

COMMONWEALTH PUBLIC SERVICE.

No. 5 of 1902.

An Act for the regulation of the Public Service.

[Assented to 5th May, 1902.]

BE it enacted by the King's Most Excellent Majesty the Senate and the House of Representatives of the Commonwealth of Australia as follows:—

1. This Act may be cited as the *Commonwealth Public Service Act* 1902 and shall come into operation on a date to be fixed by proclamation.* Short title.

2. In this Act the following expressions shall unless the contrary intention appears have the meanings hereby respectively assigned to them namely:— Interpretation.

(a) "Permanent Head" means the Permanent Head of the Department wherein is employed any officer in connexion with whom the term is used or is applicable; v. 4.

(b) "Chief Officer" means the Chief Officer in a State of the Department in such State wherein is employed any officer in connexion with whom the term is used or is applicable;

(c) "Officer" means any person employed in any capacity in the Public Service of the Commonwealth whether appointed or transferred thereto before or after the commencement of this Act; v. 4.

(d) "State" includes colony which has become a State;

(e) "Department" means any Department specified in the First Schedule to this Act and any Department at any time established by the Governor-General; and First Schedule.

(f) "Prescribed" means prescribed by this Act or any regulation thereunder.

3. Unless otherwise expressly provided this Act shall not apply to— Non-application of Act to certain officers.

any Justice of the High Court of Australia; or

any member of the Inter-State Commission; or

the Auditor-General; or

any honorary officer; or

any officer the right to appoint whom is not vested in the Governor-General; or

any officer remunerated by fees allowances or commission only; or

any examiner under this Act who is not an officer; or

N.S.W. 1895 s. 3.
V. 1890 s. 3.
S.A. 1874 s. 3.

* Proclaimed to commence 1st January, 1903. See *Gazette*, 31st December, 1902.

any person employed in the Naval or Military Defence Forces only; or
 any officer or class of officers to whom or to which on the recommendation of and for special reasons assigned by the Commissioner the Governor-General declares that the provisions of this Act shall not apply.

Division of Act.

4. This Act is divided into five Parts, namely—

PART I.—Administration.

PART II.—Divisions of Public Service and Appointments.

PART III.—Internal Administration.

PART IV.—Life Assurance.

PART V.—Miscellaneous.

PART I.—ADMINISTRATION.

Public Service Commissioner and Inspectors.

5.—(1.) For the purposes of this Act the Governor-General may from time to time appoint some fit and proper person to be Public Service Commissioner and not exceeding six fit and proper persons to be Inspectors. The Commissioner shall submit for the consideration of the Governor-General reports as to any matters requiring to be dealt with by the Governor-General under this Act; and shall have the powers duties and authorities in this Act vested in or imposed on the Commissioner or as may be prescribed and shall in addition perform such other duties as may from time to time be imposed upon him by the Governor-General. Each Inspector shall exercise such powers duties and authorities of the Commissioner or Inspectors as the Commissioner thinks fit from time to time to assign to him.

(2.) The Commissioner and Inspectors shall each be appointed for a term of seven years and shall be eligible for re-appointment.

(3.) If any officer of the Commonwealth is appointed Commissioner or Inspector his service as Commissioner or Inspector shall for the purpose of determining all his existing and accruing rights be counted as public service in the Commonwealth. If any officer in the Public Service of a State is appointed Commissioner or Inspector he shall have the same rights as if he had been an officer of a Department transferred to the Commonwealth and were retained in the service of the Commonwealth.

(4.) In the case of the illness absence or suspension of the Commissioner or any Inspector the Governor-General may appoint some other person to act as the deputy of such Commissioner or Inspector during such illness absence or suspension and no longer; and such person shall during the time for which he acts as such deputy have all the powers and perform all the duties of such Commissioner or Inspector.

(5.) No action or suit shall be brought or maintained against any person who is or shall have been Commissioner or Inspector for any non-feasance or misfeasance in connexion with his duties nor shall any action or suit lie nor any costs be payable in respect of any proceeding before the Commissioner or Inspector.

Appointment of
Public Service
Commissioner
and Inspectors.
N.S.W. 1895
s. 5 (1).

Additional
duties.
Q. 1896 s. 62.
N.S.W. 1895
s. 5 (1).

V. 1890 No. 1135
s. 51.
N.S.W. 1895 s. 7.

V. 1890 s. 8.

(6.) Out of the Consolidated Revenue Fund of the Commonwealth there shall be payable to the Commissioner a salary at the rate of twelve hundred pounds per annum and to each Inspector a salary at the rate of seven hundred pounds per annum; and the Consolidated Revenue Fund is to the necessary extent hereby appropriated accordingly.

(7.) The Commissioner may at any time exercise and perform all or any of the powers duties and authorities of Inspectors.

6.—(1.) The Commissioner or any Inspector may be suspended from his office by the Governor-General, but shall not be removed from office except as hereinafter provided.

Suspension or removal of Commissioner or Inspector.

N.S.W. 1895 s. 6 (1).

Statement to The Parliament.

(2.) The Minister shall cause to be laid before both Houses of The Parliament a full statement of the grounds of suspension within seven days after such suspension if The Parliament is in session and actually sitting, or if The Parliament is not in session or not actually sitting within seven days after the commencement of the next session or sitting.

(3.) The Commissioner or any Inspector so suspended shall be restored to office by the Governor-General unless each House of The Parliament within forty-two days after the day when such statement is laid before it severally declares by resolution that the said Commissioner or Inspector ought to be removed from office; and if each House within the said time so declares the said Commissioner or Inspector shall be removed by the Governor-General accordingly.

Restoration.

Q. 1896 s. 8 (1).

(4.) On the recommendation of the Commissioner the Governor-General may transfer any Inspector without diminution in salary to any office in the public service until the expiration of the period for which he was appointed an Inspector, and upon such transfer he shall no longer be an Inspector but an officer subject to the provisions of this Act relating to officers generally except as to his tenure of office and rate of salary.

Transfer of Inspector to office.

(5.) The Commissioner may at any time suspend any Inspector for any of the causes for which an officer of the Administrative Division is liable to be suspended under this Act, and thereupon the like action shall be taken with regard to such Inspector as in the case of an officer of the Administrative Division who is suspended by the Minister as hereinafter provided.

Suspension of Inspectors.

(6.) Upon receiving the recommendation of the Commissioner thereon, the Governor-General may fine such Inspector, or may deal with him in accordance with the provisions of sub-section (1) hereof.

7. The Commissioner or any Inspector shall be deemed to have vacated his office—

Offices how vacated.

N.S.W. 1895 s. 6 (2).

Q. 1896 s. 9.

(a) if he engages during his term of office in any paid employment outside the duties of his office;

(b) if he becomes insolvent or bankrupt or compounds with his creditors or makes any assignment of his salary for their benefit or takes advantage of any provision of any Act of the Commonwealth or any State relating to insolvency or bankruptcy;

- (c) if except on leave granted by the Governor-General he absents himself from duty for fourteen consecutive days or for twenty-eight days in any twelve months or becomes permanently incapable of performing his duties ; or
- (d) if he resigns his office by writing under his hand addressed to the Governor-General and such resignation is accepted by the Governor-General.

8.—(1.) It shall be the duty of each of the Inspectors from time to time as generally or particularly directed by the Commissioner to personally—

- (a) inspect each or every Department ;
- (b) examine so far as is practicable the officers thereof and ascertain their duties and the value of their services ;
- (c) hear and inquire into all matters and things affecting or relating to the working of the Departments ; and
- (d) furnish in writing to the Commissioner a full report as to every such inspection examination or inquiry including therein recommendations for the consideration and determination of the Commissioner.

(2.) After considering any such report the Commissioner may propose to the Governor-General any particular disposition of officers and offices and the division or class subdivision of class or grade of every officer and re-arrangement or improved method of carrying out any work which appears to the Commissioner necessary or expedient for the more economic efficient or convenient working of any Department, and such proposal shall be considered and dealt with by the Governor-General.

(3.) If the Governor-General does not approve of any proposal, it shall be the duty of the Commissioner to reconsider such proposal, and within a time to be specified by the Governor-General to submit another proposal. Such fresh proposal shall be considered and dealt with by the Governor-General.

