

TASMANIAN STATE SERVICE AMENDMENT ACT 1985

No. 61 of 1985

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TASMANIAN STATE SERVICE AMENDMENT ACT 1985

No. 61 of 1985

AN ACT to amend the Tasmanian State Service Act 1984.

[Royal Assent 25 July 1985]

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 *Tasmanian State Service Amendment Act 1985*. Short title.

2—(1) This section and section 1 shall commence on the day on which this Act receives the Royal assent. Commencement.

(2) Except as provided in subsections (1) and (3), this Act shall commence on the day fixed under section 2 (2) of the *Tasmanian State Service Act 1984*.

(3) Section 4 shall be deemed to have commenced on 30th May 1984.

Principal Act. **3**—In this Act, the *Tasmanian State Service Act 1984** is referred to as the Principal Act.

Amendment of section 2 of Principal Act (Commencement). **4**—Section 2 of the Principal Act is amended by omitting from subsection (2) “the several provisions of this Act shall commence on such day or days” and substituting “this Act shall commence on such day”.

Amendment of section 3 of Principal Act (Interpretation). **5**—Section 3 of the Principal Act is amended as follows:—
 (a) by omitting from the definition of “award” in subsection (1) “1975” and substituting “1984”;
 (b) by inserting in the definition of “permanent employee” in that subsection “or section 38 (11)” after “section 36”;
 (c) by omitting from the definition of “promotion” in that subsection all the words after “salary level” (thirdly occurring).

Amendment of section 30 of Principal Act (Vacation of office of Head of Agency). **6**—Section 30 of the Principal Act is amended as follows:—
 (a) by inserting in paragraph (f) of subsection (3) “issued” after “him”;
 (b) by inserting in that paragraph “or given by the Commissioner for Review under section 68 (17) (b)” after “36 (5)”.

Amendment of section 33 of Principal Act (Functions and powers of Heads of Agencies). **7**—Section 33 of the Principal Act is amended as follows:—
 (a) by omitting from subsection (1) (e) “review” and substituting “evaluate”;
 (b) by inserting in subsection (3) (b) “or given by the Commissioner for Review under section 68 (17) (b)” after “36 (5)”;
 (c) by inserting in subsection (4) “or at the direction of the Commissioner for Review pursuant to an appeal under section 66 (1) (c)” after “subsection (1) (b)”;

* No. 25 of 1984.

(d) by inserting after subsection (4) the following subsections:—

(5) Where a position has become vacant under subsection (4), the person who occupied that position immediately before it became vacant shall continue to perform the duties of the position until it is filled in accordance with section 35.

(6) The Head of an Agency may, with the approval of the Minister, make standing orders for the purposes of the administration and operation of the Agency of which he is the Head.

(7) Any standing order made by the Head of an Agency, without the approval of the Minister, is of no effect.

8—After section 33 of the Principal Act, the following section is inserted in Part V:—

Insertion in
Principal Act
of new
section 33A.

33A—(1) The Head of an Agency may, by instrument in writing, delegate to a person specified in the instrument the performance or exercise of such of his functions and powers under this Act (other than this power of delegation and the power of appointment or promotion in respect of positions in that Agency delegated to him under section 34 (2)) as are specified in the instrument of delegation.

Delegation
by Head
of Agency.

(2) The Head of an Agency may, by instrument in writing, revoke wholly or in part or vary a delegation made by him under this section.

(3) A function or power, the performance or exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be performed or exercised from time to time in accordance with the terms of the delegation.

(4) A delegation under this section may be made subject to such conditions or limitations as to the performance or exercise of any of the functions or powers delegated, or as to time or circumstance, as are specified in the instrument of delegation.

(5) Notwithstanding any delegation made by him under this section, the Head of an Agency may continue to perform or exercise all or any of the functions or powers delegated.

(6) Any act or thing done by or to a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done by or to the Head of an Agency making the delegation and shall be deemed to have been done by or to the Head of the Agency.

(7) An instrument purporting to be signed by a delegate of the Head of an Agency in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Head of the Agency and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Head of the Agency under this section.

(8) If the Head of an Agency by whom a delegation is made dies, or ceases to hold, or is suspended from, office, that delegation shall be deemed to continue in force according to its tenor until it is revoked or varied under this section.

Amendment of section 34 of Principal Act (Appointments, &c., in the State Service).

9—Section 34 of the Principal Act is amended as follows:—

- (a) by inserting in subsection (2) “all or part of” after “Agency”, secondly occurring;
- (b) by inserting in that subsection after “Agency”, thirdly occurring, “on such terms and conditions as he may determine”;
- (c) by inserting after subsection (4) the following subsection:—

(5) Where a delegation has been made by the Minister under subsection (2) to a person nominated by the Head of an Agency, a reference to the Head of an Agency in sections 35 and 36 shall be read as a reference to the person to whom such a delegation has been made.

Amendment of section 36 of Principal Act (Procedure for filling vacancies in positions).

10—Section 36 of the Principal Act is amended by omitting from subsection (8) (a) “to be promoted to” and substituting “for”.

11—Section 46 of the Principal Act is amended by omitting from subsection (1) all the words following “employee” fourthly occurring and substituting “would have been entitled if he had remained, for the period during which the agreement or arrangement had effect, in the position held by him immediately before that agreement or arrangement was entered into.”.

Amendment of section 46 of Principal Act (Provisions which have effect on cessation of secondment).

12—Section 51 of the Principal Act is amended as follows:—

(a) by inserting in subsection (1) (c) “29 (13) or section” after “section”;

Amendment of section 51 of Principal Act (Unattached List).

