

Commonwealth Employees' Furlough

No. 114 of 1967

An Act to amend the *Commonwealth Employees' Furlough Act 1943–1959*.

[Assented to 17 November 1967]

BE it enacted by the Queen'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 Employees' Furlough Act 1967*.

Short title
and citation.

(2.) The *Commonwealth Employees' Furlough Act 1943–1959** 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 Employees' Furlough Act 1943–1967*.

2.—(1.) Subject to the next succeeding sub-section, this Act shall come into operation on the day on which it receives the Royal Assent.

Commence-
ment.

(2.) The amendments made by paragraph (a) of the next succeeding section and by section 5 of this Act shall come into operation on a date to be fixed by Proclamation.

* Act No. 19, 1943; as amended by No. 33, 1944; No. 78, 1951; No. 29, 1953; No. 12, 1958; and No. 10, 1959.

Interpretation.

3. Section 3 of the Principal Act is amended—

(a) by omitting the definition of “ approving authority ” and inserting in its stead the following definition:—

“ ‘ approving authority ’ means—

(a) in relation to a person who is, or was at the time of his ceasing to be a Commonwealth employee whether by reason of death or otherwise, employed in the Department of the Senate—the President of the Senate;

(b) in relation to a person who is, or was at the time of his ceasing to be a Commonwealth employee whether by reason of death or otherwise, employed in the Department of the House of Representatives—the Speaker of the House of Representatives;

(c) in relation to a person who is, or was at the time of his ceasing to be a Commonwealth employee whether by reason of death or otherwise, employed in the Department of the Parliamentary Library, the Department of the Parliamentary Reporting Staff or the Joint House Department—the President and the Speaker; or

(d) in relation to any other person—the Public Service Board;”;

(b) by omitting the definition of “ authority of a State ”;

(c) by omitting the definition of “ salary ”; and

(d) by adding at the end thereof the following sub-section:—

“ (2.) A reference in this Act to any Territory of the Commonwealth or to a Territory of the Commonwealth shall be read as including a reference to the Territory of Nauru.”.

4. After section 3 of the Principal Act the following sections are inserted:—

Meaning of authority of a State.

“ 3A. Subject to the regulations made in accordance with the next succeeding section, a reference in this Act to an authority of a State shall be read as a reference to a public authority, not being a local governing body, constituted under the law of a State for the purpose of discharging, subject to the direction or control of a Minister of State for the State, functions within the province of the Government of the State.

Regulations with respect to previous service with prescribed authorities, institutions and bodies.

“ 3B.—(1.) The regulations may provide that a person, authority, institution or body (including a company), whether incorporated or not, that is referred to in the regulations shall, for the purposes of this Act, be deemed to be, or to have been, an authority of a State.

“(2.) The regulations may provide that previous employment of a Commonwealth employee in the service of a person, authority, institution or body (including a company), whether incorporated or not, that is referred to in the regulations shall be taken into account for the purposes of section six of this Act as if it had been employment in the service of an authority of the Commonwealth.

“(3.) Regulations made in accordance with this section—

- (a) may refer to a specified person, authority, institution or body or to persons, authorities, institutions or bodies included in a specified class of persons, authorities, institutions or bodies;
- (b) may be expressed to have effect in respect only of employment in specified cases or circumstances; and
- (c) may be expressed to have effect in respect only of employment on or after a particular date, before a particular date or during a particular period.

“3C.—(1.) The regulations may provide that allowances of specified kinds are to be included in salary for the purposes of this Act or of a provision of this Act. Regulations with respect to salary.

“(2.) The regulations may prescribe the conditions subject to which, or specify the extent to which, payments in accordance with this Act, or in accordance with a provision of this Act, are to include amounts by way of, or in respect of, an allowance of a kind specified in the regulations referred to in the last preceding sub-section, including conditions having effect after the time at which leave of absence commences.

“(3.) In the case of a Commonwealth employee who receives, or of Commonwealth employees included in a class of employees who receive, salary otherwise than by way of uniform amounts in respect of uniform periods, the regulations may provide that an amount ascertained in the manner provided by the regulations is to be the annual salary, for the purposes of this Act, of the employee or of the employees included in the class of employees.”.

5. After section 4 of the Principal Act the following section is inserted:—

“4A.—(1.) The Public Service Board may, by instrument in writing, delegate to— Delegation by Public Service Board.

- (a) a member of the Board;
- (b) an officer of the Public Service of the Commonwealth; or
- (c) an authority of the Commonwealth, a member of such an authority or a person employed by such an authority,

either generally or to the extent provided in the instrument of delegation, all or any of the powers and functions of the Board under this Act, except this power of delegation.

“(2.) A delegation to an authority of the Commonwealth, to a member of such an authority or to a person employed by such an authority applies only in relation to a person who is employed by that authority or was so employed immediately before the time of his death or of his ceasing to be a Commonwealth employee.

“(3.) A delegation under this section is revocable in writing at will and does not prevent the exercise of a power or function by the Board.”.

Period
of service.

