

## STATE EMPLOYEES (LONG SERVICE LEAVE).

11 & 12 GEO. VI. No. 80.

AN ACT to regulate the granting of Long Service Leave to employees of the State, and to make provision for matters incidental thereto.

[19 December, 1947.]

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

Short title.

**1** This Act may be cited as the *State Employees (Long-Service Leave) Act 1947*.

Interpretation.

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

“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 in any award or agreement under the *Commonwealth Conciliation and Arbitration Act 1904-1947\**, or determination under the *Wages Boards Act 1920†*, and any officer appointed under the *Parliamentary Privilege Act 1898‡*;

“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 such Act in the second column thereof; and

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

“State authority” means any person, body, or authority, whether incorporate or unincorporate, constituted by or under any Act, or appointed by the

\* No. 13 of 1904, as amended by No. 28 of 1909, No. 7 of 1910, No. 6 of 1911, Nos. 5 & 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 & 54 of 1934, Nos. 14 & 30 of 1946, and No. 10 of 1947.

† 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, and 10 Geo. VI. No. 25.

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

Governor under the authority of any Act, to administer or control any department, business, or undertaking on behalf of the State.

3—(1) Subject to this Act, every 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, shall be entitled to, and may be granted, long-service leave of absence in accordance with this section.

Certain employees entitled to long service leave of absence.

(2) Leave of absence under this section shall comprise ninety days' leave for each completed ten years' service:

Provided that not more than three hundred and sixty days' leave shall be granted, in the aggregate, to any one employee under the authority of this section.

(3) 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.

(4) In any case where any employee has become entitled to not less than one hundred and eighty days' leave of absence under this section, the prescribed authority may, by notice in writing to the employee, direct the employee to commence such 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.

(5) If any employee fails or refuses to comply with the requirements of any notice given to him by the prescribed authority under subsection (4), 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 such notice.

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

(7) For the purpose 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:

Provided that where any employee is granted leave of absence, whether with or without pay, for any period of or exceeding ninety days under any other Act, the period during which such 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 section, but in any such case the absence of the employee from duty shall not be considered as breaking his continuity of service.

(8) In any case where an employee has held any permanent office (in this subsection referred to as "the other office") in the service of the Commonwealth or any other State, and has been transferred to an office or position in the service of this State directly from the other office, the length of his service shall, for the purposes of this section, be computed from the date on which he was permanently appointed to the other office; and any furlough or long-service leave granted to any such employee while he was in the service of the Commonwealth or such other State shall be deemed to have been granted to him in pursuance of this Act.

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

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

(11) Any period of leave of absence granted to an employee in pursuance of this Act shall consist of the appropriate number of consecutive days, inclusive of any Saturdays, Sundays, or holidays occurring during such period.

Payment in  
lieu of leave  
in certain  
cases.

**4—**(1) In any case where an employee who is entitled to leave of absence under this Act—

- (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, without having taken the leave of absence to which he is so entitled, or any part thereof, the employee or, in the case of his death, his personal representatives, shall be entitled to payment of an allowance calculated in accordance with subsection (4) and, upon receipt of an authority under this section, the Treasurer shall pay such allowance to the employee or his personal representatives, as the case may be.

(2) 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

\* 2 Geo. VI. No. 41, as amended by 3 Geo. VI. Nos. 5 & 18, 4 Geo. VI. Nos. 17 & 43, 6 Geo. VI. Nos. 12 & 71, 7 Geo. VI. No. 35, 8 & 9 Geo. VI. No. 39 and 10 Geo. VI. No. 7.

respect of such employee shall be charged to the State authority, and shall be repaid to the Treasurer by the State authority as prescribed.

(3) The payment of any 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.

(4) 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 to such employee in pursuance of this Act.

(5) For the purposes of subsection (4), "the prescribed period" means a period of nine days for each completed year of service.

**5**—(1) Any leave of absence granted to an employee under this Act shall be in addition to any recreation leave or sick leave to which the employee may be entitled under any other Act:

Preservation  
of other rights  
of employees.

Provided that recreation leave shall not, except with the express permission of the prescribed authority, be granted to an employee under any other Act in respect of the calendar year in which any leave of absence granted to that employee under this Act commences, and if recreation leave has been granted to any employee in the calendar year in which any leave of absence granted to that employee under this Act commences, such recreation leave shall, unless the prescribed authority otherwise directs, be regarded as part of the period of leave of absence granted to such employee under this Act.

(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 (1), 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.

**6**—(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;

Employees not  
to engage in  
paid employ-  
ment, &c.,  
while on leave.

\* 13 Geo. V. No. 25. For this Act, as amended to 1936, see Reprint of Statutes, Vol. VI., p. 263. Subsequently amended by 2 Geo. VI. No. 29, 4 Geo. VI. No. 18, 5 Geo. VI. Nos. 6 & 64, 6 Geo. VI. Nos. 9 & 54, 7 Geo. VI. No. 18, 7 & 8 Geo. VI. No. 104, 8 & 9 Geo. VI. No. 30, 9 & 10 Geo. VI. No. 60, and 11 Geo. VI. No. 22.

- (b) engage in the private practice of any profession; or
- (c) accept, or engage in, any paid employment of any kind whatsoever,

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

(2) If any employee contravenes any of the provisions of subsection (1), 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 or wages paid to him in advance in pursuance of subsection (10) of section three, 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) 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), 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.

Provisions of  
other Acts to  
cease to have  
effect.

**7** Upon the commencement of this Act, the provisions of any other Act, and of any regulations, rules, or by-laws made thereunder, relating to the eligibility of employees for furlough or long-service leave shall cease to have effect, and the rights conferred on employees by this Act shall be in substitution for all rights relating to furlough or long-service leave accrued or to accrue under any such Act, regulation, rule, or by-law, and any furlough or long-service leave granted to any employee under any such Act, regulation, rule, or by-law shall be deemed to have been granted to him in pursuance of this Act.

Regulations.

**8** The Governor may make regulations providing for and regulating the making and granting of applications for leave of absence under this Act, and prescribing the procedure to be observed in connection therewith, and generally for the purposes of this Act.

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## THE SCHEDULE.

(Section 2.)

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

## LICENSING.

11 &amp; 12 GEO. VI. No. 81.

AN ACT to amend the *Licensing Act 1932*.  
[19 December, 1947.]

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

- 1**—(1) This Act may be cited as the *Licensing Act 1947*. Short title and citation.  
(2) The *Licensing Act 1932*\*, as subsequently amended, is in this Act referred to as the Principal Act.

\* 23 Geo. V. No. 55. For this Act, as amended to 1936, see Reprint of Statutes, Vol. IV., p. 843. Subsequently amended by 1 Geo. VI. Nos. 39 and 40, and 7 Geo. VI. No. 38.