



GOVERNMENT MANAGEMENT AND EMPLOYMENT (MISCELLANEOUS) AMENDMENT ACT 1993

No. 20 of 1993

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ANNO QUADRAGESIMO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1993

No. 20 of 1993

An Act to amend the Government Management and Employment Act 1985.

[Assented to 8 April 1993]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Government Management and Employment (Miscellaneous) Amendment Act 1993*.

(2) The *Government Management and Employment Act 1985* is referred to in this Act as "the principal Act".

Commencement

2. (1) Subject to subsection (2), this Act will come into operation on a day to be fixed by proclamation.

(2) Section 21 will be taken to have come into operation on the day on which the principal Act came into operation.

Amendment of s. 10 — Constitution of the Board

3. Section 10 of the principal Act is amended—

(a) by striking out from subsection (1) "6" and substituting "7";

and

(b) by inserting after subsection (2) the following subsection:

(2a) The membership of the Board must include at least two men and at least two women.

Amendment of s. 21 — The structure of the Public Service

4. Section 21 of the principal Act is amended by striking out from subsection (1) "and all public employees (other than persons excluded from the Public Service by or under the provisions of schedule 2) shall be employed in positions in administrative units" and substituting "and, subject to schedule 2, all persons employed by or on behalf of the Crown must be employed in the Public Service under this Part".

Amendment of s. 37 — Special provisions relating to appointment of Chief Executive Officers

5. Section 37 of the principal Act is amended—

- (a) by inserting in subsection (1)(c) “by the Commissioner or transferred by the Governor” after “entitled to be assigned”;
- (b) by inserting in subsection (1)(d)(i) “or transferred” after “assigned”;
- (c) by inserting in subsection (1)(d)(ii) “or transferred” after “assigned” twice occurring;

and

- (d) by inserting after subsection (1) the following subsection:

(1a) For the purposes of subsection (1), a person ceases to occupy a position of Chief Executive Officer of an administrative unit if the administrative unit is abolished or ceases to exist.

Amendment of s. 48 — Review of classifications

6. Section 48 of the principal Act is amended—

- (a) by striking out paragraph (c) of subsection (7) and substituting the following paragraph:

(c) any employee whose appointment to the Public Service is—

(i) on a casual basis;

(ii) for a fixed term;

or

(iii) for a fixed term and subject to negotiated conditions.;

- (b) by striking out subsection (11) and substituting the following subsections:

(11) On completion of a review, the review panel may—

(a) confirm the existing classification of the applicant’s position;

or

(b) determine that the position be reclassified with effect from a date determined by the panel,

as the panel considers appropriate.

(11a) The date of effect of a reclassification determined by the review panel must be—

(a) not earlier than the date on which the employee applied for reclassification of the position;

and

(b) not later than 3 months from the date of that application.;

and

(c) by striking out subsection (13) and substituting the following subsection:

(13) Where a review panel determines that a position be reclassified under this section, the Commissioner or Chief Executive Officer, as the case may require, must reclassify the position in accordance with that determination.

Amendment of s. 50 — Basis of appointment to the Public Service

7. Section 50 of the principal Act is amended—

(a) by striking out paragraph (c) of subsection (1) and the word “or” appearing before that paragraph and substituting the following paragraphs:

(c) on a casual basis;

(d) for a fixed term;

or

(e) for a fixed term and subject to negotiated conditions.;

(b) by striking out subsection (4) and substituting the following subsections:

(4) The following provisions apply to an appointment on a casual basis:

(a) an appointment may not be made on that basis except for the performance of duties—

(i) over a period not exceeding 4 weeks;

or

(ii) for hours that are not regular or do not exceed 15 hours in any week;

(b) an appointment may be made on that basis without seeking applications;

(c) the conditions of an appointment (including conditions fixing the duties and remuneration)—

- (i) will be as determined from time to time by the appointing authority subject to any directions of the Commissioner;

and

- (ii) prevail, to the extent of any inconsistency, over the other provisions of this Act;

and

- (d) an appointment may be terminated at any time by the appointing authority.

