

(2) Any money paid to the Congregation under subsection (1) of this section shall not be applied otherwise than for the purposes of the provision, repair, or maintenance of a synagogue, or of any extension, improvement, or other alteration of a synagogue.

(3) Subject to the provisions of subsection (1) of this section all the rights of the trustees of the Congregation to the payment of any interest in respect of the investment of the trust funds, and their duties, obligations, and liabilities in respect of the application of any such interest shall, by virtue of this Act, be transferred to and vest in the Congregation.

(4) Except as is otherwise expressly provided in this section, nothing in this section shall affect the operation of the order or the declarations of trust in relation to so much of the trust funds as have not for the time being been paid or converted in accordance with this section.

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## PUBLIC SERVICE TRIBUNAL.

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No. 78 of 1958.

AN ACT to make provision with respect to the scales of salaries and conditions of service of employees in the Public Service and the settlement of other matters arising out of employment in the Public Service, and for matters incidental thereto, and to amend certain enactments. [9 January 1959.]

**B**E 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 Tribunal Act 1958*. Short title and commencement.

(2) This Act shall commence on a date to be fixed by proclamation.

Amendments  
of other Acts.

**2** The Acts that are specified in the first schedule are amended as respectively specified in that schedule.

Interpreta-  
tion.

Cf. No. 28 of  
1920 (C'th.),  
s. 3.

1948, No. 80,  
N.Z., s. 2.

**3—(1)** In this Act, unless the contrary intention appears—

“award” means an award made by the Tribunal in pursuance of this Act;

“chairman” means the chairman of the Tribunal;

“controlling authority” means—

(a) in the case of an employee who is subject to the provisions of the *Public Service Act* 1923—the Public Service Commissioner;

(b) in the case of an employee who is appointed under the authority, or for the purposes, of an Act that is specified in the first column of the second schedule—the person specified opposite that Act in the second column of that schedule;

(c) in the case of an employee who is the holder of any office by virtue of which he is a controlling authority—the Governor; and

(d) in the case of any other employee or class of employees—such person as may be prescribed;

“employee” means a person who is employed in the Public Service, whether permanently, temporarily, or on probation, and whether his salary is, or conditions of service are, prescribed in a determination under the *Wages Boards Act* 1920 or not, and includes a person who is deemed to be an employee by virtue of the provisions of subsection (2) of this section, but does not include a person—

(a) who—

(i) is a member of a statutory corporation that consists of two or more members;

(ii) is not required by the terms of his employment to devote the whole of his time to the performance of the duties of his office or position;

(iii) is employed as an agent only;

(iv) is remunerated by fees, allowances, or commission only;

(v) is employed in an honorary capacity;

(vi) is the holder of any office or position to which the *Parliamentary Privilege Act* 1898 applies; or

(vii) is declared by the Governor, by order-in-council, not to be an employee for the purposes of this Act, or is included in any class of em-

ployees declared by the Governor, by order-in-council, not to be employees for the purposes of this Act;

- (b) whose salary is, or conditions of service are, prescribed in an order or award under the *Conciliation and Arbitration Act 1904-1958* of the Commonwealth or an agreement under that Act having the force of an order or award; or
- (c) the amount or rate of whose salary is prescribed in any Act;

“public hospital” means a public hospital within the meaning of Part II of the *Hospitals Act 1918*, and includes any hospital receiving aid from the State that is prescribed as a public hospital for the purposes of this Act;

“Public Service” includes—

- (a) all persons employed in the Public Service of the State to whom the provisions of the *Public Service Act 1923* apply;
- (b) the Teaching Service;
- (c) the Police Force;
- (d) the Railway Service;
- (e) the service of a State authority; and
- (f) any other service specified in the regulations;

“Registrar” means the person appointed as the Registrar of the Tribunal;

“salary” includes wages and any other remuneration in the nature of salary or wages;

“service organization” means a society of, or representing, employees that is registered as a service organization under section nineteen;

“State authority” means a person who is constituted, established, or appointed under an Act or in the exercise of the prerogative rights of the Crown to administer or control any department, business, undertaking, or public institution on behalf of the State;

“Railway Service” means the Railway Service within the meaning of the *Railway Management Act 1935*;

“Teaching Service” includes all persons (other than persons who are subject to the provisions of the *Public Service Act 1923*) who are appointed or employed under or for the purposes of the *Education Act 1932*;

“Tribunal” means the Tribunal established under this Act.

(2) Without prejudice to the generality of the definitions contained in subsection (1) of this section, the following persons and classes of persons shall be deemed to be employees for the purposes of this Act:—

- (a) The General Manager, Deputy-General Manager, and other officers appointed under the *Tasmanian Government Insurance Act 1919*;
- (b) The Director and other officers appointed under the *Tourist and Immigration Department Act 1934*; and
- (c) Such classes of persons employed by the board of management, governors, or other persons having the management and control of a public hospital as may be prescribed.

(3) Any claim, application, list, or notice that is required or authorized by or under this Act to be submitted, made, furnished, or given by or to a controlling authority may, in a case where the Governor is the controlling authority, be submitted, made, furnished, or given by or to the Minister.

(4) If a question arises as to whether a person—

- (a) is or is not an employee; or
- (b) is or is not a State authority,

for the purposes of this Act, that question shall be determined by the Governor, and the Governor may accordingly, by order-in-council, declare that person to be or not to be an employee or a State authority, as the case may be, for the purposes of this Act.

(5) An order-in-council under subsection (4) of this section, upon being notified in the *Gazette*, has effect as if it were enacted in this Act.

Public  
Service  
Tribunal.  
C'th., s. 6.  
N.Z., s. 3.

