

PUBLIC SERVICE AMENDMENT ACT 1978

No. 170 of 1978

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SCHEDULE

FORMAL AMENDMENTS

PUBLIC SERVICE AMENDMENT ACT 1978

No. 170 of 1978

An Act to amend the *Public Service Act* 1922, and for related purposes.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

1. (1) This Act may be cited as the *Public Service Amendment Act* 1978.¹ Short title,
&c.

(2) The *Public Service Act* 1922² is in this Act referred to as the Principal Act.

2. (1) Sections 1, 2, 5, 7 to 11 (inclusive), 14, 15, 18, 25 and 38 shall come into operation on the day on which this Act receives the Royal Assent.¹ Commence-
ment

(2) The remaining provisions of this Act shall come into operation on a date to be fixed by Proclamation.

3. Section 7 of the Principal Act is amended by inserting after the definition of "Chief Officer" the following definition: Interpret-
ation

" 'criminal offence' means—

- (a) an offence against the law of the Commonwealth or of a State or Territory; or
- (b) an offence against a law of, or of a part of, a foreign country, being an offence of a kind which, if committed in, or within the jurisdiction of, a State or Territory, would constitute an offence against the law of the Commonwealth or of that State or Territory;".

4. Section 9 of the Principal Act is amended—

(a) by omitting sub-sections (1) and (2) and substituting the following sub-sections: Officers of
the
Parliament

"(1) Notwithstanding anything contained in this Act—

- (a) all appointments or promotions of officers of the Department of the Senate shall be made by the Governor-General on the recommendation of the President of the Senate;
- (b) all appointments or promotions of officers of the Department of the House of Representatives shall be made by the Governor-General on the recommendation of the Speaker;

- (c) all appointments or promotions of officers of the Department of the Parliamentary Library, the Department of the Parliamentary Reporting Staff or the Joint House Department shall be made by the Governor-General on the joint recommendation of the President and of the Speaker; and
- (d) the President or the Speaker or the President and the Speaker, as the case may be, may from time to time fix the periods of recreation leave which may be granted to officers and employees of the Parliament.

“(2) Subject to this section, unless inconsistent with the context, any action or approval required by this Act or the regulations to be taken or given by the Board may, so far as officers of the Parliament are concerned, be taken or given by the President or the Speaker, or the President and the Speaker, as the case may be, in substitution for the Board, and any action required or authorized by this Act or the regulations to be taken by a Permanent Head or Chief Officer shall or may be taken—

- (a) in relation to officers of the Department of the Senate—by the Clerk of the Senate;
 - (b) in relation to officers of the Department of the House of Representatives—by the Clerk of the House of Representatives;
 - (c) in relation to officers of the Department of the Parliamentary Library—by the Parliamentary Librarian;
 - (d) in relation to officers of the Department of the Parliamentary Reporting Staff—by the Principal Parliamentary Reporter; and
 - (e) in relation to officers of the Joint House Department—by the Secretary to the Joint House Department.”;
- (b) by inserting in sub-section (6) “and employees” after “officers”;
 - (c) by inserting in sub-section (7) “and employees” after “officers” (wherever occurring); and
 - (d) by omitting sub-section (8) and substituting the following sub-section:
 - “(8) In this section—
 - (a) a reference to officers of the Parliament shall be read as a reference to officers of the Department of the Senate, the Department of the House of Representatives, the Department of the Parliamentary Library, the Department of the Parliamentary Reporting Staff or the Joint House Department; and

- (b) a reference to employees of the Parliament shall be read as a reference to employees performing duties in a Department specified in paragraph (a).”

5. (1) Section 16 of the Principal Act is amended—

Delegation
by Board

- (a) by omitting sub-sections (1) and (2) and substituting the following sub-sections:

“(1) The Board may, by instrument in writing signed by all, or a majority of, the members of the Board, either generally or as otherwise provided by the instrument, delegate to the Chairman of the Board, to another member of the Board or to an officer or employee any of its powers and functions under this Act or under any other law, whether passed or made before or after the commencement of this sub-section, other than this power of delegation.

“(1A) A power or function so delegated, when exercised or performed by the delegate, shall, for all purposes, be deemed to have been exercised or performed by the Board.

“(2) A delegation of a power or function under this section—

- (a) does not prevent the exercise of the power or the performance of the function by the Board;
- (b) subject to paragraph (c), continues in force notwithstanding any change in the membership of the Board; and
- (c) may be revoked by instrument in writing signed by all, or a majority of, the members for the time being of the Board.

“(2A) Section 34A of the *Acts Interpretation Act 1901* applies in relation to a delegation under this section as if the Board were a person.”; and

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

“(4) In this section—

- (a) a reference to the Chairman of the Board shall, if another member of the Board is acting as Chairman of the Board, be read as a reference to that member; and
- (b) a reference to a member of the Board shall, if a person is acting as the deputy of such a member, be read as including a reference to that person.”.

(2) An instrument of delegation in force under section 16 of the Principal Act immediately before the commencement of this section shall, after the commencement of this section, have effect as if it were an instrument of delegation under section 16 of the Principal Act as amended by sub-section (1).

- Increments** **6.** (1) Section 31 of the Principal Act is amended by omitting from sub-section (4) “conduct,”.
- (2) The amendment effected by sub-section (1) applies to and in relation to any order that the payment be deferred of an increment of salary to which an officer would, but for that order, have been entitled upon the expiration of a period ending on or after the date of commencement of this section, whether or not that order was made on or after that date.
- Conditions of advancement** **7.** (1) Section 32 of the Principal Act is repealed and the following section substituted:
- “32. (1) Where a scale of rates of salary is applicable to an office, or an office included in a class of offices, the Board may, by instrument in writing published in the *Gazette*—
- (a) determine that an officer occupying that office, or an office included in that class of offices, shall, upon compliance with such conditions as are specified in the instrument, be paid salary at such rate in that scale as is specified or referred to in the instrument; and
- (b) determine that an officer occupying that office, or an office included in that class of offices, shall not be paid salary at a rate in that scale exceeding such rate as is specified or referred to in the instrument unless he has complied with such conditions as are specified in the instrument.
- “(2) A determination under sub-section (1) has effect notwithstanding section 31.”.
- (2) An instrument in force under section 32 of the Principal Act immediately before the commencement of this section shall, after the commencement of this section, have effect as if it had been made under section 32 of the Principal Act as amended by sub-section (1).
- Restriction on number of graduate appointees under section 33** **8.** Section 36 of the Principal Act is repealed.
- Appointments to offices requiring professional, technical or special qualifications** **9.** Section 37 of the Principal Act is amended by omitting sub-section (2).
- Special appointments to Second and Third Divisions** **10.** Section 38 of the Principal Act is amended by omitting sub-section (2).

11. Section 40 of the Principal Act is amended by omitting sub-section (2A).

Appoint-
ments to
offices
requiring
technical or
special
qualifications
&c.

12. Section 47 of the Principal Act is amended—

(a) by omitting from sub-section (1) “Except as otherwise provided by this Act,” and substituting “Subject to sub-section (14) and any other provision of this Act,”;

Appoint-
ments to be
on probation

(b) by omitting sub-section (9) and substituting the following sub-sections:

“(9) The Board shall not—

- (a) confirm the appointment of a probationer;
- (b) except on the ground that it is not satisfied as to his health, annul the appointment of a probationer; or
- (c) direct that a probationer continue on probation,

unless the Board has received—

- (d) if he has performed duties as a probationer in a single Department only—a report from the Chief Officer with respect to his service as a probationer; or
- (e) in any other case—relevant reports covering the whole of the period of his probationary service.

“(9A) For the purposes of paragraph (9) (e)—

- (a) if a probationer performs duties in a Department during a part of the period of his probationary service—a report with respect to the performance of his duties in the Department from a Chief Officer of the Department is a relevant report covering that part of that period;
- (b) if a probationer holds a Commonwealth office during a part of the period of his probationary service—a report with respect to the performance of his duties in the office from the Permanent Head of the Department to which he is, by virtue of holding the office, attached for administrative purposes is a relevant report covering that part of that period;
- (c) if a probationer is employed by a Commonwealth authority during a part of the period of his probationary service—a report with respect to the performance of his duties for the authority from the authority is a relevant report covering that part of that period; and
- (d) if a probationer is engaged in eligible public employment other than eligible Commonwealth employment during a part of the period of his probationary service—a report with respect to the performance of his duties in the

employment from such person as the Board considers appropriate is a relevant report covering that part of that period.

“(9B) Where it is not reasonably practicable for the Board to obtain a relevant report covering a part of the period of probationary service of a probationer, the Board may make such inquiries as it considers reasonable and practicable in the circumstances with respect to the performance of his duties during that part of that period and, if it does so, shall then be deemed to have received a relevant report covering that part of that period.

“(9C) In sub-section (9A), ‘Commonwealth authority’, ‘Commonwealth office’, ‘eligible Commonwealth employment’ and ‘eligible public employment’ have the same respective meanings as they have in Part IV.”;

(c) by inserting in sub-section (13) “performing duties in a Department” after “officer”; and

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

“(14) The Board—

(a) may appoint a person to the Service without probation; or

(b) may, at any time before the expiration of the period of 6 months from the date as from which a person was appointed to the Service (whether the appointment was made before, or is made after, the commencement of this sub-section) determine that this section shall have effect as if the person had been appointed to the Service without probation.

“(15) A reference in this section to the appointment of a person to the Service shall be read as including a reference to the reappointment of a person to the Service under section 47B, 47C, 63F, 63G, 66B, 87M, 87Q or 87R.”.

Reappoint-
ment of
retired
officers

13. Section 47B of the Principal Act is amended—

(a) by omitting sub-section (1) and substituting the following sub-sections:

“(1) Subject to this section, the Board may re-appoint to the Service, under this section, a person who has, whether before or after the commencement of this sub-section, ceased to be an officer.

“(1A) The Board shall not re-appoint a person to the Service under this section—

(a) if the person ceased, or last ceased, to be an officer by reason of his having been dismissed from the Service for misconduct; or

(b) if the person has been engaged in eligible public employment, within the meaning of Part IV, after he ceased, or

last ceased, to be an officer and was dismissed from that employment for misconduct.

“(1B) Sub-section (1A) does not apply in relation to a person in relation to whom that sub-section would, but for this sub-section, apply if—

- (a) his dismissal was by reason of his having been found by a court to have committed a criminal offence within the meaning of Division 6; and
- (b) the finding of the court has been nullified within the meaning of section 63F.

“(1C) For the purposes of sub-section (1A)—

- (a) a person shall be deemed to have been dismissed from the Service for misconduct—
 - (i) if he was dismissed from the Service under section 55 or 62 of the *Public Service Act 1922* as in force at any time before the commencement of this sub-section; or
 - (ii) if he was dismissed from the Service after the commencement of this sub-section under Division 6; and
- (b) a person shall be deemed to have been dismissed from eligible public employment, within the meaning of Part IV, for misconduct if he was dismissed from that employment on grounds similar to the grounds on which an officer may be dismissed from the Service under Division 6 of this Part.”; and
- (b) by omitting sub-sections (3) and (4).

14. Section 47C of the Principal Act is amended—

- (a) by omitting sub-section (3); and
- (b) by inserting in sub-section (5) “of this Act and of any other Act (other than the *Superannuation Act 1976*)” after “purposes”.

Reappointment of persons who have retired from Service to become candidates at elections

15. (1) Section 47E of the Principal Act is amended—

- (a) by omitting sub-sections (1) and (2) and substituting the following sub-sections:

Recognition of prior service

“(1) Where the current period of employment of an officer is continuous with a period during which he was continuously employed, in a full-time capacity, in a qualifying service, or in 2 or more qualifying services in succession, the Board may, at, or at any time after, the commencement of his employment in the Service, determine that the whole or a part of the second-mentioned period is to be reckoned as a period of service in the Service for such purposes as the Board specifies.

“(2) Where an officer to whom this sub-section applies was, during a period (in this sub-section referred to as the ‘relevant period’) that commenced on 16 September 1975, continuously employed, in a full-time capacity, in—

- (a) a service referred to in paragraph (4) (a) or (b); or
- (b) 2 or more of the services referred to in paragraphs (4) (a), (b) and (c) in succession,

the officer shall, for the purposes of sub-section (1), be deemed to have been continuously employed in a qualifying service during the period, or during each of the periods, during which he was, during the relevant period, employed, in a full-time capacity, in a service referred to in paragraph (4) (a) or (b).”;

- (b) by omitting from sub-section (3) “a person who is an officer of the Australian Public Service and” and substituting “an officer who”;
- (c) by omitting from sub-section (5) the definitions of “authority of the Commonwealth or of a State or Territory” and “public employer”; and
- (d) by adding at the end thereof the following sub-sections:

“(6) For the purposes of this section—

- (a) a person shall be deemed to have been employed, in a full-time capacity, in a qualifying service at any time when he was engaged, in a full-time capacity, in—

- (i) employment that, under the *Long Service Leave (Commonwealth Employees) Act 1976*, is, or is to be taken into account as if it were, employment in Government Service; or

- (ii) a service referred to in sub-section 11 (2) of that Act; and

- (b) where a period of employment of an officer, being—

- (i) the current period of employment of the officer; or

- (ii) a continuous period of employment of the officer, in a full-time capacity, in a qualifying service,

commenced after, but not more than 2 months after, the expiration of a previous continuous period of employment of the officer, in a full-time capacity, in a qualifying service, those periods shall be deemed to be continuous with one another.

“(7) For the purposes of paragraph (6) (b), where a person, having ceased to be employed, in a full-time capacity, in a qualifying service, has undertaken a course of full-time training—

- (a) under a scheme established by the Commonwealth for the training of persons who have served in the Defence Force; or

- (b) under a scheme that is a prescribed training scheme for the purposes of paragraph 12 (6) (b) of the *Long Service Leave (Commonwealth Employees) Act 1976*,

before resuming employment, in a full-time capacity, in a qualifying service, the resumption of his employment, in a full-time capacity, in a qualifying service shall be deemed to have occurred not more than 2 months after he ceased to be so employed if the period between his ceasing to be so employed and that resumption, less the period of his course of full-time training under that scheme, does not exceed 2 months.”.

(2) A determination under section 47E of the Principal Act made by the Board before the date of commencement of this section in relation to the employment of a person who is employed as an officer on that date has effect, on and after that date, as if it had been made by the Board under that section as amended by sub-section (1) of this section.

16. (1) Section 50 of the Principal Act is amended by omitting from sub-section (7A) “section 72, is absent on specified defence service” and substituting “section 71, being leave of a kind declared by the regulations to be leave to which this sub-section applies,”.

Transfers,
promotions
and appeals

(2) The reference in sub-section 50 (7A) of the Principal Act as amended by this Act to an officer who is absent on leave granted under section 71, being leave of a kind declared by the regulations to be leave to which that sub-section applies, shall be deemed to include a reference to an officer who is absent on leave granted, before the commencement of this section, in pursuance of section 72 of the Principal Act or in respect of specified defence service.

17. Section 54B of the Principal Act is amended—

- (a) by omitting from sub-section (1) “in the place of the first-mentioned officer during the period of the absence or unavailability” and substituting “in the office while the first-mentioned officer is absent or unavailable to perform those functions and duties”;
- (b) by omitting from sub-sections (4) and (5) “in the place of another officer” and substituting “in an office”; and
- (c) by omitting from sub-section (4) “first-mentioned”.

Acting
appointments
to First
Division

18. Division 5A of Part III of the Principal Act is repealed.

Repeal of
Division 5A
of Part III

19. The heading to Division 6 of Part III of the Principal Act is repealed and the following headings are substituted:

Division and
Subdivision
headings

*“Division 6—Discipline**“Subdivision A—Preliminary”.*

20. Section 55 to 62 (inclusive) of the Principal Act are repealed and the following sections and headings to Subdivisions are substituted:

Interpret-
ation

“55. (1) In this Division, unless the contrary intention appears—

‘Chief Officer’, in relation to a person who—

- (a) has been dismissed from the Service under section 63A or 63D;
- (b) is deemed, under section 66A, to have retired from the Service; or
- (c) is an unattached officer within the meaning of Subdivision D of this Division,

means the officer who, under the regulations, is to be taken to be the Chief Officer in respect of that person;

‘eligible public employment’ has the same meaning as in Part IV;

‘Minister’, in relation to an officer included in the First Division, means—

- (a) in the case of an officer who is the Permanent Head of, or is otherwise performing duties in, a Department—the Minister for the time being administering that Department; and
- (b) in any other case—the Prime Minister;

‘misconduct’, in relation to an officer, means a failure of the officer to fulfil his duty as an officer;

‘original office’ means—

- (a) in the case of a person who has been dismissed from the Service under section 63A or 63D—
 - (i) if the person held an office immediately before his dismissal—that office; or
 - (ii) if the person was an unattached officer performing duty in a Department immediately before his dismissal—an office in that Department the duties of which correspond to the duties he was performing, and the classification of which is the same as the classification applicable to him, immediately before his dismissal;
- (b) in the case of a person who has been dismissed from the Service under section 63N or has, while he was a person to whom Division 3 of Part IV applied, been dismissed from eligible public employment—
 - (i) if, at any time after he last performed duty in the Service, he has, in accordance with section 87G,

become the holder of an office in the Service—the last office of which he so became the holder;

- (ii) if he is not a person to whom sub-paragraph (i) applies but was the holder of an office when he last performed duty in the Service before his dismissal—that office; or
 - (iii) if he is not a person to whom sub-paragraph (i) applies but was an unattached officer performing duty in a Department when he last performed duty in the Service before his dismissal—an office in that Department the duties of which correspond to the duties he was performing, and the classification of which is the same as the classification applicable to him, when he last performed duty in the Service before his dismissal;
- (c) in the case of a person who is deemed, under section 66A, to have retired from the Service—
- (i) if the person held an office immediately before he was deemed so to have retired—that office; or
 - (ii) if the person was an unattached officer performing duty in a Department immediately before he was deemed so to have retired—an office in that Department the duties of which correspond to the duties he was performing, and the classification of which is the same as the classification applicable to him, immediately before he was deemed to have retired; and
- (d) in the case of an officer who has been transferred to another office under section 62, 63, 63A or 63D—the office held by the officer immediately before his transfer;
- ‘salary’ includes such allowances as are prescribed.

“(2) A power conferred by a provision of this Division to re-appoint a person to an office includes a power to re-appoint the person to the Service as an unattached officer to whom there is applicable a salary, or range of salary, equivalent to the salary or range of salary applicable to that office.

“(3) Where the services of an officer have been made available, in accordance with the provisions of an Act, to a body established by or under an Act or Ordinance of a Territory and the officer performs his services for that body by performing the duties of an office in a Department, the officer shall be deemed, for the purposes of this Division, to be performing duty in that Department.

“(4) A reference in this Subdivision or Subdivision B, C or E to an officer shall be read as not including a reference to a person who is an unattached officer for the purposes of Subdivision D.

Meaning of failure to fulfil duty as officer

“56. For the purposes of this Subdivision and Subdivisions B, C and E, an officer shall be taken to have failed to fulfil his duty as an officer if and only if—

- (a) he wilfully disobeys, or wilfully disregards, a direction given by a person having authority to give the direction, being a direction with which it is his duty as an officer to comply;
- (b) he is inefficient or incompetent for reasons or causes within his own control;
- (c) he is negligent or careless in the discharge of his duties;
- (d) he engages in improper conduct as an officer;
- (e) he engages in improper conduct otherwise than as an officer, being conduct that affects adversely the performance of his duties or brings the Service into disrepute;
- (f) he contravenes or fails to comply with—
 - (i) a provision of this Act or of the regulations, being a provision that is applicable to him; or
 - (ii) the terms and conditions upon which he is employed; or
- (g) he has, whether before or after becoming an officer, wilfully supplied to an officer or another person acting on behalf of the Commonwealth incorrect or misleading information in connexion with his appointment to the Service.

“Subdivision B—Officers included in the First Division

Disciplinary action in respect of officers included in First Division

“57. (1) Where the Minister has at any time, whether by reason of an allegation made to him or otherwise, reason to believe that an officer of the First Division may have failed to fulfil his duty as an officer, he may, by notice in writing delivered to the officer, suspend the officer from duty and charge him with the failure.

“(2) Where the Minister suspends an officer from duty under subsection (1) and charges him with having failed to fulfil his duty as an officer, the Minister—

- (a) shall specify in the notice delivered to the officer under that subsection particulars of the matters alleged to constitute the failure; and
- (b) shall forthwith report the suspension and charge to the Board.

“(3) Where an officer has been charged with misconduct under subsection (1), the officer may, within 7 days, or such longer period as the Board allows, after delivery to him of the notice charging him with the misconduct—

- (a) submit to the Board, in writing, that the charge should be dismissed on either or both of the following grounds, that is to say—
 - (i) that some or all of the matters alleged to constitute the misconduct are untrue; or

- (ii) that the matters alleged to constitute the misconduct are, even if true, incapable in law of constituting the misconduct for the purposes of this Act; or
- (b) furnish to the Board a notification in writing admitting the truth of the matters alleged to constitute the misconduct and containing particulars of any matters which the officer wishes the Board to consider under sub-section (7).

“(4) An officer who has been charged with misconduct under sub-section (1) shall not, by reason only of having failed to deny the truth of a matter included among matters alleged to constitute the misconduct, be taken to have admitted the truth of that matter.

“(5) Where an officer does not furnish a notification referred to in paragraph (3) (b) in relation to the misconduct with which he has been charged, a Board of Inquiry shall inquire into the charge and report to the Board whether it finds the charge to be proved and its reasons for its finding.

“(6) For the purposes of sub-section (5), a Board of Inquiry shall consist of a Chairman and 2 other members, all of whom shall be appointed by the Governor-General.

“(7) Where an officer furnishes to the Board a notification of the kind referred to in paragraph (3) (b) or a Board of Inquiry finds a charge of misconduct in respect of the officer to be proved, the Public Service Board shall, after consideration of the notification made by the officer or of the report of the Board of Inquiry, as the case may be, recommend to the Governor-General—

- (a) that he take, in respect of the misconduct of the officer, action by way of—
 - (i) admonishing the officer;
 - (ii) transferring the officer to a specified office in the same or a lower Division (whether at the same or a different locality), being an office for which he is qualified and, if there is a salary range applicable to the office so specified, determining that he be paid a specified salary within that range; or
 - (iii) dismissing the officer from the Service; or
- (b) that he take no action in respect of the misconduct of the officer.

“(8) The Board shall furnish to the Governor-General with a recommendation under sub-section (7) in relation to a charge—

- (a) particulars of its reasons for making the recommendation;
- (b) a copy of any notification furnished to the Board in pursuance of paragraph (3) (b), or of any report furnished to the Board in pursuance of sub-section (5), in relation to the charge; and
- (c) any submission that is furnished to the Board in pursuance of sub-section (9) in relation to the recommendation.

“(9) Before furnishing a recommendation to the Governor-General under sub-section (7) with respect to an officer, the Board shall inform the officer of the recommendation it proposes to furnish and afford the officer an opportunity to furnish to it any submission that the officer wishes the Governor-General to consider in relation to the recommendation.

“(10) Where a recommendation under sub-section (7) has been furnished to the Governor-General, the Governor-General may, after consideration of the recommendation and of any documents furnished with it in pursuance of sub-section (8)—

- (a) take, in respect of the misconduct of the officer, action of a kind specified in paragraph (7) (a), whether or not the Board recommended that he take action of that kind; or
- (b) decide not to take any action in respect of the misconduct of the officer, whether or not the Public Service Board so recommended.

“(11) Where the Governor-General decides not to give effect to a recommendation furnished to him under sub-section (7) in relation to the misconduct of an officer, a copy of a statement setting out his reasons for not giving effect to the recommendation shall be laid before each House of the Parliament within 14 sitting days of that House after he so decides.

Conviction
by courts of
First
Division
officers

“58. (1) Where—

- (a) a court has, within the period of 6 months immediately preceding, or succeeding, the commencement of this section, convicted an officer included in the First Division of a criminal offence or found, without recording a conviction, that such an officer has committed such an offence; and
- (b) the Board, after giving the officer an opportunity to furnish to it, in writing, any statement that he desires to furnish in relation to the offence, is of the opinion that, having regard to the nature and seriousness of the offence, the circumstances in which it was committed and the nature of the duties of the officer, it is justified in doing so in the interests of the Service,

the Board may recommend to the Governor-General that he take, in respect of the officer, action by way of—

- (c) transferring the officer to a specified office in the same or a lower Division (whether at the same or a different locality), being an office for which the officer is qualified, and, if there is a salary range applicable to the office so specified, determining that he be paid a specified salary within that range; or
- (d) dismissing the officer from the Service.

“(2) The Board shall furnish to the Governor-General with a recommendation under sub-section (1) in relation to a criminal offence—

- (a) particulars of its reasons for making the recommendation;
- (b) a copy of any statement furnished to the Board in pursuance of paragraph (1) (b) in relation to the offence; and
- (c) any submission furnished to the Board in pursuance of sub-section (3) in relation to the recommendation.

“(3) Before furnishing a recommendation to the Governor-General under sub-section (1) with respect to an officer, the Board shall inform the officer of the recommendation it proposes to furnish and afford the officer an opportunity to furnish to it any submission that the officer wishes the Governor-General to consider in relation to the recommendation.

“(4) Where a recommendation has been furnished to the Governor-General under sub-section (1), the Governor-General may, after consideration of the recommendation and of any documents furnished with it in pursuance of sub-section (2)—

- (a) take action of a kind specified in paragraph (1) (c) or (d) in respect of the officer, whether or not the Board recommended that he take action of that kind; or
- (b) decide not to take any action in respect of the officer.

“(5) Where the Governor-General does not give effect to a recommendation furnished to him under sub-section (1), a copy of a statement setting out his reasons for not giving effect to the recommendation shall be laid before each House of the Parliament within 14 sitting days of that House after he so decides.

“(6) The fact that action is, or is not, taken against an officer under this section in respect of a criminal offence shall not be taken to preclude the Board or another body, or a Permanent Head or another person, from having regard to the conviction or finding, to the nature and seriousness of the offence and to the circumstances in which the offence was committed in the course of exercising a power or performing a function conferred on it or him by this Act or by the regulations if those matters are relevant to the manner in which the power should be exercised or the function should be performed.

“(7) Nothing in sub-section (6) shall be taken to authorize the charging of an officer under section 57, and the taking of action in respect of the officer under this section, in relation to the same matter.

“59. (1) Where an officer included in the First Division has been charged with having committed a criminal offence and the Minister is of the opinion that it would be prejudicial to the effective operation of the Service, to the interests of the public or to the interests of the officer or his fellow officers if the officer were to continue to perform the duties of his existing office pending the hearing and determination of the charge, the Minister may, by notice in writing delivered to the officer—

Suspension
of First
Division
officers

- (a) direct the officer to perform temporarily other duties that he is qualified to perform (whether at the same or at a different locality); or
- (b) suspend the officer from duty.

“(2) Except as provided by sub-section (3), an officer who has been suspended from duty under section 57 or under this section is not entitled to be paid salary in respect of the period during which he is so suspended.

“(3) Where an officer is suspended from duty under section 57 or under this section—

- (a) the Board may, at any time, whether upon application by the officer or otherwise, if it is satisfied that the officer is suffering or has suffered hardship, direct that the officer be paid salary during the whole, or a specified part, of the period of the officer's suspension; and
- (b) the Board shall, if the suspension continues for more than 30 days, forthwith after the suspension has continued for more than 30 days, consider whether a direction should be given under paragraph (a).

Removal
and
variation of
suspension
relating to
First
Division
officers

“60. (1) Where an officer has been suspended from duty under section 57 or 59, the suspension may be removed in accordance with this section, but, subject to paragraph 63R (1) (e), shall not otherwise be removed, revoked or rescinded.

“(2) Where an officer is suspended from duty under section 59—

- (a) the Minister may, at any time, whether upon application by the officer or otherwise, remove the suspension; and
- (b) the Minister shall, if the suspension continues for more than 30 days, forthwith after the suspension has continued for more than 30 days, consider whether the suspension should be removed.