(4a) The following provisions apply to an appointment for a fixed term:

- (a) an appointment may be made for a term (not less than 12 months nor more than 5 years) determined by the appointing authority;

- (b) a person must not be appointed on that basis unless selected through selection processes conducted in pursuance of this Act;

- (c) the term of an appointment may be extended from time to time by the appropriate authority provided that the aggregate term of appointment of any employee does not exceed 5 years, or such longer period as the Commissioner may allow in a particular case;

and

- (d) where, immediately before appointment for a term as provided by this subsection—

- (i) a person was employed in the Public Service;

and

- (ii) the person's appointment to the Public Service was on a permanent basis,

then, on the expiration of the term, the person—

- (iii) will be taken to have been reappointed to the Public Service on a permanent basis;

and

- (iv) must be reassigned to the position formerly occupied by the person or, if that position is no longer available, to a position at the same classification level as the position formerly occupied by the person.

(4b) The following provisions apply to an appointment for a fixed term and subject to negotiated conditions:

- (a) a person must not be appointed on that basis unless selected through selection processes conducted in pursuance of this Act;

and

- (b) the conditions of an appointment (including conditions fixing the term of an appointment and remuneration)—

- (i) will be as determined or approved from time to time by the Commissioner;

and

- (ii) prevail, to the extent of any inconsistency, over the other provisions of this Act.

(4c) Where, immediately before appointment to the Public Service on a particular basis, a person was employed in the Public Service through appointment on some other basis, the process involved in the change from one basis of appointment to another will be taken not to affect the person's continuity of service as an employee or the person's existing or accruing rights in respect of leave.

Amendment of s. 51 — Filling of positions through selection processes

8. Section 51 of the principal Act is amended—

- (a) by striking out paragraph (a) of subsection (5) and substituting the following paragraph:

- (a) in any case where—

- (i) the position is below a prescribed classification level;
- (ii) applications were not sought on the basis that the successful applicant will be appointed to the Public Service—

- (A) for a fixed term;

or

- (B) for a fixed term and subject to negotiated conditions;

and

- (iii) some other employee also made an application in respect of the position,

be nominated in accordance with the regulations and, subject to section 53, reassigned to the position;;

and

- (b) by inserting after subsection (5) the following subsection:

(6) Where an employee is nominated under this section for reassignment to a position—

- (a) the nomination may be withdrawn by the authority who made the nomination at any time before the employee is reassigned to the position—

- (i) at the request in writing of the employee;

or

- (ii) with the approval of the Commissioner;

and

- (b) another applicant may be selected for assignment or reassignment to the position.

Amendment of s. 52 — Reassignment

9. Section 52 of the principal Act is amended by striking out subsection (3) and substituting the following subsections:

(3) An employee may not be reassigned to a position at a classification level higher than the classification level of the position for the time being occupied by the employee except—

- (a) where the employee has been selected for reassignment to the position through selection processes conducted in pursuance of this Act;

or

- (b) by a temporary promotional reassignment.

(4) A temporary promotional reassignment—

- (a) may not be made except subject to any conditions determined by the Commissioner;

and

(b) is, in any event, subject to the requirement that the employee is within 12 months (or such longer period not exceeding three years as the Commissioner may allow in a particular case) reassigned to the position formerly occupied by the employee or, if that position is no longer available, to a position at the same classification level as the position formerly occupied by the employee.

(5) Except with the employee's consent, or as provided by subsection (4)(b), an employee may not be reassigned under this section to a position at a classification level lower than the classification level of the position for the time being occupied by the employee.

(6) A reassignment may not be made by the Commissioner except at the request of, or after consultation with, the Chief Executive Officer of any administrative unit affected by the reassignment.

Amendment of s. 53 — Promotion appeals

10. Section 53 of the principal Act is amended—

(a) by striking out subsection (2) and substituting the following subsections:

(2) An appeal against a nomination may only be made on one or more of the following grounds:

(a) that the employee nominated is not eligible for re-assignment to the position;

(b) that the selection processes leading to the nomination were not properly directed towards and based on assessment of the respective merits of the applicants;

(c) that the selection processes were affected by nepotism or patronage;

or

(d) that there was some other serious irregularity in the selection processes resulting from non-observance of principles or procedures governing selection processes under this Act,

and may not be made merely on the basis that the Tribunal should redetermine the respective merits of the appellant and the employee nominated.