6. Section 6 of the Principal Act is amended—

(a) by adding at the end of paragraph (b) of sub-section (3.) the word “or”;

(b) by omitting paragraphs (d) and (e) of sub-section (3.);

(c) by inserting after sub-section (4.) the following sub-section:—

“(4A.) Where a Commonwealth employee, having ceased, at any time before or after the commencement of this sub-section, to be a Commonwealth employee, resumed or resumes employment as a Commonwealth employee, the continuity of his service shall not be deemed to have been broken if the approving authority is satisfied that—

(a) his ceasing to be a Commonwealth employee was due to ill-health that was not due to misconduct or to causes within his own control; and

(b) his resumption of employment as a Commonwealth employee occurred within twelve months after he became sufficiently restored to health to engage in such employment,

but the period during which he was not a Commonwealth employee shall not be included in his period of service for the purposes of this Act.”;

(d) by omitting sub-paragraphs (ii) and (iii) of paragraph (b) of sub-section (5.) and inserting in their stead the following word and sub-paragraph:—

“or (ii) in respect of any period of specified defence service as defined by sub-section (1.) of section seven of the *Public Service Act 1922–1967* or for any of the purposes specified in section seventy-two of that Act.”; and

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

“(6.) For the purposes of this section, a person shall not be deemed to break, or to have broken, the continuity of his service by reason of his being, or having been, on leave of absence without pay, where the leave of absence is or was granted for a purpose (other than a purpose specified in the last preceding sub-section) that is prescribed.

“(7.) Where leave of absence without pay is or has been granted to a Commonwealth employee for a purpose prescribed for the purposes of the last preceding sub-section, the period during which he is or was absent on that leave does not form part of his period of service for the purposes of this Act unless the person by whom the leave is or was granted, or the approving authority, otherwise determines or otherwise determined, at the time of the grant of that leave or at a subsequent time.”

7. Section 7 of the Principal Act is amended by omitting from sub-section (2.) the words “ the salary for a period of leave not exceeding that which the employee could have been granted under sub-section (1.) of this section ” and inserting in their stead the words “ his salary for a period not exceeding the period, or the sum of the periods, of leave on full salary that could have been granted to the employee under sub-section (1.) of this section if he had not ceased to be an employee ”.

Grant of furlough to temporary employees.

8.—(1.) Section 8 of the Principal Act is amended—

(a) by inserting in paragraph (a) of sub-section (1.), after the word “ years ”, the words “ or, where under the terms or conditions of his employment he may be retired by reason only of his having attained an age less than sixty years, on or subsequent to his attaining that lesser age ”;

Grant of extended leave or pay in lieu to Commonwealth employees not entitled to furlough.

(b) by omitting paragraphs (c) and (d) of sub-section (1.) and inserting in their stead the following paragraphs:—

“(c) where the period of service of the Commonwealth employee is less than ten years—three months; or

“(d) where the period of service of the Commonwealth employee is not less than ten years—a period of three-tenths of one month in respect of each completed year of his period of service.”;

(c) by omitting from sub-section (2.) the words “ equivalent to the salary for a period of leave not exceeding that which the employee could have been granted under that sub-section ” and inserting in their stead the words “ not exceeding his salary for a period equal to the period of leave that could have been granted to the employee under that sub-section ”;

(d) by omitting sub-section (3.) and inserting in its stead the following sub-section:—

“(3.) Where a person ceases to be a Commonwealth employee after a period of service of not less than four years but less than fifteen years and the approving authority is satisfied that his ceasing to be a Commonwealth employee is due to ill-health that

is permanent and is not due to misconduct or to causes within his own control, the approving authority may authorize payment to the person of a sum not exceeding his salary for a period equal to—

- (a) where the period of service of the Commonwealth employee is less than eight years—two months;
 - (b) where the period of service of the Commonwealth employee is not less than eight years but is less than ten years—three months; or
 - (c) where the period of service of the Commonwealth employee is not less than ten years—three-tenths of one month in respect of each completed year of his period of service.”; and
- (e) by omitting sub-section (4.) and inserting in its stead the following sub-sections:—

“ (4.) Where a person—

- (a) ceases to be a Commonwealth employee after a period of service of not less than ten years but less than fifteen years;
- (b) is not eligible for a payment under sub-section (2.) or (3.) of this section; and
- (c) satisfies the approving authority that his ceasing to be a Commonwealth employee is justified by domestic or other pressing necessity,

the approving authority may authorize payment to the person of a sum not exceeding his salary for a period equal to three-tenths of one month in respect of each completed year of his period of service.

“ (5.) Where a Commonwealth employee whose period of service is not less than four years but is less than fifteen years dies, the approving authority may authorize payment to the dependants of the Commonwealth employee of a sum not exceeding the sum that could have been paid to the Commonwealth employee if, on the date on which he died, he had ceased to be a Commonwealth employee due to ill-health that was permanent and was not due to misconduct or to causes within his own control.

“ (6.) The approving authority may, after consideration of all the circumstances, direct that, for the purposes of the last preceding sub-section, the death of a Commonwealth employee be presumed to have occurred on a particular date.”.

(2.) The amendments made by paragraphs (b) and (d) of the last preceding sub-section do not apply in relation to a Commonwealth employee whose period of service was, at the date on which this Act received the Royal Assent, not less than ten years.

9. Section 9A of the Principal Act is repealed.

Reduction of
recreation
leave by reason
of furlough.

10. The amendments of the Principal Act made by sections 6, 7, 8 and 9 of this Act do not apply in relation to a Commonwealth employee who has ceased to be a Commonwealth employee before the date on which this Act receives the Royal Assent and has not again become such an employee on or after that date.

Application.

11.—(1.) Where, before the date on which this Act received the Royal Assent, a period of employment in the service of a person, authority, institution or body has been taken into account as part of the period of service of a Commonwealth employee for the purposes of the granting of leave, or the authorization of a payment, under the *Commonwealth Employees' Furlough Act 1943*, or that Act as amended at any time, and the taking into account of that period of employment would have been in accordance with law if section 3B of the Principal Act as amended by this Act and the regulations that are first made in relation to that section, had been in force at the time when the period of employment was so taken into account, that period of employment shall be deemed to have been lawfully so taken into account.

Validation.

(2.) All regulations under the Principal Act in force, or purporting to be in force, immediately before the date on which this Act received the Royal Assent have, on and from that date, the same force and effect that they would have had if they had been made under the Principal Act as amended by this Act.