“(3) Where—

- (a) an officer has been suspended under section 57; and
- (b) the charge, or each charge, in connexion with which he has been so suspended—
 - (i) is found by the Board of Inquiry established to inquire into it not to have been proved; or
 - (ii) is withdrawn,

the Minister shall remove the suspension.

“(4) Where—

- (a) an officer has, by reason of his having been charged with a criminal offence, or with 2 or more criminal offences, been directed to perform temporarily other duties, or has been suspended from duty, under section 59; and

- (b) a condition specified in sub-section (5) is fulfilled in respect of the charge, or of each of the charges, as the case may be,

the Minister shall, if the direction has not previously been revoked or the suspension has not previously been removed, revoke the direction or remove the suspension, as the case requires.

“(5) For the purposes of paragraph (4) (b), the conditions are—

- (a) the condition that, upon the hearing of the charge, the officer neither pleads guilty to the charge nor is found guilty of the criminal offence with which he is charged or of any other criminal offence established by the evidence given upon the hearing of the charge; and
- (b) the condition that the charge is not proceeded with.

“(6) Where the suspension of an officer who had, after having been suspended under section 59, sought and been granted leave of absence for a part of the period of suspension, is required to be removed under sub-section (4) or would have been required to be so removed if it had not previously been removed, the officer is entitled to a credit of a period of leave of absence equal to that part of the period of suspension.

“(7) Where an officer who has been suspended from duty under section 57 or 59 is dismissed from the Service, the period during which the officer is suspended from duty does not count as service for any purposes.

“(8) Where an officer retires from the Service or dies while he is suspended from duty under section 57 or 59, the Board shall determine whether the whole, or any part, of the officer’s period of suspension is to form part of the officer’s period of service for any purpose under this Act or any other Act, and, if so, the purposes for which it is to form part of his period of service.

“(9) Where an officer is under suspension from duty in respect of misconduct or a criminal offence immediately before the Governor-General takes action, or decides not to take action, with respect to the misconduct or offence, the suspension ceases upon the Governor-General taking that action or deciding not to take any action.

“(10) The revocation of a direction under sub-section 59 (1) that an officer perform other duties, or the removal of the suspension under that sub-section of an officer from duty, in circumstances (other than circumstances where the direction is required to be revoked or the suspension is required to be removed) does not prevent the officer from being directed to perform other duties, or being suspended from duty, in accordance with that sub-section, as if the previous direction or suspension had not taken place.

“Subdivision C—Officers included in the Second, Third or Fourth Division

Disciplinary
action in
respect of
officers
included in
Second,
Third or
Fourth
Division

“61. (1) If a supervisor of an officer included in the Second, Third or Fourth Division has reason to believe that the officer may, at any time, have failed to fulfil his duty as an officer, the supervisor may require the officer to furnish to the supervisor, in writing, an explanation of the matters alleged to constitute the failure and may, after consideration of any explanation furnished by the officer, if he is of the opinion that the officer has failed to fulfil his duty as an officer—

- (a) counsel the officer; or
- (b) furnish a report concerning those matters, together with any explanation furnished to him, to an officer authorized for the purposes of sub-section (2).

“(2) Where an officer authorized by the Chief Officer for the purposes of this sub-section is of the opinion, whether by reason of his consideration of a report furnished under sub-section (1) or otherwise, that an officer included in the Second, Third or Fourth Division may have failed to fulfil his duty as an officer, the authorized officer shall, as soon as practicable, decide whether he should be charged and—

- (a) if he decides that the officer should not be charged—may counsel the officer or cause a supervisor of the officer to counsel the officer; or
- (b) if he decides that the officer should be charged—shall, by writing under his hand delivered to the officer, charge the officer with the failure.

“(3) An officer charged under sub-section (2) may request the Chief Officer to furnish copies of the charge to either or both of the following, that is to say—

- (a) to an organization specified by the officer, being an organization within the meaning of the *Conciliation and Arbitration Act* 1904; or
- (b) to a person specified by the officer, being a person whom the officer wishes to assist him in relation to the charge,

and, if the officer makes such a request, the Chief Officer shall comply with the request.

Inquiries into
misconduct
in relation to
officers
included in
Second,
Third or
Fourth
Division

“62. (1) Where an officer is charged with misconduct under section 61, an inquiry shall, without undue delay, be held into the charge—

- (a) subject to paragraph (b), by the Chief Officer; or
- (b) if the Chief Officer is, under sub-section (2), ineligible to hold an inquiry into the charge—by another officer eligible to hold the inquiry who is authorized for the purpose by the Permanent Head.

“(2) An inquiry into a charge shall not be held—

- (a) by an officer who has furnished a report in respect of any of the matters alleged to constitute the misconduct to which the charge relates; or
- (b) by the officer who laid the charge.

“(3) In an inquiry for the purposes of sub-section (1), a formal hearing is not required, but the officer shall be notified that an inquiry is to be held into the alleged misconduct and given an opportunity to state, in writing, within 7 days or such longer period as the officer holding the inquiry may allow after the notice is furnished to him, whether he admits or denies the truth of the matters alleged to constitute the misconduct and to furnish a statement in relation to those matters, including a statement submitting that the matters alleged to constitute the misconduct are, even if true, incapable in law of constituting the misconduct for the purposes of this Act.

“(4) Where an officer has furnished a statement in relation to the matters alleged to constitute misconduct, the officer shall, if he so requests, be given the opportunity of making a further oral statement to the officer holding the inquiry and, if he does so, a written record of his further statement shall be made by that officer.

“(5) An officer who has been charged with misconduct under section 61 shall not, by reason only of having failed to deny the truth of a matter included among matters alleged to constitute the misconduct, be taken to have admitted the truth of that matter.

“(6) Where the officer holding an inquiry into a charge is satisfied that the officer charged has failed to fulfil his duty as an officer, he may counsel the officer, or cause the officer to be counselled by another officer, or, if he is of the opinion that other action is necessary—

- (a) may direct that there be taken, in respect of the officer, action by way of—
 - (i) admonishing the officer;
 - (ii) causing a sum not exceeding \$40 to be deducted from the salary of the officer;
 - (iii) if the officer occupies an office to which a range of salary is applicable and the salary payable to him is not the minimum salary in that range—reducing the salary of the officer to a specified salary and then, upon the expiration of a specified period, being a period of 12 months or less, increasing the salary of the officer to the salary that would have been payable to him if his salary had not been so reduced, or to a lesser salary specified in the direction;
 - (iv) transferring the officer to a specified office in the same Division (whether at the same or a different locality), being an office for which he is qualified and which has

the same classification as the classification of the office held by him;

- (v) transferring the officer to a specified office in the same Division (whether at the same or a different locality), being an office for which he is qualified and which has the same classification as the classification held by him and causing a sum, not exceeding \$40, to be deducted from his salary;
 - (vi) if the officer occupies an office to which a range of salary is applicable and the salary payable to him is not the minimum salary of that range—transferring the officer to a specified office in the same Division (whether at the same or a different locality), being an office for which he is qualified and which has the same classification as the classification of the office held by him, reducing the salary of the officer to a specified salary and then, upon the expiration of a specified period, being a period of 12 months or less, increasing the salary of the officer to the salary that would have been payable to him if his salary had not been so reduced, or to a lesser salary specified in the direction; and
 - (vii) transferring the officer to a specified office in the same or a lower Division (whether at the same or a different locality), being an office for which he is qualified and which has a lower classification than the classification of the office held by him, and, if there is a salary range applicable to the officer so specified, determining that he be paid a specified salary within that range; or
- (b) may recommend to the Board, in writing, that action be taken to dismiss the officer from the Service.

“(7) The officer holding the inquiry into a charge shall not direct that there be taken action of a kind specified in sub-paragraph (6) (a) (vii), being action by way of transferring an officer included in the Third Division to an office in the Fourth Division if the office in the Fourth Division has the same designation and classification as the designation and classification of an office in the Third Division.

“(8) Where the officer holding the inquiry into a charge makes the recommendation referred to in paragraph (6) (b) in respect of the officer charged, he shall furnish to the Board, with his recommendation, a copy of any statement furnished to him in pursuance of sub-section (3).

“(9) Where the officer holding an inquiry into a charge gives a direction of a kind referred to in paragraph (6) (a), or makes a recommendation to the Board of the kind referred to in paragraph (6) (b), in respect of the officer charged, he shall—

- (a) in a case where he gives such a direction—furnish to the officer particulars of his reasons for giving that direction; and
- (b) in a case where he makes such a recommendation—furnish to the officer and to the Board particulars of his reasons for making that recommendation.

“(10) A direction under this section in respect of an officer takes effect—

- (a) if the officer appeals against the direction—upon the lapsing or withdrawal of the appeal or upon a Disciplinary Appeal Board confirming the direction; or
- (b) in any other case—upon the expiration of the period within which the officer may appeal to a Disciplinary Appeal Board against the direction,

but not otherwise.

“63. (1) Where—

- (a) a court has, within the period of 6 months immediately preceding, or succeeding, the commencement of this section, convicted an officer included in the Second, Third or Fourth Division of a criminal offence or found, without recording a conviction, that such an officer has committed such an offence; and
- (b) the Chief Officer, after giving the officer an opportunity to furnish to him, in writing, any statement that he desires to furnish in relation to the offence, is of the opinion that, having regard to the nature and seriousness of the offence, the circumstances in which it was committed and the nature of the duties of the officer, he is justified in so doing in the interests of the Service,

Conviction
by courts of
officers
included in
Second,
Third or
Fourth
Division

the Chief Officer may counsel the officer or may—

- (c) direct that there be taken, in respect of the officer, action by way of—
 - (i) transferring the officer to a specified office in the same Division (whether or not at the same or a different locality), being an office for which he is qualified and which has the same classification as the classification of the office held by him; or
 - (ii) transferring the officer to a specified office in the same or a lower Division (whether or not at the same or a different locality), being an office for which he is qualified and which has a lower classification than the classification of the office held by him and, if there is a salary range applicable to the office so specified, determining that he be paid a specified salary within that range; or
- (d) recommend to the Board, in writing, that action be taken to dismiss the officer from the Service.

“(2) The Chief Officer shall not direct that there shall be taken action of a kind specified in sub-paragraph (1) (c) (ii), being action by way of transferring an officer included in the Third Division to an office in the Fourth Division, if the office in the Fourth Division has the same designation and classification as the designation and classification of an office in the Third Division.

“(3) Where a Chief Officer makes the recommendation referred to in paragraph (1) (d) in respect of an officer, he shall furnish to the Board, with his recommendation, a copy of any statement furnished to him by the officer in pursuance of paragraph (1) (b).

“(4) Where the Chief Officer gives a direction of a kind referred to in paragraph (1) (c), or makes a recommendation to the Board of the kind referred to in paragraph (1) (d), in respect of an officer, he shall—

- (a) in a case where he gives such a direction—furnish to the officer particulars of his reasons for giving that direction; and
- (b) in a case where he makes such a recommendation—furnish to the officer and to the Board particulars of his reasons for making that recommendation.

“(5) A direction under this section in respect of an officer takes effect—

- (a) if the officer appeals against the direction—upon the lapsing or withdrawal of the appeal or upon a Disciplinary Appeal Board confirming the direction; or
- (b) in any other case—upon the expiration of the period within which the officer may appeal to a Disciplinary Appeal Board against the direction,

but not otherwise.

“(6) The fact that an officer is, or is not, counselled, or that other action is, or is not, taken against an officer, under this section, in respect of a criminal offence shall not be taken to preclude the Board or another body, or a Permanent Head or another person, from having regard to the conviction or finding, to the nature and seriousness of the offence and to the circumstances in which the offence was committed in the course of exercising a power or performing a function conferred on it or him by this Act or by the regulations if those matters are relevant to the manner in which the power should be exercised or function should be performed.

“(7) Nothing in sub-section (6) shall be taken to authorize the charging of an officer under section 61, and the taking of action in respect of the officer under this section, in relation to the same matter.

Recommendation for dismissal

“63A. Where a recommendation that an officer be dismissed from the Service has been made to the Board under paragraph 62 (6) (b) or 63 (1) (d) and—

- (a) if the officer has appealed against the recommendation—the appeal has lapsed or been withdrawn or a Disciplinary Appeal Board has confirmed the recommendation; or
- (b) in any other case—the period within which the officer may appeal to a Disciplinary Appeal Board against the recommendation has expired,

the Board, after consideration of the reasons for making the recommendation, and of any statement of the officer furnished to it under sub-section 62 (8) or 63 (3), as the case requires, and, if the recommendation has been confirmed by a Disciplinary Appeal Board, of the reasons given by the Disciplinary Appeal Board for its decision, may cause the officer to be counselled or, if it considers that other action is necessary, may—

- (c) in a case where the recommendation was made under paragraph 62 (6) (b)—
 - (i) take action in respect of the officer of a kind specified in paragraph 62 (6) (a); or
 - (ii) dismiss the officer from the Service; or
- (d) in a case where the recommendation was made under paragraph 63 (1) (d)—
 - (i) take action of a kind specified in paragraph 63 (1) (c); or
 - (ii) dismiss the officer from the Service.

“63B. (1) Where—

- (a) an officer included in the Second, Third or Fourth Division has been charged with having committed a criminal offence; or
- (b) an officer authorized for the purposes of sub-section 61 (2) has informed the Chief Officer that he is of the opinion that an officer included in the Second, Third or Fourth Division may have failed to fulfil his duty as an officer,

Suspension
of officers
included in
Second,
Third or
Fourth
Division

and the Chief Officer is of the opinion that it would be prejudicial to the effective operation of the Service, to the interests of the public or to the interests of the officer or his fellow officers if the officer were to continue to perform the duties of his existing office pending the hearing and determination of the criminal charge, the taking of a decision not to charge the officer with misconduct or the hearing and determination of any charge of misconduct laid against the officer, as the case may be, the Chief Officer may, by notice in writing delivered to the officer—

- (c) direct the officer to perform temporarily other duties that he is qualified to perform (whether at the same or a different locality); or
- (d) suspend the officer from duty.

“(2) Except as provided by sub-section (3), (4) or (5) or by section 63C, an officer who is suspended from duty under this section is not entitled to be paid salary in respect of the period during which he is so suspended.

“(3) Where an officer is, by reason of circumstances referred to in paragraph (1) (b), suspended from duty under this section before a decision is made whether or not he is to be charged with misconduct, he shall be suspended with salary—

- (a) in a case where an officer authorized for the purpose of sub-section 62 (2) decides that he should not be so charged—until that decision is made; or
- (b) in any other case—until he is charged.

“(4) Where an officer is suspended from duty under this section at a time when he is absent on leave of absence, the suspension does not prevent his receiving any salary to which he is entitled in respect of that period of leave of absence.

“(5) The suspension of an officer from duty under this section does not prevent the granting to the officer of leave of absence with salary.

“(6) An officer who is suspended from duty under this section is entitled to engage in employment outside the Service during any period of suspension from duty other than a period during which the officer is receiving salary.

“63C. (1) Where an officer has been suspended from duty under section 63B, the suspension may be removed in accordance with this section, but, subject to paragraph 63R (1) (e), shall not otherwise be removed, revoked or rescinded.

“(2) Where an officer is suspended from duty under section 63B—

- (a) the Chief Officer may, at any time, whether upon application by the officer or otherwise, remove the suspension or, if he is satisfied that the officer is suffering, or has suffered, hardship, direct that the officer be paid salary during the whole, or a specified part, of the period of the officer’s suspension; and
- (b) the Chief Officer shall, if the suspension continues for more than 30 days, forthwith after the suspension has continued for more than 30 days, consider whether the suspension should be removed, or a direction should be given, under paragraph (a).

“(3) Where, after an officer has been directed to perform temporarily other duties, or has been suspended from duty, in circumstances referred to in paragraph 63B (1) (b)—

- (a) the officer is charged with a failure, or with 2 or more failures, to fulfil his duties as an officer and the charge or each charge is found not to have been proved by the officer holding the inquiry or by a Disciplinary Appeal Board or is withdrawn; or

Removal
and
variation of
suspension
relating to
officers
included in
Second,
Third or
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- (b) an officer authorized for the purposes of sub-section 61 (2) decides that the officer should not be charged with any such failure,

the Chief Officer shall, if the direction has not previously been revoked or the suspension has not previously been removed, revoke the direction or remove the suspension, as the case requires.

“(4) Where—

- (a) an officer has, by reason of his having been charged with a criminal offence or with 2 or more criminal offences, been directed to perform temporarily other duties, or been suspended from duty, under section 63B; and
- (b) a condition specified in sub-section (5) is fulfilled in respect of the charge, or of each of the charges, as the case may be,

the Chief Officer shall, if the direction has not previously been revoked or the suspension has not previously been removed, revoke the direction or remove the suspension, as the case requires.

“(5) For the purposes of paragraph (4) (b), the conditions in respect of a charge are—

- (a) the condition that, upon the hearing of the charge, the officer neither pleads guilty to the charge nor is found guilty of the criminal offence with which he is charged or of any other criminal offence established by the evidence given upon the hearing of the charge; and
- (b) the condition that the charge is not proceeded with.

“(6) Where—

- (a) an officer has been suspended from duty under section 63B;
- (b) the amount of salary that would otherwise have been paid to the officer in respect of the whole, or a part, of the period of the suspension was not payable to him; and
- (c) the suspension is required to be removed under sub-section (3) or (4) or would have been required to be so removed had it not previously been removed,

the Chief Officer shall, subject to sub-section (7), authorize payment to him of an amount equal to the amount of salary referred to in paragraph (b).

“(7) Where the Chief Officer is satisfied that an officer to whom sub-section (6) applies has engaged in employment outside the Service during the whole, or a part, of the period of his suspension, the amount payable to him under that sub-section shall be reduced by an amount equal to the total of the amounts of the earnings that the Chief Officer is satisfied were received or are receivable by him in respect of that employment or work.

“(8) A Chief Officer may request an officer to whom sub-section (6) applies to furnish to him, in writing—

- (a) particulars of any employment outside the Service in which the officer has engaged during the whole, or a part, of the period of his suspension; and
- (b) particulars of the total amounts of the earnings that were received or are receivable by the officer in respect of that employment,

and may defer authorizing payment to the officer under sub-section (6) until these particulars have been furnished to him.

“(9) Where the suspension of an officer who had, after being suspended under section 63B, sought, and been granted, leave of absence for a part of the period of suspension, is required to be removed under sub-section (3) or (4) or would have been required to be so removed had it not previously been removed, the officer is entitled to a credit of a period of leave of absence equal to that part of the period of suspension.

“(10) Where an officer who has been suspended from duty under section 63B is dismissed from the Service, the period during which the officer is suspended from duty does not count as service for any purpose.

“(11) Where an officer retires from the Service or dies while he is, under section 63B, suspended from duty, the Board shall determine whether the whole, or any part, of the officer’s period of suspension is to form part of the officer’s period of service for any purpose under this Act or any other Act, and, if so, the purposes for which it is to form part of his period of service.

“(12) Where an officer retires from the Service or dies while he is, under section 63B, suspended from duty without salary, the Board may, in its discretion, authorize payment to the officer, or to the estate of the deceased officer, of an amount equal to the amount of salary that would otherwise have been paid to the officer in respect of the period of his suspension without salary less the total of the amounts (if any) of the earnings that the Board is satisfied the officer received or was entitled to receive in respect of any employment or work engaged in by him while so suspended.

“(13) Where an officer is performing temporarily other duties in accordance with a direction under section 63B, or is under suspension from duty under that section, in connexion with any misconduct or offence, immediately before—

- (a) a direction in respect of the officer in relation to that misconduct or offence takes effect under section 62 or 63;
 - (b) the Public Service Board takes action under section 63A or 63D in respect of an officer in relation to that misconduct or offence;
- or

- (c) a Disciplinary Appeal Board sets aside a direction given, or a recommendation made, under sub-section 62 (6) in relation to the misconduct or under sub-section 63 (1) in relation to the offence,

the direction that the officer perform temporarily those other duties shall be deemed to have been revoked or the suspension of the officer from duty shall be deemed to have been removed, as the case requires, upon the direction referred to in paragraph (a) taking effect, the taking of the action referred to in paragraph (b) or the setting aside of the direction or recommendation referred to in paragraph (c), as the case may be.

“(14) The revocation of a direction under sub-section 63B (1) that an officer perform other duties, or the removal of the suspension under that sub-section of an officer from duty, in circumstances other than circumstances where the direction is required to be revoked or the suspension is required to be removed, does not prevent the officer from being directed to perform other duties, or suspended from duty, in accordance with that sub-section, as if the previous direction or suspension had not taken place.

“63D. (1) A reference in this section to a decision in respect of an Appeals officer shall be read as a reference to—

- (a) a direction given in respect of the officer under paragraph 62 (6) (a) or 63 (1) (c); or
- (b) a recommendation made in respect of the officer under paragraph 62 (6) (b) or 63 (1) (d).

“(2) An officer may appeal to a Disciplinary Appeal Board against a decision made in respect of him—

- (a) if the decision relates to a charge of misconduct—on either or both of the following grounds:—
 - (i) that the charge should have been dismissed; or
 - (ii) that the action directed or recommended to be taken in relation to the charge is unduly severe; or
- (b) in any other case—on the ground that the action directed or recommended to be taken in respect of him is unduly severe.

“(3) A Disciplinary Appeal Board shall hear each appeal submitted to it under sub-section (2) and may confirm, vary or set aside the decision against which the appeal is made.

“(4) Where a decision in respect of an officer is varied by a Disciplinary Appeal Board in such a manner as to direct the taking of action of a kind referred to in paragraph 62 (6) (a) or 63 (1) (c), the direction takes effect in respect of the officer immediately it has been given.

“(5) Where a decision in respect of an officer is varied by a Disciplinary Appeal Board in such a manner as to recommend that action be

taken to dismiss the officer from the Service, the Board may, after consideration of the reasons given by the Disciplinary Appeal Board for so varying that decision, take action, in respect of the officer—

- (a) if that decision was made under section 62—of a kind specified in paragraph 62 (6) (a) or (b); or
- (b) if the decision was made under section 63—of a kind specified in paragraph 63 (1) (c) or (d).

“(6) Where an officer appeals to a Disciplinary Appeal Board under sub-section (2) against a decision on the ground that the action directed or recommended to be taken in respect of him is unduly severe, the Board shall take into consideration any evidence given on the hearing of the appeal—

- (a) of matters relating to the previous employment history and general character of the appellant;
- (b) if the officer was, under section 63B, suspended without salary in respect of the misconduct or offence to which the decision relates—of any loss of earnings arising from that suspension; and
- (c) if the officer is to be transferred to another office—of the expenses that will be incurred by the officer in connexion with that transfer.

“(7) A Disciplinary Appeal Board shall give reasons, in writing, for its decision on an appeal under this section.

Disciplinary
Appeal
Boards

“63E. (1) The Public Service Board shall, from time to time, arrange for the establishment, in accordance with sub-sections (2) and (3), of such Disciplinary Appeal Boards as are required for the purposes of this Act.

“(2) Subject to sub-section (3), a Disciplinary Appeal Board established for the purposes of an appeal under section 63D, 63F, 63P or 66B or of a request under section 63G, shall be constituted by—

- (a) a Chairman, who shall be a person appointed by the Public Service Board to be a Chairman of a Disciplinary Appeal Board;
- (b) an officer nominated by the Chief Officer of the person who appealed or made the request; and
- (c) a person nominated as provided by the regulations to represent officers.

“(3) Where—

- (a) an officer of the Department of the Senate, of the Department of the House of Representatives, of the Department of the Parliamentary Library, of the Department of the Parliamentary Reporting Staff or of the Joint House Department, or a person who was such an officer immediately before he was dismissed from the Service, appeals under section 63D or 63F or makes a request under section 63G;

- (b) a person who is an unattached officer within the meaning of Subdivision D and who was an officer of a Department referred to in paragraph (a) before he became such an unattached officer appeals under section 63P;
- (c) a person who was, before he was dismissed from the Service, an unattached officer within the meaning of Subdivision D and was an officer of a Department referred to in paragraph (a) before he became such an unattached officer appeals under section 63F or makes a request under section 63G; or
- (d) a person who was an officer of a Department referred to in paragraph (a) of this section immediately before he was deemed to have retired from the Service under section 66A appeals under section 66B,

a Disciplinary Appeal Board established for the purposes of the appeal or request shall be constituted by—

- (e) a Chairman, who shall be a person appointed—
 - (i) in the case of an appeal or request by a person who is or was an officer of the Department of the Senate—by the President of the Senate;
 - (ii) in the case of an appeal or request by a person who is or was an officer of the Department of the House of Representatives—by the Speaker of the House of Representatives; or
 - (iii) in any other case—by both the President of the Senate and the Speaker of the House of Representatives;
- (f) an officer nominated by the Chief Officer of the person who appealed or made the request; and
- (g) a person nominated as provided by the regulations to represent officers.

“(4) A person shall not be appointed as the Chairman of a Disciplinary Appeal Board unless he is or has been a Magistrate or is enrolled as a legal practitioner of the High Court, of another federal court or of the Supreme Court of a State or Territory and has been so enrolled for not less than 5 years.

“(5) A Chairman of a Disciplinary Appeal Board shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

“(6) A member of a Disciplinary Appeal Board shall be paid such allowances as are prescribed.

“(7) Sub-sections (5) and (6) have effect subject to the *Remuneration Tribunals Act 1973*.

“(8) Subject to sub-sections (5) and (6)—

- (a) a Chairman of a Disciplinary Appeal Board appointed under sub-section (2) holds office for such period, and upon such terms and conditions, as the Public Service Board determines; and
- (b) a Chairman of a Disciplinary Appeal Board appointed under sub-section (3) holds office for such period as is, and upon such terms and conditions as are, determined by the President of the Senate, the Speaker of the House of Representatives or by both the President and the Speaker, as the case may be.

“(9) The officer referred to in paragraph (2) (b) or (3) (f) and the person referred to in paragraph (2) (c) or (3) (g) shall be nominated for the purposes of a particular appeal only and an officer concerned in the laying of, or in the inquiry held in respect of, a charge under section 61, or in the making of a direction or recommendation under sub-section 63 (1), shall not be nominated for the purpose of an appeal relating to that charge or for the purpose of an appeal against that direction or recommendation or against a decision made in pursuance of that direction or recommendation, as the case may be.

“(10) If a Disciplinary Appeal Board is of the opinion that an officer who had appealed to it under section 63D, 63F or 66B had no reasonable grounds for that appeal, and that the appeal was frivolous or vexatious, it may order that the officer pay such sum, not exceeding the cost of the hearing, as it specifies in the order, and the sum so ordered to be paid may be recovered by deductions from the salary of the officer under section 65.

“(11) For the purposes of hearing an appeal or request referred to in sub-section (2) or (3), a Disciplinary Appeal Board may take evidence on oath or affirmation and, for those purposes, administer an oath or affirmation.

“(12) In proceedings before a Disciplinary Appeal Board for the hearing and determination of an appeal or request referred to in sub-section (2) or (3)—

- (a) the procedure of the Board is, subject to this Act and to the regulations, within the discretion of the Board;
- (b) the proceedings shall be conducted with as little formality and technicality, and with as much expedition, as the requirements of this Act, and a proper consideration of the matter before the Board, permit; and
- (c) the Board is not bound by rules of evidence.

“(13) Where the hearing of an appeal or a request referred to in sub-section (2) or (3) has been commenced before a Disciplinary Appeal Board but, before the appeal or request has been finally determined, a member of the Board has ceased to be such a member or, for any other reason, is unable to take any further part in the determination of the appeal or request, the 2 remaining members of the Disciplinary

Appeal Board may, with the consent of the parties, constitute the Board for the purpose—

- (a) if the hearing has not been completed—of completing the hearing; and
- (b) if both members concur in the decision—of determining the appeal or request.

