

**11** The Principal Act is amended by inserting in the second schedule thereto, after the words "King Island" (last occurring), the following item:—

Jurisdiction  
of the several  
boards.

"*Flinders*.—The coasts of the several islands included in the Furneaux Group of islands and the Kent Group of islands, respectively."

**12**—(1) All moneys standing to the credit of the wharfage account of the council of the municipality of Flinders at the commencement of this section, as certified by the Auditor-General, shall, within one month after the appointment of the master warden and wardens of the Marine Board of Flinders, be paid to the board by the council; and all moneys hereafter received by the council which, but for this section, would have been placed to the credit of that account, shall, as soon as practicable after the receipt thereof by the council, be paid by the council to the board.

Transitory  
provisions.

(2) All moneys paid to the board by the council pursuant to this section shall form part of the revenues of the board for the purposes of the Principal Act.

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## STATE EMPLOYEES (LONG-SERVICE LEAVE).

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No. 81 of 1950.

AN ACT to amend the law relating to the granting of Long-Service Leave, and for the payment of certain allowances, to employees of the State, and to repeal the *State Employees (Long Service Leave) Act* 1947. [21 December, 1950.]

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** This Act may be cited as the *State Employees (Long-Service Leave) Act* 1950. Short title.

Interpre-  
tation.

Cf. 11 & 12  
Geo. VI. No.  
80, s. 2.

**2** In this Act unless the contrary intention appears—

“eligible employee” means any employee who has, at the commencement of this Act, completed at least ten years continuous service as an employee, or who, at any time after the commencement of this Act, completes at least ten years continuous service as an employee;

“employee” means any person employed in any capacity by the State, or by any State authority, who is required to devote the whole of his time to the duties of his office or position, and includes any person so employed, the terms and conditions of whose employment are prescribed by an industrial award, and any officer appointed under the *Parliamentary Privilege Act 1898\**;

“industrial award” means—

(a) any order or award under the *Commonwealth Conciliation and Arbitration Act 1904-1949†* and any agreement under that Act having the force of an order or award; and

(b) any determination under the *Wages Boards Act 1920‡*;

“prescribed authority” means—

(a) in the case of employees employed under the authority of any Act specified in the first column of the table set forth in the schedule, the person holding the office specified opposite that Act in the second column thereof; and

(b) in any other case, such person as may be prescribed;

“Public Service of this State” includes the Police Force, the Teaching Service, the Railway Service, the service of any State authority, and any other service specified in the regulations;

“salary” includes—

(a) wages; and

(b) cost of living allowances, and such other allowances or emoluments (if any) as may be prescribed for the purposes of this Act;

\* 22 Vict. No. 17. For this Act, as amended to 1936, see Reprint of Statutes, Vol. I., p. 899.

† No. 13 of 1904, as amended by No. 28 of 1909, No. 7 of 1910, No. 6 of 1911, Nos. 5 and 18 of 1914, No. 35 of 1915, No. 39 of 1918, No. 31 of 1920, No. 29 of 1921, No. 22 of 1926, No. 8 of 1927, No. 18 of 1928, No. 43 of 1930, Nos. 45 and 54 of 1934, Nos. 14 and 30 of 1946, Nos. 10 and 52 of 1947, No. 77 of 1948, and Nos. 28 and 86 of 1949.

‡ 11 Geo. V. No. 51. For this Act, as amended to 1936, see Reprint of Statutes, Vol. VI., p. 1236. Subsequently amended by 2 & 3 Geo. VI. No. 71, 4 Geo. VI. No. 45, 6 Geo. VI. No. 31, 8 & 9 Geo. VI. No. 48, 9 & 10 Geo. VI. No. 65, 10 Geo. VI. No. 25, and No. 8 of 1950.

“State authority” means any person or body of persons, whether incorporate or unincorporate, constituted, or established by or under any Act, or appointed by the Governor under the authority of any Act, to administer or control any department, business, or undertaking on behalf of the State;

“Teaching Service” means all persons (other than persons to whom the *Public Service Act 1923\** applies) appointed or employed under the authority of the *Education Act 1932†*.

**3** The *State Employees (Long-Service Leave) Act 1947‡* <sup>Repeal.</sup> is repealed.

**4**—(1) Subject to this Act, every eligible employee shall be entitled to, and may be granted, long-service leave of absence in accordance with this Act. <sup>Long-service leave. *Ibid.*, s. 3.</sup>

(2) Subject to subsection (3) of this section and subsection (3) of section nine, the leave of absence to which any eligible employee is entitled under this Act shall comprise nine days' leave for each completed year of the employee's service, as at the date on which he makes application for that leave of absence, less the aggregate period (if any) of all leave of absence theretofore granted, or deemed to have been granted, to him under this Act.

(3) Subject to this Act, any leave of absence to which an eligible employee is entitled under this Act may be taken in one period or in more periods than one; but so that, except in such cases as may be prescribed, the second or any subsequent period of leave of absence so taken is commenced not earlier than five years after the date on which the immediately preceding period of leave of absence was commenced.

(4) Leave of absence under this Act shall be granted by the Governor in the case of any employee (not being an employee to whom the *Public Service Act 1923\** applies) who is the holder of any office by virtue of which he is a prescribed authority within the meaning of this Act, and by the prescribed authority in the case of any other employee.

(5) Where any employee has become entitled to not less than one hundred and eighty days' leave of absence under this Act, the prescribed authority may, by notice in writing to the employee, direct the employee to commence that leave of absence, or such part thereof (being a period of not less than forty-five days) as the prescribed authority may direct, within six months after the date of the notice.

<sup>13</sup> Geo. V. No. 25. For this Act, as amended to 1947, see Appendix C to the annual volume of Statutes for 1948. Subsequently amended by No. 36 of 1949.  
<sup>†</sup> 23 Geo. V. No. 22. For this Act, as amended to 1946, see Appendix to Sessional Volume of the Statutes for 1946 (10 Geo. VI.) at p. 117. Subsequently amended by No. 56 of 1949 and No. 14 of 1950.  
<sup>‡</sup> 11 & 12 Geo. VI. No. 80.

(6) If any employee fails or refuses to comply with the requirements of any notice given to him by the prescribed authority under subsection (5) of this section, he shall, by virtue of this subsection, be deemed to have forfeited all his rights and privileges under this Act up to the date of the notice.

(7) Any employee who is granted leave of absence under this section may be paid his salary in advance for a period equivalent to the period of his leave of absence.

(8) Where an application is made by an eligible employee for leave of absence under this Act, and that leave of absence—

(a) is not granted to him within five years after the date of his application; or

(b) is granted so as to commence not earlier than five years after the date of his application,

that employee may elect to receive payment of an allowance in lieu of that leave of absence, and, if he so elects, the Treasurer shall pay that allowance to him, or, if he dies before the payment thereof, to his personal representatives, accordingly.

(9) An allowance under subsection (8) of this section shall comprise an amount equivalent to the salary which could have been paid to the employee concerned if, immediately prior to the date on which he exercised the right of election conferred on him by that subsection, he had been granted the leave of absence for which he had applied but which had not been granted to him.

(10) Any period of leave of absence granted to an employee under this Act shall consist of the appropriate number of consecutive days, including any Saturdays or Sundays, but not including any holidays, occurring during that period.

(11) In subsection (10) of this section, the expression "holidays" means any days prescribed as holidays for the purposes of that subsection.

**5**—(1) In computing an employee's length of service for the purposes of this Act, his service as an employee prior to the commencement of this Act shall be included.

(2) Subject to subsection (3) of this section, the length of service of an employee shall be computed from the commencement of his continuous service as an employee, and shall include any period of service in a temporary capacity or on probation, and any period of absence on leave, with or without pay, or absence on leave for the purpose of service as a member of any of His Majesty's naval, military, or air forces.

Length of  
service:  
How com-  
puted.

*ibid.*, s. 3.

(3) Where any employee is granted leave of absence (otherwise than for the purpose of service as a member of any of His Majesty's naval, military, or air forces), whether with or without pay, for any period of or exceeding ninety days under any other Act or in pursuance of any industrial award, the period during which that employee is absent from duty in pursuance of the leave so granted shall not be included as part of his period of service as an employee for the purpose of computing the leave of absence to which the employee is entitled under this Act, but the absence of the employee from duty shall not be considered as breaking his continuity of service.