**4**—(1) For the purposes of this Act, there shall be a Tribunal, to be known as the Public Service Tribunal.

(2) The Tribunal shall be constituted as provided in the third schedule, and the provisions of that schedule apply to and in respect of the Tribunal and the members thereof accordingly.

Remuneration  
of members  
of the  
Tribunal.  
C'th., s. 7.

**5**—(1) The chairman shall be paid such salary and allowances as the Governor may determine.

(2) The salaries and allowances of the chairman shall not, without his consent, be reduced during his term of office.

(3) Subject to subsection (4) of this section, the members of the Tribunal (other than the chairman) shall be paid such fees and allowances as the Governor may determine.

(4) The Governor shall not, except on the recommendation of the Public Service Commissioner, determine the fees or allowances to be paid to a member of the Tribunal pursuant to subsection (3) of this section if that member is an employee to whom the *Public Service Act 1923* applies.

(5) The salary and allowances of the chairman, and the fees and allowances payable to the other members of the Tribunal, as determined for the time being, are payable out of, and are a charge upon, the Consolidated Revenue (which, to the necessary extent, is appropriated accordingly).

6—(1) The Governor may remove from office a member of the Tribunal—

Removal or suspension of members of the Tribunal. C'th., ss. 8, 9.

(a) on an address praying for that member's removal on the ground of proved incapacity or misbehaviour being presented to the Governor by the Legislative Council and House of Assembly respectively in the same session of Parliament; or

(b) if that member—

(i) being a member who is required to devote the whole of his time to the performance of the duties of his office, engages, during his term of office, in any paid employment outside the duties of his office;

(ii) applies to take, or takes, advantage of any law relating to bankruptcy, or compounds, or enters into an arrangement, with his creditors, or makes an assignment of the salary, fees, or allowances payable to him under this Act, for their benefit;

(iii) is convicted (whether in this State or elsewhere) of an offence (whether punishable on indictment or otherwise) of such a nature that, in the opinion of the Governor, it is not proper that he should be permitted to continue to hold office under this Act;

(iv) being a member who is required to devote the whole of his time to the performance of the duties of his office, except on leave granted by the Governor, absents himself from duty for more than twenty-one days in any period of twelve months; or

(v) in the opinion of the Governor, becomes permanently incapable of performing his duties.

(2) The Governor may suspend a member of the Tribunal from office for incapacity or misbehaviour.

(3) A full statement of the grounds of suspension shall be laid before both Houses of Parliament within seven days after the suspension, if Parliament is then sitting, or, if Parliament is not then sitting, within the first seven sitting days of each House after the suspension.

(4) The member of the Tribunal shall be restored to office unless each House of Parliament, within thirty sitting days after the statement has been laid before it, and in the same session, passes an address praying for his removal on the grounds of proved incapacity or misbehaviour.

Oath or affirmation of allegiance and of office. C'th., s. 10.

**7** A member of the Tribunal shall, before proceeding to discharge the duties of his office, take an oath or affirmation of allegiance in the form prescribed in the *Promissory Oaths Act 1869*, and also an oath or affirmation in the form in the fourth schedule.

Registrar and officers. N.Z., s. 5.

**8** The Governor may, under and in accordance with the provisions of the *Public Service Act 1923*, appoint a Registrar of the Tribunal and such other officers as he may think necessary for the proper administration of this Act.

General powers and functions of the Tribunal. C'th., ss. 14, 15. N.Z., ss. 7 (1), 8, 9.

**9**—(1) Subject to this Act, the Tribunal—

- (a) may make principal awards and other awards as provided in this section and in section ten; and
- (b) may make recommendations to the Governor as provided in subsection (8) of this section.

(2) The Tribunal may, on claims therefor being made under section eleven, make principal awards for all or any of the following purposes:—

- (a) Determining the salaries or scales of salaries for grades, divisions, and occupational groups of employees, and for subdivisions of those grades, divisions, and occupational groups (as those grades, divisions, occupational groups, and subdivisions are determined by the Tribunal);
- (b) Determining the ordinary hours of work, and the period to be worked before overtime rates become payable, and the rates of remuneration and conditions in respect of minimum earnings, overtime, travelling time, shift-work, night-work, and special duty, and in respect of work on Saturdays, Sundays, and holidays and at any other time outside the ordinary hours of duty;
- (c) Determining minimum rates of pay for adult employees and for married employees;
- (d) Determining the rates of relieving, travelling, mileage, proficiency, lodging, and meal allowances and expenses and the terms and conditions on which they may be granted and paid;
- (e) Determining tool allowances, clothing allowances, and other allowances in the nature of additional pay for classes or conditions of work warranting the payment thereof;
- (f) Determining the terms and conditions on which industrial clothing may be issued;

- (g) Determining the basis and method of adjustment of salaries in order to meet variations in the cost of living, and prescribing the tables, scales, or figures with reference to which those adjustments shall be made;
- (h) Determining the cases in which and conditions on which deductions shall be made from salaries on account of quarters, fuel, light, power, board, and other facilities and amenities provided for employees and the rates of those deductions and the bases on which they shall be calculated; and
- (i) Determining and regulating the qualifications (including educational qualifications) required for advancement from a grade or division to a higher grade or division.

(3) So far as it appears to the Tribunal to be necessary or desirable so to do for the purpose of determining a claim under section eleven, the Tribunal may, in a principal award, determine the salary to be paid to the holder of any particular office or position, or the scale with reference to which that salary shall be calculated, and the provisions of subsection (2) of this section shall be construed accordingly.

(4) A principal award continues in force until it is revoked by a subsequent principal award.

(5) Except as provided in section ten, a principal award shall not be revoked until it has been in force for at least three years.

(6) For the purposes of subsection (5) of this section, a principal award shall be deemed to come into force on the earliest date on which any provision of the award comes into force.