“(14) If, for any reason, a Disciplinary Appeal Board constituted in accordance with sub-section (13) by the remaining members of a Disciplinary Appeal Board established under sub-section (2) or (3) to hear and determine an appeal or request referred to in those sub-sections does not complete the hearing and determine the appeal or request, a new Disciplinary Appeal Board constituted in accordance with sub-section (2) or (3), as the case requires, shall hear and determine the appeal or request and, for that purpose, may have regard to the evidence given, the arguments adduced and the reasons for any decision given during the previous hearing.

“63F. (1) For the purposes of this section, a finding of a court in relation to an offence shall be regarded as having been nullified— Nullification
of conviction

- (a) where a person has been convicted on the basis of that finding—if the conviction has subsequently been quashed or otherwise nullified or the person convicted has received a pardon or has been released from prison as a result of an inquiry into the conviction; or
- (b) in any other case—if the finding has been set aside.

“(2) Where, after a person has been dismissed from the Service under section 63A, sub-section 63D (5) or section 63N by reason of his having been found by a court to have committed a criminal offence, the finding of the court is nullified, the person may apply to the Board, in writing, for re-appointment to the Service.

“(3) Where, after an officer has been transferred to another office under sub-section 63 (1), section 63A or sub-section 63D (4) or (5) by reason of his having been found by a court to have committed a criminal offence, the finding of the court is nullified, the officer may apply to the Board, in writing, for transfer to an appropriate office.

“(4) A person who—

- (a) has been dismissed from the Service, or has, while he was a person to whom Division 3 of Part IV applied, been dismissed from eligible public employment, by reason of his having been found by a court to have committed a criminal offence; and
- (b) has subsequently been re-appointed to the Service,

may, if the finding of the court is nullified, apply to the Board, in writing, for transfer or promotion to an appropriate office at any time after the finding is nullified and before he ceases to be an officer or, if he becomes

a person to whom Division 3 of Part IV applies upon ceasing to be an officer, before he ceases to be such a person.

“(5) The Board shall refer an application made to it under sub-section (2), (3) or (4) to the Permanent Head who is, in the opinion of the Board, appropriate to consider it.

“(6) Where an application is referred to a Permanent Head under sub-section (5), the Permanent Head shall consider the application and—

- (a) if he is satisfied that it is, in all the circumstances reasonable that the applicant be re-appointed to the Service, or transferred or promoted to an appropriate office, as the case may be—shall recommend to the Board that the applicant be so re-appointed, transferred or promoted; or
- (b) if he is not so satisfied—shall recommend to the Board that the application be refused.

“(7) Where the Permanent Head recommends to the Board that an application under sub-section (2), (3) or (4) be refused—

- (a) he shall notify the applicant, in writing, accordingly and furnish to him and to the Board the reasons for his recommendation; and
- (b) the applicant may appeal to a Disciplinary Appeal Board against the recommendation.

“(8) A Disciplinary Appeal Board shall hear each appeal made to it under sub-section (7) and may—

- (a) confirm the recommendation appealed against; or
- (b) recommend to the Board that the appellant be re-appointed to the Service, or be transferred or promoted to an appropriate office, as the case may be,

and shall furnish to the appellant and to the Board the reasons for its decision on the appeal.

“(9) Upon receipt of a recommendation of the Permanent Head in pursuance of sub-section (6), or of a decision on appeal of a Disciplinary Appeal Board under sub-section (8), the Board may, subject to sub-section (10)—

- (a) where the recommendation or decision relates to an application under sub-section (2)—
 - (i) if the applicant was dismissed under section 63A or sub-section 63D (5)—appoint the applicant to the Service to fill an appropriate office or, with the consent in writing of the applicant, another office;
 - (ii) if the applicant was dismissed under section 63N but is engaged in eligible public employment—appoint the applicant to the Service as an unattached officer on leave

without pay, having such rights with respect to appointment, promotion or transfer to an office in the Service as he had at the time of his dismissal; or

- (iii) if the applicant was dismissed under section 63N but is not engaged in eligible public employment—appoint the applicant to the Service to fill an appropriate office or, with the consent in writing of the applicant, another office;
- (b) where the recommendation or decision relates to an application under sub-section (3)—transfer the applicant to an appropriate office; or
- (c) where the recommendation or decision relates to an application under sub-section (4)—
 - (i) if the applicant is an officer—transfer the applicant to an appropriate office; or
 - (ii) if the applicant is a person to whom Division 3 of Part IV applies—transfer or promote the applicant under that Division to an appropriate office.

“(10) Where a Permanent Head in pursuance of sub-section (6), or a Disciplinary Appeal Board under sub-section (8), recommends that a person be re-appointed to the Service or that an officer be transferred to an appropriate office, the Board shall re-appoint the person to the Service or transfer the officer, as provided in sub-section (9).

“(11) Where a person who had, under this Division, been dismissed from the Service, is re-appointed to the Service under this section, the person shall be deemed, during the period commencing on the day immediately following the day on which he was so dismissed and ending on the day immediately preceding the day on which he was so re-appointed, to have continued in the Service and to have been absent from duty on leave of absence without pay, and the Board shall determine whether that period, or any part of that period, is to form part of the officer’s period of service for any purposes under this Act or any other Act (other than the *Superannuation Act 1976*) and, if so, the purposes for which it is to form part of the period of his service.

“(12) In this section, ‘appropriate office’, in relation to a person or to an officer, means the original office occupied by that person or officer, an equivalent office, or, if such an office is not available, an office determined by the Board to be as nearly as possible equivalent to the original office occupied by that person or officer.

“63G. (1) Where, upon the holding of an inquiry into a charge laid against a person under sub-section 61 (2), section 63K or 63L, or upon the hearing by a Disciplinary Appeal Board of an appeal in connexion with such a charge, the charge is found to have been established and—

Review of findings

- (a) in a case where the charge was laid under sub-section 61 (2)—
 - (i) a sum was deducted from the salary of the person;
 - (ii) the salary of the person was reduced;
 - (iii) the person was transferred to another office; or
 - (iv) the person was dismissed from the Service; or
- (b) in a case where the charge was laid under section 63K or 63L—the person was dismissed from the Service,

the person may, at any time, request the Board, in writing, to review the finding, or the action taken in respect of the charge, on the ground that evidence that was not given, and could not reasonably be expected to be given, on behalf of the person in the course of the investigation of the charge is now available and that the evidence might, if it had been given, have resulted in the charge being found not to have been established, or in less severe action being taken in respect of the charge, as the case may be.

“(2) A request under sub-section (1) shall set out particulars of the evidence that has become available.

“(3) Where the Board is satisfied that the ground of the request is established, the Board shall refer the request to a Disciplinary Appeal Board.

“(4) Where the request of a person for the review of a finding is referred to a Disciplinary Appeal Board, the Disciplinary Appeal Board—

- (a) shall review the finding;
- (b) shall—
 - (i) if it is satisfied, in the light of the evidence given when the charge was being investigated and of the evidence given before it in connexion with the review, that the person failed to fulfil his duty as an officer, or failed to fulfil his duty as an unattached officer within the meaning of Subdivision D, as the case requires—recommend to the Public Service Board that it affirm the finding; or
 - (ii) in any other case—recommend to the Public Service Board that it quash the finding and take such action, by way of recompensing the person, as is, in the opinion of the Public Service Board, reasonable and practicable in all the circumstances; and
- (c) shall furnish to the person and to the Public Service Board its reasons for making its recommendation.

“(5) Where the request of a person for the review of action taken in respect of a charge is referred to a Disciplinary Appeal Board, the Disciplinary Appeal Board—

- (a) shall review the action so taken;

(b) shall—

- (i) if it is satisfied, in the light of the evidence given when the charge was being investigated and of the evidence given before it in connexion with the review, that the action so taken was not too severe—recommend to the Public Service Board that it affirm the action; or
- (ii) in any other case—recommend to the Public Service Board that it take such action to mitigate the severity of the action as is, in the opinion of the Public Service Board, reasonable and practicable in all the circumstances; and

(c) shall furnish to the person and to the Public Service Board its reasons for making its recommendation.

“(6) The Public Service Board shall consider the recommendation given to it by a Disciplinary Appeal Board upon a review under this section and the reasons for the recommendation and may, in its discretion—

(a) where the recommendation relates to a review of a finding under sub-section (4)—

- (i) affirm the finding; or
- (ii) quash the finding and take such action by way of compensating the person to whom the finding relates as is, in the opinion of the Board, reasonable and practicable in all the circumstances; or

(b) where the recommendation relates to a review of action taken in respect of a charge under sub-section (5)—

- (i) affirm the action; or
- (ii) take such action to mitigate the severity of the action as is, in the opinion of the Board, reasonable and practicable in all the circumstances.

“(7) Without limiting the power of the Board to take action under sub-section (6), the Board may, if it considers it appropriate to do so—

(a) in relation to a person who had been dismissed from the Service—

- (i) re-appoint the person to the Service to fill his original office or an equivalent office, or, if such an office is not available, an available office as nearly as possible equivalent to his original office;
- (ii) if, at the time of his dismissal from the Service, he was a person to whom Division 2 of Part IV applied—re-appoint the person to the Service as an unattached officer on leave without pay, having such rights with respect to promotion or transfer to an office in the Service as he had at the time of his dismissal; or
- (iii) if he is engaged in eligible public employment within the meaning of Part IV—declare him to have become a person to whom Division 3 of that Part applies; or

- (b) in relation to a person who had been transferred—direct that he be transferred to his original office or an equivalent office, or, if such an office is not available, an available office as nearly as possible equivalent to his original office.

“(8) Where, in pursuance of sub-section (7), the Board declares a person to have become a person to whom Division 3 of Part IV applies, the person shall be deemed to have become such a person on the date on which the declaration is made.

“(9) Where a person who had, under this Division, been dismissed from the Service, is re-appointed to the Service under this section, the person shall be deemed, during the period commencing on the day immediately following the day on which he was so dismissed and ending on the day immediately preceding the day on which he was so re-appointed, to have continued in the Service and to have been absent from duty on leave of absence without pay, and the Board shall determine whether that period, or any part of that period, is to form part of the officer’s period of service for any purposes under this Act or any other Act (other than the *Superannuation Act 1976*) and, if so, the purposes for which it is to form part of the period of his service.

“(10) In this section—

- (a) a reference to the investigation of a charge shall be read as a reference—
- (i) if the person charged appealed to a Disciplinary Appeal Board—to the investigation of the charge by the Disciplinary Appeal Board; or
 - (ii) in any other case—to the investigation of the charge by the officer holding the inquiry;
- (b) a reference to the giving of evidence includes a reference to the submission or production of statements or other material; and
- (c) a reference to the taking of less severe action in respect of a charge shall be read as including a reference to counselling in respect of the charge.

Delegation
of powers of
Chief Officer
under section
63B or 63C

“63H. (1) A Chief Officer may, either generally or as otherwise provided in the instrument of delegation, by writing signed by him, delegate to a person authorised for the purposes of sub-section 61 (2) any of his powers under section 63B or 63C.

“(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Chief Officer by whom the power was delegated.

“(3) A delegation under this section does not prevent the exercise of the power by the Chief Officer by whom the power was delegated.

“Subdivision D—Officers employed otherwise than in a Department

“63J. (1) In this Subdivision, unless the contrary intention appears— Interpretation

‘misconduct’ in relation to an unattached officer, means a failure by the officer to fulfil his duty as an unattached officer;

‘unattached officer’ means—

- (a) an officer who, whether or not he holds an office in a Department—
 - (i) is, notwithstanding that he is employed under this Act, also employed by the Commonwealth otherwise than under this Act, whether as the holder of an office or appointment or otherwise;
 - (ii) is employed by another person or body (including a State), whether as the holder of an office or appointment or otherwise; or
 - (iii) is engaged in employment on his own account or in partnership with another person or other persons,

but does not include an officer who is performing duty in a Department;

- (b) an officer who is seconded for duty as Private Secretary to a Minister or member of the Federal Executive Council or to the Leader of the Opposition in either House of the Parliament; or
- (c) an officer who is on leave of absence from the Service for a prescribed purpose and does not hold an office in a Department.

(2) For the purposes of this Subdivision, an unattached officer shall be taken to have failed to fulfil his duty as an unattached officer if, and only if, while he is an unattached officer, he engages in improper conduct, being conduct which brings the Service into disrepute.

“(3) Sub-section (2) applies to conduct engaged in by an unattached officer whether he engages in the conduct in, or in connexion with, the employment (if any) in which he is engaged or otherwise.

“63K. (1) An unattached officer may, as provided in the regulations, be charged with misconduct committed by him before he became an unattached officer.

Misconduct committed before becoming unattached officer

“(2) The regulations may make provision for and in relation to the holding of an inquiry into a charge against an unattached officer under sub-section (1).

“(3) Where the person holding an inquiry into a charge under sub-section (1) is satisfied that the unattached officer committed misconduct before he became an unattached officer, he may counsel the officer or, if

he is of the opinion that the misconduct is of such seriousness that, if the officer were performing duty in a Department, he would recommend that the Board take action by way of dismissing the officer from the Service, he may recommend to the Board that it take action accordingly.

“(4) Where the person holding an inquiry into a charge under sub-section (1) is satisfied that the unattached officer committed misconduct, he shall furnish to the officer and to the Board particulars of his reasons for being so satisfied, and, if he makes a recommendation to the Board under sub-section (3) in respect of the misconduct, he shall also furnish to the officer and to the Board particulars of his reasons for making that recommendation.

“(5) Where a finding is made under this section that an unattached officer committed misconduct before he became an unattached officer, the fact that the officer, is, or is not, counselled, or is not dismissed, in respect of the misconduct shall not be taken to preclude the Board or another body, or a Permanent Head or another person, from having regard to the finding in the course of exercising a power or performing a function conferred on it or him by this Act or by the regulations if the finding is relevant to the manner in which the power should be exercised or function should be performed.

“(6) A reference in sub-section (5) to a finding does not include a reference to a finding that has been set aside by a Disciplinary Appeal Board.

“(7) In this section, a reference to misconduct shall be read as a reference to misconduct as defined by section 55.

Misconduct
while
unattached
officer

“63L. (1) An unattached officer may, as provided in the regulations, be charged with misconduct committed by him while he is an unattached officer.

“(2) The regulations may make provision for and in relation to the holding of an inquiry into a charge against an unattached officer under sub-section (1).

“(3) Where the person holding an inquiry into a charge under sub-section (1) is satisfied that the unattached officer committed misconduct while an unattached officer, he may counsel the officer or, if he is of the opinion that, having regard to the nature and seriousness of the misconduct and to the circumstances in which it was committed he is justified in doing so in the interests of the Service, he may recommend that the Board take action by way of dismissing the officer from the Service.

“(4) Where the person holding an inquiry into a charge under sub-section (1) is satisfied that the unattached officer committed misconduct, he shall furnish to the officer and to the Board particulars of his reasons for being so satisfied, and, if he makes a recommendation to the Board under sub-section (3) in respect of the misconduct, he shall also furnish

to the officer and to the Board particulars of his reasons for making that recommendation.

“(5) Where a finding is made under this section that an unattached officer has committed misconduct as an unattached officer, the fact that the officer is, or is not, counselled, or is not dismissed, in respect of the misconduct shall not be taken to preclude the Board or another body, or a Permanent Head or another person, from having regard to the finding in the course of exercising a power or performing a function conferred on it or him by this Act or by the regulations if the finding is relevant to the manner in which the power should be exercised or function should be performed.

“(6) A reference in sub-section (5) to a finding does not include a reference to a finding that has been set aside by a Disciplinary Appeal Board.

“(7) An unattached officer may be charged under this section in relation to a matter whether or not action has been or is being taken in respect of the matter otherwise than under this Act.

“63M. (1) Where—

- (a) a court has, within the period of 6 months immediately preceding, or after, the commencement of this section, convicted an unattached officer of a criminal offence, or found, without recording a conviction, that an unattached officer has committed such an offence; and
- (b) a person selected by the Board from among the persons specified in a prescribed class of persons is of the opinion that, having regard to the nature and seriousness of the offence and to the circumstances in which it was committed he is justified in doing so in the interests of the Service,

Criminal
offences

the person referred to in paragraph (b) may recommend to the Board that action be taken by way of dismissing the officer from the Service.

“(2) Where a person makes a recommendation to the Board under sub-section (1) that action be taken by way of dismissing an officer from the Service, he shall furnish to the officer and to the Board particulars of his reasons for making that recommendation.

“(3) The fact that an unattached officer is, or is not, counselled, or is not dismissed under this section, in respect of a criminal offence shall not be taken to preclude the Board or another body, or a Permanent Head or another person, from having regard to the conviction or finding, to the nature and seriousness of the offence and to the circumstances in which the offence was committed in the course of exercising a power or performing a function conferred on it or him by this Act or by the regulations if those matters are relevant to the manner in which the power should be exercised or function should be performed.

“(4) Nothing in sub-section (3) shall be taken to authorize the charging of an unattached officer under section 63L, and the taking of action in respect of the unattached officer under this section, in relation to the same matter.

Recom-
mendation
for dismissal

“63N. Where a recommendation that an unattached officer be dismissed from the Service has been made to the Board and—

- (a) if the officer has appealed to a Disciplinary Appeal Board against the recommendation—the appeal has lapsed or been withdrawn or a Disciplinary Appeal Board has confirmed the recommendation; or
- (b) if the officer has not so appealed—the period within which the officer may appeal to a Disciplinary Appeal Board against the recommendation has expired,

the Board, after consideration of the reasons for making the recommendation and, if the recommendation has been confirmed by a Disciplinary Appeal Board, of the reasons given by the Disciplinary Appeal Board for its decision, may, in its discretion, dismiss the officer from the Service.

Appeals

“63P. (1) An unattached officer may appeal to a Disciplinary Appeal Board—

- (a) against a finding under section 63K or 63L in respect of a charge that he has committed misconduct—on the grounds that the charge should have been dismissed; or
- (b) against a recommendation under section 63K, 63L or 63M that the Board take action by way of dismissing the officer—on the ground that the action recommended to be taken in respect of the officer is, in relation to the finding or conviction in relation to which the recommendation was made, unduly severe.

“(2) Where an unattached officer has appealed against a finding of a kind referred to in paragraph (1) (a) and a recommendation of a kind referred to in paragraph (1) (b) was made to the Board in relation to the finding, the officer shall be deemed to have appealed also against that recommendation on the ground specified in paragraph (1) (b).

“(3) Subject to sub-section (4), a Disciplinary Appeal Board may confirm or set aside a finding or a recommendation appealed against.

“(4) Where a Disciplinary Appeal Board sets aside the finding in respect of a charge under section 63K or 63L, being a finding in relation to which a recommendation of a kind referred to in paragraph (1) (b) was made to the Board, the recommendation shall be deemed to have been set aside.

“63Q. Where a person makes a finding or a recommendation under section 63K or 63L or a recommendation under section 63M, or a Disciplinary Appeal Board confirms a finding or recommendation so made, the person or the Disciplinary Appeal Board shall give reasons, in writing, for making or confirming that finding or recommendation, as the case may be.

Reasons to be given for making, or confirming, finding or recommendation

“*Subdivision E—Miscellaneous*”

“63R. (1) Where an officer is imprisoned by reason of his having been convicted of an offence or is in custody awaiting trial for an offence—

Imprisonment

- (a) he shall be deemed, for the duration of his imprisonment or custody, unless and until he is dismissed, to be on leave of absence without pay;
- (b) except where he is dismissed in relation to the offence—any service before that period of imprisonment or custody shall, for all purposes, be regarded as being continuous with any service after that period;
- (c) the period of his imprisonment or custody shall not, unless the Board otherwise determines, be regarded as service for any purposes under this Act or any other Act;
- (d) he shall not, during that period of imprisonment or custody, be suspended from duty under this Act; and
- (e) any suspension from duty under this Act that was in force in relation to him immediately before that period of imprisonment or custody commenced shall be deemed, upon that period's so commencing, to have been removed.

“(2) Where an officer is imprisoned by reason of his having been convicted of an offence, the Chief Officer of that officer, or, in the case of an officer included in the First Division, the Board, may, if the Chief Officer or the Board, as the case may be, is satisfied that the officer is suffering or has suffered hardship direct, notwithstanding sub-section (1), that salary be paid to the officer for the whole or for a specified part of that period of imprisonment or custody.”

“63S. (1) In this section, a reference to an unattached officer shall not be taken to include a reference to a person who is an unattached officer for the purposes of Subdivision D.

Application to unattached officers performing duty in Department

“(2) Without prejudice to their effect in relation to unattached officers apart from this section, Subdivisions A, B and C and this Subdivision also have effect in relation to an unattached officer as provided by this section.

“(3) Subdivisions A, B and C and this Subdivision have, by force of this sub-section, the effect that they would have if—

- (a) an unattached officer who is performing duties in a Department were occupying an office in that Department;
- (b) the duties of that office were duties corresponding to the duties that he is performing in the Department as an unattached officer; and
- (c) the office had a classification the same as the salary, or the range of salary, that is applicable to him as an unattached officer.

“(4) In addition to the effect that Subdivisions A, B and C and this Subdivision have in relation to unattached officers as provided by subsection (2), those Subdivisions have, by force of this sub-section, the effect they would have if—

- (a) there were included among the kinds of action specified in paragraph 57 (7) (a) and among the kinds of action specified in subsection 58 (1) the following kind of action, namely, action by way of causing the officer to perform specified duties in the same or another Department (whether at the same or a different locality), being duties that he is qualified to perform, and determining the salary, or range of salary, that is to be applicable to him as an unattached officer while he is performing those duties and, if a range of salary is to be so applicable, that he be paid a specified salary within that range;
- (b) there were included among the kinds of action specified in paragraph 62 (6) (a) the following kinds of action, namely—
 - (i) action by way of causing the officer to perform specified duties in the same or another Department (whether at the same or a different locality), being duties that he is qualified to perform and in relation to the performance of which there is applicable a salary or range of salary that is the same as the salary or range of salary applicable to him as an unattached officer;
 - (ii) action by way of causing the officer to perform specified duties in the same or another Department (whether at the same or a different locality), being duties that he is qualified to perform and in relation to the performance of which there is applicable a salary or range of salary that is the same as the salary or range of salary applicable to him as an unattached officer and causing a sum, not exceeding \$40, to be deducted from his salary;
 - (iii) if a range of salary is applicable to the officer and the salary payable to him is not the minimum salary of that range—action by way of causing the officer to perform specified duties in the same or another Department (whether at the same or a different locality), being duties that he is qualified to perform and in relation to the performance of which there is applicable a salary or range of

salary that is the same as the salary or range of salary applicable to him as an unattached officer, reducing the salary of the officer to a specified salary and then, upon the expiration of a specified period, being a period of 12 months or less, increasing the salary of the officer to the salary that would have been payable to him if his salary had not been so reduced, or to a lesser salary specified in the direction; and

- (iv) action by way of causing the officer to perform specified duties in the same or another Department (whether at the same or a different locality), being duties that he is qualified to perform and in relation to the performance of which there is applicable a salary or range of salary that is lower than the salary or range of salary applicable to him as an unattached officer and, if there is a range of salary applicable to the performance of those duties, determining that he be paid a specified salary within that range; and
- (c) there were included among the kinds of action specified in paragraph 63 (1) (c) the following kinds of action, namely—
 - (i) action by way of causing the officer to perform specified duties in the same or another Department (whether at the same or a different locality), being duties that he is qualified to perform and in relation to the performance of which there is applicable a salary or range of salary that is the same as the salary or range of salary applicable to him as an unattached officer; and
 - (ii) action by way of causing the officer to perform specified duties in the same or another Department (whether at the same or a different locality), being duties that he is qualified to perform and in relation to the performance of which there is applicable a salary or range of salary that is lower than the salary or range of salary applicable to him as an unattached officer and, if there is a range of salary applicable to the performance of those duties, determining that he be paid a specified salary within that range.

“63T. The regulations may make provision for and in relation to the application of the preceding provisions of this Division to and in relation to— Application to certain employees

- (a) an employee who is employed in a Department and has been employed in that Department continuously for a period of not less than 1 year;

- (b) an employee who is employed in a Department and has been employed in 2 or more Departments for periods that are continuous with one another and with his current period of employment and aggregate not less than 1 year; and
- (c) an employee who has been engaged by a Department to serve for a period of not less than 1 year,

including provision modifying and adapting the preceding provisions of this Division in relation to such an employee.”.

Re-numbering

21. Section 63 of the Principal Act is renumbered 63U.

Deduction of pecuniary penalty from salary

22. (1) Section 65 of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-section:

“(1) Where the officer who pays the salary of an officer or employee is notified that, under the authority of this Act, a pecuniary penalty has been imposed upon the officer or employee, an order for the payment of money has been made against the officer or employee or a direction has been given for the deduction of an amount from the salary of the officer or employee, he shall deduct from the salary payable to the officer or employee the amount of the penalty, the sum ordered to be paid or the amount directed to be deducted, as the case may be, unless he is satisfied that payment of that amount has been made by the officer or employee.”; and

- (b) by omitting from sub-section (2) “wages or pay”.

(2) The amendments of section 65 of the Principal Act effected by sub-section (1) do not apply to or in relation to a notice received under that section, before the date fixed under sub-section 2 (2), by an officer who pays the salary of another officer or of an employee.

23. After Division 6 of Part III of the Principal Act the following Division is inserted:

“Division 6A—Forfeiture of Office

Forfeiture of office

“66A. (1) Where an officer is absent from duty without permission, and has been so absent for a continuous period of not less than 4 weeks, the Permanent Head may send to him by prepaid registered post addressed to him at his address last known to the Permanent Head a notice informing him that unless within a period of 2 weeks from and including the date on which the notice was sent—

- (a) he returns to duty; or
- (b) he explains his absence and seeks the permission of the Permanent Head for any further period of absence that may be necessary having regard to that explanation,

he will be deemed to have retired from the Service upon the expiration of that period of 2 weeks.

“(2) Where an officer to whom a notice under sub-section (1) has been sent does not, within the period of 2 weeks from and including the date on which the notice was so sent—

- (a) return to duty; or
- (b) explain his absence and seek the permission of the Permanent Head for a further period of absence,

and the notice has not been revoked under sub-section (5), he shall be deemed to have retired from the Service on the day following the expiration of that period of 2 weeks.

“(3) Where a notice has been sent to an officer under sub-section (1) and, within the period of 2 weeks after that notice was so sent, the officer explains his absence and seeks the permission of the Permanent Head for a further period of absence, the Permanent Head shall, as soon as practicable, consider the matter and may, by notice in writing sent to him by pre-paid registered post addressed to him at his address last known to the Permanent Head, inform him—

- (a) that he has been granted leave of absence for such period and on such conditions as are specified in the notice; or
- (b) that he is required to return to duty and that, unless he returns to duty within a specified period (being a period of at least 2 weeks from and including the date on which the notice is sent) he will be deemed to have retired from the Service upon the expiration of the period so specified.

“(4) Where an officer who is required by a notice sent to him under sub-section (3) to return to duty does not return to duty within the period referred to in the notice and the notice is not revoked under sub-section (5), he shall be deemed to have retired from the Service on the day following the expiration of that period.

“(5) The Board may, at any time before an officer is to be deemed to have retired from the Service under this section, by notice in writing sent to the officer by pre-paid registered post addressed to him at his address last known to the Board, revoke a notice previously sent to the officer under this section, and the notice is then void and of no effect.

“66B. (1) A person who is deemed to have retired from the Service in accordance with sub-section 66A (2) or (4) may apply to the Board in writing, for re-appointment to the Service.

Re-appoint-
ment of
officers
deemed to
have retired
under section
66A

“(2) Where a person makes application to the Board under sub-section (1), the Board shall refer the application to the Permanent Head who is, in the opinion of the Board, appropriate to consider it.

“(3) Where an application is referred to a Permanent Head under sub-section (2), the Permanent Head shall consider the application and—

- (a) if he is satisfied that the applicant had, in all the circumstances, reasonable grounds for being absent—he shall recommend to the Board that the applicant be re-appointed to the Service; or
- (b) if he is not so satisfied—he shall recommend to the Board that the application be refused.

