

11. This Agreement is expressly made subject to the appropriation by the Parliament of Tasmania of the necessary moneys to enable the Treasurer to perform his part of this Agreement which appropriation shall be of the essence of this Agreement and a condition precedent to the liability of the Minister to pay moneys which would otherwise be payable under this Agreement and if such monies are not appropriated by Parliament within six months of the date hereof this Agreement shall be of no effect and the parties shall be released therefrom.

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first above written.

SIGNED SEALED and DELIVERED by the  
HONOURABLE ERIC ELLIOTT REECE in } ERIC REECE  
the presence of:  
K. J. BINNS. }

THE COMMON SEAL of KING ISLAND  
SCHEELITE (1947) LIMITED was hereunto } (SEAL)  
affixed in the presence of:  
C. WALLACE SMITH, Director.  
W. C. GREAVES, Director.  
H. C. BOYD, Deputy Secretary.

## PUBLIC SERVICE TRIBUNAL.

### No. 21 of 1963.

AN ACT to amend the *Public Service Tribunal Act 1958*. [2 May 1963.]

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 *Public Service Tribunal Act 1963*.

(2) The *Public Service Tribunal Act 1958*, as subsequently amended, is in this Act referred to as the Principal Act.

Amendments  
of other  
Acts.

**2** Section two of the Principal Act is repealed.

Interpre-  
tation.

**3** Section three of the Principal Act is amended by inserting in subsection (1) thereof, after the definition of "salary", the following definition:—

“ ‘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 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;”.

**4** Section nine of the Principal Act is amended—

General  
powers and  
functions  
of the  
Tribunal.

- (a) by omitting from subsection (2) the word “The” (occurring at the beginning of that subsection) and substituting therefor the words “Subject to this Act, the”;
- (b) by omitting from paragraph (a) of that subsection the words “salaries or” and the words “(as those grades, divisions, occupational groups, and subdivisions are determined by the Tribunal)”;
- (c) by omitting subsection (3) thereof and substituting therefor the following subsections:—

“(3) The Tribunal may—

- (a) determine the salary to be paid to the holder of a particular office or position or the scale with reference to which the salary to be paid to the holder of a particular office or position shall be calculated; or
- (b) classify or grade the holder of a particular office or position within such of the scales, grades, divisions, occupational groups, and subdivisions (or any of them) specified in the appropriate award as the Tribunal thinks fit,

in any case where—

- (c) the Tribunal makes a provisional award in accordance with subsection (11) of this section; or
- (d) the Tribunal considers it necessary or desirable so to do for the purpose of giving effect to any order made by the Tribunal pursuant to section twenty for the variation or disallowance of a salary determination.

“(3A) Except as provided in subsection (3) of this section, nothing in this Act authorizes the Tribunal—

- (a) to determine the salary to be paid to the holder of any particular office or position or the scale with reference to which the salary to be paid to the holder of any particular office or position shall be calculated; or
- (b) to classify or grade the holder of any particular office or position within any of the scales, grades, divisions, occupational groups, or subdivisions specified in an award.”;

- (d) by omitting paragraph (b) of subsection (7) thereof;
- (e) by inserting after that subsection the following subsections:—

“(7A) Where during the currency of an award each controlling authority and service organization whom or which the award purports to affect agrees in writing that a claim for the amendment of that award should be submitted to the Tribunal, and gives to the Tribunal, as prescribed, written notice of the agreement, the Tribunal shall hear and determine any claim for the amendment of the award submitted to the Tribunal in pursuance of the agreement.

“(7B) The provisions of subsection (7A) of this section have effect whether or not the parties to a claim under that subsection agree upon the terms or provisions to be incorporated in the relevant award upon the determination of the claim for the amendment thereof, and that subsection shall be construed accordingly.”;

- (f) by omitting from subsection (12) thereof the words “provision therefor is made in a principal award under this section” and substituting therefor the words “other provision therefor is made in a principal award under this Act or in a salary determination, whichever first happens.”; and
- (g) by adding at the end thereof the following subsection:—

“(14) Every principal award, and every amendment of a principal award, shall be published by the Tribunal in the *Gazette* within fourteen days after the making thereof.”.

Awards by consent.

**5** Section twelve of the Principal Act is repealed.

Matters to be considered by Tribunal.