(2a) The Tribunal may, if of the opinion that an appeal is frivolous or vexatious, decline to entertain the appeal.;

(b) by striking out from subsection (3) "irregularity in the selection processes leading to the nomination" and substituting "serious irregularity in the selection processes leading to the nomination such that it would be unreasonable for the nomination to stand";

(c) by striking out subsection (6);

and

(d) by striking out paragraph (b) of subsection (7) and substituting the following paragraph:

(b) any employee whose appointment to the Public Service is—

(i) on a casual basis;

(ii) for a fixed term;

or

(iii) for a fixed term and subject to negotiated conditions.

Insertion of s. 57a

11. The following section is inserted immediately after section 57 of the principal Act:

Payment of remuneration on death

57a. Where an employee dies, the Commissioner may, if of the opinion that it is appropriate to do so, direct that any amount payable in respect of the employee's remuneration be paid to such dependant or dependants of the employee as the Commissioner directs and not to the personal representative.

Amendment of s. 59 — Excess employees

12. Section 59 of the principal Act is amended by striking out subsections (1), (2), (3) and (4) and substituting the following subsections:

(1) Where the Chief Executive Officer of an administrative unit is satisfied—

(a) that—

(i) the services of an employee have become underutilized;

or

(ii) an employee is no longer required to perform, or cannot perform, the duties of the position to which he or she is assigned,

by reason of—

(iii) changes in technology or work methods or in the organization or nature or extent of operations of the administrative unit;

or

(iv) loss of a qualification that is necessary for the performance or proper performance of the duties;

and

- (b) that it is not possible or practicable that the employee be reassigned in accordance with section 52 to some other position in the administrative unit,

the Chief Executive Officer must refer the matter to the Commissioner.

(2) Where a matter is referred to the Commissioner under subsection (1) and the Commissioner is satisfied—

- (a) as to the matters referred to in subsection (1)(a);
- (b) that all reasonable endeavours have been made to reassign the employee in accordance with section 52 to some other position in the Public Service (whether in the same or any other administrative unit) but that it is not possible or practicable to do so in the circumstances of the case;

and

- (c) that reasonable consultations have taken place with the appropriate recognized organization,

the Commissioner may—

- (d) transfer the employee to some other position in the Public Service;
- or
- (e) recommend to the Governor that the employee be retired from the Public Service.

(3) The Governor may, on the recommendation of the Commissioner under subsection (2), retire an employee from the Public Service.

Substitution of s. 60

13. Section 60 of the principal Act is repealed and the following section is substituted:

Procedure where employee found to be incapacitated

60. (1) Where—

- (a) the appropriate authority is satisfied that an employee is not performing satisfactorily or at all the duties of the position to which he or she is assigned;

and

- (b) it appears or is evident to the appropriate authority that the employee's incapacity is caused by mental or physical illness or disability,

the appropriate authority may require the employee to undergo a medical examination by a medical practitioner nominated by that authority.

(2) Where an employee refuses or fails, without reasonable excuse, to submit to a medical examination as required under subsection (1), the appropriate authority may

suspend the employee from duty in the Public Service (without remuneration and, as the appropriate authority thinks fit, with or without accrual of rights in respect of recreation leave and long service leave) until the employee submits to a medical examination as required by the authority.

(3) The Chief Executive Officer of an administrative unit must, on obtaining a report on the results of a medical examination of an employee required under this section, furnish a copy of the report to the employee and must, before considering the report under subsection (4), allow the employee a period of not less than 14 days from the date of the employee's receipt of a copy of the report within which the employee may furnish to the Chief Executive Officer any medical reports obtained by the employee on his or her mental or physical condition.

