

COMMONWEALTH PUBLIC SERVICE.

No. 35 of 1948.

An Act to provide for the transfer to the Commonwealth Service of certain employees of the Commonwealth, and for other purposes.

[Assented to 26th June, 1948.]

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

1.—(1.) This Act may be cited as the *Commonwealth Public Service Act 1948*. Short title and citation.

(2.) The *Commonwealth Public Service Act 1922-1947** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Commonwealth Public Service Act 1922-1948*.

2. This Act shall come into operation on a date to be fixed by Commencement. Proclamation.

3. Section three of the Principal Act is amended by inserting Parte. after the words "Division 9c—Transfer of Employees of Repatriation Commission and War Service Homes Commissioner" the words "Division 9d—Transfer to the Commonwealth Service of certain Employees of the Commonwealth."

4.—(1.) Section sixty-three of the *Defence Act 1903-1947* is Employment in the service in a civil capacity in the Defence Force. amended—

(a) by omitting paragraph (db) of sub-section (1.);

(b) by omitting sub-section (2.); and

(c) by omitting from sub-section (3.) the words "All appointments in the Department of Defence (other than appointments of persons in a civil capacity in pursuance of this section and such appointments to the Clerical staff of the Central Administration, Pay, and Ordnance Branches, as ought, in the opinion of the Governor-General, to be under the *Commonwealth Public Service Act 1902*)" and inserting in their stead the words "All appointments in the Departments of Defence, the Navy, the Army and Air (other than appointments under the *Commonwealth Public Service Act 1922-1948* and appointments in a civil capacity under section forty-one of the *Naval Defence Act 1910-1934*)".

* Act No. 21, 1922, as amended by No. 46, 1924; No. 41, 1928; No. 19, 1930; No. 21, 1931; No. 72, 1932; No. 39, 1933; Nos. 45 and 46, 1934; No. 72, 1936; No. 41, 1937; No. 72, 1939; No. 88, 1940; No. 5, 1941; No. 19, 1943; Nos. 11, 29 and 43, 1945; No. 16, 1946; and Nos. 1, 35, 62 and 84, 1947.

(2.) The *Defence Act* 1903–1947, as amended by this section, may be cited as the *Defence Act* 1903–1948.

Employment of persons in a civil capacity in connexion with Naval Defence.

5.—(1.) Section forty-one of the *Naval Defence Act* 1910–1934 is amended—

(a) by omitting paragraph (c) of sub-section (1.) and inserting in its stead the following paragraph:—

“(c) authorize the employment of any persons in a civil capacity in connexion with the Naval Forces or in connexion with any services auxiliary to Naval Defence or any works or establishments under this section, not being employment which the Public Service Board, declares by notice published in the *Gazette* to be employment of a civil administrative or civil clerical nature.”; and

(b) by adding at the end thereof the following sub-sections:—

“(3.) Persons employed in a civil capacity in pursuance of this section shall not be subject to the *Commonwealth Public Service Act* 1922–1948, but shall be engaged for such periods and shall be subject to such conditions as are prescribed.

“(4.) The fixing of rates of salary for persons so employed, other than rates fixed by an industrial award, order, determination or agreement, shall be subject to the approval of the Public Service Board.”.

(2.) The *Naval Defence Act* 1910–1934, as amended by this section, may be cited as the *Naval Defence Act* 1910–1948.

6. After Division 9c of Part III. of the Principal Act the following Division is inserted:—

“Division 9d—Transfer to the Commonwealth Service of certain Employees of the Commonwealth.

Definitions.

“81zc. In this Division—

‘employee’ means a person to whom section eighty-one zd of this Act applies;

‘the date of transfer’ means the date on which this Division comes into operation.

Transfer of employees.

“81zd.—(1.) Every person who, immediately before the date of transfer—

(a) was employed under section sixty-three of the *Defence Act* 1903–1947 in a civil capacity for any purpose in connexion with the Defence Force or in any factory established in pursuance of that Act;

(b) was employed under section forty-one of the *Naval Defence Act* 1910–1934 in a civil capacity in connexion with any service auxiliary to Naval Defence or any works or establishments under that section;

(c) was employed under section ten of the *Supply and Development Act 1939-1948*; or

(d) was employed under paragraph (b) of regulation twelve of the National Security (Munitions) Regulations,

shall, by force of this section and subject to, and with such exceptions as are specified in, the following provisions of this section, be transferred to the Commonwealth Service.

“(2.) Nothing in the last preceding sub-section shall cause to be transferred to the Commonwealth Service any employee—

(a) whose employment in a civil capacity is in connexion with any service auxiliary to Naval Defence or any works or establishments under section forty-one of the *Naval Defence Act 1910-1934*, unless his employment or class of employment is declared by the Board by notice published in the *Gazette* to be of a civil administrative or civil clerical nature; or

(b) whose employment is under section ten of the *Supply and Development Act 1939-1948* or paragraph (b) of regulation twelve of the National Security (Munitions) Regulations, unless the Board directs that the employment is of such a nature that it should be performed by an officer or employee subject to the *Commonwealth Public Service Act 1922-1948*.