(b) by omitting from subsection (3) “other than an employee referred to in subsection (1) (c)” and substituting “referred to in subsection (1) (a)”;

(c) by omitting subsection (4) and substituting the following subsections:—

(4) An employee referred to in subsection (1) (b) whose name has been registered on the Unattached List is entitled to be paid a salary equal to the salary which he would have been entitled to receive if he had remained, for the period during which an agreement or arrangement under section 43 (1) or 44 (2) had effect in respect of him, in the position held by him immediately before that agreement or arrangement was entered into and the conditions of employment that applied to the position held by him immediately before the agreement or arrangement was entered into in respect of him shall continue to apply to him.

(4A) An employee referred to in subsection (1) (c) whose name has been registered on the Unattached List is entitled to be paid a salary equal to the salary which he would have been entitled to receive if he had remained, for the period during which he was a contract employee, the Head of an Agency or the holder of a prescribed office, in the position held by him immediately before he became a contract employee, the Head of an Agency, or the holder of a prescribed office and the conditions of employment that applied to the position held by him immediately before he became a contract employee, the Head of an Agency, or the holder of a prescribed office shall continue to apply to him.

(d) by omitting from subsection (6) “other than an employee referred to in subsection (1) (c)”.

Amendment of section 54 of Principal Act (Offences).

13—Section 54 of the Principal Act is amended by inserting in subsection (1) (a) “or any standing orders issued by the Head of the Agency in which he is employed” after “Act”.

Amendment of section 55 of Principal Act (Procedure in respect of offences).

14—Section 55 of the Principal Act is amended as follows:—

(a) by inserting in subsection (4) “which he has reason to believe the employee has committed or” after “offence”;

(b) by omitting from subsection (5) “Commissioner to appoint a person to conduct an inquiry into the charge without undue delay” and substituting “Commissioner to appoint—

(a) a person or persons;

(b) a body established in accordance with the regulations; or

(c) a prescribed body,

to conduct an inquiry into the charge without undue delay”;

(c) by omitting subsection (6) and substituting the following subsection:—

(6) The Commissioner may, on receipt of a request from the Head of an Agency under subsection (5) appoint—

(a) a person or persons;

(b) a body established in accordance with the regulations; or

(c) a prescribed body,

to conduct an inquiry into the charge referred to in that subsection.

Amendment of section 66 of Principal Act (Appeals to Commissioner for Review).

15—Section 66 of the Principal Act is amended as follows:—

(a) by omitting from subsection (1) (a) “made by the Head of an Agency”;

(b) by omitting from subsection (1) (b) “made by the Head of an Agency”;

- (c) by omitting from subsection (1) (c) “determined by the Head of the Agency in which he is employed” and substituting “assigned”;
- (d) by omitting from subsection (1) (d) “, or by the Secretary”.

16—Section 68 of the Principal Act is amended as follows:—

Amendment of section 68 of Principal Act (Procedure, &c., of appeal).

- (a) by inserting in subsection (5) “or, where the appeal is made in respect of a matter referred to in section 66 (1) (a) or (b) and the Minister has delegated his power of appointment or promotion to a person other than the Head of an Agency, to that other person” after “concerned”;
- (b) by omitting from subsection (17) (b) “or the Head of the Agency” and substituting “the Head of the Agency, or other person to whom the Minister has delegated his power of appointment or promotion,”

17—Section 81 of the Principal Act is amended as follows:—

Amendment of section 81 of Principal Act (Regulations).

- (a) by omitting from paragraph (d) of subsection (2) “for the purpose of military, naval, or air force training”;
- (b) by inserting in paragraph (m) of that subsection “and the establishment of bodies to conduct inquiries under section 55” after “employees” (secondly occurring);
- (c) by omitting from paragraph (p) of that subsection “section 66; and” and substituting “section 66;”;
- (d) by omitting from paragraph (q) of that subsection “documents.” and substituting “documents;”;
- (e) by inserting after that paragraph the following paragraphs:—
 - (r) the form, effect, duration, cancellation, and terms and conditions of indentures of cadetship;
 - (s) the preparatory education required of persons who desire to enter into indentures of cadetship; and

(t) the establishment and awarding of scholarships, and the granting of other forms of financial assistance, for the purpose of assisting persons to undergo courses of instruction and training, and the amount or value of the scholarships and financial assistance, and the terms and conditions upon and subject to which any such scholarship or other financial assistance may or shall be granted.

(f) by omitting from subsection (6) " 1975 " and substituting " 1984 ".

Amendment of
Schedule 1 to
Principal Act
(AGENCIES).

18—Schedule 1 to the Principal Act is amended as follows:—

(a) by omitting from Division 1 of Part I the following item:—

Police Department	The Commissioner of Police
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(b) by omitting from that Division " Premier's Department " and substituting " Department of the Premier and Cabinet ";

(c) by inserting in that Division, after the item relating to the " Public Trust Office ", the following item:—

Department of Sea Fisheries	The Director of Sea Fisheries
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(d) by inserting in Division 2 of Part I, after the item relating to the " Forestry Department ", the following item:—

Police Department	The Commissioner of Police
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(e) by inserting in Part II, after the item relating to the " Herd Improvement Board of Tasmania ", the following item:—

Hobart Regional Water Board	The Chairman of the Hobart Regional Water Board
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(f) by omitting from that Part the following item:—

Metropolitan Water Board	The Chairman of the Metropolitan Water Board
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(g) by inserting in that Part, after the item relating to the “ Tasmanian Grain Elevators Board ”, the following item:—

Tasmanian Industrial
Commission

| The President of the
| Tasmanian Industrial
| Commission