Where the Governor-General does not approve of any proposal, a statement of the reasons for not approving and for requiring a fresh proposal shall be laid before The Parliament.

(4.) If the Commissioner finds that more officers are employed in any class or grade in a Department than may be determined to be necessary for the efficient working of such Department, such officers as are in excess may be transferred by the Governor-General to some other Department ; and no appointment or promotion of an officer shall be made to such class or grade in such first-mentioned Department until by transfer retirement dismissal or death the number of officers in the same class or grade is reduced below the number in such class or grade determined to be necessary for the efficient working of such Department.

(5.) For the purposes of this section an officer of a Department of the Public Service of a State which has become transferred to the Commonwealth shall be deemed to be an officer of the class or grade as determined by the Commissioner pursuant to this Act.

(6.) If the services of any officers in excess in any Department are not likely to be required in any other Department the

Inspection of
Departments.

Commissioner to
propose changes
of officers or
re-arrangement
of work.
N.S.W. 1895
s. 45.

Alteration of
staff of any
Department.
V. 1893 s. 24.
Can. 1886 c. 17
s. 6 (2).

Officers of
transferred
Departments.

Excess officers.

Governor-General may call upon such officers to retire from the Public Service ; and every such officer so called upon to retire shall retire accordingly.

9.—(1.) The Commissioner shall recommend to the Governor-General for determination the division class subdivision of class or grade of every officer, and shall keep a record of all officers showing with regard to each officer his age and length of service the office he holds and his division class subdivision of class or grade and salary under this Act. Provided that where the Governor-General does not approve of any such recommendation a statement of the reasons for not approving and for requiring a fresh recommendation shall be laid before The Parliament.

Record of division class &c. of officers to be kept and gazetted.
V. 1890 s. 23.
Can. 1886 c. 17 ss. 6 (1), 59.
Q. 1896 s. 53.

(2.) Where an officer has been transferred from the Public Service of a State, such record shall also show the position of such officer in such State at the time of such transfer.

(3.) The Commissioner shall in the month of February in each year forward to the Governor-General and publish in the *Gazette* a list of all officers on the first day of January in such year together with the particulars so recorded in respect to them and showing the date of appointment of such officers. Such list shall be *prima facie* evidence of the information contained therein ; a copy of such list shall be laid before The Parliament within fourteen days of publication or if The Parliament is not sitting then within fourteen days after the commencement of the next sitting thereof.

10. (1.) The Commissioner or any Inspector may at any time summon any person whose evidence appears to be material to the determining of any subject of inspection inquiry or investigation under this Act ; and any person so summoned shall attend at such place and time as is specified in such summons and produce any official or public books documents or writings in his custody or control material to the inquiry, and the Commissioner or Inspector may examine such person upon oath touching any matter to be inquired into.

Power to summon witnesses and take evidence on oath.
V. No. 1088 ss. 12, 13.
Q. 1896 s. 57.

(2.) The Chairman of any Board of Inquiry under Part III. of this Act shall unless otherwise prescribed have all the powers by this section conferred on the Commissioner or any Inspector.

(3.) If without reasonable cause any person not being an officer summoned pursuant to this section after being paid or tendered his reasonable expenses neglects or fails to appear or refuses to be sworn or to answer any question put to him by the Commissioner or an Inspector or a member of a Board of Inquiry or to produce all books documents or writings pursuant to such summons he shall be liable to pay a penalty not exceeding Twenty pounds to be recovered by any authorized officer in any court of competent jurisdiction in the State in which such person resides, provided that no person shall be compelled to answer any question which would tend to incriminate him.

11. The Commissioner shall furnish to the Minister for presentation to The Parliament at least once in each year a report on the condition and efficiency of the Public Service and of the proceedings of the Commissioner and all Inspectors, and in such report there

Commissioner to report on state of Public Service to Minister.
V. No. 1088 s. 18.
Q. 1896 s. 59.

shall be set forth any changes and measures necessary for improving the method of the working of the Public Service and especially for insuring efficiency and economy therein in any Department or Sub-division thereof. The Commissioner shall in such report draw attention to any breaches or evasions of this Act which may have come under notice.

Permanent Head.

Permanent
Heads.
Second
Schedule.

12.—(1.) The persons for the time being holding the several offices specified in the Second Schedule to this Act or any office which may be prescribed either in addition to or in place of any of such offices shall be Permanent Heads of Departments.

Duties.

(2.) The Permanent Head of a Department shall be responsible for its general working, and for all the business thereof, and shall advise the Minister of such Department in all matters relating thereto.

Chief Officers of Departments.

Chief Officers.

13.—(1.) The Chief Officers of Departments shall be those persons who for the time being hold the offices which may be prescribed as constituting the holders thereof *ex officio* Chief Officers of Departments.

Powers and
duties.

(2.) The Chief Officer of a Department shall have and may exercise and perform under this Act such powers authorities and duties as are prescribed or as are assigned to him by the Permanent Head of such Department.

(3.) In the absence of a Chief Officer a chief clerk appointed for the purpose by the Permanent Head shall perform the duties of such Chief Officer, unless it is otherwise directed by the Governor-General as hereinafter provided, and everything done by such chief clerk shall be as good and effective for all purposes and against all persons whatsoever as if done by such Chief Officer.

(4.) The Permanent Head of a Department may in any case in which he thinks fit so to do exercise any or all of the powers conferred by this Act on a Chief Officer, and in such event any reference in this Act to a Chief Officer shall unless inconsistent with the context be taken to refer to such Permanent Head.

Officers of The Parliament.

Officers of
The Parliament.

14.—(1.) Notwithstanding anything contained in this Act—

- (a) all appointments or promotions of officers of the Senate and all regulations affecting such officers after their appointment shall be made by the Governor-General on the nomination or recommendation of the President of the Senate; and
- (b) all appointments or promotions of officers of the House of Representatives and all regulations affecting such officers after their appointment shall be so made on the nomination or recommendation of the Speaker; and

(c) all appointments or promotions of officers of both Houses of Parliament and all regulations affecting such officers after their appointment shall be so made on the joint nomination or recommendation of the said President and the Speaker.

(2.) Unless inconsistent with the context, any action or approval required by this Act to be taken or given by the Commissioner may, so far as officers of The Parliament are concerned, be taken or given by the President or the Speaker or the President and the Speaker (as the case may be) in substitution for the Commissioner, and any action required or authorized by this Act to be taken by a Permanent Head or Chief Officer shall or may be taken by the Clerk of the Senate so far as relates to officers of the Senate and by the Clerk of the House of Representatives so far as relates to officers of that House and by the Librarian so far as relates to officers of the Library and by the Chief Parliamentary Reporter so far as relates to officers of the Parliamentary Reporting Staff and by the Clerk of the Joint House Committee so far as relates to officers under the control of that Committee.

President or Speaker substituted for the Commissioner.

(3.) The officers of the Senate, the officers of the House of Representatives, the officers of The Parliament Library, the officers of the Parliamentary Reporting Staff and the officers of the Joint House Committee shall be deemed to constitute separate Departments under this Act.

Each House &c. a Department.

PART II.—DIVISIONS OF PUBLIC SERVICE AND APPOINTMENTS.

15. The Public Service shall consist of four Divisions, that is to say :—

The Administrative Division,
The Professional Division,
The Clerical Division, and
The General Division.

Divisions of Service.
N.S.W. 1895 s. 21.
V. 1890 s. 15.
S.A. 1874 s. 4.

16.—(1.) The Administrative Division shall include all Permanent Heads of Departments and all Chief Officers of Departments, and also all persons whose offices the Governor-General on the recommendation of the Commissioner directs to be included in such Division.

Administrative Division.
N.S.W. 1895 s. 21 (2).

(2.) The Professional Division shall include all officers whose duties require in the person 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, and whose offices the Governor-General on the recommendation of the Commissioner directs to be included in such Division.

Professional Division.
Ib. s. 21 (3).

(3.) The Clerical Division shall include all officers whose offices the Governor-General on the recommendation of the Commissioner directs to be included in such Division.

Clerical Division.
Ib. s. 21 (4).

(4.) The General Division shall include all persons in the Public Service not included in the Administrative, or Professional, or Clerical Division.