“(4) Where the Permanent Head recommends to the Board that an application under sub-section (1) be refused—

- (a) he shall notify the applicant, in writing, accordingly and furnish to him and to the Board the reasons for his recommendation; and
- (b) the applicant may appeal to a Disciplinary Appeal Board established under section 63E against the recommendation.

“(5) A Disciplinary Appeal Board shall hear each appeal made to it under sub-section (4) and may—

- (a) confirm the recommendation appealed against; or
- (b) recommend to the Board that the appellant be re-appointed to the Service,

and shall furnish to the appellant and to the Board the reasons for its decision on the appeal.

“(6) Upon receipt of a recommendation of the Permanent Head in pursuance of sub-section (3), or of a decision of a Disciplinary Appeal Board under sub-section (5), the Board may, after considering the recommendation or decision and the reasons for the making of the recommendation or decision, re-appoint the person to whom the recommendation or decision relates to the Service to fill his original office or an equivalent office, or, if such an office is not available, an available office as nearly as possible equivalent to his original office or, with the consent in writing of the person, another office.

“(7) Where a person who is, under section 66A, deemed to have retired from the Service, is re-appointed to the Service under this section, the person shall be deemed, during the period commencing on the day immediately following the day on which he is so deemed to have retired from the Service and ending on the day immediately preceding the day on which he was so re-appointed, to have continued in the Service and to have been absent from duty on leave of absence without pay, and the Board shall determine whether that period, or any part of that period, is to form part of the officer’s period of service for any purposes under this Act or any other Act (other than the *Superannuation Act 1976*) and, if so, the purposes for which it is to form part of the period of his service.”

24. (1) Section 68 of the Principal Act is amended—Leave of
absence for
recreation

- (a) by omitting from sub-section (8) “a period of leave of absence for recreation is granted to an officer in accordance with this sub-section” and substituting “an officer is absent from the Service on leave of absence for recreation granted, or deemed to have been granted, to him in accordance with this section or the regulations”;
- (b) by omitting sub-sections (9) and (10) and substituting the following sub-section:

“(9) Subject to this section, the regulations may make provision for and in relation to the granting to an officer of leave of absence for recreation and, without limiting the generality of the foregoing—

- (a) may, in prescribed circumstances, deem an officer to have been granted, by operation of law, leave of absence for recreation for a prescribed period; and
- (b) may, in prescribed circumstances, require an officer to absent himself from duty during a period of leave of absence for recreation that has been, or that is deemed by operation of law to have been, granted to him.”; and
- (c) by omitting paragraph (c) of sub-section (12) and substituting the following paragraph:

“(c) has been granted leave of absence under section 71, being leave of a kind declared by the regulations to be leave to which this paragraph applies.”.

(2) The amendment effected by paragraph (1) (a) does not apply in relation to a period of leave of absence for recreation granted before the commencement of this section.

(3) For the purposes of paragraph 68 (12) (c) of the Principal Act as amended by this Act, leave of absence granted under section 71A or 72 of the Principal Act shall be deemed to be leave of the kind referred to in that paragraph.

25. Section 68F of the Principal Act is amended by inserting after sub-section (2) the following sub-section: Interpretation

“(2A) Where—

- (a) a person is employed in the Service for part only of a month by reason of—
- (i) becoming an officer on a day in the month other than the first day of the month; or
- (ii) ceasing to be an officer on a day in the month other than the last day of the month;

- (b) the whole of the part of that month during which he is so employed forms part of his period of service under this Act for the purposes of sections 68 and 68A; and
- (c) he would not have been required to attend for duty on any day in the remainder of that month if he had been employed in the Service during the remainder of that month,

that month counts, for the purposes of sections 68 and 68A, as a complete month of service of the officer.”

Leave of absence to attend proceedings under Public Service Arbitration Act, &c.

26. Section 69 of the Principal Act is repealed.

Leave of absence on account of illness

27. Section 70 of the Principal Act is amended by omitting from sub-section (1) “or other prescribed cause”.

28. Sections 71 to 72B (inclusive) of the Principal Act are repealed and the following section is substituted:

Other leave of absence

“71. (1) Subject to this section, the Chief Officer may, at any time, grant to an officer or employee leave of absence for a prescribed purpose, for a purpose included in a prescribed class of purposes or as otherwise provided in the regulations.

“(2) Leave of absence shall not be granted under sub-section (1) to an officer for the purpose of enabling him to engage in employment that is, at the time the leave is granted, eligible public employment within the meaning of Part IV.

“(3) Leave of absence granted under sub-section (1) to an officer for the purpose of enabling him to engage in employment in the Public Service of the Northern Territory shall, if regulations made for the purposes of sub-section 87 (4) in respect of that Public Service take effect on or before the day on which he becomes engaged in that employment, be deemed to have been cancelled immediately before those regulations take effect.

“(4) The regulations may—

- (a) specify the maximum period of leave, or of leave included in a prescribed class of leave, that may be granted under sub-section (1);
- (b) specify terms and conditions subject to which leave, or leave included in a prescribed class of leave, may be granted under sub-section (1); and
- (c) make provision for and in relation to—

- (i) the extension by the Board of periods of leave of absence granted under sub-section (1);
- (ii) the review by the Board of decisions of Chief Officers in respect of applications for the grant of leave of absence under sub-section (1); and
- (iii) the employment in the Service (including appointment to an office in the Service) of an officer who is an unattached officer by reason of a declaration made under sub-section (7), upon the termination of a period of leave granted under sub-section (1) to the officer.

“(5) The Board may determine terms and conditions subject to which leave, or leave included in a particular class of leave, may be granted under sub-section (1), being terms and conditions that are not inconsistent with the terms and conditions (if any) that are applicable to that leave by virtue of regulations made in accordance with paragraph (4) (b).

“(6) Without limiting the generality of sub-sections (4) and (5), the terms and conditions subject to which leave of absence may be granted to an officer or employee under sub-section (1) may include terms and conditions—

- (a) as to the remuneration (if any) payable to him during the period of the leave;
- (b) for the reduction of a recreation leave credit that would otherwise subsequently accrue to the officer;
- (c) as to the purposes (if any) of this Act or of any other Act for which the period of the leave is to form part of his period of service or employment; and
- (d) by virtue of which, where a period of leave granted to him under sub-section (1) forms part of his period of service or employment under this Act for the purposes of leave of absence for recreation or on account of illness, deductions may be made from his recreation leave credit or sick leave credit, as the case requires, in respect of any periods of leave in the nature of leave of absence for recreation or on account of illness, as the case may be—
 - (i) granted to him; or
 - (ii) in lieu of the grant of which a payment has been made to him,

otherwise than under this Act, in respect of other service or employment during the period, or a part of the period, during which he was absent from duty in the Service on leave of absence granted under sub-section (1).

“(7) Where an officer is granted leave under sub-section (1), the Board may declare the office held by him to be vacant and he shall thereupon become an unattached officer.”

Temporary
employment

29. Section 82 of the Principal Act is amended—

- (a) by omitting sub-section (6) and substituting the following sub-sections:

“(6) Subject to sub-section (6A), the services of a person who is temporarily employed may be dispensed with at any time by a Chief Officer.

“(6A) Where, under the regulations, Division 6 of Part III applies in relation to a person who is temporarily employed, a Chief Officer shall not dispense with the services of the person under sub-section (6) by reason only of the fact that the person has done, or omitted to do, an act or thing in respect of which a charge could be laid against the person, or on the ground that a court has convicted the person of a criminal offence within the meaning of that Division or found, without recording a conviction, that he has committed such an offence.”; and

- (b) by omitting sub-section (11) and substituting the following sub-sections:

“(9) Sub-sections (2) and (7) do not apply in relation to the employment of persons in a temporary capacity to perform duties overseas.

“(10) Sub-sections (3), (4) and (8) do not apply in relation to employees performing duties overseas.

“(11) Section 47E applies in relation to a person employed in a temporary capacity, not being a person who is so employed to perform duties outside Australia only, as if references in that section to an officer included references to such a person.”.

Dismissal of
temporary
employees

30. Section 82AA of the Principal Act is repealed.

31. (1) Section 84C of the Principal Act is repealed and the following section substituted:

Promotion of
transferred
officers to
offices in the
Service

“84C. (1) Where—

- (a) a transferred officer—

(i) was provisionally promoted to fill a vacant office in the Service; or

(ii) appealed against the provisional promotion of another person to fill such an office,

before the day on which his transfer takes effect and the provisional promotion was not confirmed or cancelled before that day; or

- (b) a transferred officer would, on the day on which his transfer takes effect, have a right to appeal against the provisional promotion of another person to fill such an office, being a provisional promotion made before that day, if his transfer were to take effect on a later day,

the following provisions of this section have effect in relation to the provisional promotion.

“(2) On and after the day on which the transfer of the transferred officer takes effect, sections 50 and 50A, sub-section 52 (1) and sections 53 and 53A continue to apply, subject to such modifications (if any) as are prescribed, to and in relation to the provisional promotion, as if the transferred officer had not ceased to be an officer of the Service and his service as an employee of the Public Service of the Northern Territory were service in the Service.

“(3) Where the provisional promotion of the transferred officer to the vacant office is confirmed or the transferred officer is promoted to the vacant office in place of another person who had been provisionally promoted to that office—

- (a) if that office is included in a class of offices specified in an instrument of transfer under section 84A that was signed on or before the day on which the promotion takes effect—the transferred officer does not become the holder of that office but is entitled to be paid salary in respect of his service in the Service during the period commencing on the day on which he or that other person was provisionally promoted to that office and ending on the day immediately before the day on which his transfer takes effect as if he had been the holder of that office during that period; and
- (b) if the office is not included in a class of offices referred to in paragraph (a)—
 - (i) the transferred officer shall be deemed to have become the holder of that office on the date on which he, or that other person, was provisionally promoted to that office; and
 - (ii) the transferred officer shall be deemed, notwithstanding his transfer, to have continued, on and after the day on which his transfer took effect, to be an officer of the Service,

but any amount paid to him as salary in respect of his service in the Public Service of the Northern Territory shall be deemed to have been paid to him as salary under this Act.”

(2) Where—

- (a) before the date of commencement of this section, a person, being an employee of the Public Service of the Northern Territory—
 - (i) had been provisionally promoted to fill a vacant office in the Service; or
 - (ii) had appealed against the provisional promotion of another person to fill such an office,

by virtue of the operation of section 84C of the Principal Act and of the regulations made for the purposes of that section and the

provisional promotion had not been confirmed or cancelled before that date; or

- (b) a person, being an employee of the Public Service of the Northern Territory, would, but for the repeal of section 84C of the Principal Act effected by sub-section (1) of this section, have had, on the date of commencement of this section, a right to appeal against the provisional promotion of another person to fill such an office, being a provisional promotion made before that date,

then, notwithstanding the repeal of section 84C of the Principal Act, that section, and the regulations in force for the purposes of that section immediately before that date, continue to apply in relation to the provisional promotion and in relation to those persons in respect of the provisional promotion.

32. After Division 12 of Part III of the Principal Act the following Part is inserted:

**“PART IV—OFFICERS HOLDING PUBLIC OFFICES OR
EMPLOYED BY PUBLIC AUTHORITIES**

“Division 1—Preliminary

“87. (1) In this Part, unless the contrary intention appears—

‘commencing day’ means the day on which this Part comes into operation;

‘Commonwealth authority’ means—

- (a) a body, whether incorporated or not, established for a public purpose by a law of the Commonwealth or of a Territory (not being the Northern Territory) other than such a body that is declared by the regulations not to be a Commonwealth authority for the purposes of this Part; or

- (b) a body corporate incorporated under a law of a State or of a Territory, being a body corporate in which the Commonwealth has a controlling interest and which is declared by the regulations to be a Commonwealth authority for the purposes of this Part;

‘Commonwealth office’ means—

- (a) an office or appointment the holder of which is appointed by the Governor-General or by a Minister under a law of the Commonwealth (including this Act) or a law of a Territory other than the Northern Territory; or

- (b) any other office or appointment the holder of which is appointed by the Governor-General, or by a Minister,

Interpretation

being an office or appointment declared by the regulations to be a Commonwealth office, or included in a class of offices or appointments declared by the regulations to be a class of Commonwealth offices, for the purposes of this Part,

but does not include—

- (c) an office of Justice or Judge of a federal court or of a court of a Territory;
- (d) an office the holder of which has, by virtue of an Act, the status of a Justice or Judge of a court referred to in paragraph (c);
- (e) the office of Auditor-General;
- (f) an office or appointment in the Service or in the public service of a Territory;
- (g) an office or appointment the duties of which are performed by the holder of an office in the Service the designation of which is the same as the designation of that first-mentioned office or appointment;
- (h) an office or appointment in the Commonwealth Police Force or the Police Force of a Territory;
- (j) an office or appointment connected with an undertaking established, or declared to have been established, in pursuance of the *Supply and Development Act 1939*;
- (k) an office or appointment in the Defence Force;
- (m) the office of Chief Magistrate, or an office of Stipendiary Magistrate, in the Australian Capital Territory or in the Northern Territory; or
- (n) an office or appointment declared by the regulations not to be a Commonwealth office, or included in a class of offices or appointments declared by the regulations not to be a class of Commonwealth offices, for the purposes of this Part;

‘eligible Commonwealth employment’ means—

- (a) employment as the holder of a Commonwealth office; or
- (b) employment by a Commonwealth authority;

‘eligible public employment’ means—

- (a) employment as the holder of a public office; or
- (b) employment by a public authority;

‘employment’ means employment in a full-time capacity;

‘promote’ means—

- (a) in relation to an officer—
 - (i) promote the officer under sub-section 50 (9); or
 - (ii) confirm the provisional promotion of the officer under sub-section 50 (10); and

- (b) in relation to a person to whom Division 3 applies—
 - (i) promote the person under sub-section 50 (9) in its application to that person by virtue of section 87M; or
 - (ii) confirm the provisional promotion of the person under sub-section 50 (10) in its application to the person by virtue of section 87M;

‘public authority’ means—

- (a) a Commonwealth authority;
- (b) a body corporate, other than a Commonwealth authority, in which the Commonwealth or Commonwealth authority has a direct or indirect pecuniary interest, being a body corporate prescribed by the regulations for the purposes of this paragraph;
- (c) a body corporate established for a public purpose by a law of a State, of the Northern Territory, of a country other than Australia or of a part of such a country, being a body corporate prescribed by the regulations for the purposes of this paragraph;
- (d) any other body corporate prescribed, or included in a class of bodies corporate prescribed, by the regulations for the purposes of this paragraph; or
- (e) an unincorporated body prescribed, or included in a class of unincorporated bodies prescribed, by the regulations for the purposes of this paragraph;

‘public office’ means—

- (a) a Commonwealth office;
- (b) an office or appointment the holder of which is appointed—
 - (i) by the Governor of a State or by a Minister of a State; or
 - (ii) by the Administrator of the Northern Territory or by an Executive Member of the Legislative Assembly for the Northern Territory,
being an office or appointment prescribed, or included in a class of offices or appointments prescribed, by the regulations for the purposes of this paragraph; or
- (c) any other office or appointment prescribed, or included in a class of other offices or appointments prescribed, by the regulations for the purposes of this paragraph,

but does not include an office or appointment in the public service of a State or of the Northern Territory;

‘transfer’ means—

- (a) in relation to an officer—transfer the officer under sub-section 50 (1); and

- (b) in relation to a person to whom Division 3 applies—
transfer the person under sub-section 50 (1) in its application to the person by virtue of section 87M.

“(2) A reference in this Part to employment by a Commonwealth authority shall be read as including a reference to—

- (a) employment as the holder of an office the holder of which has, by virtue of an Act, the status of a Justice or Judge of a federal court or of a court of a Territory other than the Northern Territory;
- (b) employment as the holder of the office of Auditor-General;
- (c) employment as a member of the Commonwealth Teaching Service;
- (d) employment as a member of the Commonwealth Police Force;
- (e) employment as a member of the Police Force of a Territory other than the Northern Territory;
- (f) employment under the *Naval Defence Act* 1910, other than employment in an office or appointment in, or as a member of, the Australian Navy;
- (g) employment in the Australian Security Intelligence Organization, other than employment in the office of Director-General of Security;
- (h) employment under section 10 of the *Supply and Development Act* 1939;
- (j) employment in the Public Service of a Territory other than the Northern Territory;
- (k) employment as the holder of the office of Chief Magistrate, or an office of Stipendiary Magistrate, in the Australian Capital Territory; or
- (m) employment as the holder of an office or appointment (not being an office or appointment referred to in a preceding paragraph or a public office) in the service of the Commonwealth, being an office or appointment prescribed for the purposes of this paragraph.

“(3) A reference in this Part to employment by a public authority shall be read as including a reference to—

- (a) employment as the holder of an office or appointment in the Public Service of a State, being an office or appointment prescribed, or included in a class of offices or appointments prescribed, by the regulations for the purposes of this paragraph; or
- (b) employment as the holder of an office or appointment (not being an office or appointment referred to in paragraph (a), an office or appointment in the Public Service of the Northern Territory or a public office) the holder of which is appointed—

- (i) by the Governor of a State or by a Minister of a State; or
 - (ii) by the Administrator of that Territory or by an executive Member of the Legislative Assembly for that Territory,
- being an office or appointment prescribed, or included in a class of offices or appointments prescribed, by the regulations for the purposes of this paragraph.

“(4) The regulations may declare that this Part shall apply to and in relation to employment as the holder of an office or appointment in the Public Service of the Northern Territory as if that employment were employment by a public authority.

“(5) Notwithstanding that regulations have not been made for the purposes of sub-section (4), where a person becomes a person to whom Division 3 applies by virtue of sub-section 87K (3) or (4), this Part applies to and in relation to him, while he continues to be employed in the Public Service of the Northern Territory, as if employment in that Service were employment in eligible public employment.

“(6) Where a person becomes a person to whom Division 3 applies by virtue of sub-section 87K (9) or (10), this Part applies to and in relation to him while he continues to be employed by an approved legal aid commission, or as the holder of an approved statutory office, within the meaning of the *Commonwealth Legal Aid Commission Act 1977* as if any employment by such a commission or in such an office that is not eligible public employment were eligible public employment in relation to him.

“(7) Regulations made for the purposes of paragraph (b) of the definition of ‘Commonwealth authority’ in sub-section (1) may be expressed to have effect in respect only of employment by a specified body on or after, or before, a particular date, which may be a date before the commencing day, or during a particular period, which may be, or may include, a period before the commencing day.

“(8) Regulations made for the purposes of the definition of ‘Commonwealth office’ in sub-section (1) may be expressed to have effect in respect only of employment in—

- (a) a specified office or appointment; or
- (b) in an office or appointment included in a specified class of offices or appointments,

on or after, or before, a particular date, which may be a date before the commencing day, or during a particular period, which may be, or may include, a period before the commencing day.

“(9) In this Part, unless the contrary intention appears—

- (a) a reference to the repealed *Officers’ Rights Declaration Act 1928* shall be read as a reference to that Act as amended and in force immediately before the commencing day; and

- (b) a reference to the former section 6 of the *Trade Commissioners Act 1933* shall be read as a reference to section 6 of that Act as amended and in force immediately before the commencing day.

“(10) For the purposes of this Part, a person shall be deemed to have been dismissed from eligible public employment for misconduct if he was dismissed from that employment on grounds similar to the grounds on which an officer may be dismissed from the Service under Division 6 of Part III.

“(11) For the purposes of this Part, a finding of a court in relation to a criminal offence shall be regarded as having been nullified—

- (a) where a person has been convicted on the basis of that finding—if the conviction has subsequently been quashed or otherwise nullified or the person convicted has received a pardon or has been released from prison as a result of an inquiry into the conviction; or
- (b) in any other case—if the finding has been set aside.

“87A. Where—

- (a) by virtue of regulations made for the purposes of the definition of ‘Commonwealth authority’ in sub-section 87 (1), a body ceases to be a Commonwealth authority for the purposes of this Part;
- (b) by virtue of regulations made for the purposes of the definition of ‘Commonwealth office’ in sub-section 87 (1), an office or appointment ceases to be a Commonwealth office for the purposes of this Part; or
- (c) by virtue of regulations made for the purposes of paragraph 87 (2) (m), an office or appointment ceases to be prescribed for the purposes of that paragraph,

Officers employed by body that ceases to be Commonwealth authority, &c.

this Part continues, notwithstanding those regulations, to apply to and in relation to a person to whom Division 2 or 3 applied immediately before the day on which the regulations take effect, being a person who was, immediately before that day, employed by the body, or in the office or appointment, as if he were, while he continues to be so employed, engaged in eligible Commonwealth employment.

“87B. (1) For the purposes of this section, a person employed by a body, or employed as the holder of an office or appointment—

- (a) is a prescribed employee if he is an officer of the Service who is, by virtue of section 87C, absent from the Service on leave of absence without pay; and
- (b) is a relevant employee if he is—
- (i) a prescribed employee; or
- (ii) a person to whom Division 3 applies.

Restrictions on prescription of public authorities, &c.

“(2) The Board shall not make a regulation—

- (a) for the purposes of the definition of ‘public authority’ or ‘public office’ in sub-section 87 (1); or
- (b) for the purposes of sub-section 87 (3) or (4),

unless the conditions specified in sub-section (3) of this section are fulfilled in respect of the body, office or appointment, or each body, office or appointment, to which the regulation relates.

“(3) The conditions that are required by sub-section (2) to be fulfilled in respect of a body, office or appointment are—

- (a) that the Board is satisfied that the terms and conditions of employment that will be applicable to the employment of relevant employees by that body, or as the holders of that office or appointment, as the case may be, (other than relevant employees who were engaged in that employment immediately before the commencement of the regulation) will make provision as set out—
 - (i) in the case of relevant employees who are prescribed employees—in sub-section (6); or
 - (ii) in the case of any other relevant employees—in sub-section (7); and
- (b) that arrangements, satisfactory to the Minister for the time being administering the *Superannuation Act 1976* or to an officer authorized by that Minister for the purposes of this paragraph, have been made for and in relation to the provision of superannuation benefits under that Act in respect of relevant employees who—
 - (i) are employed by that body or as the holders of that office or appointment, as the case may be; and
 - (ii) are persons to whom section 14A of that Act applies.

“(4) Where a change occurs in the terms and conditions of employment applicable to the employment of a relevant employee—

- (a) by a body, or a body included in a class of bodies, prescribed by a regulation referred to in sub-section (2); or
- (b) as the holder of an office or appointment, or as the holder of an office or appointment included in a class of offices or appointments, prescribed by such a regulation,

and it appears to the Board that those terms and conditions of employment no longer make provision as set out in sub-section (6) or (7), as the case requires, the Board shall, subject to the approval of the Governor-General, make a regulation repealing that regulation, or repealing that regulation in so far as it relates to that body, class of bodies, office, appointment, or class of offices or appointments, as the case may be.

“(5) Notwithstanding the repeal of a regulation of a kind referred to in sub-section (2), this Part continues to apply to and in relation to a relevant employee who was, immediately before the repeal of the regulation, employed by a body, or in an office or appointment, to which the regulation related as if he were, while so employed, engaged in eligible public employment.

“(6) The provision to be made for the purposes of sub-section (3) in respect of the employment of a prescribed employee is provision—

- (a) for the employee to retain, in respect of the employment, such rights (if any) in respect of leave of absence for recreation and leave of absence on account of illness as had accrued to him, immediately before he becomes such an employee, in respect of the employment or other employment;
- (b) for recreation leave credits and sick leave credits to accrue to the employee in respect of the employment on the respective dates on which, and at the respective rates of accrual at which, they would accrue to him if his service in the employment were service in the Service;
- (c) for the recreation leave credit that first accrues to him in respect of the employment—
 - (i) if he becomes engaged in the employment on 1 January in a year—to accrue to him on that day and be calculated as if he were employed on that day in the employment in which he was engaged immediately before that day;
 - (ii) if he becomes engaged in the employment after 1 January in the year in which he became, or last became, an officer—to be calculated as if he had been continuously engaged in the employment since he became, or last became, an officer; or
 - (iii) if he becomes engaged in the employment after 1 January in a subsequent year—to be calculated as if he had been continuously engaged in the employment from and including that 1 January;
- (d) for the sick leave credits that first accrue to him in respect of the employment to accrue to him on the day on which they would accrue to him if, and to be calculated as if, the whole of his service in employment since the date on which his last preceding sick leave credits accrued to him had been service in that first-mentioned employment;
- (e) for the employee, if he ceases, otherwise than by reason of his death, to be engaged in the employment and, at the same time, to be an officer, to have substantially the same entitlement to payment in lieu of leave of absence for recreation as he would have under this Act if he were retiring from the Service and his service in the employment were service in the Service, unless,

upon so ceasing, he becomes engaged in other eligible public employment;

- (f) for payment of amounts in lieu of leave of absence for recreation to be made in relation to the employee if—
 - (i) he dies; or
 - (ii) the Board certifies, after consideration of all the circumstances, that it would, if his service in the employment had been service in the Service, direct, for the purposes of section 68C, that he should be presumed to have died on a particular date,
being amounts equal to the amounts that would be payable under this Act if his service in the employment were service in the Service, unless he had ceased to be an officer before his death or before that date, as the case may be;
- (g) for the employee to be entitled to a period or periods of long service leave, and for payment in lieu of long service leave to be made to or in relation to the employee, in respect of the employment as if his service in the employment were service in the Service; and
- (h) for the employee, if he is an eligible employee for the purposes of the *Superannuation Act 1976* immediately before he becomes engaged in the employment, to be exempted from liability to contribute for superannuation benefits otherwise than under that Act in respect of the employment.

“(7) The provision to be made for the purposes of sub-section (3) in respect of the employment of a relevant employee, being a person to whom Division 3 applies, is provision—

- (a) for the employee to retain, in respect of the employment, such rights (if any) in respect of leave of absence for recreation and leave of absence on account of illness as had accrued to him, immediately before he becomes such an employee, in respect of the employment or other employment;
- (b) for the employee to be entitled to a period or periods of long service leave, and for payment in lieu of long service leave to be made to or in relation to the employee, in respect of the employment as if his service in the employment were service in the Service unless, within 3 months after he becomes a person to whom Division 3 applies or becomes engaged in that employment, whichever last occurs, he elects, in writing, for those entitlements to be determined otherwise; and
- (c) for the employee, if he is contributing for benefits under the *Superannuation Act 1976* immediately before the day on which he becomes a person to whom Division 3 applies or the day on which he becomes engaged in that employment, whichever is the later day, to be exempted from liability to contribute for

superannuation benefits otherwise than under that Act in respect of the employment unless, within 3 months after that later day, he elects, in writing, to contribute for those other benefits.

“(8) A reference in this section to a body shall, unless the contrary intention appears, be read as including a reference to the Public Service of the Northern Territory.

“*Division 2—Officers engaged in certain Public Employment*

“87C. (1) Subject to this section, an officer (including an unattached officer) becomes an officer to whom this Division applies—
Officers engaged in eligible public employment

- (a) on the day on which he becomes engaged in eligible public employment;
- (b) if the repealed *Officers’ Rights Declaration Act 1928* ceases to apply to him under sub-section 44 (2) of the *Public Service Amendment Act 1978* while he is engaged in eligible public employment but he continues, by force of sub-section 87V (1), to be an unattached officer—upon that Act so ceasing to apply to him;
- (c) if the former section 6 of the *Trade Commissioners Act 1933* ceases to apply to him under sub-section 45 (2) of the *Public Service Amendment Act 1978* while he is engaged in eligible public employment but he continues, by force of section 87W, to be an unattached officer—upon the former section 6 so ceasing to apply to him; or
- (d) if he is an officer to whom section 87Z applies—on the day immediately following the day at the expiration of which he is, under sub-section 87Z (2), to be deemed to have ceased to be absent from the Service on leave of absence granted under section 71.