(4) Where the Chief Executive Officer of an administrative unit is satisfied, after consideration of all relevant medical reports—

- (a) that an employee is not performing satisfactorily or at all the duties of the position to which he or she is assigned;
- (b) that the employee's incapacity is caused by mental or physical illness or disability;

and

- (c) that it is not possible or practicable that the employee be reassigned in accordance with section 52 to some other position in the administrative unit,

the Chief Executive Officer must refer the matter to the Commissioner.

(5) Where a matter is referred to the Commissioner under subsection (4) and the Commissioner is satisfied, after consideration of all relevant medical reports—

- (a) as to the matters referred to in subsection (4)(a) and (b);

and

- (b) that all reasonable endeavours have been made to reassign the employee in accordance with section 52 to some other position in the Public Service (whether in the same or any other administrative unit) but that it is not possible or practicable to do so in the circumstances of the case,

the Commissioner may—

- (c) transfer the employee to another position in the Public Service;

or

- (d) recommend to the Governor that the employee be retired from the Public Service.

(6) The Commissioner must, on obtaining a report on the results of a medical examination of a Chief Executive Officer required under this section, furnish a copy of the

report to the Chief Executive Officer and must, before considering the report under subsection (7), allow the Chief Executive Officer a period of not less than 14 days from the date of the Chief Executive Officer's receipt of a copy of the report within which the Chief Executive Officer may furnish to the Commissioner any medical reports obtained by the Chief Executive Officer on his or her mental or physical condition.

(7) Where the Commissioner is satisfied, after consideration of all relevant medical reports, that the Chief Executive Officer is incapacitated by mental or physical illness or disability from performing satisfactorily or at all the duties of his or her position, the Commissioner may recommend to the Governor—

(a) that the Chief Executive Officer be transferred to some other position in the Public Service;

or

(b) that the Chief Executive Officer be retired from the Public Service.

(8) The Governor may, on the recommendation of the Commissioner under this section—

(a) transfer a Chief Executive Officer to another position in the Public Service;

or

(b) retire a Chief Executive Officer or other employee from the Public Service.

(9) A Chief Executive Officer or other employee may, if the Commissioner so recommends, be retired under subsection (8) with effect from an earlier date determined by the Commissioner with the consent of the Chief Executive Officer or other employee.

(10) In this section—

“appropriate authority” in relation to an employee, means—

(a) where the employee is a Chief Executive Officer—the Commissioner;

or

(b) in any other case—the Chief Executive Officer of the administrative unit in which the employee is employed:

“relevant medical report” means—

(a) where a medical examination is required by the appropriate authority under subsection (1)—

(i) the report on the results of that examination;

and

- (ii) any medical reports furnished to the appropriate authority by the employee before or within the period allowed under subsection (3) or (6);
- (b) in any other case—any medical report furnished to the appropriate authority by the employee.

Insertion of heading and s. 60a

14. The following heading and section are inserted immediately after section 60 of the principal Act:

*Incompetent Employees***Incompetent employees**

60a. (1) Subject to this section, where the Commissioner is satisfied that an employee is not competent to perform—

- (a) the duties of the position to which the employee is assigned;
- or
- (b) the duties of any other position to which the employee could be reassigned in accordance with section 52,

the Commissioner may—

- (c) transfer the employee to a position with duties that the Commissioner is satisfied are within the employee's competence;
- or
- (d) if satisfied that it is not possible or practicable to transfer the employee to another position in the Public Service—recommend to the Governor that the employee be retired from the Public Service.

(2) Subsection (1) does not apply in any case where an employee's incompetence is due to—

- (a) mental or physical illness or disability;
- or
- (b) causes within the employee's control.

(3) The Commissioner may not take action under this section—

- (a) in respect of a Chief Executive Officer;
- or
- (b) except on the recommendation of, or after consultation with, the Chief Executive Officer of the administrative unit in which the employee is

employed and the Chief Executive Officer of any other administrative unit affected by the action proposed by the Commissioner.

(4) Before the Commissioner transfers an employee or makes a recommendation in respect of an employee pursuant to subsection (1), the Commissioner must give the employee at least 14 days notice in writing of the Commissioner's decision to take such action in respect of the employee.