General Division.
Ib. s. 21 (6).

Salaries and Wages.

Salaries of
Administrative
Division.
V. 1890 s. 22.

17. The officers in the Administrative Division (except in the case of officers paid at a specified rate by virtue of any Act) shall be paid such salaries as may be provided in the Appropriation Act.

Salaries of
Professional and
General
Divisions.
Ib. s. 23.

18. In the Professional Division and General Division (except in the case of officers paid at a specified rate by virtue of any Act) the officers shall be paid such salaries and wages in accordance with such fixed amounts or scales as may be prescribed.

Classes of
Clerical
Division.
Third
Schedule.

19. The Clerical Division shall be divided into five classes. Each of such classes shall be subdivided as set forth in the Third Schedule to this Act and the rate of salary of an officer in a subdivision of any such class shall be that assigned to such subdivision in such Schedule.

Power to fix
salary.
Ib. ss. 24, 45.

20.—(1.) Notwithstanding anything contained in this Act the Governor-General may on the recommendation of the Commissioner fix by order the rate of salary to be paid to an officer occupying any particular office at any sum within the limits of his class or grade, and such sum shall be the salary attached to such officer while he holds such office.

(2.) No order shall be made so as to diminish the rate of salary received by the occupant of any office at the time of making such order.

Clerical Division.

New
appointments to
Clerical
Division to be to
First
Subdivision of
Fifth Class.
V. 1893 s. 11.
Salary.

21.—(1.) All new appointments to the Clerical Division shall be made to the First Subdivision of the Fifth Class; and the rate of the salary at which a person is first appointed to such subdivision shall be Forty pounds per annum.

(2.) Subject to the provisions of this section, the salary of such officer shall, at the expiration of not less than six months, be increased to the rate of Fifty pounds per annum, and at the expiration of a further period of not less than six months to the rate of Sixty pounds per annum.

Increase.

(3.) Every such officer shall thereafter be entitled, upon the certificate of the Commissioner, to receive an increase of Twenty pounds per annum at the end of every succeeding twelve months, until such salary has reached One hundred and Sixty pounds per annum.

Annual report.

(4.) During the month of March in each year the Permanent Head of each Department shall furnish to the Commissioner a report upon the conduct, diligence, and general efficiency of each officer in the Fifth Class of the Clerical Division.

To be made by
superior officer.

Such report shall, in the first instance, be made by the immediate superior of the officer reported upon, and then forwarded by the Permanent Head, with such amendments as he may think fit.

Commissioner to
decide whether
officer is
entitled to
increase.

(5.) Upon the receipt of such report, and upon obtaining any further information which may be necessary, the Commissioner shall determine whether such officer is entitled to the full amount or any part of the prescribed increase as a reward for earnest application to duty and meritorious public service.

(6.) Every such officer shall be entitled, if of the age of twenty-one years, to a salary of One hundred and ten pounds per annum, provided he has been employed for a period of not less than three years in the Public Service, of which one year has been in such Division, and shows by passing the prescribed examination that he is capable of doing the work of an office to which the salary of that amount is attached.

Salary on reaching age of twenty-one.

(7.) The increase of the salary of any officer who has been paid One hundred and ten pounds per annum under the provision of the last preceding sub-section shall be Ten pounds for the twelve months succeeding such increase.

22.—(1.) No officer shall be advanced within a class in the fourth and higher classes of the Clerical Division except by promotion from one subdivision to the next higher subdivision thereof.

Promotion, fourth and higher classes.

(2.) No such officer shall until he has been at least twelve months in a subdivision of a class in the Clerical Division be promoted to a higher subdivision thereof.

Length of service in each subdivision.

23.—(1.) No officer shall be promoted from one class to another in the Clerical Division until he has served at least one year in each subdivision of the class from which he is promoted; and he shall not be promoted in such Division except to fill a vacancy in the class next higher than the class from which he is promoted or to fill a new office.

Promotion in Clerical Division.

(2.) An officer may be promoted within a class in the Clerical Division from one subdivision thereof to another whether there is or is not a vacancy in the subdivision to which the promotion is made.

Promotion within class in Clerical Division.

(3.) Notwithstanding anything contained in this section on the recommendation of the Commissioner upon a report from the Permanent Head and with the approval of the Governor-General, an officer may be promoted from any class to the next higher class, although he has not served at least one year in each subdivision of the class from which he is promoted. A copy of every such recommendation report and approval shall as soon as practicable after the making of any such appointment be laid before The Parliament.

Promotions from any class to next higher class.

(4.) The Governor-General may declare the number of vacancies in the Fifth Class of the Clerical Division which may be filled by officers who have served for at least two years in the General Division. Such vacancies shall be filled either by officers who before the commencement of this Act have qualified under the law of the State in which they are employed for transfer to the Clerical Division or by the successful candidates at a competitive examination of the same standard as that for admission to the Clerical Division. Provided that no officer shall be eligible to compete at such examination unless he has been recommended for transfer to the Clerical Division by the Commissioner.

Filling vacancies in Clerical Division.

24. The Governor-General may, on the recommendation of the Commissioner, transfer to the General Division any officer in the Professional or Clerical Division who has been found incapable of performing his duties in any such Division.

Transfer from Professional or Clerical to General Division.

Minimum salary after serving three years.

25. Any officer in the General Division who shall have served for three years and shall have attained the age of twenty-one years shall be paid a salary of not less than One hundred and ten pounds per annum.

Appointments.

Persons who are subjects of His Majesty and have passed examinations eligible.
N.S.W. 1895 s. 23.

26.—(1.) Except as hereinafter provided no person shall be admitted to the Public Service unless he is a natural-born or naturalized subject of His Majesty, and unless he has successfully passed the examination prescribed.

(2.) With the permission of the Governor-General a person not a natural-born or naturalized subject of His Majesty may subject to the provisions of this Act be admitted to the Public Service.

Regulation for entrance examinations.
Ib. s. 22.
Q. 1896 s. 15.

27. Regulations may be made by the Governor-General for the examination from time to time of persons desirous of admission into the Public Service.

Such regulations shall prescribe—

- (a) a preliminary medical examination or test as to the health of candidates ;
- (b) the character and standard of the examinations to which candidates are required to submit themselves, and such examinations shall be competitive ; and
- (c) the manner of holding such examinations.

The Governor-General may from time to time appoint such examiners recommended by the Commissioner as may be necessary for the conduct of the prescribed examinations and may at any time remove any examiners so appointed.

Separate examinations to be held for the different divisions.
N.S.W. 1895 s. 24.

28.—(1.) Separate entrance examinations shall be held in connexion with the Professional and Clerical and General Divisions respectively and shall be designed to test the efficiency and aptitude of candidates for employment in such several Divisions ; but the educational examination for the General Division shall be of an elementary or rudimentary character.

(2.) The Commissioner shall so far as practicable arrange the times and places of entrance examinations so that persons shall have reasonable facility in the State and locality in which they reside for competing at such examinations.

Arrangement of times and places of examination.
Ib. s. 25.

Public notice of examinations.
Ib. s. 26.

29. It shall be the duty of the Commissioner from time to time as additions to the Public Service may be required, to give public notice thereof three times in such manner as may be prescribed, stating—

- (a) the number of new appointments which it is estimated may have to be made ;
- (b) the Division and class or grade thereof ;
- (c) the times and places of examinations.

Admissions to Public Service to be on probation only.
Ib. s. 27.
V. 1890 s. 32.

30.—(1.) Except as hereinafter provided every person admitted to the Public Service shall in the first instance be appointed by the Commissioner on probation only and may be continued in such probationary position for a period of six months but may be dispensed with by the Commissioner at any time during such period.

(2.) After the period of six months on probation has expired, the Governor-General may on the recommendation of the Commissioner upon a report from the Permanent Head confirm or annul such appointment, or extend the period of probation for a further period of six months, provided that the whole term of probation shall not in any case extend beyond twelve months.

(3.) No such probationer whose appointment shall be so annulled as aforesaid shall be eligible as a probationer at any time within twelve months from the date of the annulling of such appointment.

