

VICTORIA.



ANNO VICESIMO QUINTO

VICTORIÆ REGINÆ.

No. CLX.

An Act to regulate the Civil Service.

[18th June, 1862.]

WHEREAS it is expedient to classify the Civil Service according to the duties performed by the officers thereof and to regulate the salaries therein accordingly and to establish a just and uniform system of appointment promotion and dismissal and to grant to such officers furlough for recreation and other purposes and provide retiring allowances for them in certain cases Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows :—

Preamble.

PART I.—CLASSIFICATION.

I. Nothing in this Act shall apply to any judge of the Supreme Court or of any inferior court or to the master in equity or to the chief or any other commissioner of insolvent estates or to any prosecuting barrister or to the commissioners of audit or to any honorary officer or to any officer the right to appoint whom is not vested in the Governor in Council or to any officer constable or other member of the police or volunteer force or to any officer paid out of contingencies or to any officer remunerated by fees or commission or to any officer who is now or hereafter shall be in any department which the Governor in Council shall declare temporary or to any officer temporarily appointed or employed or to any officer or class of officers to whom or to which the Governor in Council shall declare that the provisions of this Act shall not apply.

Limitation of Act.

II. The civil service shall for the purposes of this Act be taken to consist of two divisions (that is to say) the "ordinary division" and the "professional division."

Divisions of service.

III. The professional division shall include all those offices whether now existing or hereafter to be created which require for their exercise some skill usually acquired only in some profession or other pursuit different from the civil service and shall consist of as many classes as the Governor in Council may in the case of each department of such division direct.

Professional division.

IV. The ordinary division shall include all those offices whether now existing or hereafter to be created which are not comprised in the professional division and shall consist of five classes.

Ordinary division.

V. The officers mentioned in the first schedule to this Act shall be

Salaries of first class.

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be officers of the first class in the ordinary or the professional division and (except in the case of officers paid by virtue of any Act now or which hereafter shall be in force) shall have attached to them respectively but subject to such alterations as are hereinafter provided the several salaries which shall be granted to them by the Appropriation Act for the year one thousand eight hundred and sixty-two.

Salaries and annual increments of other classes.

VI. Every class in each division as aforesaid except the first class of the ordinary and the first class of the professional division shall have a maximum and a minimum limit of salary ascertained in the manner hereinafter directed and every officer therein shall be entitled to receive in every year by way of increase to his salary a sum equal to one-sixth part of the difference between the limits of the salary assigned for that year to the division and the class in which he is placed but no officer shall in any year receive a salary higher than the maximum limit for that year in his division and class.

Limits of salary how defined.

VII. Before the transmission of the message accompanying the Estimates in any financial year the Governor may recommend by message to the Legislative Assembly a rateable reduction or increase if any such be required according to a specified rate in or to the salaries of the officers of the first class and also a maximum and a minimum limit of salary for each class except the first in each division of the service and the rate of such reduction and increase if any and the limits of salary thereupon adopted by the Legislative Assembly for each such class shall be the rate of reduction and increase or the limits of salary as the case may be for that class during the financial year but in every inferior class the maximum limit of salary shall be less than the minimum limit of salary in the class next above such inferior class.

Offices in department to be classified.

VIII. As soon as conveniently may be after the passing of this Act the Governor in Council shall determine the number of offices of each division and class aforesaid that are required for the efficient working of each department and shall classify the officers of the Civil service according to the arrangement of offices so determined and as soon as such classification has been completed a statement thereof shall be published in the *Government Gazette*.

Appeal given to aggrieved officers.

IX. Where any officer thinks that in the classification for the year one thousand eight hundred and sixty-two he has been placed in a class lower than that in which from the nature of the services he performs he ought to have been placed if the responsible minister in charge of the department consent in writing that he shall do so he may within one month from the date of the publication of such classification apply to the Governor in Council and the Governor in Council shall thereupon appoint three or more competent persons to hear and report thereon and may confirm or alter such classification and such classification as confirmed or altered shall be final.

Decision of Governor in Council on question of rights or obligations to be final.

X. Where any question arises respecting the rights or the obligations under this Act of any officer or class of officers the Governor in Council may decide the same and such decision shall be final.

Classification to be published annually.

XI. As soon as convenient after the determination of such applications in the year one thousand eight hundred and sixty-two and in the month of January in every year afterwards a list of all officers in the Civil Service classified as aforesaid with the date of their first appointment shall be published in the *Government Gazette* and such list shall be *prima facie* evidence of the character of the office and of the rank and length of service of every officer therein named.

Number of officers may be altered.

XII. It shall be lawful for the Governor in Council from time to time to diminish the total number and alter the distribution of the officers in the Civil service in each department as circumstances may require.

XIII. Where

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XIII. Where in the present year any officer shall receive a salary assigned under this Act to the class in which the Governor in Council places him but beyond the minimum salary of that class such officer shall continue to receive the same salary but shall not receive any annual increment thereto until the time at which if he had entered such class at its minimum salary in the present year he would have been entitled to receive an annual increment.

Provision for reduction of salary of present officers but within the limits of their class.

XIV. Where in the year one thousand eight hundred and sixty-one any officer received a salary higher than that assigned under this Act to the class in which the Governor in Council places him he shall receive the maximum salary of such class.

Provision for the like reduction beyond such limits.

XV. Where in the case mentioned in the next preceding section the reduction of salary amounts to or exceeds ten per cent. the officer whose salary is so reduced shall receive in consideration thereof a sum amounting to one-twelfth part of such reduction for each year of service and a proportionate sum for any additional time less than a year.

Compensation for reduction of salaries in certain cases.

XVI. When the services of any officer are dispensed with in consequence of any change in any department and not for any fault on the part of such officer if he have been employed at the time of the passing of this Act in any office for which a salary has been provided by the *Appropriation Act* of 1861 or if at any future time he hold in his own behalf and not as acting for any other person any office within the meaning of this Act every such officer shall as compensation receive for each year of service one month's salary according to the rate of salary paid to him during the year One thousand eight hundred and sixty-one or at the time when his services shall be so dispensed with as aforesaid and a proportionate sum for any additional time less than a year.

Compensation for loss of office.

PART II.—APPOINTMENTS.

XVII. Every person entering the Civil Service within the meaning of this Act shall (except as hereinafter provided) be subject to the probation herein directed and shall be conditionally employed in the lowest or where in the opinion of the Governor in Council special but not professional qualifications are required in the fourth class in that division of the service to which he is attached at the minimum salary of such class.

Persons entering the Service to be subject to probation

XVIII. Every candidate for admission into the Civil Service shall as a condition precedent to his nomination as a probationer produce such evidence as the Governor in Council may think sufficient as to his age health and moral character and every candidate for admission into the Ordinary or the Professional Division shall further pass before a board of examiners appointed by the Governor in Council. such examination but without competition as the Governor in Council may from time to time direct.

And to examination.

XIX. When any person has been conditionally employed upon probation in any office in the civil service if at the expiration of three months from the date of such employment the first class officer of the department in which the probationer has served recommend in writing the probationer as a suitable person to be appointed an officer of the civil service the Governor in Council may if he think fit then but not before appoint such person.

After probation appointment may be made absolute.

XX. The Governor in Council may at any time during the probation summarily dismiss any probationer and every probationer shall during such period receive half the salary of the class in which he is conditionally employed but if he be permanently appointed he shall

Probationer may be summarily dismissed.

Remuneration of probationer.

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shall receive the remaining moiety from the date of his conditional employment.

PART III.—PROMOTION.

Promotion in the Ordinary Division.

XXI. When in the Ordinary division any vacancy occurs in any superior class if it be expedient to fill up such vacancy the Governor in Council except as hereinafter provided shall promote from the class next below that in which the vacancy has occurred such officer as he shall judge the most deserving of such promotion.

Promotion in the Professional Division.

XXII. When in the Professional Division any vacancy occurs in any superior class if it be expedient to fill up such vacancy and if the Governor in Council be of opinion that there is any officer of lower rank in the department where such vacancy has occurred competent to discharge the duties of the vacant office he shall appoint such officer but if there be no such officer then he may appoint such person as he may think fit although not previously engaged in the Civil Service with or without examination or probation.

In special cases persons may be appointed without probation or examination.

XXIII. Whenever it is expedient to secure for the public on the occurrence of any vacancy the services of some person of known ability and to place such person immediately in some of the higher classes of the Civil Service although such person may not have been previously engaged in the Civil Service of this Colony and although there may be in the lower classes of the service officers competent to perform the duties of the vacant office the Governor in Council anything in this Act to the contrary notwithstanding may appoint such person accordingly and without either examination or probation.

Statement of such appointments to be published in the *Government Gazette*.

XXIV. When any such appointment is made without examination or probation a statement thereof and of the reasons for which it has been made shall within one week after the date thereof be published in the *Government Gazette*.

Persons formerly in the Civil Service may be appointed.

XXV. Notwithstanding anything herein contained any person who at any time has been or shall hereafter be employed in any office in the Civil Service and who has not been dismissed or called on to resign for improper conduct may be appointed to any class in the same manner as if he had never left such service.

Departmental reports.

XXVI. Every head of a department shall furnish to the Governor in Council once in each year or at such other times as the Governor in Council may direct reports upon the conduct and the efficiency of the officers employed in his department.

PART IV.—PENALTIES—DISMISSALS.

No officer to be dismissed except under this Act.

XXVII. After the passing of this Act no officer of the Civil Service shall be dismissed therefrom or suffer any other penalty in respect thereof except for the causes and in the manner set forth in this Act but nothing herein contained shall be taken to prevent the Governor in Council if it be expedient to reduce the number of officers in any department or to amalgamate two or more departments from dispensing with the services of any officers in consequence of any such alteration.

Regulations may be made for the Civil Service.

XXVIII. The Governor in Council may from time to time make and publish in the *Government Gazette* regulations and repeal or vary the same concerning the duties to be performed by officers of the Civil Service and the discipline to be observed in the performance of such duties and may affix to breaches of such regulations according to the nature of the offence the penalties herein set forth Provided always that no such regulations shall in any manner alter or affect duties which by any Act now or hereafter to be in force are or shall be required to be performed.

XXIX. If

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XXIX. If any officer be guilty of any breach of such regulations the Governor in Council may according to the nature of the offence dismiss him from the service or reduce him to a lower rank therein or to a lower salary within his class or deprive him of such future annual increment as he would otherwise have been entitled to receive or of any part thereof or of his leave of absence during such time as the Governor in Council thinks fit.

Penalties for breach of regulations.

XXX. If any officer be convicted of any felony or infamous offence or become bankrupt or apply to take the benefit of any Act now or hereafter to be in force for the relief of insolvent debtors or by any deed or other writing compound with his creditors or make an assignment of his salary for their benefit he shall be deemed to have forfeited his office.

Forfeiture of office in certain cases.

XXXI. When any such officer has forfeited his office by reason of any such pecuniary embarrassment as aforesaid if he prove to the satisfaction of the Governor in Council that such embarrassment has not been caused or attended by any fraud extravagance or dishonorable conduct the Governor in Council may reinstate such officer in his former position in the service.

Governor may reinstate insolvent officer in the absence of fraud.

XXXII. Where any officer is guilty of any conduct which in the opinion of the Governor in Council renders him unfit to continue in the civil service such officer upon proof thereof as hereinafter directed may be dismissed from the service.

Officer guilty of immoral or dishonorable conduct may be dismissed.

XXXIII. When any officer is negligent or careless in the discharge of his duties if the officer in immediate charge of the department wherein such first mentioned officer is engaged be of opinion that the offence is not of so serious a nature that a report thereof should in the course of his duty be made to the Governor in Council such officer in charge may for every such case of misconduct order to be deducted by way of fine from the salary of such other officer a sum not exceeding five pounds and the responsible minister of the department may on the appeal of the officer so punished confirm or disallow such penalty and his decision shall be final and without appeal.

Summary punishment for trivial offences.

XXXIV. The treasurer on receiving notice of any pecuniary penalty imposed under the authority of this Act shall deduct the amount thereof from the salary or next payment made by him on account of salary to the officer incurring such penalty.

Fines to be stopped from salary.

XXXV. When any officer is accused of a breach of his duty or of any conduct rendering it unfit that he should remain in the civil service if he deny the truth of such accusation and if the Governor in Council nevertheless think that sufficient cause has been shown for further proceedings the Governor in Council may appoint three or more fit and proper persons to inquire as to the truth of such charge and such persons shall have authority to hear receive and examine evidence and shall after fully hearing the case report to the Governor in Council their opinion thereon.

Board may be appointed to try charges against officers.

PART V.—LEAVE OF ABSENCE.

XXXVI. The responsible minister of every department may at such times as may be convenient grant to every officer leave of absence for recreation for any period or periods not exceeding in the whole three weeks in each year and in cases of illness or other pressing necessity grant such extended leave not exceeding twelve months and on such terms as he thinks fit.

Leave of absence for recreation.

XXXVII. Where any officer desires to visit Europe or some other distant country if he have continued in the Civil Service of this Colony at least ten years and have not been reduced for misconduct

Furlough for Europe.

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or deprived of leave of absence under this Act the Governor in Council may grant to him leave of absence upon half salary for a period not exceeding twelve months but for such period of absence such officer shall not be entitled to receive any annual increment.

Holidays.

XXXVIII. The following days shall be observed as holidays in the public offices New Year's Day Christmas Day Good Friday and the three following days Whit Monday the Anniversaries of the Birthday of Her Majesty of the day of the Separation of the District of Port Phillip from the Colony of New South Wales and of the day of the Proclamation of the Constitution Statute and any other day appointed in the *Government Gazette* as a public holiday Provided that nothing in this Act shall prevent the responsible minister in charge of a department from requiring the services of any officers of such department during any such holiday in case of emergency but in that case such officers shall be entitled in lieu thereof to a holiday upon such other occasion as shall not interfere with the public service.

PART VI.—SUPERANNUATION.

Officers to be superannuated at sixty.

XXXIX. When any officer after the passing of this Act (except as hereinafter provided) has attained the full age of sixty years he shall thereupon retire from active service upon a superannuation allowance.

Superannuation allowance to present officers.

XL. Any officer who at the time of the passing of this Act has attained or within ten years thereafter shall have attained the age of sixty years if or as soon as he shall have been ten years in the Civil Service of Victoria or of the district of Port Phillip or of both and if he has not received any other compensation or retiring allowance in respect of such service shall retire from active service on an annual allowance of half of the average annual salary received by him during the two years preceding his superannuation.

Retiring officers may be requested to continue to perform duties.

XLI. The Governor in Council may nevertheless require any officer who would otherwise retire as aforesaid notwithstanding his age to continue to perform his duties.

Retirement through ill health before sixty.

XLII. When any officer desires to retire from active service and has not attained the full age of sixty years if he produce medical evidence satisfactory to the Governor in Council that he is incapable from infirmity of mind or body to discharge the duties of his office and that such infirmity is likely to be permanent the Governor in Council may permit such officer to retire accordingly upon a superannuation allowance.

Officers retiring may be requested to resume duties.

XLIII. If the Governor in Council require any officer to resume his duties in his former office or in any other office for which he is qualified and if such officer be in such a state of health as to be able to perform such duties and if he decline to undertake such duties or neglect duly to perform the same such officer shall forfeit his right to the superannuation allowance which had been granted to him and if he resume his duties his superannuation allowance shall merge in his salary.

Rates of superannuation allowance.

XLIV. Every superannuated officer (except as hereinbefore expressly provided) whether his remuneration be computed by day pay weekly wages or annual salary shall receive in respect of such superannuation the following annual allowance (that is to say) after ten years' service and under eleven years' ten-sixtieths of the average annual salary received by him during three years preceding his superannuation after eleven and under twelve years' service eleven-sixtieths of such annual salary and in like manner for each additional year of service an addition to his

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his annual allowance of one-sixtieth of such salary until he has completed the full term of service of forty years but the total amount of any superannuation allowance shall in no case exceed forty-sixtieths of the salary on which the allowance is computed.

XLV. Where any officer has served for a less period than ten years if without his own default and in the discharge of his public duty he receive such bodily injury as to incapacitate him from the discharge of his duties the Governor in Council may grant to such officer a gratuity not exceeding three months' pay at his then rate of salary for each year of service.

Gratuities to persons not entitled to an allowance but disabled in the performance of their duties.

XLVI. Where any officer has served for a less period than ten years if he be constrained from infirmity of body or of mind to leave the service the Governor in Council may grant to him such gratuity as he may think fit not exceeding in any case the amount of one month's pay at his then rate of salary for each year of service.

Gratuities to such persons retiring from ill health.

XLVII. If any officer shall die from bodily injury received without his own default in the discharge of his public duty the Governor in Council may grant to the widow or children or at his discretion to any other relations of such officer a gratuity not exceeding one month's pay for each year of service at the average annual salary he was receiving for the ten years next preceding his death if such officer was employed ten years in the Civil Service and if he was not employed ten years then at the average annual salary he was receiving during the time he was so employed.

Gratuity to widow or relatives of officer killed in the discharge of his duties.

XLVIII. When any superannuation allowance is granted under this Act the causes of the granting thereof shall be set forth in the warrant granting the same.

Causes of granting allowance to be stated.

XLIX. Nothing herein contained shall be taken to prevent the Governor from recommending to Parliament any addition to any superannuation allowance or gratuity in consideration of any special services rendered by the officers entitled thereto or of any other unusual circumstances.

Governor's recommendation to the bounty of Parliament not restrained.

PART VII.—MISCELLANEOUS.

L. The provisions contained in the sixteenth section and the fourth fifth sixth and seventh parts of this Act and none others shall apply to the officers mentioned in the second schedule hereto and the salaries of such officers shall be the salaries respectively assigned to them by the *Appropriation Act* for the year one thousand eight hundred and sixty-two and shall (except in cases of officers whose salaries are paid by virtue of any Act which now is or which hereafter shall be in force) be subject to reduction or increase in the same manner as the salaries of officers of the first class in the Ordinary or Professional division are determined under this Act and any such officer may be appointed to any other office in the civil service which in the opinion of the Governor in Council he is competent to fill.

Part only of Act to apply to officers in second schedule.

LI. The provisions contained in the sixteenth section and the fourth sixth and seventh parts of this Act and none others shall apply to the officers mentioned in the third schedule hereto and such officers shall receive respectively such salaries as Parliament may from year to year provide except lockers and weighers in the customs' service who shall have all the benefits arising from the provisions of this Act to officers of the fourth class except that of increment alone.

And in third schedule.

LII. Where any officer is allowed to use for the purpose of residence any building belonging to the Government the Governor in council may direct that a fair and reasonable sum as rent thereof be deducted from such officer's salary.

Rent may be charged to officers residing in Government buildings.

LIII. Nothing

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Constitution Act and Act No. 86 not repealed.

LIII. Nothing herein contained shall be deemed to alter the *Constitution Act* or the Act of the Parliament of Victoria numbered LXXXVI.

No claim for compensation if Act altered.

LIV. No officer in the civil service shall be deemed to be entitled to any compensation by reason of any reduction of his salary or annual increment consequent upon any alteration of the limits of salary of his class as hereinbefore provided or by reason of any alteration in the scale of superannuation allowances which may be made by any Act amending or repealing this Act.

Money voted for one class may if unexpended be applied to a lower class.

LV. Where any money has been appropriated by Parliament in any year for the payment of the salaries of the officers in any class and division if during the year for which such appropriation has been made any vacancy occur in any such class and be not filled up the Governor in Council may apply the money appropriated to such vacant office or any part thereof to the payment of any other officers in a lower class of the same division that he may appoint.

SCHEDULES.

FIRST SCHEDULE.

Section 5

Clerk of the Executive Council	Government Printer
Clerk of the Legislative Assembly	Surveyor-General
Clerk Assistant of the Legislative Assembly	Assistant Commissioner of Lands and Survey
Librarian	Government Geologist
Under Secretary	Government Astronomer
Registrar-General	Inspector-General of Public Works
Inspector-General of Penal Establishments	Secretary for Customs
Chief Medical Officer	Collector of Customs, Melbourne
Surgeon Superintendent of the Lunatic Asylum	Collector of Customs, Geelong
Government Shorthand Writer	Chief Harbor Master
Government Botanist	Chief Inspector of Distilleries
Director of Museum	Secretary, Post Office
Secretary to the Audit Commissioners	Inspector of Postal Service
Secretary to the Law Department	General Superintendent of Electric Telegraphs.
Crown Solicitor	Secretary for Mines
Prothonotary	Secretary for Railways
Sheriff	Engineer-in-Chief of Railways
Under Treasurer	Assistant Commissioner of Roads and Bridges
Accountant to Treasury	Inspector-General of Roads and Bridges
Receiver and Paymaster, Melbourne	
Government Storekeeper	

SECOND SCHEDULE.

Section 50.

Usher of Legislative Council	Second Police Magistrate, Melbourne
Serjeant-at-Arms	Police Magistrates
First Police Magistrate, Melbourne	Judges' Associates

THIRD SCHEDULE.

Persons whose duties are of a mechanical or unskilled character

Section 51.

Messengers	Criers
Housekeepers	Warders
Court Keepers	

MELBOURNE :

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