(4) For the purposes of this Act, the absence from duty of an employee when in receipt of a pension under the *Superannuation Act 1938\** shall not be considered as breaking his continuity of service.

(5) Where any employee was, before the commencement of this Act, stood down or dismissed from his employment (being employment with the State or with a State authority) by reason of any falling off of work or reduction in the number of persons employed in or by the relevant department, business, or undertaking and was, within a period of two years immediately succeeding the date on which he was so stood down or dismissed, re-employed by the State or by any State authority, that employee's continuity of service shall not be considered as having been broken by reason only of his having been so stood down or dismissed.

**6**—(1) Subject to subsection (3) of this section, where an employee—

- (a) has held any permanent office (in this section referred to as "the other office") in the service of the Commonwealth or of any other State or in the service of any authority to which this section applies;
- (b) has been appointed or transferred to an office or position in the Public Service of this State directly from the other office; and
- (c) was, immediately prior to his being appointed or transferred to the Public Service of this State, entitled to, or eligible for, the grant of furlough or pay in lieu of furlough (including pay to his dependants on his death) after a period of continuous service prescribed by any law of the Commonwealth or of that State,

Provisions applicable to employees transferred from other States, &c.  
 Cf. No. 21 of 1922 (C'wh), s. 81K.

he shall, upon the expiration of that period of continuous service, be eligible for a grant of leave of absence under this Act for a period equal to the period to which he would have been entitled under this Act if that period of continuous service had been a period of continuous service in the Public Service of this State.

<sup>2</sup> Geo. VI. No. 41, as amended by 3 Geo. VI. Nos. 5 and 18, 4 Geo. VI. Nos. 17 and 43, 6 Geo. VI. Nos. 12 and 71, 7 Geo. VI. No. 35, 8 & 9 Geo. VI. No. 39, 10 Geo. VI. No. 7, 11 Geo. VI. No. 65, and No. 24 of 1948.

(2) Any furlough granted to any such employee under the law referred to in paragraph (c) of subsection (1) of this section prior to his appointment or transfer to the Public Service of this State shall be deemed to have been granted to him under this Act.

(3) Notwithstanding the foregoing provisions of this section, except in special circumstances (as to which the prescribed authority shall be the sole judge) no employee to whom this section applies shall be granted any leave of absence for which he is or becomes eligible by virtue of this section until he has completed at least five years' continuous service in the Public Service of this State.

(4) In this section—

“authority to which this section applies” means any authority of the Commonwealth or of any State (other than this State) which is prescribed as an authority to which this section applies;

“furlough” includes long-service leave of absence, long-service leave, extended leave, and any other leave of absence in the nature of furlough (howsoever referred to).

**7**—(1) Where any eligible employee—

(a) dies;

(b) retires from his employment on account of sickness; or

(c) is compulsorily retired from his employment on account of—

(i) his age;

(ii) his position having been abolished; or

(iii) his services having become unnecessary, but not otherwise, that employee or, in the case of his death, his personal representatives, shall be entitled to the payment of an allowance calculated in accordance with subsection (5) of this section, and, upon the receipt of the appropriate authorisation, the Treasurer shall pay that allowance to the employee or to his personal representatives, as the case may be.

(2) Where the Act under the authority or for the purposes of which any eligible employee is employed does not prescribe any age for retirement, that employee shall, for the purposes only of this section, be deemed to have attained the age for retirement on attaining the age of sixty-five years, if a male, or sixty years, if a female; and upon his retirement or resignation from his employment on or after attaining that age shall be deemed to have been compulsorily retired on account of his age.

(3) Where the salary of any employee is paid by any State authority out of the revenues of, or from any moneys available to, the State authority, and not from the Consolidated Revenue, any payment made by the Treasurer under this section in respect of that employee shall be charged to the State authority, and shall be repaid to the Treasurer, as prescribed, by the State authority.

Allowances  
to eligible  
employees  
in certain  
cases.

Cf. 11 & 12  
Geo. VI. No.  
80, s. 4.