31.—(1.) If at any time in any special case it appears expedient or desirable in the interests of the Public Service to appoint to the Administrative Division or Professional Division some person who is not in the Public Service the Governor-General may on the recommendation of the Commissioner upon a report from the Permanent Head appoint such person accordingly without either examination or probation and also if he think fit without requiring compliance with the provisions of Part IV. of this Act.

Appointments in certain cases without examination or probation.
N.S.W. 1895 s. 30.
Q. 1896 s. 36.
V. 1890 s. 34.
Can. 1886 c. 17 s. 37.

(2.) No such appointment shall be made until the Commissioner has certified that in his opinion there is no person available in the Public Service who is as capable of filling the position to which it is proposed that the appointment shall be made. A copy of every recommendation report and certificate under this section shall within seven days after the making of any such appointment be laid before The Parliament or if The Parliament is not sitting then within seven days of the next sitting thereof.

(3.) If any person recommended by the Commissioner is not approved by the Governor-General it shall be the duty of the Commissioner after obtaining a report from the Permanent Head to recommend within a time specified by the Governor-General some other officer for the office and such person if approved of by the Governor-General may be appointed accordingly to such office.

V. No. 1075 s. 350.

(4.) Where the Governor-General does not approve of any person recommended a statement of the reasons for not approving any such recommendation and for requiring a further recommendation shall within seven days be laid before The Parliament or if The Parliament is not sitting then within seven days of the next sitting thereof.

32.—(1.) No person shall be appointed to the Clerical Division whose age at his last birthday previous to appointment was less than sixteen years or more than twenty-one years unless such person is at the time of appointment already in the Public Service.

Age of new appointees to Clerical Division.
V. 1890 s. 36.
N.S.W. 1895 s. 33.

(2.) No person shall be appointed to the General Division whose age at his last birthday previous to appointment was less than sixteen years or (except as hereinafter provided) more than fifty years unless such person is at the time of his appointment already in the Public Service. In cases of special duties the Governor-General may however on the recommendation of the Commissioner extend the age from fifty to fifty-five years. But nothing in this sub-section shall be taken to prevent the employment of boys above the age of thirteen years to be message boys or junior messengers.

Age of new appointees to General Division.

Power to extend limit of age for special cases.

Certain restrictions not applicable on transfer of State officers.

33. Any person not more than sixty years of age who at the establishment of the Commonwealth was engaged in any office or employment in the Public, Railway, or other Service of any State shall be eligible for appointment to a position in the corresponding division in the Public Service of the Commonwealth. On the recommendation of the Commissioner the provisions of this Act relating to the examination of candidates to appointments on probation to the division or class or subdivision of class and the age of persons who may be so appointed shall not apply to any such person. Provided that any person in the Professional or Clerical Divisions of the Public Service of a State may be appointed to the Administrative Division.

Re-appointment of retired officers.

C. 1886 cap. 17 s. 53.
N.S.W. 1895 s. 72.
Can. 1886 s. 53.

34.—(1.) Any person having at any time either before or after the commencement of this Act retired from any salaried office not being of a temporary or casual character in the Public Service of the Commonwealth or of any State shall if not more than sixty years of age be eligible for appointment to the Public Service of the Commonwealth without examination or probation, and if the Governor-General thinks fit without compliance with the provisions of Part IV. of this Act; and such appointment shall be made at a rate of salary not exceeding that received by such person at the time of his retirement and shall not be made to a position superior in division or class or grade to that in which he was an officer at such time.

(2.) In the case of any person who shall have received a sum of money as compensation or gratuity on such retirement no appointment shall be made until he has if so required by the Commissioner paid into the Treasury an amount equal to such compensation or gratuity in one sum or arranged to pay by instalments. Such sum shall be refunded upon the person so appointed retiring from the service of the Commonwealth.

Commonwealth and State Officers.

Service in State not to disqualify for Commonwealth service.
V. 1900 No. 1672 s. 4.

N.S.W. 1900 s. 4.
Officer of a State may discharge Commonwealth functions.

35. The fact that any person is an officer of the Public Service of a State shall not disqualify him from also executing the duties of an office in the Public Service of the Commonwealth.

36.—(1.) The Governor-General may arrange with the Governor in Council of any State for the performance by an officer in the Public Service of such State for the Government of the Commonwealth of any work or services or for executing the duties of any office in the Public Service of the Commonwealth.

(2.) In any such case the Governor-General may by agreement with the Governor in Council of the State or otherwise make arrangements for determining—

- (a) the rate of payment to be made by the Government of the Commonwealth for the services to be performed or the work done for the Commonwealth by such officer; and
- (b) any matters which may require to be adjusted with regard to the performance of such duties or execution of such work by such officer.

Consequent arrangements to be made.

37. Where an officer of the Commonwealth performs some duties for the Government of a State it shall be lawful for the Governor-General by agreement with the Governor in Council of such State or otherwise to make arrangements for determining—

- (a) the rate of payment to be made by the Government of such State for the services performed for such State by such officer ; and
- (b) any matters which may require to be adjusted with regard to the performance of such duties by such officer.

Arrangement
of performance
of duties by
officer.
V. 1900 No. 1672
s. 4.
N.S.W. 1900 s. 4.

38. It shall be lawful for the Governor-General at the request of the Governor in Council of a State to authorize and cause any work or services to be performed for the Government of such State ; and the Governor-General by agreement with the Governor in Council of a State or otherwise may make arrangements for determining—

- (a) the rate of payment to be made by the Government of the State for the performance of such work or services ; and
- (b) any matters which may require to be adjusted with regard to the performance of such work or services.

Arrangement
for performance
of work or
services for
Government of
State.
V. No. 1709 s. 2.
N.S.W. 1900 s. 6.

39. In all cases coming under the last four preceding sections the Governor-General may by agreement with the Governor in Council of the State concerned or otherwise make arrangements for determining in respect of any officer so employed on behalf of the Commonwealth and of a State the respective shares of each Government in any pension retiring allowance or allowance to dependants which may become payable either under the laws of the State or of the Commonwealth in respect to such officer.

Pensions
retiring
allowances &c.
in such cases.

Temporary Employment.

40.—(1.) Whenever in the opinion of the Minister of a Department the prompt despatch of the business of a Department renders temporary assistance necessary and the Commissioner is unable to provide such assistance from other Departments in the State in which such assistance is required, the Permanent Head or the Chief Officer shall select in such manner as may be prescribed from the persons whose names are upon the prescribed register in the State in which such assistance is required such person or persons who are available as appear to be best qualified for such work, and they shall be paid at the same rate as is paid to the permanent employes for similar work and shall be entitled to the same holidays.

Temporary
employment.
N.S.W. 1895 s. 37
V. 1900 s. 38.

(2.) Such person or persons may be employed to perform such work for any period not exceeding six months.

Limit of
employment.

(3.) No person who has been temporarily employed in any Department for six months continuously or for nine months continuously where extended as hereinafter provided or for six months in the whole in any twelve months or for nine months continuously where extended as hereinafter provided shall during the six months following such temporary employment be eligible for further temporary employment in the Public Service.

Restriction on
re-employment.

(4.) If it appears in the public interest to be desirable so to do the Commissioner may order that any person who has been

Power to extend
by three months.

temporarily employed in any Department for six months continuously may be temporarily employed for not more than three additional months.

Liability to being dispensed with.

(5.) The services of any person temporarily employed may be dispensed with at any time by the Minister or by the Permanent Head or Chief Officer.

Provision as to certain Departments.
N.S.W. 1895 s. 33.
V. 1890 s. 33.

(6.) Notwithstanding the provisions hereinbefore contained the Governor-General, if it appears in the public interest to be desirable so to do, may in the case of temporary work in the carrying out of any public work or scheme order that the temporary employment of all or any persons employed upon such work or scheme may be continued until the completion of the same; and unless otherwise ordered by the Commissioner or the Permanent Head any person may be temporarily employed by the Chief Officer in the Government Printing Office or in the preparation of the Census for such time as may be necessary.

Return to be presented annually.

(7.) The Commissioner shall in the month of July in each year make a return showing the names of all persons temporarily employed in the Public Service during the previous financial year, and the periods for which such persons have been respectively employed and the remuneration paid to them, and such return shall be laid before both Houses of The Parliament.