**6** Section thirteen of the Principal Act is amended—

- (a) by adding at the end thereof the following paragraph:—

“(e) any award, order, or decision of an industrial court, court of arbitration, board, or other authority constituted under a law of any State or Territory of the Commonwealth that the Tribunal considers relevant, being an award, order, or decision that fixes, determines, or varies the salaries or scales of salaries payable to officers of the Public Service of that State or Territory or to any class or section of those officers.”; and

- (b) by transposing the word “and” after paragraph (c) thereof to follow paragraph (d) thereof.

**7** Section fifteen of the Principal Act is amended by inserting therein, after the word "may", the words " , subject to this Act,".

Award not limited to claim.

**8** Section twenty of the Principal Act is amended—

Powers of controlling authorities in respect of the fixation of salaries.

(a) by omitting subsections (1) to (5) thereof and substituting therefor the following subsections:—

“(1) Notwithstanding any other law relating to the fixation or determination of the salaries of employees or of any class of employees, a provision of a salary determination made by a controlling authority that is inconsistent with a provision of an award is, to the extent of the inconsistency, invalid and inoperative, whether the determination is made before or after the date on which the award comes into force.

“(2) Except as provided in subsections (1) and (8) of this section, nothing in this Act affects the provisions of any law relating to the fixation or determination of the salaries, or to the classification or grading, of employees or of any class of employees, and accordingly a controlling authority—

(a) may make such determinations as to the salaries to be paid to employees who are subject to the jurisdiction of the controlling authority as the controlling authority might lawfully have made if this Act had not been enacted; and

(b) may, if so authorized under the provisions of the relevant law, classify or grade employees who are subject to the jurisdiction of the controlling authority, in the same manner in all respects as if this Act had not been enacted.

“(3) If in the reclassification or regrading of employees under the provisions of any law other than this Act a controlling authority does not alter any scale of salaries, that fact shall be deemed to be a salary determination for the purposes of this section.

“(4) At any time within two months after a salary determination made by a controlling authority comes into force, a service organization any member of which is affected by the determination may, as prescribed, apply to the Tribunal for an order varying or disallowing the determination, either wholly or in part.”;

(b) by omitting from subsection (6) thereof the words “pursuant to subsection (5) of this section”; and

- (c) by omitting subsection (13) thereof and by renumbering subsection (12A) thereof as subsection (13).

The first  
schedule.

**9** The Principal Act is amended by omitting the first schedule thereto.

The third  
schedule

**10** The third schedule to the Principal Act is amended—

- (a) by omitting from sub-paragraph (1) of paragraph 1 thereof the definitions of “administrative and clerical representative”, and “professional representative”;
- (b) by omitting from that sub-paragraph the definition of “general division representative” and substituting therefor the following definition:—  
 “‘general service 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;”;
- (c) by omitting clause (b) of sub-paragraph (1) of paragraph 2 thereof and substituting therefor the following clause:—  
 “(b) three 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; and  
 (iii) one shall be a person elected, as prescribed, by employees other than those to whom sub-clauses (i) and (ii) of this clause relate.”;
- (d) by omitting clauses (c) and (d) of sub-paragraph (2) thereof;
- (e) by omitting from clause (e) of that sub-paragraph the word “division” (twice occurring) and substituting therefor, in each case, the word “service”;
- (f) by omitting clause (a) of sub-paragraph (1) of paragraph 3 thereof and substituting therefor the following clause:—  
 “(a) an appointed member 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—  
 (i) sixty-five years, in the case of the chairman; or

- (ii) seventy years, in the case of the second appointed member;”;
- (g) by omitting paragraph 8 thereof and substituting therefor the following paragraph:—

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

- (a) employees in the Teaching Service;
- (b) employees in the Police Force; and
- (c) employees other than those to whom clauses (a) and (b) of this sub-paragraph relate.

“(2) 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.