(4) The payment of an allowance under this section shall be authorised by the Governor in the case of any employee (other than an employee to whom the *Public Service Act 1923\** applies) who is the holder of any office by virtue of which he is a prescribed authority within the meaning of this Act, and by the prescribed authority in the case of any other employee.

(5) The allowance payable under this section to any employee, or to the personal representatives of a deceased employee, shall be an amount equivalent to the salary which, immediately prior to the employee's retirement or death, as the case may be, could have been paid to him if he had then been granted leave of absence for a period calculated by deducting from the prescribed period the aggregate period (if any) of all leave of absence theretofore granted, or deemed to have been granted, to that employee under this Act.

(6) For the purposes of this section, the expression "the prescribed period" means a period of nine days for each completed year of service.

(7) The foregoing provisions of this section shall extend and apply to any eligible employee who, on or after the nineteenth day of December, 1947 but before the commencement of this Act, died, or retired or was retired from his employment on any of the grounds specified in paragraphs (b) and (c) of subsection (1) of this section, and an allowance may be paid under this section accordingly to any such employee or to his personal representatives, as the case requires, as if that employee had died, or had retired or had been retired from his employment, after the commencement of this Act.

**8**—(1) Notwithstanding any other law to the contrary, an eligible employee who has not taken all the leave of absence to which he is entitled under this Act may, and shall, if the prescribed authority so directs him in writing, elect to retire from the Public Service of this State as from the date upon which the leave of absence under this Act, if granted to him, would have commenced, and, if he so elects, shall be entitled to the payment, upon his retirement, of an allowance comprising an amount equal to the salary which he would have received in respect of the period of that leave of absence if it had been granted to him, and, upon receipt of the appropriate authorisation, the Treasurer shall pay that allowance accordingly to the employee or, in the case of his death before the payment thereof, to his personal representatives.

Right of employee to elect to retire in certain cases.

Cf. 13 Geo. V. No. 25, s. 68 (5).

(2) The right of election conferred on eligible employees by subsection (1) of this section may be exercised—

(a) in the case of an employee who is required, by or under the Act under or for the purposes of which he is employed, to retire on attaining an

\* 13 Geo. V. No. 25. For this Act, as amended to 1947, see Appendix C to the annual volume of Statutes for 1948. Subsequently amended by No. 36 of 1949.

age not exceeding sixty-five years, at any time within twelve months of attaining the age at which he is so required to retire; or

- (b) in the case of an employee who is required, by or under any such Act, to retire on attaining an age not exceeding seventy years, at any time within five years before attaining the age at which he is so required to retire,

but no such right of election shall be exerciseable by any employee whose age is less than sixty-four years, if a male, or fifty-nine years, if a female.

(3) Where any employee to whom paragraph (b) of subsection (2) of this section applies intends to exercise the right of election conferred upon him by that subsection, he shall give to the prescribed authority not less than twelve months' notice of his intention so to do.

(4) The provisions of subsections (2) and (3) of section seven shall apply to and in respect of allowances under this section as if they were allowances under that section.

Preservation  
of other  
rights of  
employees.  
Cf. 11 & 12  
Geo. VI. No.  
80, s. 5.

9—(1) Subject to subsection (3) of this section, any leave of absence to which an eligible employee is entitled under this Act shall be in addition to any recreation leave or sick leave to which that employee may be entitled under any other Act or under any industrial award.

(2) The period during which an employee is absent on leave granted under this Act shall, for all purposes, be included as part of the employee's period of service, and, subject to subsection (3) of this section, shall be taken into account for the purpose of determining the salary payable on his return to duty, and any recreation leave or sick leave to which the employee is entitled under any other Act or under any industrial award.

(3) Notwithstanding any other provision of this Act, where any eligible employee has, at any time within the period of twelve months immediately preceding the date on which he makes application for the grant of leave of absence under this Act, entered upon any period of recreation leave granted to him pursuant to any other Act or any industrial award, the leave of absence which, but for this subsection, could have been granted to him under this Act, shall, unless the prescribed authority otherwise directs, be reduced by a period of eighteen days (inclusive of Saturdays, Sundays, and holidays) or by such lesser period as the prescribed authority may, in any particular case, determine; and no officer authorised by or under any other Act to grant recreation leave to employees shall, except with the express permission of the prescribed authority, grant to any eligible employee any recreation leave to commence at any time within the period of twelve months immediately succeeding the date on which any leave of absence granted to that employee under this Act commenced.