(5) If, within the period referred to in subsection (4), the employee applies to the Promotion and Grievance Appeals Tribunal for a review of the Commissioner's decision, the Commissioner may not transfer the employee or recommend that the employee be retired until the determination of that application.

(6) The Governor may, on the recommendation of the Commissioner under this section, retire an employee from the Public Service.

Amendment of s. 63 — Retirement from Public Service

15. Section 63 of the principal Act is amended by striking out from subsection (3) "on the basis of negotiated conditions" and substituting "on a casual basis or for a fixed term (whether or not subject to negotiated conditions)".

Amendment of s. 68 — Inquiries and disciplinary action

16. Section 68 of the principal Act is amended—

- (a) by inserting in subsection (5) "do one or more of the following:" after "the disciplinary authority may";
- (b) by striking out paragraph (c) of subsection (5) and substituting the following paragraph:
 - (c) order that the employee be suspended from duty in the Public Service for a specified period without remuneration and, as the disciplinary authority thinks fit, with or without accrual of rights in respect of recreation leave and long service leave;

and

- (c) by inserting after subsection (6) the following subsection:

(6a) The disciplinary authority may, if it thinks fit, suspend an order under subsection (5) subject to compliance by the employee with conditions specified by the disciplinary authority.

Amendment of s. 69 — Suspension or transfer where disciplinary inquiry or serious offence charged

17. Section 69 of the principal Act is amended—

- (a) by striking out subsection (1) and substituting the following subsections:

(1) Where an employee—

- (a) is charged with a serious offence;

or

(b) is given a notice of inquiry under section 68,

the employee may be—

(c) suspended from duty in the Public Service (with or without remuneration and with or without accrual of rights in respect of recreation leave and long service leave);

or

(d) transferred to some other position in the Public Service at the same classification level as the position formerly occupied by the employee.

(1a) A suspension or transfer under subsection (1) may be imposed by the disciplinary authority, but where an employee is to be transferred to a position in another administrative unit, the transfer must be effected by the Commissioner.;

(b) by inserting in subsection (2) “or transfer” after “suspension” twice occurring;

(c) by striking out from subsection (4) “paid any remuneration” and substituting “entitled to any remuneration and accrual of leave rights”;

(d) by striking out from subsection (5) “paid any remuneration” and substituting “entitled to any remuneration or accrual of leave rights”;

and

(e) by inserting after subsection (5) the following subsections:

(6) Where a transfer imposed under this section is revoked, the employee must be reassigned to the position from which he or she was transferred or, if that position is no longer available, to a position at the same classification level as the position from which he or she was transferred.

(7) Subject to subsection (8), a decision to suspend or transfer an employee under this section is not subject to appeal or review under this Act or any other law.

(8) A decision that remuneration be withheld from a person suspended under this section may be the subject of an application for review to the Promotion and Grievance Appeals Tribunal.

Substitution of heading to Division VII of Part III

18. The heading to Division VII of Part III of the principal Act is repealed and the following heading is substituted:

**PART IV
MISCELLANEOUS.****Insertion of s. 73a**

19. The following section is inserted after section 73 of the principal Act:

Transfers of excess employees within public sector

73a. (1) Where circumstances exist in which the Commissioner would be empowered under section 59 to transfer an employee to another position in the Public Service, the Commissioner may instead, if the Commissioner thinks fit, transfer the employee to a position in the employment of a State instrumentality.

(2) Where a State instrumentality determines—

(a) that—

(i) the services of an employee of the instrumentality have become underutilized;

or

(ii) an employee of the instrumentality is no longer required to perform, or cannot perform, the duties of the position to which he or she is assigned,

by reason of—

(iii) changes in technology or work methods or in the organization or nature or extent of the operations of the instrumentality;

or

(iv) loss of a qualification that is necessary for the performance or proper performance of the duties;

and

(b) that there is not any position in the employment of the instrumentality to which it is possible or practicable to reassign the employee,

the Commissioner may, if the Commissioner thinks fit, transfer the employee to a position in the Public Service or in the employment of another State instrumentality.