PART III.—INTERNAL ADMINISTRATION.

Alterations of Staff.

Power to create or abolish offices and alter classification or grading.
V. 1893 s. 23.

41. The Governor-General may on the recommendation of the Commissioner after obtaining a report from the Permanent Head—

- (a) create a new office in any Division in any Department; or
- (b) abolish any office in any Department; or
- (c) raise or lower the classification or grading of any office the duties of which have been materially changed; or
- (d) with the consent of any officer transfer or promote him from any one Division to any other Division, and in the case of transfer or promotion from the General to the Clerical Division after such examination as may be prescribed.

How vacancies to be filled by promotions.

Comp. N.S.W. 1895 ss. 40, 42.
V. 1890 s. 47.

Can. 1886 c. 17 s. 42.

42. Whenever a vacancy occurs in any office and it is expedient to fill such vacancy by the promotion of an officer the Governor-General may on the recommendation of the Commissioner subject to the provisions of this Act—

- appoint to fill such vacancy an officer of the Department in which such vacancy occurs regard being had to the relative efficiency, or in the event of an equality of efficiency of two or more officers to the relative seniority, of the officers of such Department; or
- appoint to fill such vacancy any qualified officer from any other Department whom on the ground of efficiency, or in the event of an equality of efficiency of two or more officers whom on the ground of seniority, it appears desirable so to

appoint, if it appears that such appointment would result in the work of such office being more efficiently performed than by selecting an officer from the Department in which such vacancy occurs ;

“ efficiency ” in this section means special qualifications and aptitude for the discharge of the duties of the office to be filled together with merit and good and diligent conduct.

43.—(1.) No officer shall be promoted from a class in the Professional Division to a higher class or be transferred from one Department to another unless he has passed such examination as is prescribed for such class in the Department in or to which he is promoted or transferred.

Examination before promotion or transfer.
N.Z. 1900 No. 34 ss. 2-4.
Can. 1886 c. 17 ss. 10, 39.

(2.) Such examination shall be conducted by examiners recommended by the Commissioner who may be appointed or removed by the Governor-General. Such examination shall not be competitive ; and there may be different examinations for each different Department, or for different specified offices therein ; and the subjects of examination shall have reference to the work to be performed and to subjects a knowledge of which would increase the efficiency of the Department.

(3.) An examination as to the whole thereof or any one or more subjects conducted by a university in any State or by any public examining body therein may if prescribed be accepted in lieu of an examination by examiners appointed under this section.

(4.) In the case of barristers solicitors medical practitioners engineers architects actuaries land surveyors and draughtsmen employed and seeking promotion or transfer in the line of their profession any examination may be dispensed with on a report from the Commissioner that it is not necessary.

Ib. s. 39 (4).

44.—(1.) Before an officer is promoted from any office to a higher office in the Administrative or Professional or Clerical Division there shall be submitted to the Governor-General the name of the officer recommended for promotion to such higher office by the Commissioner after report from the Permanent Head and any officer so recommended may be promoted by the Governor-General accordingly. Provided that in every instance where a junior officer is recommended the certificate of the Commissioner be first issued certifying that there is no senior officer available as capable of satisfactorily performing the duties.

How promotions made.
V. 1893 s. 12.
Can. 1886 c. 17 s. 26.

(2.) If any officer recommended by the Commissioner is not approved by the Governor-General it shall be the duty of the Commissioner after report from the Permanent Head to recommend within a time specified by the Minister some other officer for the office, and such officer if approved of by the Governor-General may be promoted accordingly to such office.

Comp. V. No. 1075 s. 350.

(3.) Where the Governor-General does not approve of any officer recommended a statement of the reasons for not approving any such recommendation and for requiring a further recommendation shall within seven days be laid before The Parliament and if The Parliament is not sitting then within seven days of the next sitting thereof.

Commissioner
may allow officer
to decline
promotion.
N.S.W. 1895 s. 44.

45.—(1.) The Commissioner may permit an officer to decline an offer of promotion or appointment without prejudice to his right to future promotion or appointment.

(2.) No officer shall refuse compliance with an order of the Governor-General on the recommendation of the Commissioner directing his removal from one position to another of equal importance in the same or any other part of the Commonwealth. Disregard of or disobedience to any such order shall be deemed to be a breach of the provisions of this Act.

Dismissals Removals &c.

Offences.

Ib. s. 49.

V. 1890 s. 124.

Q. 1896 s. 42.

S.A. 1874 s. 24.

46.—(1.) If any officer is guilty of a breach of the provisions of this Act or any regulations thereunder; or is guilty—

of any wilful disobedience or disregard of any lawful order made or given by any person having authority to give such order; or

of being negligent or careless in the discharge of his duties; or

of being inefficient or incompetent and such inefficiency or incompetency appears to arise from causes within his own control; or

of using intoxicating beverages to excess; or

of any disgraceful or improper conduct;

then such officer shall be guilty of an offence and shall be liable to such punishment as may be determined upon under the provisions of this section.

(2.) Any officer (not being an officer included in the Administrative Division) charged with the commission of an offence—

(a) may in the case of minor offences against discipline be reprimanded or cautioned by the Chief Officer or by any officer prescribed as having power to suspend officers in the office or place in which the offending officer is employed; or

(b) for any such offence whatever may be temporarily suspended by the Chief Officer or in emergent cases by any officer prescribed as having power to suspend officers in the office or place in which the offending officer is employed, in which event such suspension shall be immediately reported to the Chief Officer. The suspending officer or the Chief Officer shall forthwith furnish the offending officer with a copy of the charge on which he is suspended, and require him to forthwith state in writing whether he admits or denies the truth of such charge, and to give any explanation in writing as to such offence for the consideration of the Chief Officer.

Summary
reprimand for
minor offences.

Temporary
suspension of
officer charged.

Power of Chief
Officer to
reprimand,

(3.) On consideration of such explanation if any the Chief Officer if of opinion that the alleged offence has not been committed may remove such suspension, or if of opinion that the alleged offence has been committed by such officer but is not of so serious a nature that an investigation thereof should be made by a Board of Inquiry may

reprimand or caution such officer, and remove the suspension or in his discretion fine him any sum not exceeding Ten pounds.

(4.) If the Chief Officer considers the alleged offence to be of so serious a nature that an investigation thereof should be made by a Board of Inquiry he may further suspend such officer and forthwith refer the charge to a Board of Inquiry (consisting of three persons one of whom shall be the Chairman of such Board, and one of whom shall be the representative of the Division to which such officer belongs and elected under the regulations by the officers of that Division in the State in which the suspended officer performed his duties, and any two of whom may exercise all the powers of such Board) for investigation and report; such Board shall not include the person by whom the officer was suspended or by whom the charge was made against him; and if such suspended officer does not in writing admit the truth of the charges made against him such Board shall inquire as to the truth of such charges. Every such Board shall after fully hearing the case report to the Chief Officer the proceedings and evidence taken and their opinion thereon.

Or refer charge to a Board of Inquiry.

Q. 1896 s. 42

(5.) If any such charges are admitted or are found by the Board of Inquiry to be proved, then on the recommendation of the Chief Officer the Permanent Head may subject to the regulations impose a penalty upon such offending officer or may deprive him of his leave of absence during a specified period, or the Commissioner may according to the nature of the offence reduce such officer to a lower class or grade and salary or wages or the Governor-General may dismiss such officer from the Public Service or require him to resign, and in the event of being so dismissed such officer shall unless otherwise ordered by the Governor-General be entitled to no salary or wages during the time of his suspension.

Punishment when charge proved.
Fine by Permanent Head.
Reduction by Commissioner.

Dismissal by Governor-General.

(6.) If none of such charges are found by the Board of Inquiry to be proved the suspension shall be immediately removed by the Chief Officer.

Removal of suspension.

47.—(1.) Where an officer in the Administrative Division is charged by any person with any of the offences mentioned in subsection (1) of the last preceding section the Minister may suspend such officer and report the charge and suspension to the Commissioner, and thereupon the Commissioner shall appoint a Board of Inquiry (consisting of three persons one of whom shall be the Chairman of such Board and any two of whom may exercise all the powers of such Board) for investigation and report; such Board shall not include the person by whom the charge was made; and if such officer does not in writing admit the truth of the charges made against him, such Board of Inquiry shall inquire into the truth of such charges, and after fully hearing the case shall report to the Commissioner their opinion thereon.

Offences by officers in Administrative Division.
N. S. W. 1895 s. 50.

(2.) Where any Inspector is charged with an offence or is suspended by the Commissioner the Board of Inquiry shall be appointed by the Governor-General.

(3.) If any such charges are admitted or are found by the Board of Inquiry to be proved then on receiving such report the Commissioner may make such recommendation in reference thereto and as to the

punishment or otherwise of the person charged as to the Commissioner seems fit. On receiving such recommendation the Governor-General may dismiss such officer from the Public Service, or reduce such officer to a lower division and salary or impose such penalty or other punishment as the case demands.

Removal of
suspension.

(4.) If such charges are found by the Board of Inquiry not to be proved, the suspension shall be immediately removed by the Minister.

Right of officers
to be
represented
by counsel.
V. 1890 s. 125.
N.S.W. 1895 s. 53.
Q. 1896 s. 42.

48.—(1.) All officers upon the hearing by a Board of Inquiry of any charge against them shall be entitled to be represented by counsel attorney or agent who may examine witnesses and address the Board of Inquiry in their behalf.

(2.) A Board of Inquiry shall when inquiring as to the truth of any charges inquire as to the truth of the same without regard to legal forms and solemnities, and shall direct itself by the best evidence it can procure or that is laid before it whether the same be such evidence as the law would require or admit in other cases or not.

Procedure
before Board of
Inquiry.

49. Where any charge against an officer is submitted to a Board of Inquiry, such Board shall have the right to direct that the inquiry shall be held in private.

In any case where such Board finds that the charge is not proved, the Board may recommend that the reasonable expenses or any part thereof incurred by such officer in meeting such charge be paid, the amount of such expenses to be mentioned in such recommendation.

Every such recommendation shall be considered by the Governor-General.

In any case where a charge against an officer is submitted to a Board of Inquiry, a copy of all documents intended to be used at such inquiry shall where practicable be furnished to such officer at least seven days before such inquiry is held.

Appeals.

50. Any officer (except officers of The Parliament) affected by any report or recommendation made or action taken under this Act other than a report or recommendation made or action taken under sections thirty-one, forty-six to forty-nine inclusive, sixty-five, sixty-six, and seventy-three thereof, may, in such manner and within such time as may be prescribed, appeal to a Board, consisting of an Inspector, the Chief Officer of the Department to which such officer belongs or an officer nominated by such Chief Officer, and the representative of the Division to which such officer belongs elected under the Regulations by the officers of the Division to which such officer belongs in the State in which such officer performs his duties. The Board shall hear such appeal and transmit the evidence taken together with a recommendation thereon to the Commissioner who shall thereupon determine such appeal. Provided that in the case of reports or recommendation made by the Commissioner to the Governor-General all such appeals must be taken before the reports and recommendation are dealt with by the Governor-General under the provisions of this Act.

PART IV.—LIFE ASSURANCE.

51. This Part of this Act except the last section thereof shall not apply to any persons who at the time of the transfer to the Commonwealth of a Department of the Public Service of a State were officers of such Department or to any person in the Public Service of a State who is appointed an officer or to any person temporarily employed.

Non-application to certain officers.

52. Subject to the provisions of this Act every officer on the confirmation of his appointment shall effect an assurance of his life with some life assurance company or society approved by the Governor-General registered and carrying on business in the Commonwealth or as may be prescribed, providing for such benefits as may be prescribed and for increasing from time to time the amount assured. Provided that this section shall not apply to any officer who at the time of his appointment is already assured in such company or society for benefits equivalent to those prescribed.

Appointee to assure his life.

53. Such assurance shall be continued by the assured and not allowed to lapse, and the amount thereof shall be increased by the assured from time to time in proportion as nearly as practicable to his salary as may be prescribed.

Provision for increase of amount of policy.
N.S.W. 1895 s. 63.

54. No such policy of assurance shall at any time be assignable or transferable either at law or in equity or be mortgaged or charged in any way either wholly or in part; and the moneys thereby secured and the property and interest under such policy of the person assured shall be wholly exempt from the operation of any laws in force relating to bankruptcy or insolvency, and shall not be liable to be seized levied upon attached or sold upon by or under any legal process or in case of his death shall not be assets for the payment of his debts.

Policy not assignable and to be exempt from insolvency laws &c.
Ib.
N.Z. 1893 s. 13.

55. A copy of the last preceding section shall be indorsed on every policy of assurance issued for the purpose of compliance with the provisions of this Part.

Indorsement of policy.

56. It shall be the duty of the company or society assuring any officer to notify in writing to the Chief Officer whenever the premiums of such officer are more than two months in arrear, or whenever any policy is liable to lapse within one month, and to state the exact amount of arrears of premiums and fines (if any) payable thereon, and such amount if not sooner paid by the officer may be deducted from the next payment made to such officer on account of salary and shall be paid to such company.

Deduction from salary of premiums in arrear.

57.—(1.) Where a person is unable to assure his life or is unable to assure his life without a loading of five years or more being made upon his age and in such latter case is unwilling to assure his life he shall not thereby be disqualified for appointment or promotion, but a prescribed deduction shall be made at prescribed times from such person's salary.

Provision for inability to assure.
N.S.W. 1895 s. 63.

(2.) Such deductions shall be invested and accumulated in the prescribed manner by the Commissioner or some officer or authority

appointed for the purpose by the Governor-General; and such accumulations shall during the continuance of any such person in the Public Service be protected as hereinbefore in this Part prescribed with respect to moneys received by and property and interest under policies of assurance and shall be paid in full without any deduction and with all interest accumulated thereon to such person on his ceasing to be a member of the Public Service or to his representatives on his death, whichever shall first happen, and in case of his death shall not be assets for the payment of his debts.

58. All officers of a Department transferred to the Commonwealth and all officers in the Public, Railway, or other Service of a State so transferred, who by any law of a State had to contribute to a Superannuation Fund, or to insure their lives, shall continue to be liable to pay the sum imposed by such law into the Treasury, and continue to keep up such insurance according to the provisions of such law.

PART V.—MISCELLANEOUS.

Performance of Duties in Absence.

59. Where in or by any Act Order in Council rule regulation by-law contract or agreement any duty obligation right or power is imposed or conferred upon any officer in His Majesty's service (other than a Minister or judicial officer) in his capacity as such officer, such duty obligation right or power may be performed or exercised by any officer directed by the Governor-General to perform and exercise the duties obligations rights and powers of such first-mentioned officer during his temporary absence or incapacity, in the same manner and to the same extent in all respects as the same might have been respectively performed or exercised by such first-mentioned officer, and everything so done under the provisions of this section shall be as good and effectual for all purposes and against all persons whatsoever as if done by such first-mentioned officer.

Transfer of Officer from State Service.

60. (a) Where a Department of the Public Service of a State has become transferred to the Commonwealth, every officer of such Department who is retained in the service of the Commonwealth, or

(b) where any officer in the Public, Railway, or other Service of a State is transferred to the Public Service of the Commonwealth, every officer so transferred,

shall preserve all his existing and accruing rights and shall be entitled to retire from office at the time and on the pension or retiring allowance which would be permitted by the law of the State from which he was transferred if his service with the Commonwealth were a continuation of his service with such State.

61. For the purposes of this Act service in the Public, Railway, or other Service of a State by any person who becomes an officer in the Public Service of the Commonwealth shall be reckoned as service in the Public Service of the Commonwealth.

Transferred officers to contribute to Superannuation Fund.

Performance of duties and powers of officer in his absence. V. 1890 s. 122. N.S.W. 1895 s. 65.

Application of Act to transferred officers.

63 & 64 Vict. c. 12 s. 84.

Effect of State Public Service.

62. Any officer of a Department transferred to the Commonwealth and any person in the Public, Railway, or other Service of a State so transferred who has qualified to take any other position in the service of a State prior to such transfer shall in the service of the Commonwealth retain all the rights to promotion or transfer he possessed in the service of the State at the time of such transfer.