“(3) Upon receipt of a claim for enrolment, the Chief Electoral Officer, if satisfied that the claim is in order, shall enrol the claimant in the appropriate roll and send to him a notification of his enrolment.”;

- (h) by omitting sub-paragraph (1) of paragraph 9 thereof and substituting therefor the following sub-paragraph:—

“(1) The Chief Electoral Officer, as and when necessary, shall revise each of the rolls referred to in paragraph 8 of this schedule—

- (a) by removing therefrom the name of any employee who has—
- (i) ceased to be an employee;
- (ii) been appointed to an office or position by reason of which, in the opinion of the Chief Electoral Officer, he should have his name included in a different roll; or
- (iii) has had his name included in a different roll; and
- (b) by including therein the name of any employee who has claimed enrolment in that roll and has had his claim granted by the Chief Electoral Officer.”;

- (i) by omitting clause (d) of sub-paragraph (2) of that paragraph; and
- (j) by omitting from paragraph 10 thereof the words “a roll” and substituting therefor the words “the appropriate roll”.

**11**—(1) On the appointed day—

- (a) the Tribunal shall be reconstituted in accordance with the provisions of the Principal Act (as amended by this Act);

Transitory provisions.

- (b) each member of the Tribunal other than—
  - (i) the chairman;
  - (ii) the second appointed member;
  - (iii) the teachers' representative; and
  - (iv) the police representative,
 shall cease to hold office as a member thereof; and
- (c) each deputy of a member thereof who so ceases to hold office shall cease to hold office as the deputy of that member.

(2) Nothing in subsection (1) of this section prevents a person who, by virtue of that subsection, ceases to hold office as a member of the Tribunal or as the deputy of a member thereof from being reappointed as a member thereof (or, as the case may be, as the deputy of a member thereof) if, at the election held pursuant to subsection (3) of this section, he is elected as such a member or deputy.

(3) As soon as practicable after the commencement of this Act, the Minister shall cause an election to be held for the purpose of electing—

- (a) a person to be a member of the Tribunal for the purposes of sub-clause (iii) of clause (b) of sub-paragraph (1) of paragraph 2 of the third schedule to the Principal Act (as amended by this Act); and
- (b) a person to be the deputy of that member.

(4) For the purpose of compiling a roll of employees entitled to vote at the election to be held pursuant to subsection (3) of this section, the Chief Electoral Officer may—

- (a) combine into one roll the separate rolls of employees (other than employees in the Teaching Service and employees in the Police Force) heretofore kept by him; or
- (b) as soon as practicable after the commencement of this Act, by notice in the *Gazette* and in a newspaper, require all employees (other than employees in the Teaching Service and employees in the Police Force) to lodge with him, within the time specified in the notice, claims for enrolment in the roll to be kept, pursuant to the Principal Act, for the purposes of elections of the general service representative.

(5) Claims for enrolment lodged pursuant to paragraph (b) of subsection (4) of this section shall be made and dealt with as provided in paragraph 8 of the third schedule to the Principal Act (as amended by this Act).

(6) Nothing in the Principal Act (as amended by this Act) or in this section affects the validity, operation, or effect of any award or order made by the Tribunal before the appointed day, and, subject to subsection (7) of this section, any award or order so made continues in full force and effect, notwithstanding the reconstitution of the Tribunal or anything in

the Principal Act (as amended by this Act), to the same extent and for the same period as it would have done if this Act had not been enacted.

(7) Where an award made before the appointed day fixes or determines the salaries to be paid to the holders of particular offices or positions or the scale with reference to which the salaries to be paid to the holders of particular offices or positions shall be calculated, a controlling authority or service organization affected by the award may apply, as prescribed, to the Tribunal to amend the award for the purpose of replacing all provisions fixing or determining the salaries to be paid to the holders of particular offices or positions or the scale or scales by reference to which those salaries shall be calculated by provisions fixing general scales or ranges of salaries for employees or occupational groups of employees, and the Tribunal shall make such amendments to the award as it thinks necessary or desirable for the purpose of giving effect to the application, and for that purpose may, notwithstanding any limitations of time applicable under the Principal Act to the making of an award, revoke the award and make a new principal award in lieu thereof.

(8) For the purposes of the classification or grading of employees by a controlling authority pursuant to the powers conferred on the authority by section twenty of the Principal Act and of the provisions of any law relating to the making and determination of appeals against any such classification or grading, an award that is amended pursuant to subsection (7) of this section, on being so amended, has the same effect as if it were a principal award made on the date on which the amendment takes effect.