(3) Except as otherwise agreed between the Commissioner and the employee—

(a) a transfer under this section may be only for a term not exceeding 18 months determined by the Commissioner;

(b) the employee must, at the expiration of the term, be transferred back to a position in the Public Service or in the employment of the State instrumentality by which the person was employed prior to the transfer, as the case may require, being a position with a salary not less than, but not

substantially more than, the salary payable to the employee in that prior employment immediately before the transfer;

(c) the employee's accrued and accruing leave rights and rights in respect of superannuation during the term of the transfer will be determined—

(i) as if the employee continued to be employed in the Public Service or by the State instrumentality, as the case may be;

and

(ii) in relation to superannuation rights — as if the employee continued to be required to perform the same duties as in the prior employment;

and

(d) the employee is, if the remuneration payable to the employee in the employment to which he or she is transferred is less than that payable to the employee in the prior employment immediately before the transfer, entitled to supplementation of the employee's remuneration for the term of the transfer in accordance with the relevant provisions of an award or industrial agreement, or, where there is no award or industrial agreement covering the matter, in accordance with a scheme prescribed by the regulations.

(4) The Commissioner may not make a transfer under this section except at the request of, or after consultation with, the State instrumentality or instrumentalities and the Chief Executive Officer of any administrative unit affected by the transfer.

Insertion of ss. 74a and 74b

20. The following sections are inserted after section 74 of the principal Act:

Commissioner may approve arrangements for multiple appointments, etc.

74a. (1) Subject to this section, the Commissioner may approve, on such conditions as the Commissioner thinks fit, arrangements under which—

(a) a person may be appointed to and employed in the Public Service for a period during which the person continues to hold or remains in some other office or employment outside the Public Service;

or

(b) a person who is employed in the Public Service may remain in that employment for a period during which the person holds or is engaged in some other office or employment outside the Public Service,

and any such arrangements will have effect notwithstanding any other provisions of this Act or any other Act or law.

(2) The Commissioner may not approve any arrangements under subsection (1) under which a person would be appointed to the Public Service for a fixed term and subject to negotiated conditions while continuing to hold or remaining in some other office or employment of the Crown in right of this State.

Directions relating to part-time employment

74b. (1) The Commissioner may issue such directions as the Commissioner considers appropriate to make provision with respect to employment in the Public Service on a part-time basis.

(2) Any directions issued under this section will have effect according to their terms and notwithstanding the other provisions of this Act.

Amendment of s. 75 — Extension of operation of certain provisions of Act

21. Section 75 of the principal Act is amended by striking out subsection (2) and substituting the following subsections:

(2) Subject to subsection (3), the provisions of schedule 4 relating to long service leave apply to—

(a) all public employees who—

(i) are remunerated at hourly, daily, weekly or fortnightly rates of payment;

(ii) are assigned to duties that form part of the operations of an administrative unit;

and

(iii) are, in the performance of the duties, subject to direction by the Chief Executive Officer of the administrative unit;

and

(b) employees or officers of the Crown of a class to whom the Commissioner directs that the provisions apply.

(3) The Commissioner may—

(a) direct that the provisions of schedule 4 relating to long service leave do not apply to a class of employees or officers referred to in subsection (2);

or

(b) vary or revoke a direction previously issued under this section.

(4) A proclamation or direction under this section may, if it so provides, have effect from a date specified in the proclamation or direction that is earlier than the date of the proclamation or direction but not earlier than the date of commencement of this Act.

Amendment of schedule 1 — Transitional Provisions

22. Schedule 1 of the principal Act is amended by inserting after clause 5 the following heading and clause:

**TRANSITIONAL PROVISIONS CONSEQUENT ON GOVERNMENT MANAGEMENT AND
EMPLOYMENT (MISCELLANEOUS) AMENDMENT ACT 1993**

6. (1) Subject to this clause, where a person, having been appointed by the Chief Executive Officer of an administrative unit, was employed immediately before the commencement of this clause to perform duties—

(a) of a kind ordinarily performed by persons employed in the Public Service;

and

(b) —

(i) over a period not exceeding 4 weeks;

or

(ii) for hours that are not regular or do not exceed 15 hours in any week,

the person will be taken to have been appointed to the Public Service on a casual basis.