Right of promotion or transfer to officers of State service.

Officers not British Subjects to be Naturalized.

63. Every officer admitted to the Public Service before the commencement of this Act who is not a natural-born or naturalized subject of His Majesty shall forthwith after the commencement of this Act, or so soon as he is qualified so to do, apply for and obtain a certificate of naturalization under the laws of the United Kingdom, or of the Commonwealth, or of a State.

Officers not British subjects to be naturalized.

Rent Chargeable for Quarters.

64. If an officer occupies for the purpose of residence the whole or part of a building belonging to or occupied by the Commonwealth, the Governor-General may direct that a fair and reasonable sum as rent therefor be deducted from such officer's salary, and the amount of such sum not exceeding Ten per centum on the salary of such officer shall be fixed by the Governor-General on the recommendation of the Commissioner or by officers specially or generally appointed for the purpose by the Commissioner. In calculating for any purpose the rate of salary of such officer the amount so deducted as rent shall be deemed and taken to be part of his salary.

Rent charged to officers residing in Government buildings.
V. 1890 s. 136.
Q. 1896 s. 3.

Incapacity of Officers.

65. If an officer appears to the Commissioner after a report from the Permanent Head or an Inspector to be unfit to discharge or incapable of discharging the duties of his office efficiently the Commissioner or any Inspector may refer the question to a Board of Inquiry, and if such Board finds that such officer is unfit to discharge or incapable of discharging the duties of his office the Governor-General may on the recommendation of the Commissioner deal with such officer either by calling upon such officer to retire from the Public Service or by transferring him to some other position; and every such officer if called upon to retire shall retire accordingly.

Services of incapable officer may be dispensed with.
V. 1890 s. 131.
N.S.W. 1895 s. 56.
Q. 1896 s. 48.

Forfeiture of Office.

66.—(1.) If an officer is on an indictment or presentment convicted of any offence he shall be deemed to have forfeited his office and shall thereupon cease to perform his duties or receive his salary.

Forfeiture of office in certain cases.
V. 1893 s. 30.
N.S.W. 1895 s. 54.

(2.) If the estate of an officer is sequestrated either voluntarily or compulsorily for the benefit of his creditors, such officer shall apply as soon as he may legally do so to a Court of Insolvency for a certificate of discharge. If it appears to such court that the applicant has been guilty of fraud dishonorable conduct or extravagance, such court shall direct the clerk of the court thereupon to report the same to the Minister or Permanent Head or Chief Officer

Sequestration of estate of officer.

Report of Judge.

Action on report.

of the Department in which such officer is employed. If such officer does not apply as aforesaid for such certificate of discharge or if he applies and it appears from the report that such officer has been guilty of fraud dishonorable conduct or extravagance, such officer may be dismissed from the Public Service or reduced to a lower division class or grade therein or fined reprimanded or otherwise punished by order of the Governor-General.

Penalties.

Fines to be stopped from salary.
N.S.W. 1895 s. 57.

67. On receiving notice of any pecuniary penalty imposed upon any officer under the authority of this Act the officer who pays the salary of the officer so punished shall deduct the amount thereof from such salary.

Leave of Absence and Holidays.

Leave of absence for recreation.
V. 1890 s. 133.

68.—(1.) Unless otherwise directed by the Minister of his Department the Chief Officer may grant to every officer of his Department leave of absence for recreation for any period or periods not exceeding in the whole eighteen days in each year exclusive of Sundays and holidays and such Minister in cases of illness or other pressing necessity may grant such extended leave not exceeding three months and the Governor-General may grant leave not exceeding twelve months on such terms as may be prescribed.

(2.) The Minister may grant to any officer leave of absence for recreation for any period not exceeding the number of days' leave of absence for recreation which the Chief Officer might have granted to such officer during his service under this section not so granted by the Chief Officer.

Deduction of pay for unauthorized absence.
Can. 1886 cap. 17 s. 51.

(3.) When the absence of an officer is not sanctioned there shall be deducted from his salary his pay for each day of such absence.

Limit of absence of certain officers.

(4.) The period of leave of absence for recreation which may be granted to officers of The Parliament or to officers stationed in places remote from large centres of settlement or whose duties cannot ordinarily be performed within usual regular hours shall not necessarily be limited to eighteen days, but shall be limited as may be prescribed.

Further extended leave on ground of illness.
V. 1893 s. 28.

69.—(1.) Where in case of illness any officer who has received extended leave of absence for twelve months is not so far recovered as to be able to resume his duties, the Governor-General may grant such officer further leave of absence.

(2.) No such further leave of absence shall be granted for more than six months in all.

(3.) For such further leave of absence no salary or allowance shall be paid to such officer.

(4.) Leave of absence in case of illness shall not be reckoned as nor included in leave of absence for recreation.

Leave without pay.
Ib. s. 29.

70.—(1.) On the application of any officer the Governor-General on the recommendation of the Commissioner may grant to him leave of absence without pay for any period not exceeding twelve months.

(2.) The period during which any officer is absent on leave granted pursuant to this section shall not for any purpose be included as part of such officer's period of service.

71. When an officer has continued in the Public Service at least twenty years, and has not been reduced for misconduct or deprived of leave of absence, the Governor-General may grant to him on the recommendation of the Commissioner leave of absence for a period not exceeding twelve months on half pay or six months on full pay; but for such period of absence such officer shall not be entitled to receive any addition to his rate of pay.

Furlough.
V. 1890 s. 134.

72.—(1.) The following days or any days prescribed under the law of any State to be observed in lieu thereof in that State shall be observed as holidays in the public offices, namely:—

Holidays.

first day of January,
Commonwealth Day,
Christmas Day and the following day,
Good Friday and the following Saturday and Monday,
the anniversary of the Birthday of the Sovereign, and
any day proclaimed by the Governor-General or required by any Act to be observed in lieu of any of the said days.

(2.) Whenever any of the said days falls upon a Sunday the next following Monday shall be observed as a holiday in the public offices in lieu of such Sunday.

(3.) Where by or under the law of a State any day or part of a day is appointed to be or is proclaimed as a public holiday or bank holiday or half-holiday throughout such State or in any part of such State, such day or half-day shall be observed as a holiday or half-holiday (as the case may be) in the public offices of the Commonwealth throughout such State or in such part of such State (as the case may be).

State holidays.
V. No. 1534 s. 4.

(4.) The Governor-General may also by proclamation at any time appoint in addition to the days hereinbefore named any specified day or specified part of a day to be kept as a holiday or half-holiday in the public offices of the Commonwealth or in any part thereof.

(5.) The Minister of a Department or the Permanent Head or Chief Officer thereof may require such Department or any part thereof to be kept open in the public interest for the whole or any portion of a holiday and may require the attendance and services of any officer of such Department during any such holiday; but in that case every such officer shall be granted in lieu thereof a holiday upon such other occasion as shall not interfere with public business.

Q. 1896 s. 47.
Q. 8.

Retirement of Officers.

73. Every officer having attained the age of sixty years shall be entitled to retire from the Public Service if he desires so to do; but any such officer may (unless called upon to retire as hereinafter provided) continue in the Public Service until he attains the age of sixty-five years. If any such officer continues in the Public Service after he has attained the age of sixty years he may at any time before he attains the age of sixty-five years be called upon by the

Officers between sixty and sixty-five years of age entitled or may be called upon to retire.
V. 1890 s. 143.
N.S.W. 1895 s. 68.

Governor-General on the recommendation of the Commissioner to retire from the Public Service; and every such officer so called upon to retire shall retire accordingly.

Officers attaining age of sixty-five to retire unless required to continue.

V. 1890 s. 144.
N.S.W. 1895 s. 69.

Officers of age of sixty-five may be continued in Public Service by Governor-General.

V. 1890 s. 145.
N.S.W. 1895 s. 69.

74. Every officer shall retire on attaining the age of sixty-five years unless he is required to continue to perform his duty in the Public Service as hereinafter provided and is able and willing so to do.

75. Notwithstanding that an officer has attained the age of sixty-five years if the Commissioner certifies that in the interests of the Public Service it is desirable that such officer should continue in the performance of the duties of his office or of any office in the Public Service to which he may be appointed and that such officer is able and willing to do so the Governor-General may direct such officer to continue in the service for such fixed time not exceeding twelve months as the Governor-General in each case directs or during pleasure.

