



ANNO VICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1975

No. 2 of 1975

An Act to amend the Public Service Act, 1967-1974.

[Assented to 13th March, 1975]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Public Service Act Amendment Act, 1974-1975".

(2) The Public Service Act, 1967-1974, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act and by all Acts amending the same prior to the commencement of this Act, may be cited as the "Public Service Act, 1967-1975".

Amendment of
principal Act,
s. 3—
Parts, etc.

2. Section 3 of the principal Act is amended by striking out the passage "ss. 45a-57" and inserting in lieu thereof the passage "ss. 46-57".

Amendment of
principal Act,
s. 4—
Definitions.

3. Section 4 of the principal Act is amended—

(a) by striking out the definition of "Department" and inserting in lieu thereof the following definition:—

"Department" means Department of the Public Service which is for the time being in existence pursuant to the provisions of section 25 of this Act or the provisions of any other Act and has been declared under this Act or otherwise brought into existence before or after the commencement of the Public Service Act Amendment Act, 1974-1975;

(b) by striking out the definition of "Permanent Head" and inserting in lieu thereof the following definition:—

"Permanent Head"—

(a) in relation to a Department, means the person who is for the time being the holder of the Office of Permanent Head of that Department as provided by section 25 of this Act but, where there is no

Office of Permanent Head as such of the Department for the purposes of this Act as provided by that section, means the person who for the time being has, by virtue of section 26 of this Act, all the powers and functions of Permanent Head in relation to that Department for the purposes of this Act;

and

(b) in relation to an Officer or temporary Officer, means the Permanent Head of the Department, or, as the case may be, the person who for the time being has, by virtue of section 26 of this Act, all the powers and functions of Permanent Head in relation to the Department, in which that Officer or temporary Officer is employed.

4. Section 25 of the principal Act is amended—

(a) by striking out subsections (1) to (5) (both inclusive) and inserting in lieu thereof the following subsections:—

Amendment of
principal Act,
s. 25—
Departments
and Permanent
Heads

(1) Subject to this Act, on and after the commencement of the Public Service Act Amendment Act, 1974-1975—

(a) the Departments of the Public Service shall be—

(i) those in existence by virtue of this Act or any other Act immediately before the day of such commencement;

and

(ii) every Department brought into existence thereafter,

excepting every Department that is discontinued or has become part of some other existing Department or part of a new Department;

and

(b) the Offices of Permanent Head of the Departments of the Public Service shall be—

(i) those in existence immediately before the day of such commencement;

and

(ii) every Office of Permanent Head of a Department created thereafter,

excepting every Office of Permanent Head that is abolished.

(2) Subject to this section—

(a) the name of each Department in existence by virtue of this Act or any other Act immediately before the day of commencement of the Public Service Act Amendment Act, 1974-1975, shall, until the name is changed or the Department is discontinued or has become part of some other

existing Department or part of a new Department, continue to be the name by which it was known for the purposes of this Act immediately before that day and shall, if the name is changed, be the name for the time being as so changed;

- (b) the name of each Department brought into existence on or after the day of commencement of the Public Service Act Amendment Act, 1974-1975, shall, until the name is changed or the Department is discontinued or has become part of some other existing Department or part of a new Department, continue to be the name assigned to it when it was so brought into existence and shall, if the name is changed, be the name for the time being as so changed;
- (c) the title of any Office of Permanent Head in existence immediately before the day of commencement of the Public Service Act Amendment Act, 1974-1975, shall, until the title is changed or the Office is abolished, continue to be the title by which it was known for the purposes of this Act immediately before that day and shall, if the title is changed, be the title for the time being as so changed;

and

- (d) the title assigned to any Office of Permanent Head created on or after the day of commencement of the Public Service Act Amendment Act, 1974-1975, shall, until the title is changed or the Office is abolished, continue to be the title assigned to it when it was so created and shall, if the title is changed, be the title for the time being as so changed.

(3) Subject to subsection (6) of this section after the commencement of the Public Service Act Amendment Act, 1974-1975, the Governor may from time to time, upon the recommendation of the Board, by proclamation, do any one or more of the following things:—

- (a) bring a Department into existence by declaring it to be a Department of the Public Service;
- (b) create, and assign a title to, an Office of Permanent Head of a Department;
- (c) discontinue a Department or part of a Department;
- (d) abolish the Office of Permanent Head of a Department that has been discontinued or that has been amalgamated with or become part of another Department;
- (e) form a new Department by amalgamating two or more Departments or parts of Departments or by amalgamating a part or parts of a Department

or parts of two or more Departments with another Department and bring the new Department so formed into existence by declaring it to be a Department of the Public Service;

(f) amalgamate one Department or part of a Department with another Department, that first mentioned Department or, as the case may be, that part of the Department thereby becoming part of the other Department;

(g) assign a name to a new Department or a title to a newly created Office of Permanent Head of a Department or change the name of a Department or the title of the Office of Permanent Head of a Department.