(9) If any claim or application submitted or made to the Tribunal before the appointed day has not been determined by the Tribunal before that day, the Tribunal, notwithstanding its reconstitution, may continue with the hearing and consideration of, and may determine, that claim or application, and may make such awards or orders, and do all such other acts and things in relation to the hearing and determination thereof, as it might lawfully have done if it had not been reconstituted, and any award or order so made has the same force and effect in all respects as if it had been made before the reconstitution of the Tribunal.

(10) For the purpose of continuing with the hearing and determination, pursuant to subsection (9) of this section, of a claim or application the Tribunal shall consist of the appointed members and such of the elected members as the chairman may select or, if, in the opinion of the chairman, the claim or application relates to matters that are common to all, or substantially all, employees, shall consist of the appointed members and all of the elected members.

(11) For the purpose of hearing and determining any claim or application pursuant to subsection (9) of this section, the Tribunal may consider and take into account any evidence taken by it before its reconstitution.

(12) If any doubt or difficulty arises in relation to any of the matters specified in this section, or if, in the opinion of the Governor, this section omits to make adequate provision for any matter or thing necessary to be provided for or in relation to any matter so specified or any question arising therefrom or incidental thereto, the Governor may, by order, make such provision as he thinks just and reasonable in the circumstances for the purpose of removing the doubt or difficulty, or rectifying the omission, or determining the question, and, upon being notified in the *Gazette*, such an order has effect as if it had been enacted in this Act; but the power conferred upon the Governor by this subsection shall not be exercised after the expiration of six months after the commencement of this Act.

(13) An order under subsection (12) of this section is a statutory rule within the meaning of the *Rules Publication Act 1953*.

(14) In this section, "appointed day" means such day as the Governor may, by order, declare to be the appointed day for the purposes of this section.

Amendments  
of other Acts.

**12** The Acts that are specified in the schedule to this Act are amended as respectively specified in that schedule.

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## THE SCHEDULE.

(Section 12.)

### AMENDMENTS OF OTHER ACTS.

#### *Public Service Act 1923.*

#### 1. Section twenty is amended—

(a) by omitting from subsection (1) thereof 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" and substituting therefor the word "The";

(b) by inserting after that subsection the following subsection:—

"(2) A classification under subsection (1) of this section shall provide for a maximum and minimum salary in respect of each office, other than an office held by a permanent head, and for a scale of annual increments to be added to the minimum salary until the maximum salary is reached."; and

(c) by inserting after subsection (8) thereof the following subsection:—

"(9) A classification under subsection (1) of this section takes effect from the first day of the financial year in which the notification in relation thereto under subsection (3) of this section is published in the *Gazette*."

#### 2. Section twenty-one is amended—

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

"(1) 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—

(a) by a classification for the time being in force under this Act; or

(b) if the salary assigned to that office has been prescribed by an award under the *Public Service Tribunal Act 1958*, by that award,

is entitled to receive the annual increment (if any) prescribed in relation to that office by that classification or 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.

"(2) 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 from the beginning of that financial year the annual increment (if any) prescribed in relation to that higher office by—

(a) a classification for the time being in force under this Act; or

(b) if that increment has been prescribed by an award under the *Public Service Tribunal Act 1958*, by that award."; and

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

3. Section twenty-two is amended—

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

"(1) Each officer shall be paid a salary at the rate assigned to the office held by him—

(a) by a classification for the time being in force under this Act; or

(b) if the salary assigned to that office has been prescribed in an award under the *Public Service Tribunal Act 1958*, by that award."; and

(b) by omitting subsection (6) thereof.

4. Section twenty-three is amended by omitting subsection (2) thereof.

5. Section thirty-one is amended by omitting from subsection (4) thereof all the words after the word "person" (second occurring) to the end of that subsection.

6. Section sixty-nine is amended by omitting subsection (7) thereof.

*Education Act 1932.*

Section four is amended by adding at the end thereof the following subsection:—

"(4) Officers who are not subject to the provisions of the *Public Service Act 1923* shall be paid such salaries and allowances and shall be classified or graded within such salary scales, grades, divisions, occupational groups, and subdivisions as the Director, with the approval of the Governor, may determine."

*Police Regulation Act 1898.*

After section twelve the following section is inserted:—

"13 The salaries, wages, allowances, and other emoluments to be paid to the several ranks in the police force and to special constables shall be such as the Commissioner may, with the approval of the Governor, determine." Salaries &c., of police officers.