
OFFICERS' RIGHTS DECLARATION.

No. 16 of 1928.

An Act relating to the Rights of Officers.

[Assented to 22nd June, 1928.]

Preamble.

WHEREAS under various Acts of the Parliament of the Commonwealth provision is made for the preservation or retention by officers of their existing and accruing rights, or concerning the determination of their existing or accruing rights :

AND WHEREAS it is desirable that the rights in question should be definitely declared :

BE it therefore enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title.

1. This Act may be cited as the *Officers' Rights Declaration Act* 1928.

Commencement.

2. This Act shall commence on a date to be fixed by Proclamation.

3. This Act applies to each officer in relation to whose employment provision is made by an Act and section specified in the Schedule— Application of Act.

- (a) for the preservation or retention of his existing and accruing rights ; or
- (b) concerning the determination of his existing or accruing rights.

4. In this Act, unless the contrary intention appears— Definitions.

- “ Commonwealth authority ” means an authority which has been created (including an officer whose office has been created) by an Act specified in the Schedule ;
- “ employment ” means employment as, or as a member of, or by, a Commonwealth authority ;
- “ employed ” has a meaning corresponding to that of employment ;
- “ officer ” means an officer employed as, or as a member of, or by, a Commonwealth authority, who immediately prior to his employment was an officer of the Public Service of the Commonwealth ;
- “ the Minister ” means the Minister to whose Department the Commonwealth authority, in relation to which the expression is used, is attached for administrative purposes.

5.—(1.) The rights which, by virtue of any of the Acts and sections specified in the Schedule, an officer, to whom this Act applies, preserves or retains upon his employment are hereby declared to be the rights in respect of— Rights preserved or retained.

- (a) leave on the ground of illness ;
- (b) long service leave or pay in lieu thereof (including pay to dependants on the death of the officer) ;
- (c) superannuation ;
- (d) child endowment ; and
- (e) in the case of female officers, payment on marriage,

to which from time to time he would be entitled if he had remained an officer of the Public Service of the Commonwealth, and had not been employed within the meaning of this Act :

Provided that an officer may, within three months after the commencement of his employment, or, in the case of an officer employed at the commencement of this Act, within three months after the commencement of this Act, elect, by notice in writing to the Commonwealth authority, or, in the case of an officer who is, or is a member of, the authority, to the Minister, to be subject to the rules and regulations of the Commonwealth authority as to rights in lieu of the rights specified in this section, in which event he shall not preserve or retain rights as an officer of the Public Service :

Provided further that, in the case of an officer who, at the commencement of this Act, is employed and does not so elect—

- (f) any such leave or pay in lieu thereof as he has had during his employment, and prior to the commencement of this Act, shall be deemed to have been granted to him as an officer of the Public Service ; and
- (g) he shall, if he is contributing under the rules or regulations of the Commonwealth authority for superannuation purposes, discontinue those contributions, and contribute only as an officer of the Public Service.

(2.) In the case of an officer employed by a Commonwealth authority other than the Commonwealth, the rights declared by this section shall be rights against that authority :

Provided that, if the officer does not elect as provided in the last preceding sub-section, the Commonwealth authority shall be liable to repay to the Commonwealth part of any contributions made by the Commonwealth in respect of superannuation allowance to the officer, such part being calculated according to the proportion which the period of the officer's employment as, or as a member of, or by, the Commonwealth authority bears to the total period of employment of the officer by the Commonwealth and as, or as a member of, or by, the Commonwealth authority.

(3.) Nothing in this section shall affect the superannuation rights of any person who became an officer of the Commonwealth Bank prior to the commencement of this Act, and who immediately prior to his employment by the Commonwealth Bank was an officer of the Public Service of the Commonwealth.

Officer to be
unattached
during
employment.

6.—(1.) An officer who is employed as, or as a member of, or by, a Commonwealth authority at or after the commencement of this Act shall, during his employment, be deemed to be an unattached officer of the Public Service of the Commonwealth.

(2.) Subject to this Act, an unattached officer shall, during the period of his employment, preserve rights in respect of the matters mentioned in paragraphs (a), (b), (c), (d) and (e) of sub-section (1.) of the last preceding section, and the period of his employment shall, for all purposes, be included as part of his period of service as an officer of the Public Service of the Commonwealth.

(3.) Upon the termination of his employment an unattached officer who has not been dismissed for misconduct or who has not attained the maximum age for retirement fixed by the *Commonwealth Public Service Act 1922-1924*, shall be entitled to appointment to an office in the Public Service of such status and salary as are determined by the Public Service Board of Commissioners, having regard to the office in the Public Service previously vacated by the officer and the period of his employment.

7. The Governor-General may make regulations, not inconsistent ^{Regulations.} with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

THE SCHEDULE.

Arbitration (Public Service) Act 1920, s. 6.
Commonwealth Bank Act 1911-1927, ss. 16A, 35Q.
Commonwealth Public Service Act 1922-1924, s. 11.
Development and Migration Act 1926, ss. 11, 15.
Income Tax Assessment Act 1922-1927, s. 42.
Land Tax Assessment Act 1910-1927, ss. 5, 44A.
Northern Australia Act 1926, ss. 13, 14, 39.
Science and Industry Research Act 1920-1926, s. 14A.
Seat of Government (Administration) Act 1924-1926, s. 12.
Superannuation Act 1922-1924, s. 62.