(7) During the currency of a principal award, the Tribunal may, on receipt of a claim in that behalf made by a service organization or controlling authority, or on receipt of an application under subsection (11) of this section, or of the Tribunal's own motion, make awards for all or any of the following purposes, namely:—

- (a) To amend the provisions of the principal award for the purpose of remedying any anomaly or defect therein or giving fuller effect thereto;
- (b) To amend the provisions of the principal award for such purpose and in such manner as the Tribunal is satisfied that all the parties to the claim for the principal award have agreed upon;
- (c) To interpret the provisions of the principal award or of any award amending the principal award;
- (d) To amend the principal award by adding or amending provisions relating to an occupational group or a subdivision thereof;

- (e) To amend the principal award for the purpose of conforming with any award, order, or pronouncement of the Commonwealth Industrial Court or the Commonwealth Conciliation and Arbitration Commission determining standard rates of salaries or altering the basic wage or the principles on which it is determined; and
- (f) To amend the principal award for the purpose of giving effect to the provisions of subsection (11) of this section.

(8) An application may at any time be made by the Minister, as prescribed, to the Tribunal to make a recommendation to the Governor with respect to the salary that, in the opinion of the Tribunal, should be paid to a person whose salary is prescribed by or under an Act, or is authorized or required, by or under an Act, to be determined by the Governor, and who is not an employee within the meaning of this Act, and the Tribunal, after hearing the Minister and such other persons affected or likely to be affected by the recommendation, if made, as the Tribunal thinks fit, may make such recommendation as the Tribunal thinks just and equitable in the circumstances, or may decline to make a recommendation.

(9) For the purposes of this Act, the Tribunal may, in relation to any claim or application submitted or made to the Tribunal under this Act—

- (a) give an interpretation of any award;
- (b) summon persons to appear before the Tribunal and compel the production before the Tribunal of books, documents, and things for the purpose of reference to such matters only as relate to the matter of the claim or application;
- (c) take evidence on oath or affirmation; and
- (d) generally give all such directions and do all such things as the Tribunal deems necessary or expedient in the premises.

(10) A person who—

- (a) on being summoned as a witness before the Tribunal, fails or refuses, without lawful excuse—
  - (i) to appear in obedience to the summons;
  - (ii) to be sworn or to make an affirmation;
  - or
  - (iii) to answer any questions that he is lawfully required to answer; or
- (b) fails to produce any books, documents, or things that he is lawfully required to produce before the Tribunal,

is guilty of an offence.

Penalty: Fifty pounds.

(11) Where a new office or position is created and no award or provision of an award is applicable thereto, the controlling



authority may make an application to the Tribunal to determine the salary to be paid to the holder of that office or position or the scale with reference to which that salary shall be calculated, and the Tribunal may, having regard to—

- (a) the character and importance of the duties assigned to, or required to be performed by, the holder of that office or position; and
- (b) such representations (if any) as the controlling authority may think fit to submit to the Tribunal,

make a provisional award determining the salary to be paid to the holder of that office or position, or the scale with reference to which that salary shall be calculated, or may, for that purpose, make such amendment as the Tribunal thinks fit to any award in force for the time being.

(12) Where the Tribunal makes a provisional award pursuant to subsection (11) of this section, the salary or scale of salary specified therein is applicable to the office or position to which the provisional award applies, and to the holder thereof, until such time as provision therefor is made in a principal award under this section.

(13) The Tribunal may refer any claim or application submitted or made to the Tribunal under this Act, or any matter arising out of the claim or application, to a person authorized by the Governor in that behalf, for investigation and report, and may delegate to that person such of the powers of the Tribunal (other than the power to determine the claim or application) as the Tribunal deems desirable, and may, on the report of that person, with or without hearing further evidence or argument, or both, determine the claim or application.

**10**—(1) The Tribunal may, on the application of a service organization or controlling authority, make principal awards consolidating any existing awards, and may include therein any matters in respect of which principal awards may be made under section nine.

Consolidation  
of awards.  
N.Z., s. 10.

(2) Where a consolidating award is made under this section, all limitations of time applicable under this Act to the making of an award or to matters ancillary thereto apply to every provision of the consolidating award in all respects as if the consolidating award had not been made.

**11**—(1) The Tribunal shall hear and determine all claims submitted to the Tribunal in relation to any of the matters in respect of which awards may be made under section nine.

Determina-  
tion of  
claims.

C'th., s. 12.  
N.Z., s. 11.

(2) A service organization or controlling authority may submit to the Tribunal a claim in respect of all or any of the matters in respect of which awards may be made under section nine.

(3) Where a claim under this section is submitted by a service organization, the Minister, and each other service organization, and each controlling authority, affected by the claim, shall be made a respondent to the claim.

(4) Where a claim under this section is made by a controlling authority, the Minister, and each other controlling authority, and each service organization, affected by the claim, shall be made a respondent to the claim.

(5) A claim under this section shall specify the name of the claimant service organization or claimant controlling authority and the names of the service organizations and controlling authorities to be made respondents to the claim.

(6) The Tribunal may, at any time before a claim under this section has been determined, order that any controlling authority or service organization likely, in the opinion of the Tribunal, to be affected by the claim, other than an authority or organization the name of which is specified in the claim pursuant to subsection (5) of this section, shall be joined as a respondent.

(7) The Minister and any service organization or controlling authority named as a respondent in a claim or subsequently ordered to be joined as a respondent may, within the prescribed time, lodge, either jointly or separately, any objections that the Minister, organization, or authority thinks fit to make to the granting of the claim.

(8) The Minister or any service organization or controlling authority named as a respondent in a claim or subsequently ordered to be joined as a respondent may, whether the Minister or that service organization or controlling authority has lodged an objection to the granting of the claim or not, intervene, as prescribed, on the hearing of the claim and tender to the Tribunal such evidence or information as the Minister, service organization, or controlling authority may consider to be necessary or desirable in the circumstances.