Public Notifications.

Notices to be gazetted.

Ib. s. 70.

Q. 1896 s. 55.

76. Notices of all appointments promotions transfers retirements vacations of office or removals of officers and of all Orders in Council or Proclamations under this Act shall be published in the *Gazette* within twenty-eight days after the making thereof by the Governor-General and every such notice shall be deemed and taken to be conclusive evidence of every such appointment promotion transfer retirement vacation of office or removal or of such Order in Council or Proclamation respectively.

Service of Notices on Officers.

As to officers whose address is unknown.

See V. 1893 s. 32.

N.S.W. 1895 s. 52.

77.—(1.) In the event of the address for the time being of an officer being unknown to the Commissioner or any Inspector or Permanent Head or Chief Officer or Board of Inquiry, as the case may be, all notices orders or communications to or for such officer shall be posted to the last-known address of such officer, and a notification of the fact of such posting shall be published in the *Gazette*.

(2.) So far as regards any such notice order or communication compliance with sub-section (1) of this section shall be deemed a sufficient service of such notice order or communication on an officer whose address is unknown as aforesaid.

(3.) Where any such notice order or communication relates to any charges made against an officer then if within a time specified in such notice order or communication no answer is received by the authority asking whether the officer admits the truth of such charges, he shall be deemed to deny the truth of such charges, and such charges may be inquired into and dealt with in the absence of the officer affected.

Payments.

Salaries not to exceed amount appropriated by The Parliament.

Q. 1896 s. 61.

78.—(1.) Nothing in this Act shall authorize the expenditure of any greater sum out of the Consolidated Revenue Fund by way of payment of any salary than is from time to time appropriated by The Parliament for the purpose.

(2.) Where money has been appropriated by The Parliament in any year for the salaries of officers in any division, if during the year for which the appropriation has been made any vacancy occurs in such division and is not filled up the Governor-General may apply the money so appropriated to the payment of any officer in a lower position in the same division.

Can. 1886 c. 17
ss. 27, 51.
V. 1890 s. 138.

(3.) Payments of money to officers other than for salary or prescribed transfer or travelling allowances or expenses shall be made only under the authority of the Governor-General.

Can. 1886 c. 17
s. 52.

Performance of Work outside Public Service.

79.—(1.) Except with the express permission of the Governor-General which permission may at any time by Order in Council be withdrawn no officer shall—

Officer not to engage in duties unconnected with his office.

- (a) accept or continue to hold an office in or under the Government of any State or in or under any public or municipal corporation ; or
- (b) accept or continue to hold or discharge the duties of or be employed in a paid office in connexion with any banking insurance mining mercantile or other commercial business, whether the same be carried on by any corporation company firm or individual ; or
- (c) engage in or undertake any such business whether as principal or agent ; or
- (d) engage or continue in the private practice of any profession ; or
- (e) accept or engage in any employment other than in connexion with the duties of his office or offices under the Commonwealth.

N.S.W. 1895 s. 64.
V. 1890 s. 116.
Q. 1896 s. 50.

(2.) Nothing herein contained shall be deemed to prevent an officer from becoming a member or shareholder only of any incorporated company or of any company or society of persons registered under any Act in any State or elsewhere.

Effect as to companies.

Regulations.

80. The Governor-General may make alter or repeal regulations for the carrying out of any of the provisions of this Act and in particular for all or any of the following purposes namely :—

Regulations.

- (a) for arranging the Professional Division into classes and the General Division into grades, and for determining the limits of salaries and wages to be paid to persons in such classes or grades in the different Departments or in any specified Department ;
- (b) for the conditions under which officers of the Clerical and General Divisions may be transferred to the Professional Division ;
- (c) for examinations for fixing the fees payable for entrance examinations, and for registering in the order of merit the names of all persons who have passed the entrance examinations, and of those candidates who having qualified at any such examination may be appointed to fill subsequent vacancies arising within nine months thereof ;

- (d) for prescribing the rates of salaries or wages for women employed otherwise than in the Clerical Division, and the terms upon which the service of female officers may be dispensed with upon their marriage. Provided that nothing herein shall be taken to permit the employment of any married woman except upon the certificate of the Commissioner in each case that such employment is desirable ;
- (e) for constituting in any part of the Commonwealth or for any locality or Department in any locality Boards of Inquiry for the purpose of investigating charges against any officer for breaches of the provisions of this Act or any regulations thereunder or of being unfit to discharge or incapable of discharging the duties of his office efficiently, or of committing any offence for which an officer may be suspended from duty, and for regulating the procedure of such Boards ;
- (f) for regulating and fixing for breach of any specified regulation penalties not exceeding Fifty pounds according to the nature and gravity of the offence ;
- (g) for regulating and determining the scale or amount to be paid to officers for transfer or travelling allowances or expenses or for living in localities where the climatic conditions are severe or in places where owing to their situation the cost of living is exceptionally high ; and providing for the relief and transfer of officers employed in any such locality after having been so employed for the period prescribed for that locality ;
- (h) for prescribing the form of Register of applicants for temporary employment, and the mode of keeping the same in each State, and the mode of selecting persons therefrom and also the method of dealing with or punishing persons temporarily employed ;
- (i) for regulating the hours of attendance of officers, and the keeping and signing of records of attendances, or prescribing other methods of recording attendances ;
- (j) for regulating the performance of and payment of officers for extra services and the payment of examiners ;
- (k) for fixing the amount and nature of the security to be given for the fidelity of officers occupying positions the nature of which in the opinion of the Commissioner renders it necessary for such officers to find security for their fidelity ;
- (l) for fixing the maximum or minimum age of persons who may be appointed to any particular division or class or grade or to any particular office ;
- (m) for providing for a notification to the Commissioner of every punishment inflicted on any officer by virtue of this Act and for keeping records thereof ;
- (n) prescribing the lowest amount for which the lives of officers shall having regard to their annual salary be assured and other matters in connexion with the provisions of this Act relating to life assurance ;

- (o) for determining the dates times or periods of time at or within which shall be done all things and acts required or permitted by this Act to be done, and in respect of which no dates times or periods of time are specifically provided ; and
- (p) for notifying all vacancies and the method of applying for such vacancies.

Regulations made pursuant to this Act may be made either generally or with respect to any particular case or class of cases, and when made by the Governor-General and published in the *Gazette* shall have full force and effect ; and such regulations shall be laid before both Houses of The Parliament, within seven days of publication in the *Gazette* if The Parliament is in session and actually sitting, or if The Parliament is not in session or not actually sitting then within seven days after the commencement of the next session or sitting.

Publication of regulations in *Gazette*.
N. S. W. 1895 s. 20.
55 & 56 Vict. c. 23 s. 21.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

DEPARTMENTS.

- The Department of External Affairs.
- The Attorney-General's Department.
- The Department of Home Affairs.
- The Department of the Treasury.
- The Department of Trade and Customs.
- The Department of Defence.
- The Postmaster-General's Department.

SECOND SCHEDULE.

Section 12.

PERMANENT HEADS OF DEPARTMENTS.

- The Secretary to the Department of External Affairs.
- The Secretary to the Attorney-General's Department.
- The Secretary to the Department of Home Affairs.
- The Secretary to the Department of the Treasury.
- The Comptroller-General of Customs.
- The Secretary to the Department of Defence.
- The Secretary to the Postmaster-General's Department.

THIRD SCHEDULE.

Section 19.
V. 1893 sched.
V. 1900 sched.

SCALE SHOWING RATES OF ANNUAL SALARIES OF OFFICERS OF THE CLERICAL DIVISION.

Class.	Annual Salary of Subdivision of Class.					
	First Subdivision.	Second Subdivision.	Third Subdivision.	Fourth Subdivision.	Fifth Subdivision.	Sixth Subdivision.
	£	£	£	£	£	£
First Class ...	520	540	560	580	600	...
Second Class...	420	440	460	480	500	...
Third Class ...	310	335	360	380	400	...
Fourth Class...	185	210	235	260	285	...
	40					
Fifth Class ...	50	80	100	120	140	160
	60					