

COMMONWEALTH PUBLIC SERVICE (NO. 2).

No. 75 of 1948.

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

[Assented to 17th December, 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 (No. 2) 1948*. Short title and citation.

(2.) The *Commonwealth Public Service Act 1922-1947**, as amended by the *Commonwealth Public Service Act 1948†*, is in this Act referred to as the Principal Act.

(3.) Section one of the *Commonwealth Public Service Act 1948* is amended by omitting sub-section (3.).

(4.) 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 the day on which it receives the Royal Assent. Commencement.

3. Section three of the Principal Act is amended by inserting Parta. after the words "Division 9D.—Transfer to the Commonwealth Service of certain employees of the Commonwealth." the words "Division 9E.—Transfer to the Commonwealth Service of certain employees of the Commonwealth Council for Scientific and Industrial Research."

* Act No. 21, 1922, as amended by No. 46, 1924; No. 41, 1928; No. 19, 1930; No. 21, 1931; No. 72, 1932; No. 38, 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, 38 and 84, 1947.

† Act No. 35, 1948.

4. After section thirty-three of the Principal Act the following section is inserted :—

Officers transferred from other employment under the Commonwealth.

“ 33A. A person shall not be transferred from employment under the Commonwealth to which this Act does not apply to an office in the Commonwealth Service unless—

- (a) he is a natural-born or naturalized British subject; and
- (b) he makes and subscribes an oath or affirmation in the form in the Fourth Schedule to this Act.”.

5. After Division 9D of Part III. of the Principal Act the following Division is inserted :—

“ *Division 9E.—Transfer to the Commonwealth Service of certain employees of the Commonwealth Council for Scientific and Industrial Research.*

Definitions.

“ 81ZH. In this Division—

- ‘ classified office ’ means a position to which an appointment has been made under section fourteen A of the Act ;
- ‘ employee ’ means a person to whom section eighty-one ZJ of this Act applies ;
- ‘ the Act ’ means the *Science and Industry Research Act 1920-1945* ;
- ‘ the Council ’ means the Commonwealth Council for Scientific and Industrial Research ;
- ‘ the date of transfer ’ in relation to the persons employed in any transferred work, means the date specified in the notice by the Governor-General under section eighty-one ZI of this Act in respect of that transferred work ;
- ‘ transferred work ’ means any work or class of work specified by the Governor-General in a notice by him under section eighty-one ZI of this Act.

Declaration by Governor-General as to certain work.

“ 81ZI. The Governor-General may, from time to time, by notice published in the *Gazette*, declare that any work or class of work specified in the notice which is being performed under the control of the Council is work which should, on and from a date specified in the notice, be performed under the control of such Department of State of the Commonwealth as is specified in the notice and, on and from that date, that work shall accordingly be performed under the control of the Department so specified.

Transfer of employees.

“ 81ZJ.—(1.) A person who—

- (a) was appointed under section fourteen A of the Act ; or
 - (b) was employed under section fourteen B of the Act,
- being a person who was, immediately prior to the date of transfer, engaged on transferred work, shall, by force of this section but subject to this Act—
- (i) be transferred on that date to the Commonwealth Service ; and
 - (ii) be employed in the Department specified in the notice relating to that transferred work.

“(2.) Where the Chairman of the Council certifies to the Board that an office specified in the certificate was, immediately prior to the date of transfer, a classified office in the service of the Council and that the duties of that office consisted of transferred work, the office so specified shall, on that date, become an office in the Commonwealth Service in the Department specified in the notice in respect of that transferred work and shall have allotted to it, subject to this Act, the same salary or limits of salary as were allotted to it in the service of the Council.

“(3.) Where a certificate under the last preceding sub-section in respect of any office certifies that, immediately prior to the date of transfer, a person specified in the certificate was the occupant of that office in the service of the Council, that person shall, on that date and subject to this Act—

- (a) become the occupant of that office in the Commonwealth Service; and
- (b) be entitled to receive salary at the rate applicable to him immediately prior to the date of transfer.

“(4.) A person who—

- (a) was appointed to the service of the Council on probation;
- (b) whose service on probation had not expired at the date of transfer; and
- (c) who is transferred to the Commonwealth Service by virtue of sub-section (1.) of this section,

shall upon such transfer be deemed to be on probation under section thirty-seven of this Act for the period of probation unexpired at the date of transfer.

“(5.) A temporary employee who is transferred to the Commonwealth Service by virtue of sub-section (1.) of this section shall, on 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 prior to that date.

“(6.) 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.

“81zk. 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 prior to the date of transfer; or
- (b) which, under the law applicable to his service immediately prior to the date of transfer, was deemed to be, or was treated as, permanent or temporary service in the service from which he is transferred,

Prior service
reckoned as
service under
this Act.

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.

“81Z1. An employee shall preserve his eligibility for the grant of leave of absence for recreation or during illness which had accrued immediately prior to his transfer to the Commonwealth Service.”

Temporary
employment.

6. Section eighty-two of the Principal Act is amended by adding at the end thereof the following sub-sections :—

“(9.) A person shall not be engaged for employment in a temporary capacity under this Act unless he makes and subscribes an oath or affirmation in the form in the Fourth Schedule to this Act.

“(10.) A person who is employed in a temporary capacity at the date of the commencement of this sub-section, or who is transferred to such employment by virtue of any provision of this Act, shall not be continued in that employment unless, when required by the Board so to do, he makes and subscribes an oath or affirmation in the form in the Fourth Schedule to this Act.”