(9) In determining a claim under this section, the Tribunal shall have regard to all objections (if any) lodged pursuant to subsection (7) of this section and all evidence or information (if any) tendered pursuant to subsection (8) of this section.

Awards by  
consent.  
N.Z., s. 14.

**12** Where all the parties to a claim for an award agree in writing upon all or any of the terms to be incorporated in the award, the Tribunal may, in making the award, incorporate therein all or any of the terms so agreed upon without making full inquiry into the matters to which those terms relate, except so far as may be necessary to ensure that the award is in accordance with this Act.

Matters to be  
considered  
by Tribunal.  
N.Z., s. 7  
(2).

**13** In the exercise and performance of the powers and functions of the Tribunal under this Act, the Tribunal shall have regard to—

- (a) the necessity for promoting the efficiency of employees in the Public Service;
- (b) the latest awards and orders of the Commonwealth Industrial Court or of the Commonwealth Conciliation and Arbitration Commission prescribing standard rates of salaries for skilled, semi-skilled, and unskilled workers;

- (c) the rates of remuneration, direct and indirect, and the working conditions generally, prevailing in industry; and
- (d) any changes in the cost of living.

**14** In relation to every claim or application made to it in pursuance of this Act, the Tribunal shall act according to equity, good conscience, and the substantial merits of the case, without regard to technicalities or legal forms, and is not bound by any rules of evidence, but may inform its mind on any matter in such manner as it thinks fit.

Tribunal to act according to equity and good conscience. C'th., s. 13 (1).

**15** In making an award under this Act, the Tribunal is not restricted to the specific claims made or to the subject matter of the claim or application, but may include in the award any matter or thing that the Tribunal thinks necessary in the interests of the public or of the Public Service.

Award not limited to claim. C'th., s. 17.

**16**—(1) An award is binding on—

- (a) the Crown;
- (b) every controlling authority and service organization whom or which it purports to affect; and
- (c) every employee (whether a member of a service organization or not) whom it purports to affect,

Effect of awards. C'th., s. 16. N.Z., s. 20.

and all persons in the Public Service and all other persons affected thereby shall comply with its provisions accordingly.

(2) An award, or a provision of an award, may be made so as to come into force on a day specified in the award (being a day either before or after the date of the award) but, except in the case of a consolidating award made under section ten, the day so specified shall not, in the case of a principal award replacing an existing principal award, be earlier than three years after the day on which the last-mentioned award came into force.

(3) Where no day is specified in an award as the day on which the award, or a provision thereof, is to come into force, that award or provision comes into force on the day after the date of the award.

(4) An award shall not be deemed to be invalid on the ground that it delegates to, or confers on, a controlling authority or any other person any discretionary powers.

(5) Where a provision of an Act passed before the commencement of this Act, or of any regulation, rule, by-law, or other subordinate legislation made under an Act (whether made before or after the commencement of this Act) is inconsistent with a provision of an award, the first-mentioned provision is, to the extent of the inconsistency, invalid and inoperative.

Proceedings  
before  
Tribunal.  
C'th., ss. 18,  
19.  
N.Z., ss. 17,  
21.

**17—(1)** In proceedings before the Tribunal—

- (a) the Tribunal shall not allow costs to any party who appears or is represented before the Tribunal; and
- (b) no person who is a party to the proceedings shall, except by leave of the Tribunal and with the consent of all the parties to the proceedings, be represented by a legal practitioner.

(2) Proceedings before the Tribunal shall not be held bad for any defect or want of form.

Award not  
subject to  
appeal, &c.  
C'th., s. 20.  
N.Z., s. 21.

**18** An award shall not be challenged, reviewed, quashed, or called in question before any court or in any legal proceedings, or restrained, removed, or otherwise affected by prohibition, mandamus, certiorari, or otherwise.

Registration  
of service  
organiza-  
tions.

Cf., No. 57 of  
1912 (W.A.),  
ss. 8, 9, 21, 22.

**19—(1)** A society that—

- (a) consists of not less than ten members (being employees); and
- (b) has passed a resolution and approved rules as provided in this section,

may, on application as prescribed to the Registrar, be registered as a service organization under this Act.

(2) A branch of, or society affiliated with, a society may, with the approval of the Tribunal, be separately registered as a service organization under this Act.

(3) Before a society makes application for registration as a service organization—

- (a) a special general meeting of the society shall be convened;
- (b) the secretary or other proper officer of the society shall—

- (i) deliver or send by post to each member of the society a notice in writing specifying the date, time, place, and objects of the meeting, so that the notice will be received by the member not less than seven days before the date of the meeting; and

- (ii) cause an advertisement to be published in at least one daily newspaper circulating in this State, at least seven days before the date of the meeting, specifying the date, time, place, and objects of the meeting;

- (c) a resolution authorizing the making of an application for registration under this section shall be passed by a majority of the members of the society present at that meeting; and

(d) at that meeting, or at a subsequent general meeting called for the purpose, a majority of the members present thereat shall approve rules for the purposes of this Act.

(4) The rules adopted by the members of a society for the purposes of this Act shall provide for such matters as may be prescribed.

(5) Subject to this section, on being satisfied that a society is qualified for registration and that the requirements of this section have been complied with, the Registrar shall register the society as a service organization under this Act, and shall grant to the society a certificate of registration in the prescribed form.

(6) If the Registrar is not satisfied that a society is qualified for registration or that it has complied with the requirements of this section, he shall refuse to register the society as a service organization.

(7) Upon receipt of an application under subsection (1) of this section for the registration of a society as a service organization, the Registrar shall, as prescribed, publicly notify the receipt of the application, and shall not register the society until the expiration of a period of fourteen days after the publication of the notification.

