Act, 1979. [Assented to, 16th May, 1979.]

Public Service (Promotion Appeals) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

- Short title.** **1.** This Act may be cited as the "Public Service (Promotion Appeals) Amendment 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 the day appointed and notified under section 2 (2) of the Public Service Act, 1979.
- Principal
Act.** **3.** The Public Service Act, 1902, is referred to in this Act as the Principal Act.
- Schedules.** **4.** This Act contains the following Schedules :—
- SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.
- SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.
- Amendment
of Act No.
31, 1902.** **5.** The Principal Act is amended in the manner set forth in Schedule 1.
- Savings and
transitional
provisions.** **6.** Schedule 2 has effect.
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Public Service (Promotion Appeals) Amendment.

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 1—

Omit “Public Service Act, 1902,” insert instead “Public Service, (Promotion Appeals) Act, 1902”.

(2) Section 4 (1), (1A)—

Omit section 4 (1), insert instead :—

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

“association of employees” means an industrial union whose name for the time being is included in Schedule 2;

“industrial union” has the meaning ascribed to that expression by the Industrial Arbitration Act, 1940;

“Tribunal” means a Promotions Appeal Tribunal constituted under section 69H and, in relation to an appeal made under Part IIA, means the Promotions Appeal Tribunal so constituted in respect of that appeal.

(1A) This Act shall be construed with, and as if it formed part of, the Public Service Act, 1979.

(3) (a) Section 69A—

Omit “the Board” wherever occurring, insert instead “a Department Head”.

(b) Section 69A—

Omit “49 (2)” wherever occurring, insert instead “62 (2) of the Public Service Act, 1979”.

Public Service (Promotion Appeals) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 69A, definition of “efficient”—

Omit “49 (1)”, insert instead “62 (1) of the Public Service Act, 1979”.

(d) Section 69A, definition of “recommended officer”—

Omit “office”, insert instead “position”.

(e) Section 69A (2)—

At the end of section 69A, insert :—

(2) Where, pursuant to section 33 (1) (b) of the Public Service Act, 1979, the Board decides to make a recommendation referred to in section 62 (2) of that Act—

(a) this Part applies to and in respect of the decision in the same way as it applies to a decision of a Department Head; and

(b) references in this Part to a Department Head shall accordingly be read and construed as references to the Board.

(4) (a) Section 69B (11)—

Omit “this Act, other than this Part,”, insert instead “the Public Service Act, 1979,”.

(b) Section 69B (11)—

Omit “this Act other than this Part”, insert instead “that Act”.

(5) Section 69D—

Omit “office”, insert instead “position”.

Public Service (Promotion Appeals) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (6) (a) Section 69G (1)—
Omit “the Board” where firstly occurring, insert instead “a Department Head”.
- (b) Section 69G (1) (b)—
Omit “Board” wherever occurring, insert instead “Department Head”.
- (c) Section 69G (2)—
Omit “office”, insert instead “position”.
- (d) Section 69G (3)—
Omit “Board” wherever occurring, insert instead “Department Head”.
- (7) (a) Section 69H (1)—
Omit “the Board” where firstly occurring, insert instead “a Department Head”.
- (b) Section 69H (1) (b)—
Omit “Board”, insert instead “Department Head”.
- (8) (a) Section 69I (1), (2), (3)—
Omit “the Board” wherever occurring, insert instead “a Department Head”.
- (b) Section 69I (2) (a) (ii)—
Omit “49A (2)”, insert instead “72 (2) of the Public Service Act, 1979”.

Public Service (Promotion Appeals) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (c) Section 69I (2) (a) (ii), (d), (5)—
Omit “Board” wherever occurring.
- (d) Section 69I (2) (a)—
Omit “49A (1)”, insert instead “72 (1) of that Act”.
- (e) Section 69I (2) (b), (c), (d), (e), (g), (5)—
Omit “office” wherever occurring, insert instead
“position”.
- (f) Section 69I (2) (f)—
(i) Omit “office” where firstly occurring, insert
instead “position”.
(ii) Omit “an office”, insert instead “a position”.
- (g) Section 69I (3)—
Omit “49A (1)”, insert instead “72 (1) of the Public
Service Act, 1979”.
- (h) Section 69I (5)—
Omit “Board’s decision”, insert instead “decision of a
Department Head”.
- (9) Section 69J—
Omit “the Board” wherever occurring, insert instead “a
Department Head”.
- (10) (a) Section 69M (1)—
Omit “the Board”, insert instead “a Department
Head”.

Public Service (Promotion Appeals) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 69M (2)—

Omit the subsection, insert instead :—

(2) Where an appeal against a decision of a Department Head is pending before a Tribunal, the Department Head or an officer appointed by the Department Head is entitled to be present before the Tribunal while any matter is being presented to the Tribunal.

(c) Section 69M (3)—

Omit “the Board and, by an officer, the Board”, insert instead “a Department Head, and the Department Head or an officer appointed by the Department Head”.

(d) Section 69M (4)–(7)—

Omit “the Board” wherever occurring, insert instead “a Department Head”.

(e) Section 69M (8)—

Omit “member of the Board”, insert instead “Department Head”.

(f) Section 69M (8)—

After “appointed”, insert “by him”.

(11) (a) Section 69o (2), (3)—

Omit “employee” wherever occurring, insert instead “temporary employee”.

Public Service (Promotion Appeals) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 69o (2) (b)—

Omit “49 (1)”, insert instead “62 (1) of the Public Service Act, 1979”.

(12) Section 69Q (1)—

Omit “Board”, insert instead “Department Head concerned”.

(13) (a) Section 69R—

Omit “the Board” where firstly and secondly occurring, insert instead “a Department Head”.

(b) Section 69R (b)—

Omit the paragraph, insert instead :—

(b) in the case of a Department Head—by delivering it to him personally or by sending it by pre-paid post to him addressed to him at his office.

Sec. 6.

SCHEDULE 2.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. (1) Subject to this clause, on and from the commencement of this Schedule, a reference in any other Act to the “Public Service Act, 1902” shall be read and construed as a reference to the “Public Service (Promotion Appeals) Act, 1902”.

(2) Subclause (1) of this clause applies only where the reference is made exclusively in connection with a provision of the Public Service Act, 1902, not repealed by the Public Service Act, 1979, or is made exclusively in connection with a Promotions Appeal Tribunal.

Public Service (Promotion Appeals) Amendment.

SCHEDULE 2—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(3) Subclause (1) of this clause does not apply to the Public Service Act, 1979.

2. (1) Any proceedings pending under Part IIA of the Public Service Pending Act, 1902, immediately before the commencement of this Schedule shall be heard and disposed of as if this Act and the Public Service Act, 1979, had not been enacted.

(2) Proceedings may be commenced under the Public Service (Promotion Appeals) Act, 1902, in respect of any decision made before the commencement of this Schedule, and may be heard and disposed of, as if this Act and the Public Service Act, 1979, had not been enacted.

(3) A Promotions Appeal Tribunal may, in proceedings referred to in subclause (1) or (2) of this clause, make such a determination as appears to it to be appropriate having regard to the enactment of this Act and the Public Service Act, 1979.

(4) The determination of a Promotions Appeal Tribunal in proceedings referred to in subclause (1) or (2) of this clause shall be given effect to, according to its spirit and intention, by all persons and authorities having authority under the Public Service Act, 1979, in relation to the subject-matter of the proceedings.

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

(2) The provisions of clause 20 (2)–(4) of Schedule 6 to the Public Service Act, 1979, apply to and in respect of regulations made under this clause in the same way as they apply to and in respect of regulations made under clause 20 of that Schedule.