**10**—(1) No employee shall, while absent from duty on leave of absence granted under this Act—

- (a) engage in any business or undertaking, whether as principal or agent;
- (b) engage in the private practice of any profession;
- or
- (c) accept, or engage in, any paid employment of any kind whatsoever,

*Employees not to engage in paid employment, &c., while on leave. Ibid., s. 6.*

unless he has been authorised so to do in accordance with the provisions of the Act under the authority of which he was appointed or holds office as an employee.

(2) If any employee contravenes any of the provisions of subsection (1) of this section, the prescribed authority may, by notice in writing to the employee, direct him to return to duty, either forthwith or within such time as may be specified in the notice, and may, by the same or any subsequent notice, require the employee, within such time as may be specified therein, to refund such part of any salary paid to him in advance in pursuance of subsection (7) of section four, not exceeding the salary or wages for a period equivalent to the then unexpired portion of his leave of absence, as may be specified in the notice.

(3) Any sum which is required to be refunded by any employee in accordance with subsection (2) of this section may be recovered by the prescribed authority by action in any court of competent jurisdiction.

(4) Where any employee is recalled to duty in pursuance of subsection (2) of this section, he shall, by virtue of this subsection, be deemed to have forfeited all his rights and privileges under this Act up to the date upon which he returns to duty.

(5) The provisions of this section shall not prejudice or affect any punishment or penalty which may be imposed on any employee under the provisions of any other Act or of any industrial award.

**11**—(1) If, without the express permission of the prescribed authority, any employee, while on leave of absence granted to him pursuant to this Act, ceases (otherwise than by reason of his death) to be an employee within the meaning of this Act, he shall be liable to refund to the prescribed authority, within such time as the prescribed authority may direct, such part of the salary (if any) paid to him in advance in pursuance of subsection (7) of section four as the prescribed authority may require.

*Provisions applicable where employee resigns, &c., while on leave.*

(2) In any case where, at the date upon which an employee, in the circumstances mentioned in subsection (1) of this section, ceases to be an employee within the meaning of this Act, the total period of leave of absence granted to him pursuant to this Act has not expired, the amount which may be directed to be refunded pursuant to that subsection shall not exceed the salary which would be payable to him in respect of a period equivalent to the then unexpired portion of that leave of absence.

(3) Any amount directed to be refunded pursuant to subsection (1) of this section may be recovered by the prescribed authority by action in any court of competent jurisdiction.

Provisions of this Act to prevail over certain other Acts, &c.  
*Ibid.*, s. 7.

**12** The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other Act relating to the eligibility of employees for, or entitlement of employees to, furlough or long-service leave or in any regulations, rules, or by-laws made under any such Act, and the rights conferred on employees by this Act shall be in substitution for all rights relating to furlough or long-service leave conferred on employees by any such Act, regulations, rules, and by-laws, and any furlough or long-service leave granted to any employee under any such Act (including the *State Employees (Long-Service Leave) Act 1947\**) or under any such regulations, rules, or by-laws shall be deemed to have been granted to him under this Act.

Regulations.  
*Ibid.*, s. 8.

**13** The Governor may make regulations prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to the provisions of this Act.

\* 11 & 12 Geo. VI. No. 80.

### THE SCHEDULE.

(Section 2.)

FIRST COLUMN. Title of Act.	SECOND COLUMN. Prescribed Authority.
<i>Police Regulation Act 1898</i> ..... <i>Tasmanian Government Insurance Act 1919</i> .....	The Commissioner of Police The Tasmanian Government Insurance Manager The Public Service Commissioner
<i>Public Service Act 1923</i> ..... <i>Tourist and Immigration Department Act 1934</i> .....	The Director, Tasmanian Government Tourist and Immigration Department
<i>Education Act 1932</i> ..... <i>Railway Management Act 1935</i> .....	The Director of Education The General Manager, Tasmanian Government Railways
<i>Transport Act 1938</i> ..... <i>Hydro-Electric Commission Act 1944</i> .....	The Commissioner for Transport The Commissioner of the Hydro-Electric Commission