(8) Where a notification under subsection (7) of this section is published, a service organization may, as prescribed, lodge with the Registrar an objection to the registration of the society to which the notification relates.

(9) An objection under subsection (8) of this section shall be heard and determined by the Registrar as prescribed.

(10) The Registrar may, whether an objection has been lodged pursuant to subsection (8) of this section or not, refuse to register a society as a service organization if, in his opinion, there exists a service organization to which the members, or the bulk of the members, of that society can conveniently belong.

(11) If a society is aggrieved by the refusal of the Registrar to register it as a service organization it may appeal from that refusal, as prescribed, to the Tribunal.

(12) An appeal under subsection (11) of this section shall be heard and determined by the Tribunal in such manner as the Tribunal may determine.

(13) The decision of the Tribunal on the hearing of an appeal under subsection (11) of this section is final.

**20**—(1) Subject to this section, a salary determination made before, and in force at, the commencement of this Act continues in full force and effect until superseded by a principal award under section nine.

Limitation of powers of controlling authorities in respect of the fixation of salaries.

(2) Notwithstanding anything contained in any Act passed before the commencement of this Act, a controlling authority shall not, after the commencement of this Act, make a salary determination in respect of any person who is an employee

within the meaning of this Act, or, except with the approval in writing of the Tribunal, amend or vary any salary determination made before the commencement of this Act and continued in force by subsection (1) of this section otherwise than for the purpose of classifying or grading employees in accordance with subsection (5) of this section.

(3) Without prejudice to the generality of the provisions of subsection (1) of this section, where the Tribunal makes a principal award under section nine in relation to any employees or class of employees, the Tribunal may, if in the opinion of the Tribunal that award applies to all the employees to whom, or to all the employees included in a class of employees to which, a salary determination that is continued in force by that subsection applies, include in that award a provision declaring that that determination is superseded by the award, and if such a provision is included in the award that determination ceases to be in force on the day on which the award comes into force.

(4) Where a principal award under section nine is made so as to apply only to particular employees or classes of employees and not to all the employees to whom, or all the employees included in the class of employees to which, a salary determination that is continued by subsection (1) of this section applies, that determination shall be construed as subject to the award, to the intent that a provision of the determination that is inconsistent with a provision of the award shall, to the extent of the inconsistency, be deemed to be inoperative.

(5) Notwithstanding the foregoing provisions of this section, a controlling authority may, to the extent to which the controlling authority is authorized so to do by or under any enactment and subject to the provisions of that enactment, classify or grade employees who are subject to the jurisdiction of the controlling authority within the several scales, grades, divisions, occupational groups, and subdivisions specified in an award that is applicable to those employees or any of them.

(6) At any time within two months after a classification or grading made by a controlling authority pursuant to subsection (5) of this section comes into force, a service organization any member of which is affected by the classification or grading may, as prescribed, apply to the Tribunal for an order varying or disallowing the classification or grading, either wholly or in part.

(7) An application under subsection (6) of this section shall be heard and determined as prescribed.

(8) On an application under subsection (6) of this section, the Tribunal may make an order varying, disallowing, or confirming the classification or grading, either wholly or in part.

(9) Pending the decision of the Tribunal on an application under subsection (6) of this section, the classification or grading to which the application relates has full force and

effect, and the controlling authority may, at any time before the hearing of the application, vary or revoke the classification or grading, and if the controlling authority varies it the proceedings on the application may continue, subject to any necessary amendment of the application, as if those proceedings had been commenced after the variation of the classification or grading.

(10) If a dispute arises with respect to—

- (a) the effect or operation of a salary determination or of a classification or grading;
- (b) the question whether an award, or a provision of an award, is applicable to any employees or class of employees; or
- (c) the operation of this section in relation to a salary determination, or a classification or grading, or any provision thereof,

that dispute shall, on the application as prescribed of a service organization or controlling authority, or of the Minister, be determined by the Tribunal, and the Tribunal may make such awards or orders and give such directions as, in the opinion of the Tribunal, may be necessary or expedient for the purpose of determining the dispute.

(11) The provisions of an order made, and any directions given, under subsection (10) of this section have effect as if those provisions or directions were provisions of an award.

(12) A decision by the Tribunal on the determination of a dispute under this section is final.

(13) In this section, “salary determination” means any determination, award, order, regulation, rule, by-law, classification, or other instrument or decision relating to the salaries to be paid to persons who are employees within the meaning of this Act and made or issued by a controlling authority, and includes a determination under the *Wages Boards Act* 1920 so far as it relates to the salaries to be paid to persons who are employees within the meaning of this Act.

**21** The costs and expenses incurred in the administration of this Act shall be defrayed out of moneys to be provided by Parliament for that purpose. Costs of administration.

**22** The Registrar shall cause all fees that are received by the Tribunal under this Act to be paid to the Treasurer to the credit of the Consolidated Revenue. Application of fees.

**23** The Governor may make regulations under this Act, and in particular, and without prejudice to the generality of this section, may make regulations— Regulations. Cth., s. 23. N.Z., ss. 25, 26.

- (a) prescribing the mode of lodging and service of documents relating to proceedings before the Tribunal, providing for the joinder of parties to those proceedings, and the amendment of

- claims, applications, and other documents relating thereto, and generally prescribing and regulating the procedure on the hearing and determination of those proceedings;
- (b) prescribing the cases in which the registration of service organizations may be suspended or cancelled and the procedure to be followed in relation to the suspension or cancellation of the registration of service organizations;
  - (c) prescribing the fees to be paid to the Tribunal in respect of prescribed matters;
  - (d) requiring the verification of documents by affidavit in prescribed cases; and
  - (e) imposing penalties, not exceeding fifty pounds, for offences against the regulations.

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## THE FIRST SCHEDULE.

(Section 2.)

### AMENDMENTS OF OTHER ACTS.

#### *Police Regulation Act 1898.*

1. The heading to Part IVA is amended by omitting therefrom the words "CLASSIFICATION AND" and substituting therefor the word "PROMOTIONS".

2. Section forty-nine A is amended by omitting from the definition of "Board" the words "Classification and" and substituting therefor the word "Promotions".

3. Section forty-nine B is amended—

(a) by omitting from subsection (1) the words "Classification and" and substituting therefor the word "Promotions"; and

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

"(5) The persons holding office at the commencement of this subsection as members of the Police Classification and Appeal Board shall constitute the Police Promotions Appeal Board for the purposes of this Part, and may, subject to this Part, continue in office as members thereof for the remainder of the terms for which they were respectively appointed as members of the first-mentioned Board."

4. Sections forty-nine K to forty-nine Q are repealed.

#### *Public Service Act 1923.*

1. Section four is amended by omitting from the definition of "The Board" the words "Classification and" and substituting therefor the words "Public Service".

2. Section nineteen is amended—

(a) by omitting from subsection (1) the words "Classification and" and substituting therefor the words "Public Service"; and

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

"(7) The persons holding office as members of the Classification and Appeal Board immediately before the commencement of this subsection shall, subject to this



Act, continue in office for the respective terms (if any) for which they were appointed as members of that Board and shall constitute the Public Service Appeal Board for the purposes of this Act.”.

3. Section twenty is amended—

- (a) by omitting from subsection (1) the words “The Board” and substituting therefor the words “Subject to the provisions of the *Public Service Tribunal Act* 1958 and to any award thereunder that is applicable to any officers or class of officers, the Commissioner”;
- (b) by omitting subsection (2);
- (c) by omitting from subsections (3), (7), and (8) the word “Board” (wherever occurring) and substituting therefor, in each case, the word “Commissioner”;
- (d) by omitting from subsection (7) the word “its” and substituting therefor the word “his”, and by omitting from that subsection the word “it” (second occurring) and substituting therefor the word “he”;
- (e) by omitting subsection (9); and
- (f) by omitting from subsection (10) the word “Board” and substituting therefor the words “Commissioner or the Board, as the case may be.”.

4. Section twenty-one is amended—

- (a) by omitting subsections (1) and (2) and substituting therefor the following subsection:—

“(1) Subject to the provisions of the *Public Service Tribunal Act* 1958 and to any award thereunder that is applicable—

I An officer who is, and for not less than twelve months has been, in receipt of a salary less than the maximum salary (if any) assigned to the office held by him by—

- (a) A classification under this Act (being a classification that is continued in force by subsection (1) of section twenty of that Act):  
or

(b) An award under that Act,

is entitled to receive the annual increment (if any) prescribed in relation to that office in that classification or in the relevant provision of that award until that maximum salary (if any) is reached, unless in any year he is deprived of the annual increment as provided in this section: and

II An officer who has been promoted to a higher office not less than three months before the beginning of a financial year is entitled to receive the increment (if any) so prescribed in relation to that higher office from the beginning of that financial year.”; and

- (b) by omitting from subsection (3) the word “No” and substituting therefor the words “Subject to the provisions of the *Public Service Tribunal Act* 1958 and of any award thereunder that is applicable, no”.

5. Section twenty-two is amended—

- (a) by omitting subsection (1) and substituting therefor the following subsection:—

“(1) Officers shall be paid salaries in accordance with—

- I Any award under the *Public Service Tribunal Act* 1958 that is applicable: or
- II Where no award under that Act is applicable, any classification in force at the commencement of that Act and continued in force by section twenty thereof.”; and

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

“ (6) The provisions of subsections (3) to (5) of this section shall be read and construed subject to the provisions of the *Public Service Tribunal Act 1958* and of any award thereunder that is applicable to any officer or class of officers.”.

6. Section twenty-three is amended by adding at the end thereof the following subsection:—

“ (2) The provisions of this section shall be read and construed subject to the provisions of the *Public Service Tribunal Act 1958* and of any award thereunder that is applicable to any officer or class of officers.”.

7. Section twenty-four is amended by omitting subsection (1) and substituting therefor the following subsection:—

“ (1) Where an officer occupies for the purposes of residence any building or part of a building that belongs to or is occupied by or on behalf of the Crown, or receives, or is provided with, fuel, lighting, power, board, or other facilities or amenities of a similar nature, there shall be deducted from the salary payable to that officer—

I If an award under the *Public Service Tribunal Act 1958* is applicable to him, such sum (if any) as may be specified in that behalf in the award: or

II If no award thereunder is applicable to him, such sum (if any) as the Commissioner may determine.”.

8. Section thirty-one is amended by adding at the end of subsection (4) the words “or, if an award under the *Public Service Tribunal Act 1958* is applicable to that person, at such rates as may be specified therein.”.

9. Section sixty-nine is amended by adding at the end thereof the following subsection:—

“ (7) The provisions of subsections (2) and (3) of this section shall be read and construed subject to the provisions of the *Public Service Tribunal Act 1958* and of any award thereunder that is applicable to any officer or class of officers.”.

*Education Act 1932.*

1. Part IVB (comprising sections forty-six G to forty-six v) is repealed.

2. Section forty-seven is amended by omitting paragraphs IIA and IIB of subsection (1) thereof.

THE SECOND SCHEDULE.

(Section 3.)