“(2) A person who—

- (a) becomes an officer by reason of his being re-appointed to the service under section 63F or 63G as an unattached officer on leave without pay;
- (b) was not, immediately before he ceased, or last ceased, to be an officer, an officer to whom the *Officers’ Rights Declaration Act 1928* or section 6 of the *Trade Commissioners Act 1933* applied; and
- (c) is, at the time of his re-appointment, employed in a public office or by a public authority,

becomes an officer to whom this Division applies upon his being re-appointed under that section.

“(3) An officer (including an unattached officer) becomes an officer to whom this Division applies on the commencing day—

- (a) if, on the commencing day, he is engaged in eligible Commonwealth employment and, at the expiration of the day immediately preceding the commencing day, he is, under sub-section 87Y (2), to be deemed to have ceased to be absent from the Service on leave of absence granted under section 71;
- (b) if, on the commencing day, he is engaged in eligible Commonwealth employment and is, by virtue of section 87ZA, to be deemed to have been appointed to the Service on that day; or
- (c) if, on the commencing day, he is employed as the holder of an office of Commissioner or member of a Board under the *Repatriation Act 1920* and is not an officer to whom section 8A of that Act applies.

“(4) Sub-section (1) does not apply to an officer who becomes engaged in eligible public employment—

- (a) if he becomes so engaged by reason of being transferred to the Public Service of the Northern Territory under section 84A;
- (b) if the repealed *Officers' Rights Declaration Act 1928*, or the former section 6 of the *Trade Commissioners Act 1933*, applies to him in respect of that employment;
- (c) if he becomes, under section 87J, upon becoming so engaged, an eligible person in relation to a declared Commonwealth function;
- (d) if—
 - (i) he becomes so engaged by reason of his becoming the holder of the office of Insurance Commissioner under the *Insurance Act 1973*; and
 - (ii) section 14 of that Act applies in relation to his appointment to that office; or
- (e) if, upon becoming so engaged, he is absent from the Service on leave of absence granted under section 71 for the purpose of enabling him to become engaged in that employment, being leave of absence that was granted—
 - (i) if that employment became eligible public employment after the commencing day by virtue of the making of a regulation for the purposes of section 87—before the day on which the regulation was made or the day as from which that employment became eligible public employment, whichever was the later day; or
 - (ii) in any other case—before the commencing day.

“(5) Where an officer becomes, by reason of his becoming engaged, or while he is engaged, in particular employment, an officer to whom this Division applies, he continues to be such an officer until he ceases to be engaged in that employment or he ceases to be an officer, whichever first occurs.

“(6) While an officer is, by reason of being engaged in particular employment, an officer to whom this Division applies, he shall be deemed to be absent from duty from the Service on leave of absence without pay, but his service in that employment while he is deemed to be so absent shall be taken into account as if it were service in the Service.

“87D. (1) Subject to sub-sections (6) and (7), where an officer (other than an officer to whom section 87V, 87Y, 87Z or 87ZA applies) who is employed by a public authority—

Cessation of
leave
without pay

- (a) has been continuously employed by that authority, or by that authority and another public authority or other public authorities in succession, for the relevant period; and
- (b) was, throughout the relevant period, an officer to whom this Division applies,

he ceases to be an officer at the expiration of the relevant period.

“(2) Where a person ceases to be an officer under sub-section (1), the Board shall cause notice in writing of the cessation to be given to the person and to be given to the public authority by which he is employed, or, if he is to be taken to be employed by a public authority by virtue of the operation of sub-section 87(2), (3) or (4), to such other person as the Board considers appropriate.

“(3) The Board may, by instrument in writing, fix a period, being a period in excess of 3 years, in respect of officers included in a specified class of officers for the purposes of this section.

“(4) The Board may, on application made by an officer (either before or after he has been continuously employed, as set out in paragraph (1)(a), for a period of 3 years, or for such longer period (if any) as is applicable to him under sub-section (3)), by instrument in writing, fix a specified period, being a period in excess of 3 years, or of the period so applicable to him, as the case may be, in respect of the officer for the purposes of this section if it is satisfied that there are special reasons justifying it in doing so.

“(5) For the purposes of sub-section (1), the relevant period in respect of an officer is—

- (a) in the case of an officer included in a class of officers in respect of whom a period has been fixed under sub-section (3)—the period so fixed or the period (if any) fixed in respect of the officer under sub-section (4), whichever is the longer period; or
- (b) in the case of any other officer—
 - (i) if a period has been fixed in respect of the officer under sub-section (4)—the period so fixed; or
 - (ii) in any other case—the period of 3 years.

“(6) Where an officer makes application under sub-section (4) before the date on which he would, unless a period were fixed under that

sub-section in respect of him, cease to be an officer but the Board does not make a decision in respect of the application before that date, notwithstanding sub-section (1), he ceases to be an officer on the date on which the Board makes a decision in respect of the application unless the Board, by that decision, fixes a period in respect of him for the purposes of this section.

“(7) Where the Board, on application made by a person after the date on which he would, but for this sub-section, have ceased to be an officer, makes a decision fixing a period in respect of him for the purposes of this section, sub-section (1) applies, and shall be deemed at all times to have applied, in relation to him as if the decision had been made immediately before that date.

“(8) An application to the Board under this section shall be in writing signed by the officer and shall set out the reasons for the application.

Preservation
of rights in
respect of
leave

“87E. (1) Where—

- (a) an officer becomes, by virtue of sub-section 87C (1), an officer to whom this Division applies by reason of his becoming engaged in eligible Commonwealth employment;
- (b) a person who is engaged in eligible Commonwealth employment is re-appointed to the Service under section 63F or 63G and becomes, by virtue of sub-section 87C (2), an officer to whom this Division applies; or
- (c) an officer who is engaged in eligible Commonwealth employment becomes, by virtue of sub-section 87C (3), an officer to whom this Division applies upon his ceasing to be absent from the Service on leave of absence granted under section 71,

he retains, in respect of that employment, such rights (if any) in respect of leave of absence for recreation and leave of absence on account of illness as had accrued to him immediately before he becomes such an officer.

“(2) Where—

- (a) an officer becomes, by virtue of sub-section 87C (1), an officer to whom this Division applies upon his ceasing to be a person to whom the repealed *Officers' Rights Declaration Act 1928* or the former section 6 of the *Trade Commissioners Act 1933* applies; or
- (b) an officer who is the holder of an office of Commissioner, or member of a Board, under the *Repatriation Act 1920* becomes, by virtue of sub-section 87C (3), an officer to whom this Division applies,

there shall be ascertained, in a manner determined by the Public Service Board, the period (if any) of leave of absence for recreation, and the periods (if any) of leave of absence on account of illness, that is or are

applicable to him on his becoming such an officer, and, if such a period is applicable to him, he shall be credited with that period.

“(3) Subject to sub-sections (4) and (5), while an officer to whom this Division applies is engaged in eligible Commonwealth employment—

- (a) recreation leave credits and sick leave credits accrue to him in respect of that employment on the respective dates on which, and at the respective rates of accrual at which, they would accrue to him if his service in that employment were service in the Service; and
- (b) regulations in force for the purposes of sub-section 68 (9) apply to and in relation to him subject to such modifications and adaptations (if any) as the Public Service Board determines.

“(4) The recreation leave credit that accrues to an officer referred to in sub-section (1) or (2)—

- (a) if he becomes an officer to whom this Division applies on a 1 January—on that 1 January; or
- (b) in any other case—on the 1 January immediately following the date on which he becomes such an officer,

shall be calculated in such manner as the Board determines.

“(5) Where an officer referred to in sub-section (1) or (2) becomes an officer to whom this Division applies by reason of his becoming engaged in eligible Commonwealth employment, the sick leave credits that first accrue to him in respect of that employment shall accrue to him on the day on which they would accrue to him if, and shall be calculated as if, the whole of his service in employment since the date on which his last preceding sick leave credits accrued to him had been service in that first-mentioned employment.

“(6) Where an officer to whom this Division applies who is engaged in eligible Commonwealth employment ceases, otherwise than by reason of his death, to be engaged in that employment and, at the same time, to be an officer, he is entitled to be paid, in respect of leave of absence for recreation, an amount equal to the amount (if any) that would be payable to him under this Act in lieu of leave of absence for recreation if he were retiring from the Service and his service in that employment were service in the Service, unless, upon so ceasing, he becomes engaged in other eligible public employment.

“(7) Where an officer to whom this Division applies who is engaged in eligible Commonwealth employment dies while engaged in that employment or the Board directs, after consideration of all the circumstances, that an officer to whom this Division applies shall be presumed to have died on a particular date, there are payable in relation to the officer such amounts as would be payable under this Act in lieu of leave of absence for recreation if his service in that employment were service in

the Service, unless he had ceased to be an officer before his death or before that date, as the case may be.

“(8) Where an officer to whom this Division applies resumes duty in the Service in consequence of his ceasing to be engaged in eligible Commonwealth employment—

- (a) upon resuming duty in the Service, he retains, in respect of his service in the Service, such rights (if any) in respect of leave of absence for recreation and leave of absence on account of illness as had accrued to him immediately before he resumed duty in the Service;
- (b) the recreation leave credit that accrues to him—
 - (i) if he resumes duty in the Service on a 1 January—on that 1 January; or
 - (ii) in any other case—on the 1 January immediately following the date on which he resumes duty in the Service,shall be calculated in such manner as the Board determines; and
- (c) the sick leave credits that first accrue to him in respect of his service in the Service after he so resumes duty shall accrue to him on the day on which they would accrue to him if, and shall be calculated as if, the whole of his service in employment since the date on which his last preceding sick leave credits accrued to him had been service in the Service.

“(9) Where an officer to whom this Division applies who is engaged in eligible Commonwealth employment ceases to be an officer but does not also cease to be engaged in eligible Commonwealth employment, he retains, in respect of the employment in which he is engaged, such rights (if any) in respect of leave of absence for recreation and leave of absence on account of illness as had accrued to him immediately before he ceased to be an officer.

“(10) Notwithstanding the provisions of any other Act, or of the terms and conditions of employment, that would, but for this subsection, be applicable to an officer to whom this Division applies who is engaged in eligible Commonwealth employment, but subject to subsection (11), the officer is not entitled, while engaged in that employment—

- (a) to be absent from that employment on leave of absence for recreation, or to be granted leave of absence for recreation, for a period that exceeds his recreation leave credit immediately before the commencement of the leave;
- (b) to be absent from that employment on leave of absence on full pay on account of illness, or to be granted leave of absence on full pay on account of illness, for a period that exceeds his credit of sick leave on full pay immediately before the commencement of the leave; or

- (c) to be absent from that employment on leave of absence on half pay on account of illness, or to be granted leave of absence on half pay on account of illness, for a period that exceeds his credit of sick leave on half pay immediately before the commencement of the leave.

“(11) Where the period from the date on and from which an officer to whom sub-section (10) applies is to be absent from his employment on leave of absence for recreation to the end of the maximum period for which, but for this sub-section, he could be so absent, includes, or ends immediately before, 1 January in any year, the maximum period for which he may be absent on leave of absence for recreation, or may be granted any such leave, is increased by a period equal to the addition to the recreation leave credit of the officer that will, if he continues in the employment and to be an officer, accrue on that 1 January.

“87F. (1) Where an officer to whom this Division applies is engaged in eligible Commonwealth employment but the period of that employment would not, but for this sub-section, be a period of employment in Government Service for the purposes of the *Long Service Leave (Commonwealth Employees) Act 1976*, that Act applies to him in respect of that period of employment in eligible Commonwealth employment as if it were a period of employment in Government Service for the purposes of that Act. Long service leave

“(2) Where an officer to whom this Division applies or has applied—

- (a) is employed in Government Service or in eligible Commonwealth employment referred to in sub-section (1); and
- (b) was, prior to his current period of employment and while he was a person to whom Division 2 or 3 applied, employed for a period in eligible public employment that would not, but for this sub-section, be a period of employment in a qualifying service for the purposes of the *Long Service Leave (Commonwealth Employees) Act 1976*,

that Act applies to and in relation to him as if that period of employment in eligible public employment were a period of employment in other relevant service for the purposes of paragraph 11 (2) (f) of that Act.

“(3) This section does not apply to an officer to whom the *Long Service Leave (Commonwealth Employees) Act 1976* does not apply by virtue of sub-section 10 (3) of that Act.

“87G. (1) Subject to this section, where an officer to whom this Division applies— Office to become vacant in certain circumstances

- (a) was, immediately before he became such an officer, the holder of an office in the Service; or
- (b) is promoted to an office in the Service, or is transferred to such an office under section 50, 63F or 63G, but does not commence

to perform the duties of that office within the period of 30 days after notice of the transfer or promotion is published in the *Gazette*,

the office becomes vacant upon his becoming such an officer or upon the expiration of that period, as the case may be, and the officer thereupon becomes an unattached officer.

“(2) Where an officer to whom this Division applies is promoted to an office in the Service or is transferred to such an office under section 50, 63F or 63G, the Board may, on application made by the officer before the expiration of the period of 30 days after notice of the transfer or promotion is published in the *Gazette* determine that sub-section (1) shall have effect in relation to the transfer or promotion as if the reference in that sub-section to a period of 30 days were a reference to such longer period as is specified in the determination.

“(3) An application under sub-section (2) shall be—

- (a) in writing;
- (b) addressed to the Permanent Head of the Department in which the office is included; and
- (c) lodged at, or sent by post to, any office of the Department.

“(4) Where—

- (a) an officer to whom this Division applies is promoted to an office in the Service or is transferred to such an office under section 50, 63F or 63G; and
- (b) at the time when notice of the transfer or promotion is published in the *Gazette*, the officer is absent from his eligible public employment for a period on leave of absence granted before that time,

the reference in sub-section (1) to the period of 30 days after notice of the transfer or promotion is published in the *Gazette* shall be read as a reference to the period of 30 days after the expiration of the first-mentioned period.

Application
of section 50
to certain
unattached
officers

“87H. In the application of section 50 to an unattached officer to whom this Division applies, the officer shall be deemed to be the holder of an office in the Division in which he was included immediately before he became or last became such an officer, being an office—

- (a) subject to paragraph (b)—the classification of which is equivalent, or is as nearly as possible equivalent, to the classification of the office held by him immediately before he became, or last became, such an officer; or
- (b) if he was not the holder of an office immediately before he became, or last became, such an officer—having such classification

as the Board considers appropriate having regard to the designated and salary, or limits of salary, applicable to him immediately before he ceased, or last ceased, to perform duty in the Service.

“87J. (1) In this section—

‘prescribed authority’ means a body, whether incorporated or not, established for a public purpose by a law of a State or of the Northern Territory, other than a body the staff of which consists of members of the Public Service of that Territory;

Employment
of officers by
certain
authorities,
&c., upon
transfer of
functions

‘prescribed function’ means a function that is declared, by a declaration under this section that is in force, to be a prescribed function corresponding to a declared Commonwealth function;

‘prescribed office’ means an office or appointment (not being an office or appointment in the Public Service of the Northern Territory) the holder of which is appointed—

- (a) by the Governor of a State or by a Minister of a State; or
- (b) by the Administrator of that Territory or by an Executive Member of the Legislative Assembly for that Territory;

‘statutory authority’ means—

- (a) a body, whether incorporated or not, established for a public purpose by a law of the Commonwealth or of a Territory other than the Northern Territory;
- (b) a body corporate incorporated under a law of a State or of a Territory, being a body corporate in which the Commonwealth has a controlling interest; or
- (c) a prescribed authority;

‘statutory office’ means—

- (a) a Commonwealth office;
- (b) an office or appointment other than a Commonwealth office that could be declared by the regulations to be a Commonwealth office for the purposes of this Part; or
- (c) a prescribed office.

“(2) A reference in this section to employment by a statutory authority shall be read as including a reference to—

- (a) employment as a member of the Commonwealth Teaching Service;
- (b) employment as a member of the Commonwealth Police Force;
- (c) employment as a member of the Police Force of a Territory other than the Northern Territory;
- (d) employment under the *Naval Defence Act* 1910, other than employment in an office or appointment in, or as a member of, the Australian Navy;

- (e) employment in the Australian Security Intelligence Organization, other than employment in the office of Director-General of Security;
- (f) employment under section 10 of the *Supply and Development Act* 1939; or
- (g) employment in an office or appointment that is prescribed for the purposes of paragraphs 87 (2) (m).

“(3) Subject to this section, where the Board is satisfied that officers included in a class of officers are performing duties connected with the performance of a function, the Board may, with the approval of the Governor-General, by declaration published in the *Gazette*, declare that function to be a declared Commonwealth function and the duties of officers included in that class of officers to be connected with the performance of that declared Commonwealth function.

“(4) Subject to sub-section (7), where the Board is satisfied—

- (a) that persons employed, or to be employed, in offices included in a class of statutory offices; or
- (b) that persons employed, or to be employed, or included in a class of persons employed, or to be employed, by a statutory authority, by a State or in the Public Service of a Territory other than the Northern Territory,

are performing, or will perform, duties connected with the performance of a function that is the same as, or is similar to, a function that is being, or has been, declared to be a declared Commonwealth function, the Board may, in the declaration published in the *Gazette* under sub-section (3) declaring that function to be a declared Commonwealth function, or in a subsequent declaration published in the *Gazette*, declare, with the approval of the Governor-General—

- (c) that first-mentioned function to be a prescribed function corresponding to that declared Commonwealth function; and
- (d) employment—
 - (i) in the offices included in that class of statutory offices; or
 - (ii) by that statutory authority, by that State or in the Public Service of that Territory on duties connected with the performance of that prescribed function,to be employment connected with the performance of that prescribed function.

“(5) For the purposes of this Act, where a person, being an officer included in a class of officers whose duties have been declared to be connected with the performance of a declared Commonwealth function becomes engaged in employment that has been declared to be connected with a prescribed function that corresponds to that declared Commonwealth function—

- (a) the person becomes, upon becoming engaged in that employment, an eligible person in relation to that declared Commonwealth function;
- (b) the person continues to be such a person until he ceases to be engaged in employment that is declared to be connected with the performance of a prescribed function that corresponds to that declared Commonwealth function;
- (c) if, at any time while he continues to be such a person, the employment in which he is engaged is not eligible public employment, this Part applies to and in relation to him as if that employment were eligible public employment; and
- (d) if the first-mentioned employment is employment in a statutory office other than a prescribed office or employment by a statutory authority other than a prescribed authority, the person retains, in respect of the first-mentioned employment, such rights (if any) in respect of leave of absence for recreation and leave of absence on account of illness as had accrued to him immediately before he became engaged in the first-mentioned employment.

“(6) Where an officer becomes an eligible person in relation to a declared Commonwealth function, he shall, notwithstanding any other provision of this Act, be deemed to have ceased to be an officer at the expiration of the day immediately preceding the day on which he becomes such a person.

“(7) A declaration shall not be made under this section declaring employment in a statutory office (being a prescribed office), in an office included in a class of statutory offices (being prescribed offices), by a statutory authority (being a prescribed authority) or by a State to be employment that is connected with the performance of a prescribed function that corresponds to a declared Commonwealth function unless, in relation to that employment, the conditions specified in sub-section (8) are fulfilled.

“(8) The conditions required by sub-section (7) to be fulfilled, in relation to employment that will, upon the making of a declaration under this section, be employment that is connected with the performance of a prescribed function that corresponds to a declared Commonwealth function, are as follows:

- (a) that the Board is satisfied that the terms and conditions of employment that will be applicable to the service in that employment of a person who is, by virtue of that declaration, an eligible person in relation to that declared Commonwealth function will be such that—
 - (i) the person retains, in respect of the employment, such rights (if any) in respect of leave of absence for recreation and leave of absence on account of illness as had

accrued to him immediately before he became engaged in the employment;

- (ii) the person is entitled to a period or periods of long service leave, and payment in lieu of long service leave shall be made to or in relation to the person, in respect of the employment, as if his service in the employment were service in the Service unless, within 3 months after he becomes engaged in the employment, he elects, in writing, for those entitlements to be determined otherwise; and
 - (iii) if the person is contributing for superannuation benefits under the *Superannuation Act 1976* immediately before the day on which he becomes engaged in the employment, he shall be exempted from liability to contribute for superannuation benefits otherwise than under that Act in respect of the employment unless, within 3 months after that day, he elects, in writing, to contribute for those other benefits; and
- (b) that arrangements satisfactory to the Minister for the time being administering the *Superannuation Act 1976* or to an officer authorized by that Minister for the purposes of this paragraph have been made for and in relation to the provision of superannuation benefits under that Act in respect of persons engaged in that employment who—
- (i) are eligible persons in relation to that declared Commonwealth function; and
 - (ii) are persons to whom section 14A of that Act applies.

“(9) Where—

- (a) while a declaration that declares employment to be connected with the performance of a prescribed function that corresponds to a declared Commonwealth function is in force, a change occurs in the terms and conditions applicable to the employment of persons engaged in that employment who are eligible persons in relation to that declared Commonwealth function; and
- (b) it appears to the Board that those terms and conditions are no longer such that the conditions set out in sub-section (8) are fulfilled,

the Board shall, subject to the approval of the Governor-General, by instrument published in the *Gazette*, revoke that declaration, or revoke that declaration in so far as it relates to that employment.

“(10) Where the Board revokes a declaration that declares employment to be connected with the performance of a prescribed function that corresponds to a declared Commonwealth function, or revokes such a

declaration in so far as it relates to any such employment, notwithstanding the revocation, this Part continues to apply to and in relation to a person who, immediately before the revocation, was engaged in that employment and was an eligible person in relation to that declared Commonwealth function as if, while he continues to be engaged in that employment—

- (a) he were an eligible person in relation to that declared Commonwealth function; and
- (b) he were engaged in eligible public employment.

“Division 3—Rights of certain Former Officers

“87K. (1) Where an officer to whom Division 2 applies who is engaged in eligible public employment—

Persons to whom Division applies

- (a) resigns from the Service; or
- (b) ceases to be an officer in accordance with sub-section 87D (1), 87V (2), 87Y(3), 87Z (3) or 87ZA (5),

but continues to be engaged in that employment, he becomes a person to whom this Division applies upon so resigning or so ceasing to be an officer, as the case may be.

“(2) Where a person who—

- (a) is deemed by sub-section 87J (6), 87Y (2) or 87Z (2) to have ceased to be an officer; or
- (b) ceases, under sub-section 87V (1) or 87ZC (2), to be an officer,

is engaged in eligible public employment on the day after the day at the expiration of which he is so deemed to have ceased, or so ceased, to be an officer, he becomes a person to whom this Division applies on the first-mentioned day.

“(3) An officer who is transferred to the Public Service of the Northern Territory under section 84A becomes a person to whom this Division applies on the day on which he is so transferred.

“(4) Where a person who, before the commencing day, ceased, under sub-section 84A (3) to be an officer has, throughout the period that commenced on the day immediately following the day on which he so ceased to be an officer and ends on the commencing day, been engaged in employment in the Public Service of the Northern Territory or in that employment and other employment, being—

- (a) eligible Commonwealth employment; or
- (b) employment, other than eligible Commonwealth employment, of such a kind that the *Officers’ Rights Declaration Act 1928* would have applied to him in respect of that employment if, immediately before he became engaged in that employment, he had been an officer or a person to whom that Act applied,

the person becomes a person to whom this Division applies on the commencing day.

“(5) Where—

- (a) a person who, before 1 July 1975, was appointed to be the holder of the office of Managing Director or Chief General Manager of the Australian Postal Commission or the Australian Telecommunications Commission;
- (b) a person who was deemed to have been appointed to the Service of such a Commission under section 16 or sub-paragraph 19(2)(b)(iv) of the *Postal and Telecommunications Commissions (Transitional Provisions) Act 1975*; or
- (c) a person who, not less than 3 years before the commencing day, resigned or retired from the Service for the purpose of becoming engaged in employment as the holder of such an office or by such a Commission and became engaged in such employment,

has, throughout the period that commenced on the day on which he was so appointed, was deemed to have been so appointed or became so engaged, as the case may be, and ends on the commencing day, been engaged in employment as the holder of such an office or by such a Commission or in that employment and other employment, being—

- (d) eligible Commonwealth employment; or
- (e) employment, other than eligible Commonwealth employment, of such a kind that the *Officers' Rights Declaration Act 1928* would have applied to him in respect of that employment if, immediately before he became engaged in that employment, he had been an officer or a person to whom that Act applied,

the person becomes a person to whom this Division applies on the commencing day.

“(6) A person who—

- (a) became the holder of a magisterial office in the Australian Capital Territory before the commencing day;
- (b) was an officer immediately before he became, or first became, the holder of a magisterial office in the Australian Capital Territory; and
- (c) was, throughout the period that commenced on the day on which he became, or first became, the holder of a magisterial office in the Australian Capital Territory and ends on the commencing day, engaged in employment as the holder of a magisterial office in that Territory or in that employment and other employment, being—
 - (i) eligible Commonwealth employment; or
 - (ii) employment, other than eligible Commonwealth employment, of such a kind that the *Officers' Rights Declaration Act 1928* would have applied to him in respect of

that employment if, immediately before he became engaged in that employment, he had been an officer or a person to whom that Act applied,

becomes, on the commencing day, a person to whom this Division applies.

“(7) Where magisterial offices in the Northern Territory become public offices by virtue of a regulation made for the purposes of paragraph (b) of the definition of ‘public office’ in sub-section 87 (1), a person who—

- (a) became the holder of a magisterial office in the Northern Territory before or after the commencement of this sub-section, but before the day (in this sub-section referred to as the ‘relevant day’) on which that regulation takes effect;
- (b) was an officer immediately before he became, or first became, the holder of a magisterial office in the Northern Territory; and
- (c) was, throughout the period that commenced on the day on which he became, or first became, the holder of a magisterial office in the Northern Territory and ends on the relevant day, engaged in employment as the holder of a magisterial office in the Northern Territory or in that employment and other employment, being—
 - (i) eligible Commonwealth employment; or
 - (ii) employment, other than eligible Commonwealth employment, of such a kind that the *Officers’ Rights Declaration Act* 1928 would have applied to him in respect of that employment if, immediately before he became engaged in that employment, he had been an officer or an officer to whom that Act applied,

becomes, on the relevant day, a person to whom this Division applies.

“(8) In sub-sections (6) and (7), ‘magisterial office’ means the office of Chief Magistrate or an office of Stipendiary Magistrate (not being, in either case, an office in the Service).

“(9) An officer who becomes an eligible person for the purposes of Part IV of the *Commonwealth Legal Aid Commission Act* 1977 becomes a person to whom this Division applies on the day on which he becomes an eligible person for the purposes of that Part.

“(10) Where a person who, before the commencing day, ceased, under section 22 of the *Commonwealth Legal Aid Commission Act* 1977, to be an officer has, throughout the period that commenced on the day immediately following the day on which he so ceased to be an officer and ends on the commencing day, been engaged in employment as a member of the staff of an approved legal aid commission, or as the holder of an approved statutory office, within the meaning of that Act or in that employment and other employment, being—

- (a) eligible Commonwealth employment; or
- (b) employment, other than eligible Commonwealth employment, of such a kind that the *Officers' Rights Declaration Act 1928* would have applied to him in respect of that employment if, immediately before he became engaged in that employment, he had been an officer or a person to whom that Act applied,

the person becomes a person to whom this Division applies on the commencing day.

“(11) A person in respect of whom a declaration under sub-section 63G (7) is made becomes a person to whom this Division applies on the day on which the declaration is made.

“(12) Where a person becomes a person to whom this Division applies, he continues to be such a person until he ceases to be engaged in eligible public employment or attains the age of 65 years, whichever first occurs.

Long service
leave

“87L. (1) Subject to sub-section (2), where a person to whom this Division applies is engaged in eligible Commonwealth employment but the period of that employment would not, but for this sub-section, be a period of employment in Government Service for the purposes of the *Long Service Leave (Commonwealth Employees) Act 1976*, that Act applies to him in respect of that period of employment in eligible Commonwealth employment as if it were employment in Government Service for the purposes of that Act unless—

- (a) if he became such a person while he was engaged in that employment—within 3 months after he became such a person; or
- (b) in any other case—within 3 months after he became engaged in that employment,

he elects, in writing, for his long service leave entitlements to be determined otherwise.