(4) A proclamation under subsection (3) of this section shall take effect upon such day as is fixed by the proclamation or, if no day is so fixed, on the day on which the proclamation is published in the *Gazette*;

(b) by striking out from subsection (6) the passage "abolished by that proclamation" in subparagraph (ii) of paragraph (a) and inserting in lieu thereof the passage "that has been discontinued or has become part of some other existing or future Department pursuant to this section";

(c) by striking out from subsection (6) the passage "by that proclamation" wherever it occurs in subparagraph (i) and subparagraph (ii) of paragraph (b) and inserting in lieu thereof in each case the passage "pursuant to this section";

and

(d) by striking out from subsection (6) the passage "a reference to" in subparagraph (ii) of paragraph (b).

5. Section 26 of the principal Act is repealed and the following section is enacted and inserted in its place:—

26. (1) Where, in relation to a Department, there is no Office of Permanent Head as such for the purposes of this Act—

(a) if the Department was in existence immediately before the commencement of the Public Service Act Amendment Act, 1974-1975, the person who, by operation of this section as previously enacted and in force immediately before the day of such commencement, and by virtue of his office, had all the powers and functions of Permanent Head in relation to that Department shall, in the event of his continuing to hold that office, and until the Department is discontinued or has become part of some other existing Department or part of a new Department or until otherwise provided by proclamation under this section, continue to have all those powers and functions in relation to that Department for the purposes of this Act;

and

Repeal of s. 26 of principal Act and enactment of new section in its place—

Vesting of powers of Permanent Head in holders of certain Government appointments.

(b) if the Department is brought into existence after the commencement of the Public Service Act Amendment Act, 1974-1975, the person who is for the time being the holder of the appointment which is the appointment the holder of which has all the powers and functions of Permanent Head in relation to that Department for the purposes of this Act shall, until the Department is discontinued or has become part of some other existing Department or part of a new Department or until otherwise provided by proclamation under this section, have all those powers and functions for the purposes of this Act accordingly.

(2) The Governor may, from time to time, by proclamation on the recommendation of the Board—

(a) provide that, on and after a day specified therein, an appointment shall become the appointment the holder of which has the powers and functions of Permanent Head in relation to a Department specified therein for the purposes of this Act;

(b) provide that an office or appointment shall on a day specified therein, cease to be the office or appointment the holder of which has all the powers and functions of Permanent Head in relation to a Department;

and

(c) make such other provision incidental to or consequential on a provision or declaration contained in a proclamation made under this section as is necessary or desirable for the proper and efficient administration of this Act and the Public Service.

(3) The Governor may, from time to time, upon a like recommendation—

(a) by a subsequent proclamation revoke an earlier proclamation made under this section;

(b) make a proclamation in substitution for one so revoked;

and

(c) by a subsequent proclamation vary or amend a provision or declaration contained in an earlier proclamation.

(4) A proclamation made under this section shall, by operation of this section, have effect according to the tenor thereof.

6. The following sections are enacted and inserted in the principal Act immediately after section 26 thereof:—

Enactment of
s. 26a and
s. 26b of
principal Act—

Register of
Departments.

26a. (1) For the purposes of this Act the Board shall cause a register of Departments to be kept at the office of the Department of the Public Service Board.

(2) Subject to this section, there shall be maintained in the register, in such manner as the Board thinks proper, the names of the Departments in existence immediately before the day of commencement of the Public Service Act Amendment Act, 1974-1975, and of all Departments brought into existence thereafter.

(3) The register must show in relation to each Department the title of the Office of Permanent Head for the time being of that Department or, if there is no Office of Permanent Head as such for the purposes of this Act in relation to that Department, the title of the office or appointment the holder of which, by operation of section 26 of this Act, for the time being has all the powers and functions of Permanent Head for the purposes of this Act in relation to that Department.

(4) The Board shall, as often as occasion requires, remove from the register all references relating to Departments and to Offices of Permanent Head and offices and appointments that are no longer in existence and shall, for the purposes of the administration of this Act and of keeping the register up to date, cause to be entered in the register such alterations, corrections and annotations therein as the Board considers necessary or desirable.