FIRST COLUMN. Act under the authority, or for the purposes, of which employees are employed.	SECOND COLUMN. Controlling authority.
<i>Police Regulation Act 1898</i> .....	The Commissioner of Police
<i>Tasmanian Government Insurance Act 1919</i> .....	The Governor
<i>Education Act 1932</i> .....	The Director of Education
<i>Tourist and Immigration Department Act 1934</i> .....	The Governor
<i>Railway Management Act 1935</i> .....	The Transport Commission
<i>Transport Act 1938</i> .....	The Transport Commission
<i>Hydro-Electric Commission Act 1944</i> .....	Hydro-Electric Commission

## THE THIRD SCHEDULE.

(Section 4.)

## THE PUBLIC SERVICE TRIBUNAL.

1.—(1) In this schedule—

Interpreta-  
tion.

“administrative and clerical representative” means the member of the Tribunal who is elected by the class of employees to whom sub-clause (iv) of clause (b) of sub-paragraph (1) of paragraph 2 of this schedule relates;

“appointed member” means a member of the Tribunal who is appointed under clause (a) of sub-paragraph (1) of paragraph 2 of this schedule;

“elected member” means a member of the Tribunal who is elected under clause (b) of sub-paragraph (1) of paragraph 2 of this schedule;

“general division representative” means the member of the Tribunal who is elected by the class of employees to whom sub-clause (v) of clause (b) of sub-paragraph (1) of paragraph 2 of this schedule relates;

“police representative” means the member of the Tribunal who is elected by employees in the Police Force;

“professional representative” means the member of the Tribunal who is elected by the class of employees to whom sub-clause (iii) of clause (b) of sub-paragraph (1) of paragraph 2 of this schedule relates;

“second appointed member” means the member of the Tribunal (other than the chairman) appointed under clause (a) of sub-paragraph (1) of paragraph 2 of this schedule;

“teachers’ representative” means the member of the Tribunal who is elected by employees in the Teaching Service.

(2) Any reference in this schedule to a member of the Tribunal other than the chairman shall be construed as including a reference to the deputy of that member when acting as a member of the Tribunal in the place of that member pursuant to the provisions of this schedule.

(3) Any reference in this schedule to the chairman shall be construed as including a reference to the second appointed member or any other person who is for the time being acting in the place of the chairman during any illness or absence of the chairman or any vacancy in the office of chairman.

2.—(1) The Tribunal shall consist of—

Constitu-  
tion of  
Tribunal.  
No. 14 of  
1920  
(W.A.),  
s. 3.

(a) two persons appointed by the Governor, one of whom shall be appointed as the chairman of the Tribunal; and

(b) five other persons appointed by the Governor, of whom—

(i) one shall be a person elected, as prescribed, by employees in the Teaching Service;

(ii) one shall be a person elected, as prescribed, by employees in the Police Force;

(iii) one shall be a person elected, as prescribed, by employees who are enrolled, pursuant to paragraph 8 of this schedule, as professional employees;

(iv) one shall be a person elected, as prescribed, by employees who are enrolled, pursuant to paragraph 8 of this schedule, as administrative and clerical employees; and

(v) one shall be a person elected, as prescribed, by employees who are enrolled, pursuant to paragraph 8 of this schedule, otherwise than as members of any of the foregoing classes of employees.

(2) On the hearing of any proceedings before the Tribunal, it shall be constituted as follows:—

- (a) If the proceedings relate to matters with which only employees in the Teaching Service are concerned, the Tribunal shall consist of the appointed members together with the teachers' representative;
- (b) If the proceedings relate to matters with which only employees in the Police Force are concerned, the Tribunal shall consist of the appointed members together with the police representative ;
- (c) If the proceedings relate to matters with which only professional employees are concerned, the Tribunal shall consist of the appointed members, together with the professional representative;
- (d) If the proceedings relate to matters with which only administrative or clerical employees are concerned, the Tribunal shall consist of the appointed members, together with the administrative and clerical representative;
- (e) If the proceedings relate to matters with which only general division employees are concerned, the Tribunal shall consist of the appointed members, together with the general division representative; and
- (f) If the proceedings relate to matters that are common to all, or substantially all, employees, the Tribunal shall consist of the appointed members, together with such of the elected members as the chairman may select for the purposes of those particular proceedings.

(3) For the purposes of sub-paragraph (2) of this paragraph, the question whether a particular class of employee is, or particular classes of employees are, concerned with any matter, or whether any matter is common to all, or substantially all, employees shall be determined by the chairman.

(4) A determination by the chairman under or for the purposes of sub-paragraph (3) of this paragraph is final.

Terms of office of members of Tribunal.

3.—(1) Subject to section six and to sub-paragraph (2) of this paragraph—

- (a) each of the appointed members is entitled to continue in office as a member of the Tribunal from the date of his appointment as a member thereof until the date on which he attains the age of sixty-five years; and
- (b) each of the elected members shall hold office as a member of the Tribunal for the term of five years from the date of his election.

(2) If at the date of his election an elected member is more than sixty years of age, he shall hold office as a member of the Tribunal only for the term that will expire on the date on which he attains the age of sixty-five years.

(3) A person who is elected to fill a casual vacancy arising in the office of a member of the Tribunal or of a deputy of a member thereof shall hold office only for the then unexpired portion of the term of office of that member or deputy.

Duties of members of Tribunal.

4.—(1) The chairman shall devote the whole of his time to the performance of the duties of his office, but is entitled to such leave of absence as the Governor may determine.

(2) Each of the remaining members of the Tribunal shall devote such part of his time to the performance of the duties of his office as the Governor may determine.

Deputies of members.

5.—(1) At the time of each election held for the purposes of paragraph 2 of this schedule, the class of employees voting at the election shall elect a person to be the deputy of the member elected at that election, and the person so elected shall hold office for the same term as the member for whom he is elected a deputy.

(2) If for any reason an elected member of the Tribunal is unable to act or is personally interested (otherwise than as a member of a class or group of employees) in the matter of any proceedings before the Tribunal the deputy of that elected member shall act in his place on the hearing and determination of those proceedings.

(3) The Governor shall, when appointing a person as the second appointed member, appoint some person (to hold office during the Governor's pleasure) as the deputy of that appointed member and the person so appointed shall act as a member of the Tribunal whenever that appointed member—

(a) is acting in the place of the chairman at any sitting or meeting of the Tribunal; or

(b) is absent or is unable to act, or is prohibited by this Act from acting, as a member of the Tribunal in relation to any particular proceedings.

(4) The second appointed member shall not act as a member of the Tribunal on the hearing or determination of any proceedings before the Tribunal if he is personally interested (otherwise than as a member of a class or group of employees) in the matter of those proceedings.

6. If an employee becomes a member of the Tribunal, he is entitled to retain all his existing and accruing rights as if his service as a member of the Tribunal were a continuation of his service as an employee.

Saving of rights of employees.

7.—(1) The chairman shall preside at all sittings and meetings of the Tribunal at which he is present.

Proceedings of Tribunal.

(2) If the chairman is not present at a sitting or meeting of the Tribunal, the second appointed member shall preside thereat.

(3) The chairman or other person presiding at a sitting or meeting of the Tribunal has a deliberative vote.

(4) A question arising to be determined by the Tribunal shall be decided by a majority of the votes of the members present and voting thereon, and in the event of an equality of votes the chairman or other person presiding at the sitting or meeting may exercise a second or casting vote.

(5) Subject to the foregoing provisions of this paragraph and to the regulations, the Tribunal may regulate its own procedure.

8.—(1) For the purposes of this schedule, the Chief Electoral Officer shall compile and keep separate rolls of—

Enrolment of employees.

(a) employees in the Teaching Service;

(b) employees in the Police Force;

(c) professional employees;

(d) administrative and clerical employees; and

(e) employees not included in any of the foregoing classes of employees,

respectively.

(2) As soon as practicable after the commencement of this Act, the Chief Electoral Officer shall, by notice in the *Gazette* and in a newspaper, require all employees to lodge with him, within the time specified in the notice, claims for enrolment in the rolls for their appropriate classes.

(3) A claim for enrolment shall be made in the prescribed form and shall be delivered or sent by post to the Chief Electoral Officer at his office.

(4) Upon receipt of a claim for enrolment the Chief Electoral Officer, if satisfied that the claim is in order, shall enrol the claimant in such of the rolls as the Chief Electoral Officer may think appropriate, having regard to the office or position held by the claimant, and shall send to the claimant a notification of enrolment, which shall specify the class in which he has been enrolled.

(5) A person who is not an employee at the commencement of this Act but who subsequently becomes an employee may, at any time after becoming an employee, lodge with the Chief Electoral Officer a claim in the prescribed form for enrolment.

(6) The provisions of sub-paragraphs (3) and (4) of this paragraph apply to claims for enrolment under sub-paragraph (5) of this paragraph as they apply to claims for enrolment under sub-paragraph (2) of this paragraph.

(7) An employee who considers that he has been enrolled in the wrong roll may request the Chief Electoral Officer to remove his name from that roll and include it in some other roll, and if the Chief Electoral Officer refuses so to do the employee may appeal to the Tribunal, as prescribed, from that refusal, and the Tribunal shall hear and determine the appeal as prescribed.

(8) The decision of the Tribunal on the hearing of an appeal under sub-paragraph (7) of this paragraph is final.

Revision  
of rolls.

9.—(1) The Chief Electoral Officer shall, as and when necessary, revise each of the rolls referred to in paragraph 8 of this schedule by removing therefrom the name of any employee who has ceased to be an employee or who has become an employee of a different class, or has had his name included in a different roll, and by including therein the name of any person who, having become an employee of the appropriate class, has claimed enrolment in that class and has had his claim granted by the Chief Electoral Officer, or, on appeal, by the Tribunal.

(2) In order to assist the Chief Electoral Officer to compile and revise the rolls required by the provisions of this schedule to be kept by him, each controlling authority shall, within fourteen days after the receipt by the authority of a request, in writing, by the Chief Electoral Officer therefor, furnish to the Chief Electoral Officer a complete list of all employees within the jurisdiction of the authority specifying, in respect of each employee—

- (a) his full names;
- (b) the name of the department, branch, or division in which he is employed;
- (c) the title of the office or position held by him;
- (d) the controlling authority's opinion as to the appropriate class in respect of which the employee should be enrolled; and
- (e) such other particulars (if any) as the Chief Electoral Officer may require.

Employees  
entitled to  
vote at  
elections.

10. At any election held for the purposes of paragraph 2 of this schedule, only those employees whose names were included in a roll under paragraph 8 of this schedule on the thirtieth day preceding the date of the election are entitled to vote thereat.

Transitory  
provisions.

11. Until the first elections of members of the Tribunal have been held, any function conferred on the Tribunal by any of the provisions of this schedule is exercisable, on behalf of the Tribunal, by the chairman, and any decision of the chairman made or given for the purposes of this paragraph shall be deemed to be a decision of the Tribunal.

## THE FOURTH SCHEDULE.

(Section 7.)

### FORM OF OATH OR AFFIRMATION OF OFFICE.

I, \_\_\_\_\_ of \_\_\_\_\_, do swear that I will well and truly serve Our Sovereign Lady the Queen in my office as a member of the Public Service Tribunal and I will do right to all manner of people according to law without fear or favour affection or ill-will: So help me God.

OR

I, \_\_\_\_\_ of \_\_\_\_\_, do solemnly and sincerely promise and declare that I will well and truly serve Our Sovereign Lady the Queen in my office as a member of the Public Service Tribunal and I will do right to all manner of people according to law without fear or favour affection or ill-will.