“(3.) Where the Permanent Head of the Department of Defence, of the Department of the Navy, of the Department of the Army, of the Department of Air or of the Department of Supply and Development certifies to the Board that an office specified in the certificate was, immediately before the date of transfer, a permanent office under the *Defence Act 1903-1947*, the *Naval Defence Act 1910-1934*, the *Air Force Act 1923-1941*, the *Supply and Development Act 1939-1948* or the National Security (Munitions) Regulations, as the case may be, which should, by virtue of the preceding provisions of this section, be transferred to the Commonwealth Service, the office so specified shall, as from that date, become an office in the Commonwealth Service in the Division corresponding to the Division in which it was included in the service in which it was formerly an office, and shall have allotted to it, subject to this Act, the same salary or limits of salary as were allotted to it in that last-mentioned service.

“(4.) Where a certificate under the last preceding sub-section in respect of any office certifies that, immediately before the date of transfer, a person specified in the certificate was the occupant of that office, that person shall, as from that date, become the occupant of that office in the Commonwealth Service and shall, subject to this Act, be entitled to receive salary at the rate applicable to him immediately before that date.

“(5.) A permanent employee to whom sub-section (1.) of this section applies, but to whom sub-section (4.) of this section does not apply, shall, subject to this Act, as from the date of transfer, be an

unattached officer in the Commonwealth Service with the same classification as he had immediately before that date in the service from which he is transferred.

“(6.) Any person transferred by virtue of this section who is on probation at the date of transfer shall be deemed to be on probation under section thirty-seven of this Act for the period of probation unexpired at that date.

“(7.) A temporary employee who is transferred by virtue of sub-section (1.) of this section shall, as from the date of transfer, become a temporary employee in the Commonwealth Service and shall, subject to this Act, be entitled to receive salary or wages at the rate applicable to him immediately before that date.

“(8.) For the purposes of this section, any reference to the occupant of an office shall not include a person temporarily occupying, or temporarily performing the duties of, that office.

Prior service reckoned as service under this Act.

“81ZE. Service of an employee—

- (a) as a permanent officer or temporary employee in the service from which he is transferred during a continuous period immediately preceding the date of transfer; or
- (b) which, under the law applicable to his service immediately before the date of transfer, was deemed to be, or was treated as, permanent or temporary service in the service from which he is transferred,

shall be reckoned for the purposes of this Act, as permanent or temporary service, as the case may be, in the Commonwealth Service.

Accrued recreation and sick leave.

“81ZF. An employee shall preserve his eligibility for the grant of leave of absence for recreation or during illness which had accrued immediately before the date of transfer.

Appointment of ex-employees of Melbourne Harbour Trust, to Commonwealth Service.

“81ZG.—(1.) The Board may appoint to the Commonwealth Service without examination and without probation any temporary employee transferred to the Commonwealth Service by virtue of sub-section (1.) of section eighty-one ZD of this Act, who, at the date of transfer—

- (a) had been continuously employed under the *Naval Defence Act* 1910-1934 from a date not later than the twenty-eighth day of October, One thousand nine hundred and forty-two; and
- (b) was, immediately prior to the last-mentioned date, employed under the *Melbourne Harbour Trust Act* 1928 of the State of Victoria (in this section referred to as ‘the State Act’) on administrative, clerical or associated office duties in or in connexion with the Williamstown Dockyard.

“(2.) The Board shall not make an appointment under this section unless it is satisfied that, if the Williamstown Dockyard continued to be conducted under the State Act, the employee would, subject to good conduct, diligence and efficiency, have been retained

in employment as specified in paragraph (b) of the last preceding sub-section until attaining the age of sixty-five years in the case of a male employee or sixty years in the case of a female employee.

“(3.) The salary on appointment of any person appointed under this section shall be as determined by the Board, but, subject to this Act, shall not be less than the salary to which he was entitled under the *Naval Defence Act 1910-1934* in the position which, in the opinion of the Board, was his normal position under that Act.

“(4.) Where a person appointed under this section has had a prior period of service under the *Melbourne Harbour Trust Act 1928* of the State of Victoria and the total period of service of that person under that State Act, under the *Naval Defence Act 1910-1934* and under this Act is continuous, the prior period of service of that person under that State Act shall be taken into account for the purposes of sections seventy-three, seventy-four and seventy-five of this Act.

“(5.) For the purposes of sub-section (1.) of this section, the Board may, from time to time, request an employee who comes within the class of employees specified in that sub-section to elect, by writing addressed to the Board, within fourteen days after being so requested or within such further period as the Board within those fourteen days allows, to be appointed to the Commonwealth Service under this section and any such request shall include particulars of the classification of, and the remuneration payable in respect of, the proposed appointment.

“(6.) The provisions of any law of the Commonwealth providing for preference in any matter relating to the employment of discharged members of the Forces shall not apply in relation to the appointment of any person under this section.”