“(2) Where—

- (a) a person to whom this Division applies is engaged in eligible Commonwealth employment; and
- (b) on the day on which he ceased, or last ceased, to be an officer—
 - (i) section 75A, 81K or 81V of this Act or section 14 of the *Statistics (Arrangements with States) Act 1956* applied to him; or
 - (ii) a determination under section 81ZV of this Act, or under section 12 of the *Aboriginal Affairs (Arrangements with the States) Act 1973*, relating to long service leave applied to him,

that section or that determination, as the case may be, applies to him as if he had continued in the Service since that day, unless he makes, or has made since that day, an election under sub-section (1).

- “(3) Where a person to whom this Division applies or has applied—
- (a) is employed in Government Service or in eligible Commonwealth employment referred to in sub-section (1); and
 - (b) was, prior to his current period of employment and while he was a person to whom Division 2 or 3 applied, employed for a period in eligible public employment that would not, but for this sub-section, be a period of employment in a qualifying service for the purposes of the *Long Service Leave (Commonwealth Employees) Act 1976*,

that Act applies to and in relation to him as if that period of employment in eligible public employment were a period of employment in other relevant service for the purposes of paragraph 11 (2) (f) of that Act.

“(4) This section does not apply to a person to whom the *Long Service Leave (Commonwealth Employees) Act 1976* does not apply by virtue of sub-section 10 (3) of the Act.

“87M. (1) Sections 50, 50A, 53 and 53A apply, subject to this section and to such modifications (if any) as are prescribed, in relation to a person to whom this Division applies as if the person—

Right to re-enter Service by way of transfer or promotion

- (a) were an officer;
- (b) were the holder of an office in the Division in which he was included immediately before he ceased, or last ceased, to be an officer, being an office—
 - (i) subject to sub-paragraph (ii)—the classification of which is equivalent, or is as nearly as possible equivalent, to the classification of the office held by him immediately before he ceased, or last ceased, to be an officer; or
 - (ii) if he was an unattached officer immediately before he ceased, or last ceased, to be an officer—having such classification as the Board considers appropriate having regard to the designation and salary, or limits of salary, applicable to him immediately before he ceased, or last ceased, to be an officer; and
- (c) had the same seniority as he had immediately before he ceased, or last ceased, to be an officer.

“(2) Subject to sub-section (7), where a person to whom this Division applies commences to perform the duties of an office in the Service to which he has been transferred or promoted—

- (a) he shall be deemed to have been re-appointed to the Service as an officer on the day on which he commences to perform those duties;
- (b) he shall be deemed to have been so re-appointed to the Service without probation unless the Board, by instrument in writing, otherwise determines; and

- (c) he is entitled to be paid salary and allowances as the holder of the office from and including that day, and not otherwise.

“(3) Subject to sub-sections (4) and (6), where a person to whom this Division applies who has been transferred or promoted to an office in the Service—

- (a) does not commence to perform the duties of that office within the period of 30 days after notice of the transfer or promotion is published in the *Gazette*; or
- (b) notifies the Board, in writing, before the expiration of that period, that he declines the transfer or promotion,

the transfer or promotion, as the case may be, is of no force or effect.

“(4) Where a person to whom this Division applies is transferred or promoted to an office in the Service, the Board may, on application made by the person before the expiration of the period of 30 days after notice of the transfer or promotion is published in the *Gazette*, determine that sub-section (3) shall have effect in relation to the transfer or promotion as if the reference in that sub-section to a period of 30 days were a reference to such longer period as is specified in the determination.

“(5) An application under sub-section (4) shall be—

- (a) in writing;
- (b) addressed to the Permanent Head of the Department in which the office is included; and
- (c) lodged at, or sent by post to, any office of the Department.

“(6) Where—

- (a) a person to whom this Division applies is transferred or promoted to an office in the Service;
- (b) at the time when notice of the transfer or promotion is published in the *Gazette*, the person is absent from the eligible public employment in which he is employed on leave granted before that time; and
- (c) the Board has not made a determination under sub-section (4) in relation to the transfer or promotion,

references in sub-section (3) to the period of 30 days after notice of the transfer or promotion is published in the *Gazette* shall be read as references to the period of 30 days after the expiration of the period of the leave so granted to him.

“(7) Where—

- (a) a person to whom this Division applies—
 - (i) has been provisionally promoted to fill a vacant office in the Service; or
 - (ii) has appealed against the provisional promotion of another person to fill such an office,

under section 50 in its application to him by virtue of sub-section (1) of this section; and

- (b) the person ceases to be a person to whom this Division applies before the provisional promotion is confirmed or cancelled,

then, subject to sub-section (8)—

- (c) the preceding provisions of this section continue to apply to and in relation to the promotion or appeal as if he had not ceased to be a person to whom this Division applies; and
- (d) if he commences to perform the duties of the office as a result of his having been promoted to the office, or of his provisional promotion to the office having been confirmed—

- (i) he shall be deemed to have been re-appointed to the Service as an officer on the day immediately following the day on which he ceased to be a person to whom this Division applies and to have been absent from the Service on leave of absence without pay from the day on which he is to be deemed to have been so re-appointed until he commences to perform the duties of the office; and

- (ii) the period during which he is to be deemed to have been absent from the Service on leave of absence without pay shall form part of his period of service under this Act for all purposes of this Act and of the *Long Service Leave (Commonwealth Employees) Act 1976*.

“(8) Sub-section (7) does not apply to a person who ceased to be a person to whom this Division applies upon the termination of his employment by reason of—

- (a) his resignation, invalidity or misconduct;
- (b) the annulment of his appointment while he was a probationary employee; or
- (c) his having attained the age of 65 years.

“87N. (1) Where a prescribed condition of re-appointment is fulfilled in respect of employment in which a person to whom this Division applies is engaged, the person may, while he is a person to whom this Division applies or, subject to sub-section (3), after he ceases to be such a person, make application to the Board for re-appointment to the Service on the ground that that condition has been so fulfilled.

Application
for re-
appointment
to Service

“(2) Each of the following conditions is a prescribed condition of re-appointment in respect of employment in which a person is engaged:

- (a) that his employment in a public office is to be, or has been, terminated, otherwise than on the ground of his invalidity, before the expiration of the term for which he was appointed;
- (b) that his employment in a public office has been terminated upon the expiration of the term for which he was appointed and he has not been—

- (i) re-appointed, or offered re-appointment, to that office;
 - (ii) appointed, or offered appointment, to another public office; or
 - (iii) employed, or offered employment, by a public authority;
- (c) that his employment by a public authority is to be, or has been, terminated otherwise than on the ground of his invalidity or by reason of his resignation;
- (d) that, in the case of a person whose employment in a public office or by a public authority was terminated by reason of his having been found by a court to have committed a criminal offence—
 - (i) the finding of the court has been nullified; and
 - (ii) if the person was employed by a public authority, he has made application for re-appointment to the service of that authority but has been refused re-appointment;
- (e) that, in the case of a person to whom this Division became applicable, in accordance with sub-section 87K (2), when he became an eligible person in relation to a declared Commonwealth function—
 - (i) he is employed by a statutory authority, by a State or in the Public Service of a Territory other than the Northern Territory and is, and has, at all times since he became such a person, continued to be, an eligible person in relation to that declared Commonwealth function; and
 - (ii) his career in employment declared to be connected with a prescribed function corresponding to that declared Commonwealth function has been adversely affected by reason of a reduction or reductions in, or an alteration or alterations to, the activities of the body by or in which he is employed connected with the performance of that prescribed function;
- (f) that, in the case of a person to whom this Division became applicable, in accordance with sub-section 87K (2), when he became engaged in employment by a Commonwealth authority in accordance with a declared offer of employment within the meaning of section 87ZC—
 - (i) he is, and has, at all times since he became engaged in that employment, continued to be, engaged in that employment; and
 - (ii) his career in employment connected with the performance of the functions of that authority has been adversely affected by reason of a reduction or reductions in, or an alteration or alterations to, the functions or activities of that authority;
- (g) that, in the case of a person to whom this Division became applicable, in accordance with sub-section 87K (3) or (4), when he

became an employee of the Public Service of the Northern Territory—

- (i) he is, and has, at all times since he became such an employee, continued to be, engaged in employment in that Public Service that is connected with the performance of the function in connexion with the performance of which he performed duties immediately after he became such an employee; and
 - (ii) his career in that Public Service in employment that is connected with the performance of that function has been adversely affected by reason of a reduction or reductions in, or an alteration or alterations to, the activities of that Public Service connected with the performance of that function;
- (h) that, in the case of a person to whom this Division became applicable in accordance with sub-section 87K (5) when he became engaged in employment by the Australian Postal Commission or the Australian Telecommunications Commission—
- (i) he is, and has, at all times since he became engaged in that employment, continued to be, engaged in employment by such a commission; and
 - (ii) his career in employment that is connected with the performance of the functions of the commission by which he is employed has been adversely affected by reason of a reduction or reductions in, or an alteration or alterations to, the functions or activities of that commission; and
- (j) that, in the case of a person to whom this Division became applicable, in accordance with sub-section 87K (9) or (10), when he became an eligible person within the meaning of the *Commonwealth Legal Aid Commission Act 1977*—
- (i) he is, and has, at all times since he became such a person, continued to be, such a person; and
 - (ii) his career in employment that is connected with the performance of the functions of the body by which he is employed has been adversely affected by reason of a reduction or reductions in, or an alteration or alterations to, the functions or activities of that body.

“(3) A person is not entitled to make application under sub-section (1) on the ground that a prescribed condition of re-appointment has been fulfilled—

- (a) if he has attained the age of 65 years;
- (b) if the employment in respect of which that condition has been fulfilled is to be terminated and he will attain the age of 65 years on or before the day on which the employment is to be terminated; or

- (c) if the employment in respect of which that condition has been fulfilled is to be, or has been, terminated by reason of his resignation or invalidity.

“(4) Where a person to whom this Division applies—

- (a) has made an application under sub-section (1); and
- (b) attains the age of 65 years while engaged in the eligible public employment in respect of which a prescribed condition of re-appointment is specified in the application as having been fulfilled,

the application lapses, and this section ceases to apply to and in relation to him, upon his attaining that age.

“(5) An application by a person under sub-section (1)—

- (a) shall be in writing;
- (b) shall be made—
 - (i) if his application is on the ground that a prescribed condition of re-appointment referred to in paragraph (2) (a), (b) or (c) has been fulfilled in relation to him—before, or within the period of 30 days, or such further period as the Board allows, after, the day on which his employment is terminated;
 - (ii) if his application is on the ground that the prescribed condition of re-appointment referred to in paragraph (2) (d) has been fulfilled in relation to him—within the period of 30 days, or such further period as the Board allows, after the day on which his application for re-appointment is refused; or
 - (iii) if his application is on the ground that the prescribed condition of re-appointment referred to in paragraph (2) (e), (f), (g), (h) or (j) has been fulfilled in relation to him—within the period of 30 days, or such further period as the Board allows, after the day on which the reduction or last reduction in, or the alteration or last alteration to, the functions or activities concerned occurs;
- (c) shall specify the prescribed condition of re-appointment that he alleges has been fulfilled in relation to him and, if he specifies the prescribed condition of re-appointment referred to in paragraph (2) (a) or (c), state whether his employment is to be terminated, or was terminated, on the ground of his misconduct;
- (d) shall specify the kind of employment in the Service in which he seeks to be engaged; and
- (e) shall, in a case where—
 - (i) he had been provisionally promoted to fill a vacant office in the Service, or had appealed against the provisional promotion of another person to fill such an office, before the day on which his employment is terminated; and

(ii) the provisional promotion had not been confirmed or cancelled before that day,
set out particulars of the provisional promotion or of the appeal, as the case may be.

“(6) The Board shall refer an application made to it under sub-section (1) to a Re-appointments Review Committee.

“(7) The Re-appointments Review Committee to which an application under sub-section (1) is referred shall inquire into the application and—

- (a) if it is satisfied that a prescribed condition of re-appointment has been fulfilled in relation to the applicant—
 - (i) determine that the applicant is eligible for re-appointment to the Service in a specified Division with a specified designation and at a specified salary, or at a specified salary within specified limits of salary;
 - (ii) determine whether, having regard only to the period of the applicant’s service in the Service and in eligible public employment, the applicant should, in its opinion, be re-appointed on probation; and
 - (iii) if that prescribed condition is the condition referred to in paragraph (2) (d)—determine whether the period commencing on the day immediately following the day on which his employment was terminated and ending on the day immediately preceding the day on which he reports for duty in the Service or, if he furnishes a notification under paragraph 87Q (4) (b), on the day on which he attains the age of 65 years, or any part of that period, is to form part of his period of service for any purposes under this Act or any other Act (other than the *Superannuation Act 1976*) and, if so, the purposes for which it is to form part of his period of service; and
- (b) if it is not so satisfied—determine that the applicant is not eligible for re-appointment to the Service.

“(8) Where the Re-appointments Review Committee that inquires into an application under sub-section (1) is satisfied that the employment of the applicant was terminated on the ground of his misconduct, it shall not determine that he is eligible for re-appointment to the Service unless it is satisfied that—

- (a) if the applicant had committed that misconduct while employed as an officer in the Service, it is likely that he would not have been dismissed from the Service; or
- (b) if the applicant had been dismissed from the Service by reason of that misconduct and had made application under section 63F for re-appointment to the Service or under section 63G for the review of his dismissal from the Service, as the case may be, it is

likely that a Disciplinary Appeal Board would recommend his re-appointment to the Service.

“(9) The Re-appointments Review Committee that inquires into an application under sub-section (1) by an applicant whose employment is to be, or has been, terminated in consequence of the annulment, for any reason, of his appointment while he is or was a probationary employee shall not determine that the applicant is eligible for re-appointment to the Service unless it is satisfied that, if the applicant had been serving as an officer in the Service on probation, it is likely that his appointment to the Service would not have been annulled for that reason.

“(10) In making a determination under sub-section (7), the Re-appointments Review Committee shall have regard to—

- (a) the Division in which the applicant was included;
- (b) the designation applicable to the applicant; and
- (c) the salary, or limits of salary, applicable to the applicant,

immediately before he ceased, or last ceased, to be an officer and to all other relevant matters.

“(11) The Re-appointments Review Committee that inquires into an application referred to it under sub-section (6) may, under sub-section (7)—

- (a) determine that the applicant is eligible for re-appointment to the Service whether or not the applicant is eligible for appointment to the Service under section 34; and
- (b) determine that the applicant is eligible for re-appointment to a specified Division whether or not he has the prescribed educational qualifications for appointment to that Division.

“(12) A determination of a Re-appointments Review Committee shall be reduced to writing and a copy of the determination shall be furnished to the Board.

“(13) Where a Re-appointments Review Committee determines, under sub-section (7), that an applicant is not eligible for re-appointment to the Service, the Board shall, as soon as practicable after it receives a copy of the determination, furnish a copy of the determination to the applicant.

Application
for re-
instatement
as person
to whom
Division
applies

“87P. (1) Where—

(a) a person—

- (i) has, on a day, ceased to be a person to whom this Division applies by reason of his employment in a public office or by a public authority having been terminated on the ground that he has been found by a Court to have committed a criminal offence (being a finding that has subsequently been nullified); and
- (ii) is engaged in eligible public employment; or

(b) a person—

- (i) has, on a day, ceased to be a person to whom this Division applies by reason of the termination of his employment in a public office or by a public authority;
- (ii) is engaged in employment in that office, or in an office that is equivalent to, or as nearly as possible equivalent to, that office, or any employment of that authority, as the case may be; and
- (iii) the person became so engaged in circumstances similar to the circumstances in which a person may be re-appointed to the Service under section 63G,

this section applies to the person.

“(2) A person to whom this section applies may, subject to sub-section (3), make application to the Board for re-instatement as a person to whom this Division applies.

“(3) A person to whom this section applies is not entitled to make an application under sub-section (2) if he has attained the age of 65 years.

“(4) An application under sub-section (2)—

- (a) shall be in writing;
- (b) in the case of an application made by an applicant in relation to whom the finding of a court has been nullified—
 - (i) shall be made within the period of 30 days, or within such further period as the Board allows, after the day on which the finding of the court was nullified;
 - (ii) shall set out particulars of the criminal offence to which the finding related; and
 - (iii) shall contain a statement whether the applicant has made an application under sub-section 87N (1) in connexion with the finding; and
- (c) in the case of an application made by an applicant who has become engaged in employment in circumstances similar to the circumstances in which a person may be re-appointed to the Service under section 63G—
 - (i) shall be made within the period of 30 days, or within such further period as the Board allows, after the day on which he became so engaged in the employment; and
 - (ii) shall contain a brief statement of the circumstances in which he ceased, or last ceased, to be a person to whom this Division applies.

“(5) The Board shall refer an application made to it under sub-section (1) to a Re-appointments Review Committee.

“(6) Where a person who has made an application under sub-section (1) attains the age of 65 years before a determination is made

under sub-section (7) in respect of the application, the application lapses upon his attaining that age.

“(7) The Re-appointments Review Committee to which an application under sub-section (1) is referred shall inquire into the application and—

- (a) if it is satisfied that it is, in all the circumstances, reasonable that this Division should apply in relation to the applicant—determine that the applicant shall be deemed not to have ceased, on the day referred to in sub-paragraph (1) (a) (i) or (1) (b) (i), as the case may be, to be a person to whom this Division applies; and
- (b) if it is not so satisfied—dismiss the application.

“(8) A determination of a Re-appointments Review Committee under this section shall be reduced to writing and copies of the determination shall be furnished to the Board and to the applicant.

Re-
appointment
to Service

“87Q. (1) Where a Re-appointments Review Committee determines, under sub-section 87N (7), that an applicant is eligible for re-appointment to the Service, the Board shall, as soon as practicable after it receives a copy of the determination, furnish a copy of the determination to the applicant together with a notice, in writing, informing the applicant that he is eligible for re-appointment to the Service in a specified Department as an unattached officer of the Division, with the designation and at the salary, or at the salary within the limits of salary, specified in the determination.

“(2) A notice given by the Board under sub-section (1) shall specify—

- (a) the place at which the applicant should report for duty; and
- (b) the nature of the duties on which he will be engaged upon commencing to perform duty in the Service.

“(3) Where a person who has made an application under sub-section 87N (1)—

- (a) has received a notice under sub-section (1) of this section; and
- (b) attains the age of 65 years while engaged in the eligible public employment in respect of which a prescribed condition of re-appointment is specified in the application as having been fulfilled,

this section ceases to apply to and in relation to him upon his attaining that age.

“(4) Subject to sub-section (3), where, within the period of 21 days, or within such further period as the Board allows, after a person receives a notice under sub-section (1), the person—

- (a) if he has not attained the age of 65 years—reports for duty at the place specified in the notice; or

- (b) if he has attained, or will, within that period or further period, attain, the age of 65 years—notifies the Board, in writing, that he wishes to be re-appointed to the Service in accordance with the notice,

the person shall be deemed—

- (c) to have been re-appointed to the Service under this section on the day (in this sub-section referred to as the ‘day of re-appointment’) immediately following the day on which his employment by the relevant public authority or as the holder of the relevant public office, as the case may be, was terminated or ceased;
- (d) to have been so re-appointed as an unattached officer of the Division, with the designation and at the salary, or at the salary within the limits of salary, specified in the notice; and
- (e) to have been absent from the Service on leave of absence without pay during the period (if any) from and including the day of re-appointment to and including the day immediately preceding the day on which he reports for duty in the Service, or attains the age of 65 years, as the case may be.

“(5) A person who has made an application under sub-section 87N (1) and is deemed to have been re-appointed to the Service under this section shall be deemed to have been so re-appointed without probation unless the Re-appointments Review Committee that inquired into his application has determined that the applicant should be re-appointed on probation.

“(6) Where a person is, under sub-section (5), to be deemed to have been re-appointed to the Service on an application made under section 87N on the ground that a prescribed condition of re-appointment, other than the condition referred to in paragraph 87N (2) (d), had been fulfilled in relation to him, the period during which he is, by virtue of that sub-section, to be deemed to have been absent from the Service on leave of absence without pay shall form part of his period of service under this Act for all purposes of this Act and the *Long Service Leave (Commonwealth Employees) Act 1976*.

“(7) A person who receives a notice under sub-section (1) ceases to be entitled to be re-appointed to the Service under this section if he does not report for duty or notify the Board in accordance with sub-section (4).

“87R. (1) Notwithstanding any other provision of this Act, the Board may re-appoint a person to whom this Division applies to the Service if it is satisfied that there are special circumstances justifying it in doing so. Re-
appointment
in special
circum-
stances

“(2) A person who is re-appointed to the Service under sub-section (1) shall be re-appointed—

- (a) as an unattached officer of the Division of which he was last an officer;
- (b) without probation, unless the Board, by instrument in writing, otherwise determines;
- (c) with the same designation as he had immediately before he ceased, or last ceased, to be an officer or, if there is no longer such a designation, with such designation as the Board considers appropriate; and
- (d) at the salary payable to the holder of an office having that designation or, if a range of salary is applicable to that office, at such salary within that range as the Board considers appropriate.

Rights of
officers upon
re-
appointment

“87S. (1) This section applies to a person who—

- (a) is deemed to have been re-appointed to the Service under section 87M or 87Q; or
- (b) is re-appointed to the Service under section 87R.

“(2) There shall be ascertained, in a manner determined by the Board, in writing, the period (if any) of leave of absence for recreation and the period (if any) of leave of absence on account of illness that is applicable to a person to whom this section applies on his re-appointment and, if such a period is applicable to him, he shall be credited with that period.

“(3) Where, on the day on which a person to whom this section applies ceased, or last ceased, to be an officer—

- (a) section 75A, 81K or 81V of this Act or section 14 of the *Statistics (Arrangements with States) Act* 1956 applied to the person; or
- (b) a determination under section 81ZV of this Act, or under section 12 of the *Aboriginal Affairs (Arrangements with the States) Act* 1973, relating to long service leave applied to the person,

that section or that determination, as the case may be, applies to him as if he had continued in the Service since that day, unless, since that day, he has made an election under sub-section 87L (1).

“(4) Subject to sub-section (5), the seniority of a person to whom this section applies is the seniority that he had immediately before he ceased, or last ceased, to be an officer.

“(5) Where a person to whom this section applies who is included in the Third Division was, immediately before he ceased, or last ceased, to be an officer, included in the Fourth Division, he shall, for the purposes of determining his seniority, be deemed to have entered the Third Division—

- (a) on the day on which he entered, or last entered, the Fourth Division; or

- (b) on the day that is 2 years before the day on which he is re-appointed as an officer,

whichever is the later day.

“(6) Where a person to whom this section applies, being a person whose employment by a Commonwealth authority was terminated otherwise than on the ground of his misconduct, is, under sub-section 87Q (4), to be deemed to have been absent from the Service on leave of absence without pay for a period immediately following his re-appointment under section 87Q, he is entitled to be paid by the authority, in consequence of the termination of his employment, an amount equal to the amount of salary and allowances (if any) that would have been payable to him by the authority if, during that period, he had continued to be employed by the authority and to perform the duties that he was performing immediately before the termination of his employment.

“(7) An amount payable by a Commonwealth authority to a person under sub-section (6) is payable—

- (a) if the authority has funds under its control that are lawfully available to pay the remuneration and allowances payable to the persons employed by it—out of those funds; or
- (b) in any other case—by the Commonwealth out of moneys lawfully available for the purpose.

“87T. (1) A Re-appointments Review Committee shall consist of a Chairman and 2 other members, who shall be appointed by the Board.

Constitution
of, and
inquiries by,
Committees

“(2) The Chairman of a Re-appointments Review Committee shall be—

- (a) if the Committee is established to inquire into an application by an applicant whose employment has been, or, in the opinion of the Board, may have been, terminated on the ground of his misconduct, or into an application made under section 87P—a person who holds the office of Chairman of a Disciplinary Appeal Board referred to in section 63E; or
- (b) in any other case—a person who holds the office of Chairman of a Promotions Appeal Committee referred to in section 50.

“(3) One of the members of a Re-appointments Review Committee established to inquire into an application made under section 87N shall be an officer appointed by the Board on the nomination of—

- (a) the organization, within the meaning of the *Conciliation and Arbitration Act 1904*, that the applicant would be eligible to join if he were engaged in the kind of employment in which he seeks to be engaged; or
- (b) if there are 2 or more such organizations—the organization the membership of which includes the larger or largest number of officers engaged in that kind of employment.

“(4) One of the Members of a Re-appointments Review Committee established to inquire into an application made under section 87P shall be an officer appointed by the Board on the nomination of such organization, within the meaning of the *Conciliation and Arbitration Act* 1904, as the Board considers appropriate, having regard to the kind of employment in which the applicant is, or might, on re-appointment to the Service, become, engaged.

“(5) The Chairman of a Re-appointments Review Committee, while acting as such, is not subject to direction by any person or authority under this Act.

“(6) A decision of the majority of the members of a Re-appointments Review Committee shall be deemed to be a determination of the Committee.

“(7) An officer of the Service shall be granted leave of absence from his normal duties without loss of pay while acting as a member of a Re-appointments Review Committee.

“(8) On an inquiry by a Re-appointments Review Committee into an application referred to it under sub-section 87N (6) or 87P (3)—

- (a) the procedure of the Committee is, subject to this Act and the regulations, within the discretion of the Committee;
- (b) the proceedings shall be conducted with as little formality and technicality, and with as much expedition, as the requirements of this Act, and a proper consideration of the matter before the Committee, permit; and
- (c) the Committee is not bound by rules of evidence.

“(9) An inquiry by a Re-appointments Review Committee shall be conducted in private.

“(10) At an inquiry by a Re-appointments Review Committee, the applicant may—

- (a) appear personally or be represented by any person, other than counsel, a solicitor or a paid agent;
- (b) make such oral or written submissions as he desires; and
- (c) tender certificates, documentary evidence and statutory declarations.

“Division 4—Officers to whom Officers’ Rights Declaration Act or Trade Commissioners Act applies

“87U. (1) This section applies to an officer engaged in eligible public employment to whom the repealed *Officers’ Rights Declaration Act 1928* or the former section 6 of the *Trade Commissioners Act 1933* applies by virtue of sub-section 44 (2) or 45 (2) of the *Public Service Amendment Act 1978*.

Rights of officers to whom repealed Officers’ Rights Declaration Act or former section 6 of Trade Commissioners Act continues to apply

“(2) An officer to whom this section applies—

- (a) may elect, by notice in writing delivered to the Board, that the provisions of the repealed *Officers’ Rights Declaration Act 1928*; or the former section 6 of the *Trade Commissioners Act 1933*, as the case may be, shall cease to apply to him; or
- (b) may appeal under section 50 of this Act against the provisional promotion of another person to fill a vacant office in the Service.

“(3) Where an officer who appeals under sub-section (2) against the provisional promotion of another person to fill a vacant office in the Service becomes, under sub-section 87C (1), an officer to whom Division 2 applies in consequence of his so appealing, that Division applies to and in relation to him in respect of the appeal as if he had appealed against that promotion immediately after he became an officer to whom that Division applies.

“(4) Where an officer who appeals under sub-section (2) against the provisional promotion of another person to fill a vacant office in the Service ceases, under sub-section 87V (1), to be an officer in consequence of his so appealing and becomes, under sub-section 87K (2), a person to whom Division 3 applies, that Division applies to and in relation to him in respect of the appeal as if he had appealed against that promotion immediately after that Division commenced to apply to him.

“87V. (1) Where the repealed *Officers’ Rights Declaration Act 1928* ceases to apply to an officer (otherwise than by reason of his ceasing to be an officer or by reason of his resuming duty in the Service) at the expiration of a day (in this section referred to as the ‘relevant day’)—

Effect of repealed Officers’ Rights Declaration Act ceasing to apply to officer

- (a) if the officer has, at the expiration of the relevant day, been continuously employed by a public authority, or by 2 or more public authorities in succession, for a period of not less than 3 years and that Act has applied to him throughout the whole of that period—the officer also ceases, by force of this sub-section, to be an officer at the expiration of the relevant day;
- (b) if the officer has, on or before the relevant day, made an election under section 5 of that Act in respect of the employment in which he is engaged on that day—the officer also ceases, by force of this sub-section, to be an officer at the expiration of the relevant day; or

(c) in any other case—the officer continues, by force of this sub-section, to be an unattached officer until he is promoted to an office in the Service, is transferred to such an office under section 50, ceases to be an officer or resumes duty in the Service, whichever first occurs.

“(2) If a person who is an unattached officer by virtue of sub-section (1) is employed by a public authority, or 2 or more public authorities in succession, for a continuous period of 3 years, he ceases to be an officer at the expiration of that period.

“(3) In the application of sub-section (1) or (2) in relation to a person who is employed by a public authority on the relevant day, any period (which may be, or may include, a period before the commencing day) ended on the day immediately preceding the relevant day during which the *Officers’ Rights Declaration Act 1928* applied to him in respect of his employment by a body shall be deemed to be a period during which he was employed by a public authority.

“(4) The Board may, if it thinks fit, determine that this section shall have effect in relation to an officer, or officers included in a class of officers, as if references in this section to 3 years were references to such longer period as the Board specifies in the determination.

“(5) Where an officer who is engaged in eligible Commonwealth employment ceases, under sub-section (1), to be an officer upon his ceasing to be a person to whom the repealed *Officers’ Rights Declaration Act 1928* applies, but does not also cease to be engaged in eligible Commonwealth employment, he retains, in respect of the employment in which he is engaged, such rights (if any) in respect of leave of absence for recreation and leave of absence on account of illness as had accrued to him immediately before he so ceased to be an officer.

Effect of
election or
appeal on
Trade Com-
missioner,
&c.

“87W. Where, under sub-section 45 (2) of the *Public Service Amendment Act 1978*, the former section 6 of the *Trade Commissioners Act 1933* ceases to apply to an officer (otherwise than by reason of his ceasing to be an officer or by reason of his resuming duty in the Service), the officer continues, by force of this section, to be an unattached officer until he is promoted to an office in the Service, is transferred to such an office under section 50, ceases to be an officer or resumes duty in the Service, whichever first occurs.

“Division 5—Special Provisions Relating to Certain Persons

Interpretation

“87X. In this Division, unless the contrary intention appears—
‘Commission’ means the Australian Postal Commission or the Australian Telecommunications Commission;
‘prescribed employment’ means—

(a) employment as the holder of the office of Managing Director or Chief General Manager of a Commission, or of

an office of Chairman of a Promotions Appeal Board, under the *Postal Services Act 1975* or the *Telecommunications Act 1975*; or

(b) employment as an officer or employee in the service of a Commission.

“87Y. (1) This section applies to an officer who—

(a) on the commencing day, is engaged in prescribed employment; and

(b) on the day immediately preceding the commencing day, was—

(i) engaged in prescribed employment; and

(ii) absent from the Service on leave of absence granted under section 71, in respect of a period ending on or after the commencing day, for the purpose of enabling him to engage in that employment.

Provisions relating to certain officers on leave under section 71 and engaged in prescribed employment

“(2) An officer to whom this section applies shall—

(a) if he has, at the expiration of the day immediately preceding the commencing day, been continuously engaged in prescribed employment for a period of not less than 3 years and has, throughout that period, been absent from the Service on leave of absence granted under section 71, be deemed to have ceased to be an officer at the expiration of that day; or

(b) in any other case—be deemed to have ceased to be absent from the Service on leave of absence granted under section 71 at the expiration of the day immediately preceding the commencing day.

“(3) If an officer to whom this section applies who is not deemed, by reason of sub-section (2), to have ceased to be an officer at the expiration of the day immediately preceding the commencing day is employed by a public authority, or by 2 or more public authorities in succession, for a continuous period equal to the relevant period, being a period commencing on the commencing day, he ceases to be an officer at the expiration of that continuous period.

“(4) For the purposes of sub-section (3), the relevant period, in relation to an officer to whom this section applies, is the period ascertained by subtracting from 3 years a period equal to the continuous period that ended on the day immediately preceding the commencing day during which the officer was employed as an officer or employee in the service of a Commission and was absent from the Service on leave of absence granted under section 71 for the purpose of enabling him to become so employed.

“(5) Where a person ceases to be an officer under sub-section (3), the Board shall cause notice in writing of the cessation to be given to the person and to be given to the public authority by which he is employed, or, if he is to be taken to be employed by a public authority by virtue of

the operation of sub-section 87 (2), (3) or (4), to such other person as the Board considers appropriate.

Provisions relating to certain officers on leave under section 71 and employed in Northern Territory Public Service

“87Z. (1) This section applies to an officer who—

- (a) on the day (in this section referred to as the ‘prescribed day’) on which regulations made for the purposes of sub-section 87 (4) in respect of the Public Service of the Northern Territory take effect, is engaged in employment in that Public Service;
- (b) on the day immediately preceding the prescribed day, was—
 - (i) engaged in employment in that Public Service; and
 - (ii) absent from the Service on leave of absence granted under section 71, in respect of a period ending on or after the prescribed day, for the purpose of enabling him to engage in that employment; and
- (c) immediately before the day (in this section referred to as the ‘prescribed day’) on which those regulations take effect, the officer is absent from the Service on leave of absence so granted under section 71 in respect of a period ending on or after the prescribed day.

“(2) An officer to whom this section applies shall—

- (a) if he has, at the expiration of the day immediately preceding the prescribed day, been continuously employed in the Public Service of the Northern Territory for a period (which may be, or may include, a period before the commencing day) of not less than 3 years and has, throughout that period, been absent from the Service on leave of absence granted under section 71, be deemed to have ceased to be an officer at the expiration of that day; or
- (b) in any other case—be deemed to have ceased to be absent from the Service on leave of absence granted under section 71 at the expiration of the day immediately preceding the prescribed day.

“(3) If an officer to whom this section applies who is not deemed, by reason of sub-section (2), to have ceased to be an officer at the expiration of the day immediately preceding the prescribed day is employed by a public authority, or by 2 or more public authorities in succession, for a continuous period equal to the relevant period, being a period commencing on the prescribed day, he ceases to be an officer at the expiration of that continuous period.

“(4) For the purposes of sub-section (3), the relevant period, in relation to an officer to whom this section applies, is the period ascertained by subtracting from 3 years a period equal to the continuous period (which may be, or may include, a period before the commencing day) that ended on the expiration of the day immediately preceding the prescribed day during which the officer was employed in the Public Service of the Northern Territory and was absent from the Service on leave

of absence granted under section 71 for the purpose of enabling him to become so employed.

“(5) Where a person ceases to be an officer under sub-section (3), the Board shall cause notice in writing of the cessation to be given to the person and to be given to the public authority by which he is employed, or, if he is to be taken to be employed by a public authority by virtue of the operation of sub-section 87 (2), (3) or (4), to such other person as the Board considers appropriate.

“87ZA. (1) This section applies to a person who resigned or retired from the Service for the purpose of becoming engaged in prescribed employment if—

Provisions relating to former officers who resigned to join certain commissions

- (a) the person has, throughout the period that commenced on the day on which he became engaged in that employment and ends on the commencing day, been engaged in that employment, or in that employment and other employment, being—
 - (i) eligible Commonwealth employment; or
 - (ii) employment, other than eligible Commonwealth employment, of such a kind that the *Officers' Rights Declaration Act 1928* would have applied to him in respect of that employment, if, immediately before he became engaged in that employment, he had been an officer or a person to whom that Act applied;
- (b) the person has not, on the commencing day, attained the age of 65 years; and
- (c) the period referred to in paragraph (a) does not exceed 3 years.

“(2) A person to whom this section applies shall be deemed to have been appointed to the Service on the commencing day—

- (a) as an unattached officer of the Division of which he was last an officer;
- (b) without probation, unless the Board, by instrument in writing, otherwise determines; and
- (c) with the seniority that he had immediately before he ceased, or last ceased, to be an officer.

“(3) A person to whom this section applies retains the rights (if any) in respect of leave of absence for recreation and leave of absence on account of illness that had accrued to him immediately before he resigned or retired from the Service and, for the purpose of ascertaining his credits of leave of absence for recreation and leave of absence on account of illness, respectively—

- (a) his service during the period referred to in sub-section (1) shall be treated as if it had been service in the Service; and
- (b) if he received, upon resigning or retiring from the Service, a payment in lieu of his recreation leave credit, his credit of leave

of absence for recreation shall be reduced by a period equal to that leave credit.

“(4) Where, immediately before a person to whom this section applies resigned or retired from the Service as set out in sub-section (1)—

(a) section 75A, 81K or 81V of this Act or section 14 of the *Statistics (Arrangements with States) Act 1956* applied to him; or

(b) a determination under section 81ZV of this Act, or under section 12 of the *Aboriginal Affairs (Arrangements with the States) Act 1973*, relating to long service leave applied to him,

that section or that determination, as the case may be, applies to him as if he had not so resigned or retired from the Service and as if his service during the period referred to in that sub-section were service in the Service.

“(5) If a person to whom this section applies is employed by a public authority, or by 2 or more public authorities in succession, for a continuous period equal to the relevant period, being a period commencing on the commencing day, he ceases to be an officer at the expiration of that continuous period.

“(6) For the purposes of sub-section (5), the relevant period, in relation to a person to whom this section applies, is the period ascertained by subtracting from 3 years a period equal to the continuous period ended on the day immediately preceding the commencing day during which the person was engaged in employment of a kind or kinds referred to in sub-section (1).

“(7) Where a person ceases to be an officer under sub-section (5), the Board shall cause notice in writing of the cessation to be given to the person and to be given to the public authority by which he is employed, or, if he is to be taken to be employed by a public authority by virtue of the operation of sub-section 87 (2), (3) or (4), to such other person as the Board considers appropriate.

Seniority of
certain
former
officers
re-appointed
to Service

“87ZB. (1) This section applies to a person who is an officer on the commencing day if the person—

(a) was, before that day, engaged in prescribed employment—

(i) by reason of his having, while he was an officer holding an office in the Postmaster-General’s Department, been appointed to be the holder of the office of Managing Director or Chief General Manager of a Commission;

(ii) by reason of his having been deemed to have been appointed to the Service of a Commission under section 16 or sub-paragraph 19 (2) (b) (iv) of the *Postal and Telecommunications Commissions (Transitional Provisions) Act 1975*; or

(iii) after having resigned or retired from the Service for the purpose of becoming engaged in that employment;

- (b) had, after becoming engaged in that employment, been re-appointed to the Service, or promoted to fill a vacancy in an office in the Service in accordance with regulations made under the *Postal Services Act 1975* or the *Telecommunications Act 1975*; and
- (c) has, throughout the period that commenced on the day on which he became engaged in prescribed employment and ends on the commencing day, been engaged in that employment, or in that employment and other employment, being—
 - (i) eligible Commonwealth employment;
 - (ii) employment, other than eligible Commonwealth employment, of such a kind that the *Officers' Rights Declaration Act 1928* would have applied to him in respect of that employment if he had been an officer or a person to whom that Act applied; or
 - (iii) employment in the Service.

“(2) On and after the commencing day, the seniority of a person to whom this section applies shall, subject to sub-section (3), be the seniority that he had immediately before the commencement of the period referred to in paragraph (1) (c).

“(3) Where a person to whom this section applies who is included in the Third Division was, immediately before he ceased, or last ceased, to be an officer, included in the Fourth Division, he shall, for the purpose of determining his seniority, be deemed to have entered the Third Division—

- (a) on the day on which he entered, or last entered, the Fourth Division; or
- (b) on the day that is 2 years before the day on which he was last appointed as an officer,

whichever is the later day.

“87ZC. (1) The Board may, with the approval of the Governor-General, declare, by declaration published in the *Gazette*—

- (a) a branch of the Service to have been a declared branch of the Service for the purposes of this section during a specified period, being a period that ended before the commencing day; and
- (b) offers of employment—
 - (i) as holders of specified Commonwealth offices or of offices included in a specified class of Commonwealth offices; or
 - (ii) by a specified Commonwealth authority, that have, during that period, been made to—
 - (iii) officers who held, who were performing the duties of, offices in that branch; or

Status of certain persons engaged in eligible Commonwealth employment

(iv) unattached officers who were performing duties in that branch,
to have been declared offers of employment that related to the officers of that branch for the purposes of this section.

“(2) Where—

(a) an officer who held, or was performing the duties of, an office in, or an unattached officer who was performing duties in, a declared branch of the Service became, during the period specified in the declaration under sub-section (1) that relates to that branch, engaged in employment—

(i) as the holder of a Commonwealth office; or

(ii) by a Commonwealth authority,

in accordance with the terms of a declared offer of employment that related to officers of that branch; and

(b) the officer has been engaged in eligible Commonwealth employment throughout the period that commenced on the day on which he became so engaged in employment and ends on the commencing day, or, if the declaration is published in the *Gazette* after the commencing day, on the day on which the declaration is so published,

he ceases to be an officer at the expiration of the day immediately preceding the last day of that period.

“(3) Where a person ceases to be an officer under sub-section (2), the Board shall cause notice in writing of the cessation to be given—

(a) in the case of a person who is the holder of a Commonwealth office—to the Permanent Head of the Department to which he is, by virtue of holding that office, attached for administrative purposes; and

(b) in the case of a person who is employed by a Commonwealth authority—to that authority,

and the Permanent Head or that authority, as the case may require, shall, as soon as practicable after receiving the notice, cause a copy of the notice to be given to the person.

“*Division 6—Miscellaneous*

Promotion of
certain
former
officers

“87ZD. (1) Where—

(a) a person (in this section referred to as the ‘former officer’) who ceases to be an officer by reason of sub-section 87D (1), 87V (2), 87Y (3), 87Z (3), 87ZA (5) or 87ZC (2), is deemed, by reason of sub-section 87J (6), to have ceased to be an officer or ceases to be an officer by reason of sub-section 22 (1) or (2) of the *Commonwealth Legal Aid Commission Act 1977*—

(i) had, on or before the day (in this section referred to as the ‘relevant day’) on which he so ceased, or was so

deemed to have ceased, to be an officer, been provisionally promoted to fill a vacant office in the Service;

- (ii) had, on or before the relevant day, appealed against the provisional promotion of another person to fill such an office; or
- (iii) would, if he had continued to be an Officer on the relevant day, have had, on that day, a right to appeal against the provisional promotion of another person to fill such an office, being a provisional promotion made before that day; and

- (b) the provisional promotion had not been confirmed or cancelled before the relevant day,

the relevant provisions of this Act apply to and in relation to the provisional promotion as if—

- (c) the former officer had, on the day on which the provisional promotion was made, been a person to whom Division 3 applies; and
- (d) anything done in relation to the former officer for the purposes of the provisional promotion before the relevant day had been done under the relevant provisions of this Act.

“(2) In sub-section (1), ‘relevant provisions of this Act’ means the provisions of sections 50, 50A, 53 and 53A or, if those provisions are, for the purposes of Division 3, modified by the regulations, those provisions as so modified.

“87ZE. (1) Where a continuous period of employment of an officer by a public authority has commenced after, but not immediately after, the expiration of a continuous period of previous employment of the officer by such an authority, those periods of employment shall, for the purposes of this Part, be deemed to be continuous with one another if the officer was, throughout the period that commenced on the expiration of the second-mentioned period of employment and ended immediately before the commencement of the first-mentioned period of employment, the holder of a public office or the holder of 2 or more public offices in succession.

Continuity of
employment
by public
authorities

“(2) Where—

- (a) a continuous period of employment of an officer by a public authority has commenced after, but not more than 3 months after, the expiration of a continuous period of previous employment of the officer in eligible public employment; and
- (b) the officer was, throughout the period that commenced on the expiration of the second-mentioned period of employment and ended immediately before the commencement of the first-mentioned period of employment, performing duty in the Service,

those periods of employment shall, for the purposes of this Part, be deemed to be continuous with one another unless the Board, being satisfied that it is in all the circumstances fair to do so, declares, by instrument in writing, that those periods shall not be so deemed to be continuous with one another.

“(3) Where—

- (a) a continuous period of employment of an officer by a public authority is followed immediately by a period throughout which he—
 - (i) was not engaged in eligible public employment;
 - (ii) was not performing duty in the Service; and
 - (iii) was not absent from the Service on leave of absence granted under this Act; and
- (b) upon the expiration of the second-mentioned period, if he has not ceased to be an officer, he becomes employed by a public authority,

the first-mentioned continuous period of employment and his continuous period of employment by that public authority or in the Service, as the case may be, that followed the second-mentioned period shall be deemed to be continuous with one another.

“(4) Where—

- (a) a person who was a person to whom Division 2 applied—
 - (i) ceased to be such a person by reason of his having retired from employment by a public authority in order to become a candidate for election as a member of a House of the Parliament of the Commonwealth or of a State or of the Legislative Assembly of the Northern Territory or a prescribed legislative or advisory body for another Territory;
 - (ii) retired also from the Service;
 - (iii) was a candidate at the election; and
 - (iv) failed to be elected;
- (b) those retirements took effect not earlier than 1 month before the date on which nominations for the election closed; and
- (c) the person has, upon applications made within 2 months after the declaration of the result of the election, been re-employed by that public authority and re-appointed to the Service under section 47C,

he shall be deemed to have continued in the employment of that public authority as if he had not retired and had been on leave of absence without pay during the period from and including the day on which his retirement became effective to and including the day on which he was so re-employed.

“(5) Where—

- (a) a person who was a person to whom Division 3 applied—
 - (i) ceased to be such a person by reason of his having retired from employment by a public authority in order to become a candidate for election as a member of a House of the Parliament of the Commonwealth or of a State or of the Legislative Assembly of the Northern Territory or a prescribed legislative or advisory body for another Territory;
 - (ii) was a candidate at the election; and
 - (iii) failed to be elected;
- (b) the retirement took effect not earlier than 1 month before the date on which nominations for the election closed; and
- (c) the person has been re-employed by that public authority upon application made within 2 months after the declaration of the result of the election,

he shall be deemed to have continued in the employment of that public authority as if he had not retired and had been on leave of absence without pay during the period from and including the day on which his retirement became effective and to and including the day on which he was so re-employed.

“87ZF. (1) A document required by this Part to be given or furnished to a person shall be given or furnished— Service of documents

- (a) by delivering the document to that person personally;
- (b) by prepaying and posting the document as a letter addressed to that person at his last known place of abode; or
- (c) by leaving the document at the last known place of abode of that person with some person apparently an inmate of that place and apparently not less than 16 years of age.

“(2) Where a document required by this Part to be given or furnished to a person is posted as a letter in accordance with this section, the document shall, unless the contrary is proved, be deemed to have been given or furnished at the time at which the letter would have been delivered in the ordinary course of post.

“87ZG. Where the Board has made a determination under this Part, the Board may at any time revoke the determination.” Revocation of determinations by Board

Part V

33. The heading immediately preceding section 88 of the Principal Act is repealed and the following heading substituted:

“PART V—MISCELLANEOUS”.

Effect of appointments, &c., by Board, &c.

34. Section 92 of the Principal Act is amended by inserting in sub-section (2) “of every transfer of officers to whom Division 2 of Part IV applies, of every promotion or transfer of persons to whom Division 3 of that Part applies” after “officers,”.

Forfeiture of office on absence without leave

35. Section 93 of the Principal Act is repealed.

Personation, &c., at examinations

36. Section 96 of the Principal Act is amended by omitting sub-section (2).

Regulations

37. Section 97 of the Principal Act is amended—

(a) by inserting after paragraph (f) of sub-section (1) the following paragraphs:

“(g) for regulating the manner in which, and the time within which, appeals may be made to a Disciplinary Appeal Board;

“(ga) for regulating the procedure of Boards of Inquiry and of Disciplinary Appeal Boards, including, but without limiting the generality of the foregoing—

(i) the procedure for summoning witnesses and requiring the production of documents;

(ii) the procedure for the service of documents upon persons;

“(gb) prescribing the circumstances in which, and the procedure by which, the evidence of an officer appealing to a Disciplinary Appeal Board or of a witness concerned in that appeal may be taken by a person other than a member of that Board who is authorized to take that evidence;

“(gc) for providing for the payment of costs in appeals made to Disciplinary Appeal Boards or inquiries made by Boards of Inquiry and for the assessment of those costs;”;

(b) by omitting from paragraph (h) of sub-section (1) “Boards of Inquiry and Appeal Boards or of”;

- (c) by inserting after paragraph (ja) of sub-section (1) the following paragraph:

“(jb) making provision in accordance with which payments of expenses may be made in special circumstances arising in relation to the death of a person who is or has been an officer or employee;”;

- (d) by omitting paragraph (q) of sub-section (1) and substituting the following paragraph:

“(q) for providing for the notification to the Board of action taken in respect of officers or employees under, or by virtue of the application to those officers or employees of, sections 57, 58, 62, 63, 63D, 63K, 63L, 63M and 63S and for the keeping, for such periods as are specified in the regulations, of records of action so taken;”;

- (e) by omitting from paragraph (s) of sub-section (1) “, deprivation of increment, or punishment” and substituting “or deprivation of increment”; and

- (f) by adding at the end of sub-section (1) the following paragraph:

“(w) for prescribing penalties, not exceeding a fine of \$200 or imprisonment for a period not exceeding 6 months, or both, for a failure of a person to attend, or to answer questions, before, or to produce documents to, a Disciplinary Appeal Board, in obedience to a summons issued by that Board or by a member of that Board.”.

38. The Principal Act is amended as set out in the Schedule.

Formal
amend-
ments

39. (1) After section 101 of the *Postal Services Act 1975*³ the following section is inserted:

Amend-
ments of
*Postal
Services Act
1975*

“101A. Where the Managing Director, the Chief General Manager, a Chairman of a Promotions Appeal Board, an officer or an employee was, immediately before his appointment or engagement, a person, other than an unattached officer in the Postmaster-General’s Department, to whom the *Officers’ Rights Declaration Act 1928* applied—

Officers’
Rights
Declaration
Act

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights his service under this Act shall be taken into account as if it were service in the Australian Public Service; and
- (c) the *Officers’ Rights Declaration Act 1928* applies as if this Act and this section had been specified in the Schedule to that Act.”.

(2) Section 116 of the *Postal Services Act 1975* is amended by omitting paragraph (e).

(3) The amendment made by sub-section (1) shall be deemed to have taken effect on 1 July 1975.

Amendments of
Telecommunications Act 1975

40. (1) After section 97 of the *Telecommunications Act 1975*⁴ the following section is inserted:

Officers' Rights Declaration Act

“97A. Where the Managing Director, the Chief General Manager, a Chairman of a Promotions Appeal Board, an officer or an employee was, immediately before his appointment or engagement, a person, other than an unattached officer in the Postmaster-General's Department, to whom the *Officers' Rights Declaration Act 1928* applied—

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights his service under this Act shall be taken into account as if it were service in the Australian Public Service; and
- (c) the *Officers' Rights Declaration Act 1928* applies as if this Act and this section had been specified in the Schedule to that Act.”

(2) Section 112 of the *Telecommunications Act 1975* is amended by omitting paragraph (b).

(3) The amendment made by sub-section (1) shall be deemed to have taken effect on 1 July 1975.

Amendment of *Public Service Amendment Act (No. 2) 1976*

41. (1) Section 4 of the *Public Service Amendment Act (No. 2) 1976*⁵ is repealed.

(2) Section 84C of the Principal Act as amended by this Act (in this sub-section referred to as the “relevant section”) applies to an officer who was transferred to the Public Service of the Northern Territory under section 84A of the Principal Act before the commencement of this section in relation to a provisional promotion that was made before that date, being a promotion that had not been confirmed or cancelled before that date, as if the relevant section had been in force on the date on which his transfer took effect, and anything done in relation to the promotion before that date under a provision of the *Public Service Act 1922* referred to in sub-section (2) of the relevant section shall be deemed, on or after that date, to have been done under that provision in its application by virtue of sub-section (2) of the relevant section.

Amendments of
Repatriation Act 1920

42. (1) Section 8A of the *Repatriation Act 1920*⁶ is amended—

- (a) by omitting from paragraph (d) “and”; and
- (b) by omitting paragraph (e) and substituting the following paragraphs:

“(e) subject to this section, the provisions of this Act other than the provisions of section 9 apply to and in relation to him as chairman of the Commission; and

“(f) the provisions of Part IV of the *Public Service Act 1922* do not apply to or in relation to him in respect of his appointment as chairman of the Commission.”.

(2) Section 21 of the *Repatriation Act 1920* is amended—

(a) by omitting from sub-section (1) all the words from and including “The Commissioners” to and including “and if an officer” and substituting “If an officer”; and

(b) by omitting from that sub-section “Public Service of the Commonwealth” (last occurring) and substituting “Australian Public Service”.

(3) Section 63 of the *Repatriation Act 1920* is amended—

(a) by omitting from sub-section (1) all the words from and including “The members” to and including “but if” and substituting “If”; and

(b) by omitting from that sub-section “Public Service of the Commonwealth” (wherever occurring) and substituting “Australian Public Service”.

43. Section 14A of the *Superannuation Act 1976*⁷ is amended—

Amendments
of
*Superannuation
Act 1976*

(a) by omitting from sub-section (1) all the words from and including “who” and substituting—

“who—

(a) is a person to whom Division 2 or 3 of Part IV of the Public Service Act applies;

(b) is an approved person for the purposes of Part IV of the *Commonwealth Legal Aid Commission Act 1977*; or

(c) is a person who is performing duty in the Australian Public Service in pursuance of a re-appointment to that Service under section 63F, 63G or 66B of the Public Service Act.”.

(b) by omitting from sub-section (2) “an eligible person, or an approved person,” and substituting “a person to whom Division 2 or 3 of Part IV of the Public Service Act applies or an approved person”;

(c) by inserting in sub-section (4) “, in relation to a person to whom this section applies who is an eligible person, or an approved person, for the purposes of that Part,” after “1977”; and

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

“(5) Nothing in this section authorizes the making of regulations modifying this Act, or a provision of this Act, in a manner that would impose obligations on a State or on an authority of a State, in relation to a person to whom this section applies other than a person referred to in sub-section (4), that are inconsistent with the terms of an arrangement entered into under Part IV of the Public Service Act relating to the provision of superannuation benefits under this Act for that person or for persons included in a class of persons in which that person is included.”

Repeal of
*Officers’
Rights
Declaration
Act 1928*

44. (1) The following Acts are repealed:

Officers’ Rights Declaration Act 1928

Officers’ Rights Declaration Act 1933

Officers’ Rights Declaration Act 1940

Officers’ Rights Declaration Act 1959

Officers’ Rights Declaration Act 1969.

(2) Where an officer is, on the date of commencement of this section, engaged in employment as a member of or by an authority, or as the holder of an office, and the Acts repealed by sub-section (1)—

- (a) applied to him in respect of that employment immediately before that date; or
- (b) applied to him in respect of other employment in which he was engaged immediately before that date and would, but for their repeal, apply to him in respect of the first-mentioned employment on that date,

then, notwithstanding their repeal, those Acts continue to apply to and in relation to him until the expiration of the day on which—

- (c) he becomes engaged in eligible Commonwealth employment other than employment in respect of which those Acts would, but for their repeal, apply to him;
- (d) he is appointed to an office in the Service;
- (e) he ceases to be an officer; or
- (f) he makes an election, or appeals against the provisional promotion of another person to fill a vacant office in the Service, under sub-section 87U (2) of the *Public Service Act 1922*,

whichever first occurs.

Amendments
of *Trade
Com-
missioners
Act 1933*

45. (1) Section 6 of the *Trade Commissioners Act 1933*⁸ is amended—

- (a) by omitting sub-sections (1), (1A) and (2); and
- (b) by omitting from sub-section (3) “An officer to whom this section applies” and substituting “An officer of the Australian Public Service who is appointed a Trade Commissioner or an Assistant Trade Commissioner”.