(2) Subclause (1) does not apply to a person employed in the Public Service whose appointment to the Public Service is on a permanent basis or a temporary basis.

(3) A person whose appointment to the Public Service was, immediately before the commencement of this clause, on the basis of negotiated conditions will be taken to have been appointed to the Public Service for a fixed term and subject to negotiated conditions.

(4) A reference in this Act to a temporary promotional reassignment includes a reference to a reassignment made before the commencement of this clause for temporary purposes under section 52(3)(b) of this Act as in force before that commencement.

(5) The *Acts Interpretation Act 1915* applies, except to the extent of any inconsistency with the provisions of this clause, in relation to the amendments effected by the *Government Management and Employment (Miscellaneous) Amendment Act 1993*.

Amendment of schedule 2 — Persons Excluded from the Public Service

23. Schedule 2 of the principal Act is amended by striking out paragraphs (i) to (m) (inclusive) of subclause (1) and substituting the following paragraphs:

(i) any officer or employee appointed by the Minister under the *Education Act 1972*;

(j) any officer or employee appointed by the Minister under the *Technical and Further Education Act 1976*;

(k) subject to a proclamation under Division I of Part III—

- (i) any officer or employee who is remunerated solely by fees, allowances or commission;
- (ii) any employee who is remunerated at hourly, daily, weekly or piece-work rates of payment (other than a person appointed under Part III on a casual basis);
- (iii) any other officer or employee who is excluded by or under any other Act from the Public Service or whose terms and conditions of appointment are to be determined by the Governor, a Minister or any person or body other than the Commissioner.

Amendment of schedule 3 — The Promotion and Grievance Appeals Tribunal and the Disciplinary Appeals Tribunal

24. Schedule 3 of the principal Act is amended—

- (a) by inserting after subclause (8) of clause 2 the following subclause:

(9) A person who ceases to be Presiding Officer or Deputy Presiding Officer of the Tribunal on completion of a term of office, on resignation under this clause, or on retirement or resignation as a member of the judiciary, may continue to act in the relevant office for the purpose of completing the hearing and determination of proceedings part-heard at the completion of the term of office, or at the time of the retirement or resignation.;

- (b) by inserting after subclause (4) of clause 3 the following subclause:

(5) A person who ceases to be a member of a panel on retirement or resignation from the Public Service, on resignation under this clause, or on completion of a period of 2 years as a member of the panel, may continue as a member of the panel for the purpose of completing the hearing and determination of proceedings of the Tribunal part-heard at the completion of the period as a member, or at the time of the retirement or resignation.;

and

- (c) by inserting after subclause (1) of clause 9 the following subclause:

(1a) The Commissioner is to be treated as a party to all proceedings before the Tribunal.

Amendment of schedule 4 — Hours of Attendance, Holidays and Leave of Absence

25. Schedule 4 of the principal Act is amended—

- (a) by inserting after subclause (4) of clause 1 the following subclause:

(5) This clause does not apply to an employee whose appointment to the Public Service is on a casual basis.;

- (b) by striking out from clause 4(1) "Subject to subclause (2)" and substituting "Subject to this clause and the regulations";

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- (c) by inserting after subclause (6) of clause 4 the following subclause:
- (7) This clause does not apply to an employee whose appointment to the Public Service is on a casual basis.;
- (d) by inserting after paragraph (b) of clause 5(3) the following paragraph:
- (c) the Commissioner may, in appropriate cases, increase the entitlement to sick leave of a particular employee or employees of a particular class.;
- (e) by inserting after subclause (3) of clause 5 the following subclause:
- (4) This clause does not apply to an employee whose appointment to the Public Service is on a casual basis.;
- (f) by inserting in clause 9(2) "or service on a casual basis" after "part-time service".
- and
- (g) by inserting in clause 9 (2) "by reference to the rate of remuneration applying to the employee's position during the period of the leave and the extent to which the employee's effective service was part-time or on a casual basis" after "Commissioner".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor