

## TASMANIA.

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 THE PUBLIC SERVICE AMENDMENT  
 ACT, 1921.
 

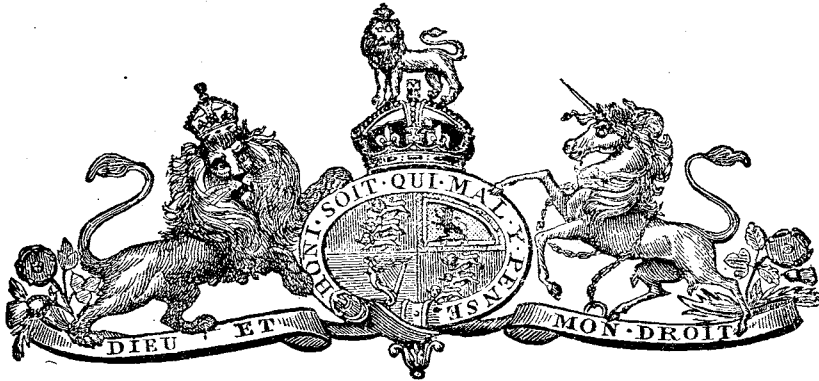
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## ANALYSIS.

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## T A S M A N I A.



1921.

ANNO DUODECIMO

GEORGII V. REGIS.

No. 41.

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AN ACT to further amend "The Public Service Act, 1918." [30 January, 1922.]

A.D.

1921

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 Public Service Amendment Act, Short title 1921."

**2** In this Act —

"The Principal Act" means "The Public Service Act, 1918."

"The Act of 1920" means "The Public Service Amendment Act, 1920."

Interpretation.  
9 Geo. V. No. 69.  
11 Geo. V. No.  
52.

**3** Section Four of the Principal Act is hereby amended as from the commencement of that Act, as follows:—

"1. By expunging therefrom the definition of 'officer' and substituting the following definition therefor:—

'Officer' means a person employed in any capacity in any branch of the Public Service, as hereinafter defined; but does not include a person temporarily employed:

Amendment of  
Section 4 of the  
Principal Act.

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“ii. By expunging therefrom the definition of ‘Public Service’ and substituting the following definition therefor:—

‘Public Service’ means the Public Service of Tasmania as defined in Section Five of this Act.”

Amendment of Section 31 of the Principal Act.  
5 Ed. VII. No. 26.

**4** Section Thirty-one of the Principal Act, as amended by Section Twelve of the Act of 1920, is hereby further amended by inserting at the end of the said section the following words:—“or under ‘The Public Service Superannuation Fund Act, 1905.’”

Repeal and re-enactment of Section 34 of the Principal Act.

**5** Section Thirty-four of the Principal Act is hereby repealed and the following section substituted therefor:—

Qualifications for admission to service.

Professional and Clerical Divisions.

“**34**—(1) Except as otherwise specially provided in this Act, no person shall be admitted to the Professional or Clerical Division of the Public Service unless—

i. He has passed one of the following examinations held, or to be hereafter held, by the University of Tasmania, namely:—

(a) The Junior Public Examination;

(b) The Senior Public Examination;

(c) The Intermediate Examination;

(d) The Leaving Examination; or

ii. He has passed a public competitive examination recognised by such University as equivalent to one of the above-mentioned examinations.

General Division.

“(2) No person shall be admitted to the General Division of the Public Service unless he has passed such examination as is prescribed, either generally or with respect to the particular class of employment in which he is to be engaged: Provided, however, that nothing in this subsection shall apply to persons to be employed as warders, gate-keepers, or caretakers, or in other like capacities, or in mechanical work, all or any of whom may be appointed to the General Division without examination, if the Commissioner is satisfied as to their general qualifications for appointment.”

Repeal of Section 45a of the Principal Act.

**6** Section **45a** of the Principal Act as inserted therein by Section Sixteen of the Act of 1920 is hereby repealed.

New Sections 50a and 50b.

**7** After Section Fifty of the Principal Act the following sub-headings and sections are inserted:—

“*Employment of Officers in Departments outside the Public Service.*

Officers may be employed in State Departments outside the Public Service.

“**50a**—(1) The Governor may, upon the recommendation of the Commissioner, allow any officer to accept employment in any department of the Public Service of the State to which this Act does not apply for any period not exceeding Three years. Such period may be extended from time to time by the Governor on the recommendation of the Commissioner for any further period not exceeding Two years.

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“(2) Upon acceptance by any officer of any such employment as aforesaid, his name shall be placed upon the “Public Service Supernumerary List” hereinafter mentioned, and shall remain on the said list during the period or periods of such employment, and the office previously held by such officer may, upon the recommendation of the Commissioner, at any time be declared vacant by the Governor.

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Such officers named to be placed on the Public Service Supernumerary List.

“(3) Such officer shall during such period or periods retain all his rights and privileges under and be subject to the provisions of this Act, save and except that he shall be subject to the disciplinary control of the person in charge of the department in which he has accepted employment, or, if himself in charge of such department, of the Minister administering the department.

Officers to retain their privileges under this Act.

“(4) If any charge in connection with his office is made against such officer while in such employment as aforesaid, it shall be dealt with in accordance with the provisions of this Act having reference to charges against officers for offences under this Act, and for the purpose of dealing with such charge the person in charge of the department in which such officer is employed shall be deemed to be the permanent head of such officer's department, and if the officer is himself the head of the department he shall be deemed to be a permanent head within the meaning of this Act.

Charges against such officers, how dealt with.

*“Public Service Supernumerary List.”*

“**50b**—(1) Notwithstanding anything contained in Section Seventy-six to the contrary, if, in the opinion of the Commissioner, any officer is or becomes unfitted for, or incapable of performing the duties attached to his office, the Governor may, on the recommendation of the Commissioner, cause the name of such officer to be placed upon a list to be called ‘The Public Service Supernumerary List,’ and thereupon the office then held by such officer shall be deemed to be vacant.

Names of officers unfit for their duties may be placed on the Public Service Supernumerary List.

“(2) The Commissioner may from time to time employ any officer whose name has been placed upon the supernumerary list in pursuance of Subsection (1), in such capacity as he shall think fit, having regard to the nature of the work which such officer is able to perform, and shall assign to him such salary as the Commissioner shall deem applicable to the work to be performed by such officer.

Such officers may be employed in some other capacity.

“(3) If in the opinion of the Commissioner such officer shall thereafter be, or become unfitted for or incapable of performing the work at which he has been employed in pursuance of Subsection (2), or such work is no longer available, the Governor may, on the recommendation of the Commissioner, dispense with the services of such officer.

Services of officer becoming unfit for work may be dispensed with.

“(4) Any officer whose name has been placed on the supernumerary list in pursuance of Subsection (1) shall, subject to the provisions of this section, retain all his rights and privileges under and be subject to the provisions of this Act.

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— —  
 Repeal and re-  
 enactment of  
 Section 52 of the  
 Principal Act.

“Returned  
 Soldier.”

**8** Section Fifty-two of the Principal Act, as amended by Section Seventeen of the Act of 1920, is hereby repealed, and the following section substituted therefor:—

“**52** In this Part, if not inconsistent with the context or subject matter—

“Returned Soldier” means and includes—

“1. Any person who (whether before or after the commencement of this Act), enlisted in any expeditionary force raised in Tasmania for naval or military service with His Majesty’s navy or army during the war in which His Majesty has lately been engaged, and left Tasmania on duty in such service and has been honourably discharged from service; and

“11. Any person who was born in Tasmania and has produced to the Commissioner satisfactory evidence that he has been a member of any naval, military, or air force raised in any country forming part of His Majesty’s Dominions for service in such war outside the country wherein such force was raised, and has served in connection with the said war outside such country, and has been honourably discharged from service:

“Soldiers’ Board.”

“Soldiers’ Board” means the Returned Soldiers’ Employment Board appointed under this Part.”

Amendment of  
 Section 54 of the  
 Principal Act.

**9** Section Fifty-four of the Principal Act is hereby amended by deleting the words “Medical Superintendent of the Mental Diseases Hospital” occurring in the Eighth and Ninth lines of Subsection (1) of the said section and substituting the words “Director of Public Health” therefor.

Repeal and re-  
 enactment of  
 Section 60 of the  
 Principal Act.

**10** Section Sixty of the Principal Act as inserted therein by Section Twenty-one of the Act of 1920 is hereby repealed as from the date of the last-mentioned Act, and the following section substituted therefor as from such date:—

Classification on  
 appointment to  
 Clerical Division.

“**60** Notwithstanding anything in this Act, a returned soldier appointed to a position in the Clerical Division, whose age at his last birthday previous to appointment was not less than Twenty-two, shall not be appointed at a less salary than One hundred and fifty-six Pounds; whose age at his last birthday previous to appointment was Twenty-three, shall not be appointed at a less salary than One hundred and eighty Pounds; whose age at his last birthday previous to appointment was Twenty-four, shall not be appointed at a less salary than One hundred and ninety-two Pounds; whose age at his last birthday previous to appointment was not less than Twenty-five, shall not be appointed at a less salary than Two hundred and four Pounds.”

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**11** Section Sixty-six of the Principal Act is hereby amended by deleting all the words of the section occurring after the word "position" in the Sixth line thereof.

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Amendment of Section 66 of the Principal Act.

**12** Section Seventy-three of the Principal Act is hereby repealed and the following section substituted therefor:—

Repeal and re-enactment of Section 73 of the Principal Act.

**73** If it comes to the knowledge of the Minister in the case of a permanent head, or of the Commissioner in the case of any other officer, that the conduct of the permanent head or of such other officer renders him unfit to continue in the Public Service—

Inquiry into misconduct of officers.

"i. The Minister may in the case of such permanent head, after notifying him of the charge, suspend him and report the charge and suspension to the Governor, and the charge shall be dealt with in all respects in the same manner as if it had arisen under the provisions of Section Seventy-two: or

"ii. The Commissioner may in the case of such other officer, after notifying him of the charge, suspend him, and shall thereupon deal with the charge in the same manner as if it had been a charge referred to him for investigation and report under Subsection (5) of Section Seventy-one."

**13** Section Eighty-three of the Principal Act as amended by Section Twenty-seven of the Act of 1920, is hereby repealed and the following section substituted therefor:—

Repeal and re-enactment of Section 83 of the Principal Act.

**83** Where in or by any Act, order-in-council, proclamation, rule, regulation, by-law, contract, or agreement, any duty, obligation, right, or power is imposed or conferred upon any officer in His Majesty's Service, whether in the Public Service as defined by Sections Four and Five or not (other than a Minister of the Crown or judicial officer) in his capacity as such officer, such duty, obligation, right, or power may, during his temporary absence or incapacity, or in the event of a vacancy in such office, be performed or exercised by any officer directed by the Minister to perform and exercise the duties, obligations, rights, and powers of such first-mentioned officer during such absence, incapacity, or vacancy in the same manner and to the same extent in all respects as the same might have been respectively performed or exercised by such first-mentioned officer; and everything done under the provisions of this section shall be as good and effectual for all purposes and against all persons whatsoever as if done by such first-mentioned officer."

Performance of duties and powers of officer in his absence.  
Com., s. 59.  
N.S.W., s. 6.  
W.A., s. 53.  
S.A., s. 62.  
Tas., s. 54.

**14** Section Eighty-seven of the Principal Act is hereby amended by substituting the word "Fourteen" for the words "Twenty-one" wherever the latter words occur in that section.

Amendment of Section 87 of the Principal Act.

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Amendment of  
Section 88 of the  
Principal Act.Leave on ground  
of illness or  
necessity.**15** Section Eighty-eight of the Principal Act is hereby amended as follows :—

i. By expunging Subsection (1) and substituting the following subsection therefor :—

“(1) The Minister in case of illness or other pressing necessity may grant to any officer extended leave for not exceeding Three months, and the Governor may, subject to the regulations, and having regard to the length of service of such officer, and leave (if any) already granted to him in respect of either or both of the above matters, grant leave not exceeding Twelve months on such terms as may be prescribed :”

ii. By expunging Subsection (5) and substituting the following subsection therefor :—

“(5) Leave of absence in case of illness or other pressing necessity shall not be reckoned as or included in leave of absence for recreation.”

Amendment of  
Section 90 of the  
Principal Act.**16** Section Ninety of the Principal Act is hereby amended as follows :—

i. By inserting the following words at the end of Subsection (1):—“ Provided, however, that in the case of any such officer having become entitled to under any enactment previously in force dealing with the Public Service, and having been granted long-service leave of absence for Three months on full pay, or Six months on half pay, by reason of his continuous service for at least Ten years, such officer shall, on his completing Twenty years continuous service, be entitled only to long-service leave of absence for a further period of Three months on full pay, or at his option to long-service leave of absence for a further period of Six months on half pay.”

ii. By expunging Subsections (2) and (3) :

iii. By renumbering Subsections (4) and (5), as (2) and (3) respectively : and

iv. By expunging Subsection (6) and substituting the following subsection therefor, and numbering the same as Subsection (4) :—

“(4) For the purposes of this section the length of service of an officer shall be computed from the commencement of his continuous service. Such service shall include any period of probation or absence on leave with or without pay :

“ Provided that—

“1. In the case of an officer who has held in the Public Service of this State a permanent office to which this Act did not during his tenure of such office apply, or who has held a permanent office in the Public Service of either the Commonwealth or of any



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other State thereof, and in any of the said cases has been transferred to an office in the Public Service of Tasmania directly from such other office aforesaid, the length of his service shall be computed from the date on which he was permanently appointed to such other office aforesaid: A.D. 1921.

“ II. In the case of an officer who has, previous to his appointment as an officer, been temporarily employed in the Public Service of the State for not less than Five years continuously, one-half of the period during which he was so temporarily employed shall be added to the period of his service as an officer, and the total period so ascertained shall, for all purposes whatsoever, be counted as his period of service as an officer :

“ III. In the case of any employee on the permanent staff of the Government Printing Office who has served his apprenticeship in that office, and has then served on the temporary staff continuously until placed on the permanent staff, the length of his service shall be reckoned by adding one-half of the time which elapsed between the date of his apprenticeship and the date of his appointment to the permanent staff to the length of his service on the permanent staff.”

**17** Section Ninety-one of the Principal Act is hereby amended as follows :—

Amendment of  
Section 91 of the  
Principal Act.

i. By expunging Subsection (3) and substituting the following subsection therefor :—

“ (3) Leave of absence granted under Subsection (1) or (2) shall be without pay except for such period as may be otherwise prescribed.”

ii. By inserting after Subsection (5) the following subsection :—

“ (6) Leave of absence may be granted by the Minister on the recommendation of the Commissioner to any officer who is a member of the Defence Force of the Commonwealth, for the purpose of attending naval or military drills, or parades, or camps, or courses of naval or military instruction. Such leave may be granted for such period or periods as the Minister shall, on the recommendation of the Commissioner, determine, and shall not be reckoned as or included in the officer's annual leave, and except as otherwise prescribed no deduction shall be made from the salary of any officer who receives payment for any such attendances as aforesaid.”

*Public Service Amendment.*

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Amendment of  
Section 97 of the  
Principal Act.**18** Section Ninety-seven of the Principal Act is hereby amended as follows :—

- i. By expunging Subsection (3), as inserted therein by Section Thirty-one of the Act of 1920, and substituting the following subsection therefor :—

“(3) An officer who is appointed by the Governor to perform, and performs for a period of more than Twenty-eight days, the duties of an officer senior to himself, shall be paid in respect of such period the minimum salary assigned by classification to the office of such senior officer. Provided that if an officer appointed as aforesaid and performing the duties aforesaid is at the time of such appointment in receipt of a salary greater than the minimum salary assigned to the office of such senior officer as aforesaid, he shall, during such period as aforesaid, be paid the same salary as he is then receiving, if it does not exceed the maximum salary assigned to the office of such senior officer.”

- ii. By expunging Subsection (4) and substituting the following subsection therefor :—

“(4) Payments of money to officers other than for salary, or for extra services, or for prescribed transfer or travelling allowances or expenses shall be made only under the authority of the Governor.”

Amendment of  
Section 98 of the  
Principal Act**19** Section Ninety-eight of the Principal Act is hereby amended by expunging Paragraph v. of Subsection (1) and substituting the following paragraph therefor :—

“v. Unless authorised under some other provision of this Act accept or engage in any employment other than in connection with the duties of his office or offices in the Public Service.”

Amendment of  
Section 99 of the  
Principal Act.  
Regulations made  
under other Acts  
may be printed  
with regulations  
under this Act.**20** Section Ninety-nine of the Principal Act is hereby amended by inserting at the end thereof the following subsection :—

“(6) Where under any Act other than this Act, rules or regulations may be made for the good order, management or administration of, or the maintenance of discipline in any department of the Public Service or any institution belonging to or connected with such department, or subject to the control or direction of the permanent head thereof, such rules and regulations may by direction of the Governor be included and printed with any other regulations made under this Act, and shall thereupon form part thereof and be construed therewith.

Proviso.

Provided that such rules or regulations shall, if made by any other authority than the Governor, be submitted to and confirmed by the Governor before they shall have the force of law.”