

through all sewers and drains which may hereafter be made or passing under through and along the said strip of land and the right of the said owner or owners and his and their surveyors and workmen from time to time and at all times hereafter if he or they should think fit to enter into and upon the said strip of land and to inspect repair cleanse and amend any such sewer or drain without doing unnecessary damage to the said strip of land.

“ Form II.B

(Section 27B.)

SHORT FORM OF FENCING CONDITION.

SUBJECT to the following condition, namely, that notwithstanding anything contained or implied in the *Boundary Fences Act 1908*, the Transferrer shall not be required to contribute to the cost of erecting repairing or maintaining any boundary fences between the land hereby transferred and any adjoining land belonging to the Transferrer and that the Transferrer shall at all times be indemnified and kept indemnified by the Transferee his personal representatives and assigns against all claims and demands in respect of any such boundary fences: Provided always that this covenant shall cease and determine when and so soon as the adjoining land of the Transferrer shall be sold for valuable consideration.”.

PUBLIC SERVICE (NO. 2).

11 & 12 GEO. VI. No. 84.

AN ACT to amend the *Public Service Act 1923*.
[19 December, 1947.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Public Service Act* (No. 2) 1947. Short title and citation.

(2) The *Public Service Act 1923**, as subsequently amended, is in this Act referred to as the Principal Act.

13 Geo. V. No. 25. For this Act, as amended to 1936, see Reprint of Statutes, Vol. VI., p. 263. Subsequently amended by 2 Geo. VI. No. 29, 4 Geo. VI. No. 18, 5 Geo. VI. Nos. 6 and 84, 6 Geo. VI. Nos. 9 and 54, 7 Geo. VI. No. 18, 7 & 8 Geo. VI. No. 104, 8 & 9 Geo. VI. No. 30, 9 & 10 Geo. VI. No. 60, and 11 Geo. VI. No. 22.

Interpretation.

2 Section four of the Principal Act is amended by omitting the definition of "the Board" and substituting therefor the following definition:—

"'the Board' means the Classification and Appeal Board constituted under this Act."

Commissioner
to submit
reports to
Governor.

3 Section eleven of the Principal Act is amended—

(a) by inserting in subsection (1), after the word "and", the words "except as provided by subsection (4),"; and

(b) by adding at the end thereof the following subsection:—

"(4) Notwithstanding the foregoing provisions of this section, the Governor may determine the salaries to be paid to permanent heads without obtaining any reports thereon or recommendations with respect thereto from the Commissioner."

Salary of
Commissioner.

4 Section six of the Principal Act is amended by omitting from subsection (7) all the words after the word "Act" to the word "determine," and substituting therefor the words "an annual salary of £1200,".

Constitution
of the
Classification
Board.

5 Section nineteen of the Principal Act is amended—

(a) by inserting in subsection (1), after the word "Classification", the words "and Appeal";

(b) by omitting from paragraph III. of subsection (2) the words "nominated by the Council of the Association" and substituting therefor the words "elected by the officers of the Public Service by postal ballot in the prescribed manner";

(c) by omitting from the proviso to subsection (2) the words "nominated by the Council of the Association" and substituting therefor the words "elected in accordance with paragraph III.,"; and

(d) by omitting subsection (4) and substituting therefor the following subsection:—

"(4) In any case where the officers of the Public Service fail to elect a member of the Board, as required by paragraph III. of subsection (2), the Governor may appoint an officer to be such member without such election, but the member so appointed shall hold office for one year only."

6 Section thirty of the Principal Act is amended by inserting at the commencement of subsection (1) the words "Subject to the provisions of section thirty-three A,".

Appointments without probation in certain cases.

7 Section thirty-three of the Principal Act is amended by inserting at the commencement of subsection (1) the words "Subject to the provisions of section thirty-three A,".

Promotion or transfer to vacant office.

8—(1) After section thirty-three of the Principal Act the following section is inserted:—

"33A.—(1) In any case where the Commissioner proposes to make any recommendation under subsection (1) of section thirty-three with respect to the appointment of an officer to a vacancy occurring in any office, he shall notify every officer applying for appointment to that vacancy of his intention to make such recommendation.

Appeals in respect of promotion. &c.

(2) Every notification under subsection (1) shall be in writing in the prescribed form, and shall be served upon each officer applying for appointment to the vacancy by delivering a copy to him in person or by forwarding a copy to him by post addressed to his usual or last-known place of abode.

(3) For the purposes of this section, a notification under subsection (1), if forwarded to an officer by post, shall be deemed to have been served upon him on the day on which it would, in the ordinary course of post, have been delivered to the place to which it is addressed.

(4) An appeal under this section may be made by any officer who was an applicant for appointment to the vacancy (in this section called 'the appellant') who considers that he is more entitled to appointment to the vacant office than the officer proposed to be recommended, on the ground of superior efficiency within the meaning of subsection (3) of section thirty-three.

(5) Every appeal under this section shall be instituted by written notice of appeal setting forth the ground of the appeal, and such notice of appeal shall be lodged with the Commissioner within fourteen days after the day of the notification served on the appellant in pursuance of subsection (2), and the Commissioner shall forthwith forward such notice of appeal to the Board.

(6) Before proceeding to hear an appeal under this section, the Board shall notify the appellant of the time and place fixed for the hearing.

(7) At the hearing of any appeal under this section, the permanent head of the department in which the vacancy occurs, or the representative of such permanent head, shall be entitled to be present and to tender evidence to the Board, and the officer proposed to be recommended by the Commissioner and the appellant, or, if either such officer or the

appellant so desires, a nominee of the Association who is an officer, shall be entitled to examine any person tendering any evidence to the Board and to tender to the Board such evidence as he thinks necessary.

(8) A record of all evidence taken on the hearing of any appeal under this section shall be kept by the Board.

(9) On the determination of any appeal under this section, the Board shall notify the appellant of the result of his appeal.

(10) Where an appeal under this section is upheld by the Board, the Commissioner shall recommend to the Governor that the appellant be appointed to the vacant office and the Governor shall appoint such officer accordingly to such vacant office.

(11) Where an appeal under this section is disallowed by the Board, or no appeal is made within the prescribed time, the Commissioner may proceed with the making of the recommendation referred to in subsection (1) of this section.

(12) Subject to the foregoing provisions of this section, the Board may regulate its own procedure with respect to the hearing of any appeal under this section.

(13) The provisions of this section shall apply to the appointment of any person (whether an officer or not) to any new office created in any department, or to any vacancy occurring in an existing office, in the same way as they apply to the appointment of an officer to any vacancy occurring in an existing office.

(14) The provisions of this section shall not apply in respect of any vacancy occurring in any office in the First Division, or in any case where the Commissioner certifies, in writing, that any officer appointed to a vacant office has been transferred to such office in pursuance of subsection (5) of section twelve or of subsection (1) of section fifty-three."

(2) This section shall commence on the first day of January, one thousand nine hundred and forty-eight.

Investigation
of charges.

9 Section thirty-nine of the Principal Act is amended by omitting from subsection (2) all the words after the word "to" and substituting therefor the words "the Board, which may confirm, reduce, or annul such punishment and the decision of the Board thereon shall be final."

Right of
appeal.

10 Section forty-one of the Principal Act is repealed.

Procedure and
inquiry on
appeal.

11 Section forty-three of the Principal Act is amended by omitting subsections (3) and (4).

Appeals in
respect of
punishments.

12 The Principal Act is amended by omitting from the heading to Part VI. the words "Board of Appeal" and substituting therefor the words "Appeals in Respect of Punishments."

13 Sections forty-eight and forty-nine of the Principal Act are repealed and the following section is substituted therefor:—

“48.—(1) Any officer who is dissatisfied with any decision, determination, or recommendation given or made, under Part V., by the Commissioner or any special tribunal, may appeal therefrom to the Board as provided by this section. Right of appeal against decisions, &c., in respect of charges.

(2) Every appeal under this section shall be instituted by the appellant by forwarding to the Commissioner, within fourteen days after the decision, determination, or recommendation in respect of which the appeal is made has been notified to the appellant in writing, a notice of appeal setting forth the grounds of his dissatisfaction and the Commissioner shall forthwith forward such notice to the Board.”

14 Section fifty of the Principal Act is amended—

(a) by omitting from subsection (1) the words “Board of Appeal” and substituting therefor the word “Board”, and by inserting in that subsection, after the word “appeal” (last occurring) the words “or may confirm, reduce, or annul the punishment in respect of which the appeal is made,”;

(b) by omitting the words “Board of Appeal” (wherever occurring) in subsections (2), (4), and (5) and substituting therefor in each case, the word “Board”; and

(b) by omitting subsection (3).

Proceedings of Board of Appeal.

15 Section fifty-one of the Principal Act is amended by adding at the end thereof the following subsections:— Incapacity of officers.

“(3) Before making any recommendation to the Governor under subsection (1) in respect of any officer, the Commissioner shall notify the officer, in writing, of his intention so to do and of the ground on which he intends to make such recommendation, and if the officer is dissatisfied therewith he may appeal to the Board as provided by subsection (4).

(4) Every appeal under this section shall be instituted by notice, in writing, setting forth the grounds of the appeal, which shall be lodged with the Commissioner within fourteen days after the Commissioner’s intention to make the recommendation in respect of which the appeal is instituted has been notified to the officer, and the Commissioner shall forthwith forward such notice to the Board.

(5) The Board shall consider every appeal under this section and may allow or disallow the same, and the Board’s decision shall be final.

(6) No recommendation under subsection (1) shall be submitted to, or considered by, the Governor unless it is accompanied by a certificate, signed by the members of the Board, certifying that an appeal under this section by the officer to

whom the recommendation relates has been disallowed by the Board, or, as the case may be, that no appeal by such officer was made within the time prescribed in subsection (4).

(7) Subject to the foregoing provisions of this section, the provisions of section fifty shall, so far as they are applicable, apply to every appeal under this section as if it were an appeal under Part VI."

Examinations
and quali-
fications.

16—(1) The schedule to the *Public Service Act 1941** is amended by omitting the word "twice" in the second column thereof, opposite the numerals "32" and substituting therefor the word "wherever".

(2) Subsection (1) of this section shall be deemed to have come into operation on the date of the commencement of the *Public Service Act 1941**.

Transitory
provisions.

17—(1) The person (in this section called "the retiring member") holding office as a member of the Board at the commencement of this section under paragraph III. of subsection (2) of section nineteen of the Principal Act shall continue in office as a member thereof until the date appointed for the holding of the election referred to in subsection (2), and shall cease to hold office on that date.

(2) As soon as practicable after the commencement of this section, the Minister shall cause an election to be held for the purposes of paragraph III. of subsection (2) of section nineteen of the Principal Act, as amended by this Act, and the Governor shall appoint the person elected at such election to be a member of the Board for the remainder of the term for which the retiring member was appointed.

* 5 Geo. VI. No. 6.

LENDING OF MONEY.

11 & 12 GEO. VI. No. 85.

AN ACT to amend the *Lending of Money Act 1915.*
[19 December, 1947.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title
and citation.

1—(1) This Act may be cited as the *Lending of Money Act 1947.*

(2) The *Lending of Money Act 1915**, as subsequently amended, is in this Act referred to as the Principal Act.

* 6 Geo. V. No. 14. For this Act, as amended to 1936, see Reprint of Statutes, Vol. V., p. 725. Subsequently amended by 3 & 4 Geo. VI. No. 44 and 4 Geo. VI. No. 6.