

Public Service (Amendment) Bill (No. 2)

No.

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LEGISLATIVE ASSEMBLY

Read 1° 30 March 1988

(Brought in by Mr Cain and Mr Crabb)

(No. 2)

A BILL

to amend the *Public Service Act* 1974 and for other purposes.

Public Service (Amendment) Act 1988

The Parliament of Victoria enacts as follows:

Purpose.

- 5 1. The purpose of this Act is to make provision for the recognition of agreements between the Minister and staff associations and for certain other matters.

Commencement.

2. This Act comes into operation on the day on which it receives the Royal Assent.

Principal Act.

- 10 3. In this Act, the *Public Service Act* 1974 is called the Principal Act.

No. 8656.
Reprinted to
No 10081
amended by Nos.
10258, 10262,
16/1986, 50/1986,
34/1987, 41/1987
and 55/1987 and
Orders in
Council.

New section 36B inserted.

4. After section 36A of the Principal Act insert—

Rights of employees and others of two years standing.

“36B. A person who is—

- (a) an employee who has been continuously employed under Division 6; or 5
- (b) a person who has been continuously employed under Division 8 (not being a person to whom section 41A (4) applies)—

for not less than two years— 10

- (c) may be transferred or promoted to fill a vacancy of which notice has been given under section 37 as if the person were an officer; and
- (d) may appeal against a provisional promotion or transfer (other than a transfer of an unattached officer) to an office filled in accordance with section 37; and 15
- (e) subject to sections 30 and 34, must be appointed as an officer if his or her provisional promotion or transfer is confirmed.”.

Amendment of section 37. 20

5. After section 37 (11) of the Principal Act insert—

‘(11AA) For the purposes of sub-section (11), “**unattached officer**” does not include a person to whom section 36B applies.’.

Amendment of section 38A.

6. (1) In section 38A of the Principal Act, for sub-section (3) substitute— 25

“(3) Upon the confirmation of a provisional promotion or the promotion of an appellant, the officer becomes entitled to receive the salary, wage or other remuneration for the office together with any applicable allowances— 30

- (a) if the provisional promotion or promotion is to a vacant office, on—
 - (i) the day on which the officer commences duty in the office; or
 - (ii) the first day of the fifth week after publication of the notice of the provisional promotion or promotion— 35

whichever first occurs; or

- (b) if the provisional promotion or promotion is to an office about to become vacant, on the day on or after the day on which the office becomes vacant that is— 40

- (i) the day on which the officer commences duty in the office; or
- (ii) the first day of the fifth week after the office becomes vacant—

5 whichever first occurs.

New Division 6 of Part III substituted.

7. For Division 6 of Part III of the Principal Act substitute—

“Division 6—Temporary Employment”

Temporary employment.

10 “40. (1) The Board may authorise the employment of suitably qualified persons as employees in a temporary capacity.

(2) The employment of a person under this Division—

(a) shall be for an initial term not exceeding three years; and

15 (b) subject to sub-section (3), may be extended, or further extended, for a further term or terms.

(3) A person must not be employed under this Division for a continuous period exceeding five years unless the Board has declared that special circumstances exist.”

Application of Act.

20 “40A. A person employed under this Division is employed subject to the provisions of this Act and the regulations so far as those provisions are applicable.”

Notice of dismissal.

25 “40B. (1) An employee or a relevant chief administrator must give not less than four weeks notice of intention to terminate the employment of the employee before the end of his or her term, or further term, of employment unless—

(a) the circumstances justify a shorter period of notice or no notice; or

30 (b) the employee and the relevant chief administrator otherwise agree.”.

New Division 1A inserted in Part IV.

8. After Division 1 of Part IV of the Principal Act insert—

“Division 1A—Agreements”**Definition.**

‘43A. In this Division, “**Approved association**” means an association 5
of officers or employees approved for the time being in accordance with
regulations under section 73 (2) (h).’

Agreements.

“43B. The Minister and an approved association may enter into an 10
agreement with respect to remuneration, entitlements and terms and
conditions of employment, including conditions of termination of
employment, of officers in respect of whom the approved association
may make representations to the Board and may, by like agreement,
vary or revoke any such agreement.”

Declarations.

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“43C. (1) The Board may, by instrument, declare that an agreement
in force under section 43B is an approved agreement.

(2) A declaration under this section is a statutory rule and subject
to disallowance by the Parliament.”

Redeployment.

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“43D. (1) If an approved agreement in respect of which a
declaration under section 43C is in force—

(a) provides for the redeployment of officers; and

(b) provides that an officer who refuses or fails to accept a final 25
offer of redeployment made in accordance with the
agreement is deemed to have resigned—

the officer is deemed to have resigned for the purposes of this Act.

(2) If an approved agreement in respect of which a declaration 30
under section 43C is in force provides for the redeployment of officers
to a public statutory authority, an officer so redeployed is deemed to
continue to be an officer for the purposes of—

(a) any transfer or promotion to fill a vacancy of which notice
has been given under section 37; and

(b) any entitlement to relocation expenses in accordance with determinations under section 42 (2) (g).”.

Amendment of section 64A.

5 9. In section 64A (2) of the Principal Act, after “(2)” insert “Except as provided in an agreement in force under Division 1A of Part IV,”.

Amendment of section 72.

10. In section 72 of the Principal Act, after “72.” insert “Except as provided in an agreement in force under Division 1A of Part IV,”.