(2) Where, immediately before the date of commencement of this section, section 6 of the *Trade Commissioners Act 1933* applied to a person who holds, on that date, an office of Trade Commissioner or Assistant Trade Commissioner, that section continues, notwithstanding the amendments made by sub-section (1) of this section, to apply to and in relation to the person until the expiration of the day on which—

- (a) he becomes engaged in eligible Commonwealth employment otherwise than as the holder of such an office;
- (b) he is re-appointed to a position in the Service;
- (c) he ceases to be an officer; or
- (d) he makes an election, or appeals against the provisional promotion of another person to fill a vacant office in the Service, under sub-section 87U (2) of the *Public Service Act 1922*,

whichever first occurs.

46. (1) Section 20 of the *Commonwealth Legal Aid Commission Act 1977* is amended—

Amendments
of
*Commonwealth
Legal Aid
Commission
Act 1977*

- (a) by omitting the definition of “applied provisions of the *Public Service Act 1922*”; and
- (b) by omitting the definitions of “Board”, “Division”, “employee”, “officer” and “Re-appointments Review Committee” and substituting the following definitions:
 “ ‘employee’ and ‘officer’ have the same respective meanings as they have in the *Public Service Act 1922*;”.

(2) Section 22 of the *Commonwealth Legal Aid Commission Act 1977* is amended by omitting sub-section (2).

(3) Sections 23 to 30 (inclusive) of the *Commonwealth Legal Aid Commission Act 1977* are repealed.

(4) Where—

- (a) before the day on which this Act came into operation, a person—
 - (i) had been provisionally promoted to fill a vacant office in the Service; or
 - (ii) had appealed against the provisional promotion of another person to fill a vacant office in the Service,

by virtue of the operation of section 23 of the *Commonwealth Legal Aid Commission Act 1977* and the provisional promotion had not been confirmed or cancelled before that day; or

- (b) a person would, but for the repeal of section 23 of the *Commonwealth Legal Aid Commission Act 1977* effected by sub-section (3) of this section, have had, on the day on which this Act came into operation, a right to appeal against the provisional promotion of another person to fill a vacant office in the Service, being a provisional promotion made before that day,

then, notwithstanding the repeal of section 23 of that Act, that section, and the regulations in force for the purposes of that section immediately before that day, continue to apply in relation to the provisional promotion and in relation to those persons in respect of the provisional promotion.

Promotion of
certain
persons to
Service from
eligible
public
employment

47. Where—

- (a) in accordance with regulations made under the *Postal Services Act 1975* or the *Telecommunications Act 1975*, a person—
- (i) had, before the day on which this section came into operation, been provisionally promoted to fill a vacant office in the Service;
 - (ii) had, before that day, appealed against the provisional promotion of another person to fill such an office; or
 - (iii) would, but for the amendment of that Act made by sub-section 39 (2) or 40 (2), as the case may be, of this Act, have had, on that day, a right to appeal against the provisional promotion of another person to fill such an office, being a provisional promotion made before that day; and
- (b) the provisional promotion had not been confirmed or cancelled before that day,

the provisions of Part IV of the Principal Act as amended by this Act apply in relation to the provisional promotion, and in relation to that person in respect of the provisional promotion, as if that Part had come into operation on the day on which the provisional promotion was made and that person had been, from and including that last-mentioned day, a person to whom Division 3 of that Part applied.

Saving

48. (1) Subject to sub-section (2), where, before the commencement of this section, leave of absence from the Service was granted to an officer under a section of the Principal Act repealed by section 26 or 28 of this Act for a period commencing on or after, or extending after, the commencement of this section—

- (a) that repeal does not affect the grant of that leave of absence;
- (b) section 71 of the Principal Act as amended by this Act (in this sub-section referred to as the “substitute section”) applies to and in relation to any leave of absence from the Service so granted that occurs after the commencement of this section as if it had been granted under the substitute section and the conditions (if any) subject to which it was granted were conditions applicable to the grant of that leave under the substitute section;

- (c) if the period during which the officer is absent from the Service in pursuance of the grant of that leave of absence would, but for the repeal of the section under which that leave of absence was granted or the repeal of section 72AA of the Principal Act, form part of his period of service for all purposes or for specified purposes, the period during which he is so absent from the Service shall form part of his period of service for all purposes, or for those specified purposes, as the case may be; and
- (d) if, under the section under which that leave of absence was granted, the officer was entitled, upon the termination of the period of that leave of absence, to be appointed to an office in the Service in accordance with that section, he continues, notwithstanding the repeal of that section, to be so entitled.

(2) Sub-section (1) does not apply to or in relation to leave of absence granted to a person to whom section 87Y or 87ZC of the Principal Act as amended by this Act applies on the date of commencement of this section.

49. (1) Subject to this section, Subdivision C of Division 6 of Part III of the Principal Act as amended by this Act applies to and in relation to an offence mentioned in section 55 of the *Public Service Act* 1922 that was committed before the date fixed under sub-section 2 (2) (in this section referred to as the “commencing date”) by an officer included in the Second, Third or Fourth Division as if the commission of such an offence by such an officer were a failure by the officer to fulfil his duty as an officer within the meaning of that Subdivision. Offences
under
Principal Act

(2) Notwithstanding sub-section (1), where an officer committed an offence mentioned in section 55 of the *Public Service Act* 1922 before the commencing date and—

- (a) the officer was charged with the offence before that date; or
- (b) the offence was dealt with under sub-section (2) of that section as a minor offence before that date,

the officer shall not be charged under Subdivision C of Division 6 of Part III of that Act with having failed to fulfil his duty as an officer by reason of his having committed that offence.

(3) Where an officer included in the Second, Third or Fourth Division had been charged with an offence mentioned in section 55 of the *Public Service Act* 1922 before the commencing date but the charge had not been disposed of before that date, an officer authorized under section 62 of the Principal Act, as amended by this Act, to inquire into the charge shall hold an inquiry into the alleged offence and—

- (a) if the officer charged is an officer included in the Second Division—may treat any explanation or statement furnished to the Board of Inquiry under the *Public Service Act* 1922 in connexion with the charge against the officer as having been furnished to him for the purpose of the inquiry; and
- (b) if the officer charged is an officer included in the Third or Fourth Division—may treat any explanation and reports furnished to a Chief Officer under the *Public Service Act* 1922 in connexion with the charge against the officer as having been furnished to him for the purposes of the inquiry.

(4) Where an officer included in the Third or Fourth Division had appealed under the *Public Service Act* 1922 against the decision of a Chief Officer in respect of an offence against section 55 of that Act, but the appeal had not been disposed of before the commencing date, the appeal shall be heard and determined by a Disciplinary Appeal Board constituted under the Principal Act, as amended by this Act, as if the appeal has been instituted under the Principal Act as so amended and—

- (a) if the Board, on hearing the appeal, decides that the charge has been sustained, the decision of the Chief Officer shall be of no effect and the Board shall—
 - (i) cause a supervisor of the officer to counsel the officer; or
 - (ii) direct that action of a kind specified in paragraph 62 (6) (a) of the Principal Act, as amended by this Act, or recommend that action of a kind specified in paragraph 62 (6) (b) of that Act as so amended, be taken in respect of the officer,

but so that the action directed or recommended to be taken in respect of the officer is not more severe than the action decided upon by the Chief Officer; or

- (b) if it does not so decide—set aside the decision of the Chief Officer.

(5) Where, in pursuance of sub-section (4), a Disciplinary Appeal Board has given a direction, or made a recommendation, that action be taken in respect of an officer—

- (a) in a case where it has given a direction—that direction takes effect in respect of the officer immediately; and
- (b) in a case where it has made a recommendation—the Board may take action of a kind specified in paragraph 62 (6) (a) or (b) of the Principal Act, as amended by this Act, in respect of the officer.

(6) Where an officer included in the Second, Third or Fourth Division was suspended from duty immediately before the commencing date, the suspension operates on and after the commencing date as if it had been imposed by the Chief Officer under the Principal Act, as amended by this Act.

(7) For the purposes of this section, a charge against an officer shall be taken to have been disposed of—

- (a) if the charge has been withdrawn; or
- (b) if—
 - (i) in a case where the officer charged is an officer of the Second Division—the officer has admitted the truth of the charge or the charge has been dismissed by a Board of Inquiry or found by a Board of Inquiry to be proved; or
 - (ii) in a case where the officer charged is an officer of the Third or Fourth Division—the charge has been dismissed, or found to have been sustained by the Chief Officer.

(8) For the purposes of this section, an appeal shall be taken to have been disposed of if it has been withdrawn or it has been heard and determined.

50. (1) Where, immediately before the date fixed under sub-section 2 (2)—

- (a) an employee whose services have been dispensed with by his Chief Officer on the ground that the employee has been guilty of conduct that, if he were an officer, would have constituted an offence against sub-section 55 (1) of the *Public Service Act* 1922, had a right of appeal, in pursuance of section 82AA of that Act, against the decision to dispense with his services; or
- (b) an Appeal Board constituted under section 82AA of that Act for the purpose of hearing an appeal has not disposed of that appeal,

Preservation of certain rights under section 82AA of Principal Act, &c.

that employee may exercise that right of appeal or that Appeal Board may dispose of that appeal, as the case requires, on and after that date as if the amendment of the Principal Act effected by section 30 of this Act had not been made.

(2) For the purposes of this section an appeal shall be taken to have been disposed of if it has been withdrawn or it has been heard and determined.

51. A person holding office immediately before the date fixed under sub-section 2 (2) as a Chairman of an Appeal Board constituted under sub-section 55 (5) of the *Public Service Act* 1922 shall, for the purposes of the Principal Act, as amended by this Act, be deemed to have been appointed as a Chairman of a Disciplinary Appeal Board constituted under sub-section 63E (2) of the Principal Act as so amended and shall, subject to the Principal Act as so amended, continue to hold office for the balance of the term for which he was appointed.

Chairman of Appeal Board under Principal Act to continue in office as Chairman of Disciplinary Appeal Board

SCHEDULE

Section 38

FORMAL AMENDMENTS

Provision	Omit—	Substitute—
Section 7 (definition of “Chief Officer”)	sub-section (2) of section 26	sub-section 26 (2)
Section 7 (definition of “national service”) (b)	sub-section (1) or (2) of section 28	sub-section 28 (1) or (2)
Section 7 (definition of “national service”)	sub-section (10) of section 27, under section 30 or under sub-section (6B) of section 31	sub-section 27 (10), section 30 or sub-section 31 (6B)
Section 7 (definition of “Returned Soldier”)	11th November, 1918,	11 November 1918
Section 7 (definition of “Returned Soldier”) (d)	six months	6 months
Section 7 (definition of “The War”)	4th August, 1914	4 August 1914
Section 8A (2)	the last preceding sub-section	sub-section (1)
Section 8A (4)	the next succeeding section	section 8B
Section 9 (7) (a)	the last preceding sub-section	sub-section (6)
Section 11 (1)	three persons	3 persons
Section 11 (4)	five years	5 years
Section 11 (8A)	two members	2 members
Section 11 (8B)	two members	2 members
Section 12 (1)	one of the three	1 of the 3
Section 12 (2)	one of the other members	another member
Section 13A (1) (a)	one office	1 office
Section 13A (2)	two members	2 members
Section 13A (3)	the last preceding sub-section	sub-section (2)
Section 13A (4)	one Commissioner	1 Commissioner
Section 14 (3)	sixty days	60 days
Section 15 (1) (c)	for fourteen consecutive days or for twenty-eight days in any twelve months	for 14 consecutive days or for 28 days in any 12 months
Section 15 (2)	twenty-five persons	25 persons
	One thousand dollars	\$1,000
	three years	3 years
Section 17 (2)	the last preceding sub-section, other than paragraph (e) thereof,	sub-section (1), other than paragraph (1) - (e),
Section 19 (3)	Forty dollars	\$40
Section 21 (3)	the last two preceding sub-sections	sub-sections (1) and (2)
Section 21 (5)	fifteen sitting days	15 sitting days
Section 23	four Divisions	4 Divisions
Section 25 (1)	Schedule 3,	Schedule 3
Section 25 (6)	the last preceding sub-section	sub-section (5)
Section 25 (7)	the last two preceding sub-sections	sub-sections (5) and (6)
Section 29 (4)	the last preceding sub-section	sub-section (3)
Section 29 (5) (b)	the last preceding sub-section	sub-section (4)
Section 31 (1)	the last preceding section	section 30
Section 31 (2)	twelve months	12 months
Section 31 (3) (b)	sub-section (4) or (5) of section 29	sub-section 29 (4) or (5)
Section 31 (5)	the last preceding sub-section	sub-section (4)
Section 31 (6)	the last preceding sub-section	sub-section (5)

SCHEDULE—continued

Provision	Omit—	Substitute—
Section 38 (4)	the last preceding sub-section six sitting days	sub-section (3) 6 sitting days
Section 40 (2)	the last preceding sub-section	sub-section (1)
Section 45 (5)	the next succeeding section	section 46
Section 46 (2) (c) (iii)	the last preceding sub-paragraph	sub-paragraph (ii)
Section 47 (5)	either of the last two preceding sub-sections	sub-section (3) or (4)
Section 47 (6)	six months	6 months
Section 47 (7)	six months	6 months
Section 47 (7) (c)	one year	1 year
Section 47 (11)	the last preceding sub-section	sub-section (10)
Section 47 (12)	twelve months	12 months
Section 47A (2)	fifty-one years	51 years
Section 47AA (2)	sub-section (9) of section 47	sub-section 47 (9)
Section 47C (1) (b)	one month	1 month
Section 47C (1)	two months	2 months
Section 47C (5)	the last preceding sub-section	sub-section (4)
Section 48 (1)	in paragraph (a), (b), (c), (d), (e), (f) or (g) of this sub-section	in paragraph (a), (b), (c), (d), (e), (f) or (g)
	of paragraph (a), (b), (c), (e), (f) or (g) of this sub-section	of paragraph (a), (b), (c), (d), (e), (f) or (g)
Section 48 (2)	two or more paragraphs (a), (b), (c), (d), (e), (f) and (g) of the last preceding sub-section	2 or more paragraphs (1) (a), (b), (c), (d), (e), (f) and (g)
Section 50 (1A)	the last preceding sub-section	sub-section (1)
Section 50 (2A)	the last preceding sub-section	sub-section (2)
Section 50 (3)	the next succeeding sub-section two or more	sub-section (3A) 2 or more
Section 50 (4)	the next succeeding sub-section	sub-section (4A)
Section 50 (4B)	the last preceding sub-section	sub-section (4A)
Section 50 (6)	the next succeeding sub-section	sub-section (6A)
Section 50 (7A)	either of the last two preceding sub-sections	sub-section (6) or (6A)
Section 50 (8) (b)	the last preceding sub-section	sub-section (7A)
Section 50 (8A)	one State	1 State
Section 50 (8A) (a)	the next succeeding paragraph	paragraph (b)
Section 50 (8B)	paragraph (b) of the last preceding sub-section	paragraph (8A) (b)
Section 50 (8C)	one State two or more	1 State 2 or more
Section 50 (8D)	the last preceding sub-section	sub-section (8C)
Section 50 (8D) (c) (i)	paragraph (b) of sub-section (8A)	paragraph (8A) (b)
Section 50 (8E)	sub-paragraph (i) of paragraph (c) of the last preceding sub-section	sub-paragraph (8D) (c) (i)
Section 50 (8F)	are two or more one promotion that two or more one only	are 2 or more 1 promotion that 2 or more 1 only
Section 50 (12)	the last preceding sub-section	sub-section (11)
Section 50 (13)	paragraph (c) of sub-section (15) the next succeeding sub-section the provisions	paragraph (15) (c) sub-section (14) the provisions of this section

SCHEDULE—continued

Provision	Omit—	Substitute—
Section 50 (14) (b)	two specified Territories	2 specified Territories
Section 50A (4) (b)	sub-section (6) of section 50	sub-section 50 (6)
Section 51 (2)	the last preceding sub-section	sub-section (1)
Section 51A (2)	the last preceding sub-section	sub-section (1)
Section 53 (1A)	the last preceding sub-section	sub-section (1)
Section 53 (2)	sub-section (1) of this section	sub-section (1)
Section 53 (3)	the last preceding sub-section	sub-section (2)
Section 53A (1)	sub-section (1) of the last preceding section	sub-section 53 (1)
	sub-section (3) of the last preceding section	sub-section 53 (3)
Section 53A (2)	sub-section (3) of the last preceding section	sub-section 53 (3)
Section 53A (3) (b)	the last preceding sub-section	sub-section (2)
Section 53A (4)	two or more	2 or more
Section 53B (2)	paragraph (b) of the last preceding sub-section	paragraph (1) (b)
Section 53B (3)	two or more	2 or more
	the last preceding sub-section	sub-section (2)
Section 53C (1)	twenty-one years	21 years
Section 53C (2)	the last preceding sub-section	sub-section (1)
	twenty-one years	21 years
Section 53C (3)	two or more	2 or more
Section 64 (3)	Four dollars	\$4
Section 64 (4)	more than one	more than 1
	one judgment debtor	1 judgment debtor
Section 64 (6)	One hundred dollars	\$100
	three months	3 months
Section 68 (1)	the next succeeding sub-section	sub-section (2)
Section 68 (2)	the first day of January	1 January
	that first day of January	that 1 January
Section 68 (3)	the last preceding sub-section	sub-section (2)
	before the first day of January	before the 1 January
Section 68 (3) (b)	first day of January	1 January
Section 68 (4)	the first day of January	1 January
Section 68 (4) (a)	four weeks	4 weeks
Section 68 (5)	the date of commencement of this section	26 October 1966
	the last preceding sub-section	sub-section (4)
	the first day of January	1 January
	one month before that first day of January	1 month before that 1 January
	on that first day of January	on that 1 January
Section 68 (6)	twelve months immediately preceding the date of commencement of this section	12 months that ended on 25 October 1966
Section 68 (6) (a)	paragraph (a) or (b) of sub-section (4)	paragraph (4) (a) or (b)
Section 68 (6) (b)	1st January, 1967,	1 January 1967
	that sub-section	sub-section (4)
Section 68 (7)	before the period of twelve months immediately preceding the date of commencement of this section	before 26 October 1965
Section 68 (7) (a)	upon the commencement of this section	on 26 October 1966
	1st January, 1966,	1 January 1966
	the date of commencement of this section	26 October 1966

SCHEDULE—continued

Provision	Omit—	Substitute—
Section 68 (7) (b)	upon the commencement of this section 1st January, 1966, before the date of commencement of this section	on 26 October 1966 1 January 1966 before 26 October 1966
Section 68A (1) (a)	the date of commencement of this sec- tion	26 October 1966
Section 68A (1) (c)	1st January, 1967,	1 January 1967
Section 68A (1) (d)	sixty years before 1st January, 1967	60 years before January 1967
Section 68A (2)	the first day of January	1 January
Section 68B (2)	the last two preceding sections	sections 68 and 68A
Section 68C (2) (c)	paragraph (b) of sub-section (1)	paragraph (1) (b)
Section 68D	section 68 of this Act, the last two pre- ceding sections	section 68, sections 68B and 68C
Section 68E (1)	the first day of January	1 January
Section 68E (2)	Paragraph (a) of the last preceding sub- section	Paragraph (1) (a)
Section 68F (1)	the last six preceding sections	sections 68 to 68E (in- clusive) (in this sec- tion referred to as the “relevant sections”)
Section 68F (1) (definition of “month”)	one of the twelve months	a month
Section 68F (1) (definition of “year”)	twelve months	12 months
Section 68F (2)	the first day of January	1 January
Section 68F (3)	the last six preceding sections	the relevant sections
Section 68F (4)	sections 68 to 68E (inclusive)	the relevant sections
Section 68F (4)	a section referred to in sub-section (3)	any of the relevant sec- tions
Section 70 (1) (a)	three months	3 months
Section 70 (1) (b)	twelve months	12 months
Section 70 (2)	the last preceding sub-section	sub-section (1)
Section 75A (1) (a)	six months	6 months
Section 75A (2)	12th June, 1941,	12 June 1941
Section 76 (1)	the next succeeding sub-section	sub-section (3)
Section 76 (1)	first day of January	1 January
Section 76 (2)	twenty-sixth day of January	26 January
Section 76 (2)	the twenty-fifth day of April	25 April
Section 76 (3)	the twenty-fifth day of April	25 April
Section 76 (3)	four days in any one calendar year	4 days in any 1 calendar year
Section 76 (7)	the last preceding sub-section	sub-section (6)
Section 81	any of the last four preceding sections	this Division
Section 81A (definition of “State employee”) (b)	paragraph (a) of this definition	paragraph (a)
Section 81A (definition of “State employee”)	31st January, 1942	31 January 1942
Section 81B (1)	within twenty-one days	within 21 days
Section 81B (1)	those twenty-one days	those 21 days
Section 81D (2)	sub-sections (1) and (2) of section 82	sub-sections 82 (1) and (2)
Section 81J	paragraph (a) of that section	paragraph 81G (a)
Section 81K (1)	19th July, 1916,	19 July 1916
Section 81K (1)	fifteen years	15 years
Section 81K (2A) (a)	the commencement of this sub-section	20 December 1976
Section 81K (2A) (b)	after the commencement of this sub- section	on or after 20 December 1976

SCHEDULE—continued

Provision	Omit—	Substitute—
Section 81L (definition of “State employee”) (a) (i)	at the commencement of this section	on 3 May 1946
Section 81L (definition of “State employee”) (a) (ii)	at the commencement of this section	on 3 May 1946
Section 81L (definition of “State employee”) (a) (iii)	at the commencement of this section	on 3 May 1946
Section 81L (definition of “State employee”) (b)	1st September, 1942 31st August, 1942	1 September 1942 31 August 1942
Section 81L (definition of “State employee”) (b) (ii)	at the commencement of this section	on 3 May 1946
Section 81M (1)	within fourteen days those fourteen days	within 14 days those 14 days
Section 81P (2)	sub-sections (1) and (2) of section 82	sub-sections 82 (1) and (2)
Section 81R (1)	1st July, 1946,	1 July 1946
Section 81R (2)	1st July, 1946	1 July 1946
Section 81R (3)	1st July, 1946	1 July 1946
Section 81U	nineteenth day of July, One thousand nine hundred and sixteen	19 July 1916
Section 81V (2A) (a)	the commencement of this sub-section	20 December 1976
Section 81V (2A) (b)	after the commencement of this sub-section	on or after 20 December 1976
Section 81Y (definition of “date of the transfer”)	a day to be fixed by proclamation as the day upon which the service of the Repatriation Commission or the service of the War Service Homes Commissioner, as the case may be, shall be transferred to the Commonwealth Service	1 September 1947 or 8 May 1947, respectively
Section 81Z (3)	the last preceding sub-section	sub-section (2)
Section 81Z (4)	paragraph (a) of sub-section (1)	paragraph (1) (a)
Section 81Z (5)	paragraph (b) of sub-section (1)	paragraph (1) (b)
Section 81ZC (definition of “the date of transfer”)	the date on which this Division comes into operation	1 September 1948
Section 81ZD (1) (d)	paragraph (b) of regulation twelve	paragraph 12 (b)
Section 81ZD (2)	the last preceding sub-section	sub-section (1)
Section 81ZD (2) (b)	paragraph (b) of regulation twelve	paragraph 12 (b)
Section 81ZD (4)	the last preceding sub-section	sub-section (3)
Section 81ZG (1)	sub-section (1) of section 81ZD	sub-section 81ZD (1)
Section 81ZG (2)	paragraph (b) of the last preceding sub-section	paragraph (1) (b)
	sixty-five years	65 years
	sixty years	60 years
Section 81ZG (5)	within fourteen days those fourteen days	within 14 days those 14 days
Section 81ZJ (3)	the last preceding sub-section	sub-section (2)
Section 81ZM (1) (definition of “declared class of persons”)	sub-section (1) or (2) of section 81ZN	sub-section 81ZN (1) or (2)
Section 81ZM (2)	sub-section (1) of section 81ZR	sub-section 81ZR (1)
Section 81ZQ	paragraphs (a) and (c) of section 34	paragraphs 34 (a) and (c)
Section 81ZR (2)	Sub-sections (1) and (2) of section 82	Sub-sections 82 (1) and (2)
Section 81ZS (2)	sub-sections (4), (5) and (6) of section 31 sub-section (1) of section 31	sub-sections 31 (4), (5) and (6) sub-section 31 (1)

SCHEDULE—continued

Provision	Omit—	Substitute—
Section 82 (4)	one Department or in more than one Department	1 Department or in more than 1 Department
Section 82 (8)	twelve months	12 months
Section 82A	immediately prior to the commencement of this section	on 15 August 1945
	regulation ten	regulation 10
	such commencement	16 August 1945
Section 82B (1)	one month	1 month
	two months	2 months
Section 85 (1)	sixty years	60 years
	sixty-five years	65 years
Section 85 (2)	sixty years	60 years
	sixty-five years	65 years
Section 86	of sixty-five years	of 65 years
	twelve months	12 months
	attaining sixty-five years	attaining 65 years
Section 89 (1)	ten per centum	10%
Section 89 (4)	ten per centum	10%
Section 96 (1)	Two hundred dollars	\$200
	six months	6 months
Section 97 (2)	fifteen sitting days	15 sitting days

NOTES

1. Act No. 170, 1978; assented to 28 November 1978.
2. Act No. 21, 1922, as amended. For previous amendments *see* Act 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; Nos. 1, 38, 52 and 84, 1947; Nos. 35 and 75, 1948; Nos. 51 and 80, 1950; Nos. 46 and 48, 1951; No. 22, 1953; No. 63, 1954; No. 18, 1955; Nos. 13 and 39, 1957; No. 11, 1958; Nos. 17 and 105, 1960; Nos. 2 and 75, 1964; Nos. 47 and 85, 1966; Nos. 2 and 115, 1967; Nos. 59, 114 and 120, 1968; No. 6, 1972; Nos. 21, 71, 73 and 209, 1973; No. 59, 1974; No. 40, 1975; Nos. 193 and 194, 1976; and Nos. 6 and 80, 1977.
3. Act No. 54, 1975.
4. Act No. 55, 1975, as amended. For previous amendments *see* Act No. 94, 1976; and No. 160, 1977.
5. Act No. 194, 1976.
6. Act No. 6, 1920, as amended. For previous amendments *see* Act No. 34, 1921; No. 23, 1922; No. 14, 1929; No. 74, 1930; Nos. 10 and 47, 1931; No. 32, 1934; No. 58, 1935; Nos. 29 and 67, 1936; Nos. 12, 24 and 42, 1937; No. 55, 1938; Nos. 37 and 96, 1940; No. 49, 1941; No. 22, 1943; No. 11, 1945; No. 49, 1946; Nos. 1, 29 and 74, 1947; No. 39, 1948; No. 38, 1949; Nos. 34 and 80, 1950;

NOTES—continued

No. 31, 1951; No. 58, 1952; No. 69, 1953; No. 31, 1954; No. 39, 1955; Nos. 68 and 97, 1956; No. 44, 1957; No. 47, 1958; No. 58, 1959; No. 44, 1960; No. 46, 1961; Nos. 75 and 91, 1962; No. 47, 1963; Nos. 62 and 105, 1964; No. 64, 1965; No. 42, 1966; No. 64, 1967; No. 66 and 120, 1968; No. 95, 1969; Nos. 4 and 60, 1970; Nos. 17 and 68, 1971; Nos. 15, 82 and 139, 1972; Nos. 2, 27, 104 and 216, 1973; Nos. 3, 24 and 90, 1974; Nos. 35, 56 and 111, 1975; Nos. 27, 91 and 112, 1976; and No. 56, 1977.

7. No. 31, 1976, as amended. For previous amendments *see* Act No. 51, 1976; and No. 80, 1977.
8. Act No. 74, 1933, as amended. For previous amendments *see* Act No. 64, 1936; and No. 216, 1973.
9. Act No. 80, 1977.