(5) The Board shall within fourteen days after the commencement of the Public Service Act Amendment Act, 1974-1975, or such further time as the Minister for the time being responsible for the administration of this Act may allow, cause to be published in the *Gazette* a copy of the register showing, as at the time immediately preceding the day of such commencement, the names of the Departments and the title of the Office of Permanent Head of each Department or, as the case may require, the title of each office or appointment the holder of which had all the powers and functions of Permanent Head in relation to each Department of which there was no Permanent Head as such, and such other particulars (if any) as, in the Board's opinion, ought to be recorded therein.

(6) The Board shall, as soon as is reasonably possible after any alteration or correction is made to the register, and also whenever directed to do so by the Minister for the time being responsible for the administration of this Act, cause a copy of the register to be published in the *Gazette* incorporating the alteration or correction, if any, and specifying the date up to (and including) which the register had been made up at the time when it was reproduced as the copy so published.

26b. A certificate purporting to be signed by a Commissioner or by an Officer acting under the written authority of a Commissioner certifying that on a day or during a period specified in the certificate a Department named therein was a Department of the Public Service or an Officer or person named or described therein was the Permanent Head or, as the case may be, had all the powers and functions of Permanent Head in relation to a Department so named or that an Office specified therein was the Office of Permanent Head of a Department so named, or, as the case may be, that an office or appointment was the office or appointment the holder of which had all the powers and functions of Permanent Head in relation to the Department for the purposes of this Act shall, in all courts and before all tribunals, in the absence of proof to the contrary, be evidence of the matters so certified without proof that the person who signed the certificate was a Commissioner or an Officer acting under the written authority of a Commissioner or that the signature on the certificate was the signature of a Commissioner or of an Officer acting under such authority.

Certificate to be evidence.

Amendment of principal Act, s. 31—
Returns by Board.

7. Section 31 of the principal Act is amended by striking out from subsections (4), (5) and (6) the passage “Chief Secretary” wherever occurring therein and inserting in lieu thereof in each case the passage “Minister for the time being responsible for the administration of this Act”.

Amendment of principal Act, s. 35—
Other duties allowance.

8. Section 35 of the principal Act is amended by striking out from subsection (2) the passage “Subject to subsection (3) of this section, where” and inserting in lieu thereof the word “Where”.

Amendment of principal Act, s. 71—
Effect of order.

9. Section 71 of the principal Act is amended by inserting before the word “Board” the word “the”.

Amendment of principal Act, s. 84—
Accumulation of leave.

10. Section 84 of the principal Act is amended by inserting before the word “Department” the word “the”.

Amendment of principal Act, s. 87—
Leave on account of sickness, etc.

11. Section 87 of the principal Act is amended by striking out from subsection (3) the word “by” firstly occurring.

Amendment of principal Act, s. 93—
Re-employment of certain pensioners.

12. Section 93 of the principal Act is amended by striking out the passage “1926-1967” and inserting in lieu thereof the passage “1926, as amended, or any corresponding subsequent enactment”.

Amendment of principal Act, s. 112—
Temporary employment of over-age pensioners.

13. Section 112 of the principal Act is amended by striking out from paragraph (c) of subsection (3) the passage “1926-1967 subject to that Act” and inserting in lieu thereof the passage “1926, as amended, or under any corresponding subsequent enactment, subject to that Act or enactment, as the case may be”.

Amendment of principal Act, s. 115—
Recognized organization.

14. Section 115 of the principal Act is amended by inserting in subsection (1) after the passage “1920-1966” the passage “, or any corresponding subsequent enactment”.

Amendment of principal Act, s. 123—
Operating Industrial Code and corresponding legislation not affected.

15. Section 123 of the principal Act is amended—

(a) by inserting in paragraph (a) of subsection (1) after the word “Australia” the passage “or of a conciliation committee within the meaning of the Industrial Conciliation and Arbitration Act, 1972, as amended”;

(b) by inserting in paragraph (b) of subsection (1) after the passage “1920-1966” the passage “or under any corresponding subsequent enactment”;

and

(c) by inserting in subsection (2) after the passage “1920-1966” the passage “or of any corresponding subsequent enactment”.

16. Section 128 of the principal Act is amended by striking out from paragraph (c) of subsection (2) the passage "1926-1967 subject to that Act" and inserting in lieu thereof the passage "1926, as amended, or under any corresponding subsequent enactment, subject to that Act or enactment, as the case may be,".

Amendment of principal Act, s. 128—
Employment of over-age persons in the temporary employment of the State.

17. The second schedule and the third schedule to the principal Act are repealed.

Repeal of 2nd Schedule and 3rd Schedule of principal Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor