



ANNO SEPTIMO DECIMO

ELIZABETHAE SECUNDAE REGINAE

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No. 48 of 1968

**An Act Relating to the Administration of the Public Service  
and to Amend The Public Service Acts 1922 to  
1965 in certain particulars**

[ASSENTED TO 19TH DECEMBER, 1968]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

**1. Short title and citation.** (1) This Act may be cited as the *Public Service Act Amendment Act 1968*.

(2) *The Public Service Act of 1922* as subsequently amended from time to time is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Public Service Act 1922-1968*.

**2. Commencement.** This Act shall commence on a date to be fixed by the Governor in Council by Proclamation published in the Gazette.

**3. Transitional, Savings.** (1) Any reference to the Public Service Commissioner in any Proclamation, Order in Council, regulation, instrument, contract or document made or issued under or for the purposes of the Principal Act and in force or of effect immediately before the commencement of this Act shall, unless the context is such that it would be inappropriate or the contrary intention appears, be read as a reference to the Public Service Board constituted by the *Public Service Act 1922-1968* and the Proclamation, Order in Council, regulation, instrument, contract or document shall have and take effect accordingly for the purposes of the lastmentioned Act.

(2) This Act shall not prejudice or affect in any way the operation and effect of any assignment referred to in subsection (3) of section 7 of the Principal Act made as prescribed by that subsection and in force immediately before the commencement of this Act and every such assignment shall continue to have and take effect according to its expressed effect and extent until—

(a) it is revoked by the Board or, if made by a permanent head, by that permanent head; or

(b) in the case of an assignment made for a specified period, it sooner expires.

(3) A reference in any Act, other than the Principal Act or in any Proclamation, Order in Council, regulation, rule, by-law, instrument, contract or document made or issued thereunder or for the purposes thereof to the Public Service Commissioner shall, unless the context is such that it would be inappropriate or the contrary intention appears, be read as a reference to the Public Service Board constituted by the *Public Service Act 1922-1968* and the Act, Proclamation, Order in Council, regulation, rule, by-law, instrument, contract or document shall have and take effect accordingly.

(4) All suits, actions and proceedings of any nature whatsoever pending immediately before the commencement of this Act by or against the Public Service Commissioner in his official capacity or by his official name which arose under or in consequence of or were in any way founded or dependent upon the Principal Act or the existence or holding of the office of Public Service Commissioner may be continued and completed by or against the Public Service Board constituted by the *Public Service Act 1922-1968* in its official capacity and by its official name and for that purpose shall, as from that commencement be deemed to have arisen under or in consequence of or, as the case may be, to be founded or dependent upon the *Public Service Act 1922-1968* or the existence of the Board thereunder.

(5) All rights, liabilities and obligations acquired or incurred by the Public Service Commissioner in office immediately before the commencement of this Act shall as from that commencement continue in force and be exercisable by, binding upon and enforceable against the Public Service Board constituted by the *Public Service Act 1922-1968* in the same manner and to the same extent as if they had been acquired or incurred by that Board under or in consequence of the lastmentioned Act.

(6) All officers of the Public Service Commissioner's Department appointed under a provision of the Principal Act repealed by this Act and in office immediately before the commencement of this Act shall, unless the contrary intention appears, be deemed to have been appointed to their respective offices in the Department of the Public Service Board under the corresponding provision of the *Public Service Act 1922-1968* and subject to that Act shall continue to hold those offices respectively in terms of their appointment without further or other appointment thereunder and in the case of officers whose offices were, immediately before that commencement, designated by reference to the Public Service Commissioner, they shall, unless the contrary intention appears, be deemed to have been appointed to the corresponding offices under the *Public Service Act 1922-1968* designated by reference to the Board and, subject to that Act, shall continue to hold those offices respectively in terms of their appointment without further or other appointment thereunder.

(7) Notwithstanding anything contained in this Act, a vacancy in an office or a new office may be filled after the commencement of this Act on a recommendation of the Public Service Commissioner made before that commencement and the provisions of the Principal Act relating to appeals against promotion on the recommendation of the Public Service Commissioner shall continue to apply in relation thereto notwithstanding any repeal or amendment of those provisions by this Act.

(8) Notwithstanding anything contained in this Act, the provisions of the Principal Act relating to appeals against promotion shall continue to apply in relation to a vacancy in an office or a new office in a department—

- (a) which was filled by the promotion of an officer of that or another department before the commencement of this Act; or
- (b) which was so filled pursuant to subsection (7) of this section, and appeals—
- (c) instituted under the provisions of the Principal Act and not disposed of;
- (d) the right to which was subsisting immediately before the commencement of this Act; and
- (e) against a promotion of an officer made pursuant to subsection (7) of this section,

shall be instituted, dealt with, heard and disposed of or continued and completed, as the case may require, as if this Act had not been passed and for the purposes of the appeal or right of appeal the provisions of the Principal Act applicable thereto but for the commencement of this Act shall be deemed to remain in full force.

(9) Every appeal in respect of an alleged offence pursuant to section 32 of the Principal Act instituted before the commencement of this Act and not disposed of under the Principal Act and every right of such an appeal which subsisted immediately before that commencement shall be enforceable, instituted, dealt with, heard and disposed of or continued and completed, as the case may require, under the *Public Service Act 1922-1968*, as if that appeal had been instituted or that right of appeal had arisen under the corresponding provision of the lastmentioned Act and in the case of an appeal not disposed of at the commencement of this Act any step or proceeding taken in the appeal before that commencement shall be deemed to have been taken under and for the purposes of the *Public Service Act 1922-1968*.

(10) Any Appeal Board as constituted under the Principal Act for the purposes of an appeal referred to in subsection (9) of this section that has not been disposed of by that Board at the commencement of this Act shall be deemed to be the Appeal Tribunal constituted under the *Public Service Act* 1922–1968 for the purposes of that appeal.

**4. Amendment of s. 3.** Section 3 of the Principal Act is amended—

(a) by omitting the definition “Board” and inserting in its stead the following definitions:—

“Appeal Tribunal”—An Appeal Tribunal constituted under section 35 of this Act;

“Board”—The Public Service Board constituted by section 5 of this Act;

“Chairman”—The Chairman of the Board and includes a Commissioner or a deputy of a Commissioner appointed to act as Chairman of the Board;”;

(b) by omitting the definition “Commissioner” and inserting in its stead the following definition:—

“Commissioner”—A Commissioner appointed under section 5 of this Act and includes the Commissioner appointed as Chairman of the Board and the Commissioner appointed as Deputy Chairman of the Board;”;

(c) by omitting the definition “Deputy Commissioner” and inserting in its stead the following definition:—

“Deputy Chairman”—The Deputy Chairman of the Board;”;

(d) by omitting the definition “Secretary” and inserting in its stead the following definition:—

“Secretary”—The secretary to the Board appointed under section 8A of this Act;”; and

(e) by omitting the word “Commissioner” in the definitions “Inspector” and “Salary” respectively and inserting in its stead in each case the word “Board”.

**5. Amendment of s. 4.** Section 4 of the Principal Act is amended by in the proviso to that section—

(a) omitting paragraph (ii) and inserting in its stead the following paragraph:—

“(ii) Judges of the Supreme Court; Associates to those Judges; President of the Industrial Court; Associate to the President of the Industrial Court; Judges of District Courts; Clerks to those Judges; Commissioners of The Industrial Conciliation and Arbitration Commission; Associates to those Commissioners;”; and

(b) omitting paragraph (vii) and inserting in its stead the following paragraph:—

“(vii) The Commissioner for Railways or officers or employees of the Railway Department;”.

**6. Repeals.** (1) Section 5 of the Principal Act and the headings “Part II—Administration” and “Commissioner and Staff” immediately preceding that section are repealed.

(2) Sections 6, 8, 9, 10 and 11 of the Principal Act are repealed.

7. **New Part II inserted.** The Principal Act is amended by inserting after section 4B the following heading and sections:—

**“ PART II—PUBLIC SERVICE BOARD**

**5. The Public Service Board.** (1) For the purposes of this Act there is hereby constituted a board to be called the “ Public Service Board ”.

(2) The Board shall consist of three Commissioners appointed by the Governor in Council.

(3) The Governor in Council shall from time to time appoint one of the Commissioners to be the Chairman of the Board and may from time to time appoint one other of the Commissioners to be Deputy Chairman of the Board.

(4) Where a vacancy occurs in the office of Commissioner, the Governor in Council shall appoint a person to the vacant office.

(5) Subject to subsection (7) of this section, an appointment of a Commissioner shall be for a term not exceeding seven years.

(6) A person who is appointed a Commissioner shall, on the expiration of his term of office, be eligible for re-appointment.

(7) Subject to subsection (8) of this section, a Commissioner shall retire from office and his office shall be deemed to have become vacant on his attaining the age of sixty-five years notwithstanding that he has not then remained in office for the term then current of his appointment or re-appointment.

(8) The Governor in Council may, if he deems it desirable so to do, continue a Commissioner in office beyond the age of sixty-five years and for that purpose the Governor in Council may reappoint a Commissioner notwithstanding that he has attained the age of sixty-five years but a Commissioner shall not be continued in office beyond the age of seventy years.

(9) A notification of each appointment under this section shall be published in the Gazette.

**6. Appointment of officer as Commissioner.** (1) The service as a Commissioner of an officer who is appointed a Commissioner shall, for the purpose of determining all his existing and accruing rights, be counted as service in the Public Service.

(2) An officer referred to in subsection (1) of this section shall, at the conclusion of his term or terms of office as a Commissioner if he has not then attained the age of sixty-five years, be entitled to be appointed to an office which is, in the opinion of the Governor in Council, of a classification not less than the equivalent of the classification of the office he previously occupied before the appointment referred to in subsection (1) of this section.”

8. **New ss. 6A, 6B.** The Principal Act is amended by inserting after section 6 as inserted by this Act the following sections:—

**“ 6A. Appointment of deputy of Commissioner.** (1) In the case of illness, suspension, or absence of any Commissioner, the Governor in Council may appoint a person to act as the deputy of that Commissioner during that illness, suspension or absence, as the case may be, and the deputy shall whilst so acting, have all the powers, functions and duties of a Commissioner.

(2) A deputy whilst so acting shall receive such remuneration for his services as the Governor in Council determines, and where the deputy is an officer, the remuneration so determined shall, if the Governor in Council so directs, be in addition to his salary as an officer.

(3) In the case of illness, suspension or absence of the Commissioner who is for the time being Chairman of the Board, the Governor in Council may appoint a Commissioner or a deputy of a Commissioner to act as Chairman of the Board for the duration of that illness, suspension or absence, as the case may be.

(4) A Commissioner or a deputy of a Commissioner appointed pursuant to subsection (3) of this section to act as Chairman of the Board shall, whilst so acting, have all the powers, functions and duties of the Chairman as such.

(5) A Commissioner or a deputy of a Commissioner appointed pursuant to subsection (3) of this section to act as Chairman of the Board shall, while so acting, be paid salary at such rate as is determined by the Governor in Council.

(6) The appointment of—

(a) a deputy of a Commissioner;

(b) a Commissioner or deputy of a Commissioner to act as Chairman of the Board,

may be terminated at any time by the Governor in Council.

(7) An appointment of a deputy of a Commissioner and an appointment of a Commissioner or deputy of a Commissioner to act as Chairman of the Board and any act done by a deputy of a Commissioner or an acting Chairman of the Board shall not be questioned in any proceedings on the ground that the occasion for his appointment had not arisen or had ceased.

**6B. Vacation of office by Commissioner.** The office of a Commissioner shall become and be vacant if that Commissioner—

(a) engages during his term of office in any paid employment outside the Public Service;

(b) becomes bankrupt, compounds with his creditors, makes an assignment of his salary for their benefit or applies to take the benefit of any law in force in the State for the relief of bankrupt or insolvent debtors;

(c) absents himself from duty for any period in excess of fourteen consecutive days, other than—

(i) any period of leave of absence to which he is entitled;  
or

(ii) any other period of leave of absence approved by the Governor in Council;

(d) dies or becomes permanently incapable, in the opinion of the Governor in Council, of performing his duties by reason of mental or bodily incapacity;

(e) resigns his office by writing under his hand addressed to the Minister and the resignation is accepted by the Governor in Council; or

(f) is removed from office pursuant to section 6c of this Act.”.

9. **New ss. 6C and 6D.** The Principal Act is amended by inserting after section 6B as inserted by this Act the following sections:—

“**6C. Suspension and removal of Commissioner from office.**

(1) This section applies subject to section 6B of this Act.

(2) A Commissioner shall not be removed from office except as prescribed by this section.

(3) The Governor in Council may suspend a Commissioner from office.

(4) If a Commissioner is so suspended, the Minister shall lay a statement setting out in full the grounds of suspension before the Legislative Assembly—

(a) if the Legislative Assembly is then sitting for the despatch of business, within seven days after the date of the suspension; or

(b) if the Legislative Assembly is not then sitting for the despatch of business, within seven days after it next sits for the despatch of business.

(5) The Commissioner concerned shall be restored to office unless, within twenty-one days after the date when such statement is laid before the Legislative Assembly, the Legislative Assembly resolves that the Commissioner be removed from office in which event the Governor in Council shall remove him from office.

**6D. Entitlement of Commissioner to leave of absence.** A Commissioner is entitled to such leave of absence as for the time being is prescribed for an officer appointed under this Act.”.

10. **New ss. 6E and 6F.** The Principal Act is amended by inserting after section 6D as inserted by this Act the following sections:—

“**6E. Remuneration of Commissioners.** (1) The Commissioners shall be entitled to receive respectively salary at such rate per annum as is determined from time to time by the Governor in Council, being not less than the following such rate—

(a) in the case of the Commissioner appointed Chairman of the Board, thirteen thousand five hundred dollars; and

(b) in the case of each other Commissioner, eleven thousand two hundred and fifty dollars.

(2) There shall be paid to each Commissioner, on account of travelling and other expenses in discharging the duties of his office such allowances as are fixed from time to time by the Governor in Council.

(3) The amount of the salary payable for the time being to each Commissioner shall be a charge upon and be paid out of Consolidated Revenue which is hereby appropriated accordingly.

**6F. Vacancy in office of Commissioner.** Subject to section 7 of this Act the powers, functions and duties of the Board may be exercised notwithstanding a vacancy in the office of one Commissioner.”.

11. **Amendment of s. 7.** Section 7 of the Principal Act is amended—

(a) by omitting the word “Commissioner” in the marginal note and inserting in its stead the word “Board”;

(b) by omitting in subsections (1), (2) and (3) the word "Commissioner" (wherever occurring) and inserting in its stead in each case the word "Board";

(c) by omitting in subsection (1) the word "him" (wherever occurring in the last paragraph) and inserting in its stead in each case the word "it";

(d) by omitting in subsections (2) and (3) the words "his powers" (wherever occurring) and inserting in their stead in each case the words "its powers";

(e) by inserting in paragraph (a) of subsection (3) after the words "assign to a person" the words "(including a Commissioner)";

(f) by omitting from paragraph (f) of subsection (3) the word "his" and inserting in its stead the word "its";

(g) by omitting subsection (4);

(h) by renumbering subsection (5) as subsection (4);

(i) by inserting in subsection (4), as so renumbered after the words "who is or has been", the word "a"; and

(j) by renumbering that section, as amended by this section, as section 11.

**12. New ss. 7 and 7A.** The Principal Act is amended by inserting after section 6F as inserted by this Act the following sections:—

**"7. Proceedings of Board.** (1) Except as otherwise provided by this Act, the Board shall meet at such times and places and conduct its business in such manner as it deems fit.

(2) In the exercise of its powers, functions and duties under this Act the Board may hear and consider evidence, argument or representations and in its consideration of any matters shall not be bound by rules or practice as to evidence but may inform itself on any matter in such manner as it thinks fit.

(3) The Chairman shall preside at all meetings of the Board at which he is present.

(4) In the absence of the Chairman, the Deputy Chairman, if a Deputy Chairman has been appointed, shall preside at a meeting of the Board.

(5) Subject to this section any two Commissioners shall form a quorum and shall have all the powers, functions and duties conferred on the Board by this Act.

(6) A question arising at a meeting of the Board shall be decided by a majority of votes of Commissioners present at the meeting and voting.

(7) If a Commissioner fails to vote at a meeting of the Board, he shall be deemed to have voted in the negative.

(8) If at a meeting of the Board at which two Commissioners only are present the Commissioners differ in opinion on a matter, the determination of that matter shall be postponed to a meeting of the Board at which all three Commissioners are present.

(9) Any document shall be deemed to be duly executed by the Board if it is signed by—

(a) the Chairman;



- (b) in the absence of the Chairman and where a Deputy Chairman has been appointed, the Deputy Chairman; or
- (c) a person duly authorized in writing by the Board so to do either generally or in a particular case.

**7A. General Powers and Functions of Board.** Subject to and in accordance with this Act, the Board shall be charged with the administration of the Public Service and, in addition to the powers, functions and duties conferred upon it by or under any other provision of this Act, the Board shall have such other powers, functions and duties in relation to the Public Service as are prescribed.”.

**13. New ss. 8 and 8A.** The Principal Act is amended by inserting after section 7A as inserted by this Act, the following sections:—

“**8. Department of the Public Service Board.** The Department of the Public Service Board shall comprise the Public Service Commissioner’s Department as subsisting immediately before the commencement of this Act with such alterations thereof as may be made from time to time.

**8A. Appointment of Officers.** The Governor in Council may from time to time on the recommendation of the Board appoint a secretary to the Board and such other officers to the Department of the Public Service Board as may be necessary to assist the Board in the administration of this Act and such officers shall, subject to this Act, exercise or perform all such powers, functions and duties as the Chairman may from time to time direct or require or as may be assigned to them by the Board.”.

**14. New s. 9.** The Principal Act is amended by inserting after section 8A as inserted by this Act, the following section:—

“**9. Permanent Head of Department.** (1) The Chairman shall be the permanent head of the Department of the Public Service Board.

(2) Additionally to his powers, functions and duties as permanent head, the chairman from time to time—

- (a) may determine the manner in which officers of that Department shall submit matters to the Board;
- (b) subject to any direction by the Minister to the contrary may, either generally or in a particular case, by writing under his hand delegate to any officer of the Department of the Public Service Board all or any of the powers, functions and duties of the Chairman as the permanent head of that Department as may be specified in the writing (other than this power of delegation) so that the delegated powers, functions and duties may be exercised, or as the case may require, shall be performed by the delegate according to the delegation.

(3) Where under this Act, the exercise or performance of any power, function or duty of the Chairman as the permanent head of the Department of the Public Service Board is dependent upon the opinion, belief, or state of mind of the Chairman in relation to any matter or thing, that power, function or duty may be exercised or performed by an officer to whom the exercise or

performance of that power, function or duty has been delegated under subsection (2) of this section, upon the opinion, belief or state of mind of that officer.

(4) The Chairman may under subsection (2) of this section make such and so many delegations of the same power, function or duty and to such officers as the Chairman considers necessary or desirable.

(5) The Chairman may at his own discretion, and shall if directed so to do by the Minister, revoke, by writing under his hand, any delegation made by him under this section.

(6) A delegation made under subsection (2) of this section shall not prevent the exercise or performance by the Chairman of any power, function or duty the subject of the delegation.”.

**15. New ss. 10 and 10A.** The Principal Act is amended by inserting after section 9 as inserted by this Act the following sections:—

“**10. Special functions of Chairman.** (1) The Chairman may individually and independently of any other Commissioner and without consultation therewith—

(a) communicate directly with any Departmental Minister; and

(b) exercise or perform such powers, functions and duties with respect to a person or persons in the employment of the Crown but who is or are not included in the Public Service of Queensland as defined by this Act as may from time to time be required by the Governor in Council or requested by a Departmental Minister.

(2) Any report, recommendation or advice which the Chairman in his own discretion may make or give in pursuance of this section may be sent or given by him directly to the Departmental Minister.

(3) Any Departmental Minister may communicate directly with the Chairman.

**10A. Board may sue and be sued by its official name.** The Board may sue and be sued by its official name.”.

**16. Heading inserted before s. 12.** The Principal Act is amended by inserting immediately before section 12 the following heading:—

“PART IIA—ADMINISTRATION  
APPOINTMENT OF INSPECTORS.”.

**17. Amendment of s. 13.** Section 13 of the Principal Act is amended by inserting, after the words “to carry out”, the words “its functions and”.

**18. Amendment of s. 18 (3).** Subsection (3) of section 18 of the Principal Act is amended by omitting paragraphs (i) and (ii).

**19. Amendment of s. 19.** Section 19 of the Principal Act is amended—

(a) by omitting the word “Commissioner” where occurring in the first paragraph and inserting in its stead the word “Board”; and

(b) by omitting the last paragraph (being the paragraph beginning with the words "The Commissioner") and inserting in its stead the following paragraphs:—

"In the case of a vacancy in respect of which an appeal does not lie pursuant to section 23 of this Act, the Board shall submit to the Governor in Council the name of the person whom it recommends for appointment to fill the vacancy.

In the case of a vacancy (other than a vacancy to which the last preceding paragraph applies), the permanent head of the department in which the vacancy has occurred shall submit to the Governor in Council the name of the person whom he nominates for appointment to fill the vacancy."

**20. Amendment of s. 22.** Section 22 of the Principal Act is amended—

(a) by omitting the word "Commissioner" first occurring and inserting in its stead the word "Board"; and

(b) by omitting the second paragraph (being the paragraph beginning with the words "If the Governor in Council" and ending with the words "to such office:") and inserting in its stead the following paragraph:—

"If the Governor in Council creates a new office—

(a) the Board shall, in the case of a new office in respect of which an appeal does not lie pursuant to section 23 of this Act, submit to the Governor in Council the name of the person whom it recommends for appointment to fill the new office;

(b) the permanent head of the department in which the new office has been created shall, in the case of a new office (other than a new office to which subparagraph (a) of this paragraph applies), submit to the Governor in Council the name of the person whom he nominates for appointment to fill the new office:"

**21. Amendment of s. 23.** Section 23 of the Principal Act is amended—

(a) by omitting the words "recommended for such vacancy or new office by the Commissioner" and inserting in their stead the words "nominated for appointment to fill such vacancy or new office by the permanent head of the department in which the vacancy occurred or the new office was created";

(b) by omitting the words "Appeal Board constituted as hereinafter provided" and inserting in their stead the words "Board which in the case of an appeal against a promotion to fill a vacancy or a new office in the Department of the Public Service Board shall, notwithstanding any other provision of this Act, be constituted by a judge of District Courts designated by the Governor in Council in that behalf sitting and acting alone. The judge so designated shall accordingly constitute and shall perform all the functions of the Board under this Act in relation to the appeal in question and for that purpose the provisions of this Act relating to hearing of appeals by the Board so far as the same can be applied shall apply and be observed by such judge. For the purposes of the particular appeal in question—

(a) such judge shall be deemed to be the chairman of the Board and wherever in this Act reference is made to the Board in relation to such an appeal as consisting of more than one person such reference shall be deemed to be to such judge sitting and acting alone; and

(b) the clerk to such judge shall be deemed to be the secretary to the Board.”;

(c) by omitting the words “ of petty sessions ” wherever occurring and inserting in their stead in each case the words “ of the court ”;

(d) by, in paragraph (b) of the second proviso, omitting the words “ unless the appeal against his promotion is made by another officer whose appeal against the promotion first made to fill that vacant office or new office also succeeded, or unless subsequent to the determination of the appeal made by the appellant first mentioned in this paragraph (b), ” and inserting in their stead the words “ unless subsequent to the determination of the appeal ”; and

(e) by omitting from the third and last proviso the word “ Appeal ”.

**22. New s. 23A.** The Principal Act is amended by inserting after section 23 the following section:—

**“ 23A. Lodging and hearing of appeal pursuant to section 23. (1)**

Every appeal pursuant to section 23 of this Act against a promotion to fill a vacancy or a new office—

(a) shall be in writing;

(b) shall clearly and concisely set forth the grounds upon which the appeal is made;

(c) shall be despatched to the secretary within the prescribed time; and

(d) subject to this Act, shall be heard by the Board as early as practicable after the date on which the appeal is received by the secretary.

(2) An appeal may be made against a promotion to fill a vacancy or a new office on the ground of—

(a) superior efficiency; or

(b) equal efficiency and seniority,  
to the officer promoted.

(3) The secretary shall give to the appellant and the officer promoted four clear days' notice of the date when the appeal will be heard.

(4) Any appeal shall be heard in private except where the appellant, at any time up to the commencement of the hearing of the appeal, requests that it be heard in public in which case the appeal shall be so heard and the appellant and the permanent head of the department in which the vacancy has occurred or the new office has been created may be represented in the proceedings by counsel or solicitor or agent.

(5) The Board shall make full inquiry into the claims of the appellant and the merits of the officer promoted and for that purpose shall hear and consider any relevant evidence, information or argument submitted by or on behalf of the appellant, the permanent head of the department in which the vacancy has occurred or the new office has been created and the officer promoted.

(6) The Board in relation to an appeal shall not be bound by rules or practice as to evidence but may inform itself on any matter in such manner as it deems fit.

(7) Where officers are employed in remote localities, and arrangements cannot conveniently be made for their attendance in person whether as appellants or witnesses, or where they would be subject to great expense in travelling to appear before the Board, the Board may appoint a competent person or persons to take evidence on oath or otherwise in that locality concerning the matter of the appeal and the person or persons so appointed shall forward the evidence taken for consideration by the Board.

(8) At the conclusion of the hearing of an appeal the Board shall determine as it deems just having regard to the considerations prescribed for determining the claims of officers for promotion to fill a vacancy or a new office, whether—

- (a) it upholds the appeal and recommends to the Governor in Council that the promotion appealed against be set aside; or
- (b) it dismisses the appeal and recommends to the Governor in Council accordingly.

(9) For the purposes of an appeal to which this section relates the Board shall have and may exercise all or any of the powers, authorities, protections, and jurisdictions of a Commission or a Commissioner within the meaning of *The Commissions of Inquiry Acts 1950 to 1954*.

(10) Where the Board upholds the appeal of more than one officer against a promotion to fill a vacancy or a new office, the Board shall proceed to determine who of the successful appellants is, in its opinion, more suitable than the other, or any other, such appellant for appointment to fill the vacancy or the new office and the Board shall recommend accordingly. For that purpose the Board shall make such further inquiry as it deems necessary into the merits of the successful appellants and shall hear and consider any relevant evidence, information or argument submitted by or on behalf of each successful appellant or the permanent head of the department in which the vacancy has occurred or the new office has been created.

(11) The secretary shall give to each successful appellant four clear days' notice of the date when it will proceed to make a determination under subsection (10) of this section.

(12) The Board shall transmit to the Governor in Council the Board's determination and recommendation together with the Board's report and where more than one appeal against a promotion are upheld, the Board shall transmit to the Governor in Council the Board's determination and recommendation pursuant to subsection (10) of this section together with the Board's report.

(13) The final decision shall in all cases rest with the Governor in Council and shall not be subject to any further appeal to any court or tribunal whatsoever.

(14) Where, consequent on the determination and recommendation of the Board and the final decision of the Governor in Council, an appellant is appointed to fill the vacancy or the new office, the promotion to which was the subject of the appeal in question, that appellant shall be deemed to have been appointed to fill that vacancy or new office as on and from the date of the appointment thereto of the officer against whose promotion the appeal was made but any increase in salary payable

to that appellant in respect of his appointment in terms of this section shall not be payable for any period before the date upon which he commences to undertake the duties of the office to which he has been so appointed."

**23. Amendment of s. 28.** Section 28 of the Principal Act is amended—

(a) by inserting in subsection (2) at the end thereof the following paragraph:—

"For the purposes of this subsection, the provisions of section 19 of *The Offenders Probation and Parole Acts 1959 to 1968* shall not apply.";

(b) by in subsection (3) omitting the words "Any officer" and inserting in their stead the words "Save as provided by subsection (3A) of this section, any officer"; and

(c) by inserting after subsection (3) the following subsection:—

"(3A) Any officer who having been suspended pursuant to subsection (1) of this section is found not guilty of the indictable offence with which he was charged shall be entitled to be reinstated in his office without loss of salary in respect of his period of suspension unless he is charged pursuant to section 32 of this Act with an offence arising out of the facts and circumstances upon which the charge of the indictable offence was made, or any of them, either alone or with the addition of other facts and circumstances."

**24. Amendment of Heading to s. 35.** The Principal Act is amended by omitting the heading occurring immediately before section 35 and inserting in its stead the following heading:—

"APPEALS IN RESPECT OF ALLEGED OFFENCES".

**25. Amendment of s. 35.** Section 35 of the Principal Act is amended—

(a) by omitting the marginal note and inserting in its stead the marginal note "Constitution of Appeal Tribunal";

(b) by in subsection (1) omitting the words "The Appeal Board constituted under this Act" and inserting in their stead the words "An Appeal Tribunal constituted for the purposes of this Act"; and

(c) by inserting in subsection (1) after the words "Supreme Court" the words "or a judge of District Courts".

**26. Amendment of s. 35A.** Section 35A of the Principal Act is amended—

(a) by inserting in subsection (1) after the words "a judge of the Supreme Court" the words "or a judge of District Courts,";

(b) by in subsection (2) omitting the words "of the Supreme Court"; and

(c) by in paragraph (b) of subsection (3) inserting after the words "The associate" the words "or clerk".

**27. Amendment of s. 36.** Section 36 of the Principal Act is amended—

(a) by omitting the word "Commissioner" (wherever occurring) and inserting in its stead in each case the word "Board";

(b) by omitting the word "Board" (wherever occurring) and inserting in its stead in each case the words "Appeal Tribunal";

(c) by inserting in subsection (1) after the words "Every appeal" the words "in respect of an alleged offence";

(d) by omitting subsection (2) and inserting in its stead the following subsection:—

“(2) An appeal may be made on the ground of innocence of the charge or excessive severity of the punishment.

In the hearing of any appeal on the ground of the excessive severity of the punishment, the Appeal Tribunal shall take into consideration the previous record of the appellant.”;

(e) by in subsection (6)—

(i) omitting the words “and merits of the officer promoted,”;

(ii) omitting the words “The Board shall have the right to direct that any appeal shall be heard in public or in private” and inserting in their stead the words “Any appeal shall be heard in private except where the appellant, at any time up to the commencement of the hearing of the appeal, requests that it be heard in public in which case the appeal shall be so heard”; and

(iii) omitting the words “*The Official Inquiries Evidence Act of 1910* shall be applicable to every appeal heard by the Board.” and inserting in their stead the words “For the purposes of an appeal to which this section relates an Appeal Tribunal shall have and may exercise all or any of the powers, authorities, protections and jurisdictions of a Commission or a Commissioner within the meaning of *The Commissions of Inquiry Acts 1950 to 1954*.”;

(f) by in subsection (7)—

(i) omitting the word “promotion,”;

(ii) omitting the words “on an appeal in respect of an alleged offence”;

(iii) omitting the words “who may recommend” and inserting in their stead the words “which may recommend”;

(iv) omitting the words “Board’s report” and inserting in their stead the words “Appeal Tribunal’s report”;

(v) omitting the words “his own recommendation” and inserting in their stead the words “its own recommendation”;

(g) by omitting subsection (9).

**28. Amendment of s. 42.** Subsection (2) of section 42 of the Principal Act is amended by omitting the words “biennially (and so that there shall not be a period longer than two years between the respective dates of the publication in the Gazette of a list hereinafter in this subsection referred to and the next succeeding such list)” and inserting in their stead the words “when directed by the Governor in Council”.

**29. Amendment of s. 47.** Section 47 of the Principal Act is amended—

(a) by omitting the word “Commissioner” (wherever occurring) and inserting in its stead in each case the word “Board”;

(b) by in subsection (1) as so amended omitting the words “exercised by the departmental Minister on the recommendation of the Board” and inserting in their stead the words “exercised on the recommendation of the Board by the departmental Minister or by the Board”; and

(c) by omitting the words “*The State Education Acts, 1875 to 1912*.” or “*The Technical Instruction Acts, 1908 to 1918*.” or any Acts amending or in substitution for those Acts” and inserting in their stead the words “*The Education Act of 1964*”.

**30. Amendment of s. 51.** Subsection (1) of section 51 of the Principal Act is amended—

(a) by omitting the word “Commissioner” (wherever occurring) and inserting in its stead in each case the word “Board”;

(b) by omitting paragraph (iii) and inserting in its stead the following paragraph:—

“(iii) Providing for, regulating and controlling the employment of married women as officers, the continuation in employment as officers of females who marry, the terms and conditions of such employment or continuation in employment and the termination of employment of married women.”;

(c) by in paragraph (viii) as so amended—

(i) inserting after the words “or delays the Board” the words “or a Commissioner”; and

(ii) omitting the words “his department” and inserting in their stead the words “the Department of the Public Service Board”;

(d) by adding at the end of paragraph (xvii) as so amended the words “or representative of the Board”; and

(e) by inserting after paragraph (xvii) the following paragraphs:—

“(xviic) prescribing the powers, functions and duties of the Board in relation to the Public Service and regulating the performance by the Board of its powers, functions and duties;

(xviid) for regulating all matters in connexion with proceedings before the Board or the Appeal Tribunal.”.

**31. Amendment of references to Commissioner, Board, etc.** (1) Every provision of the Principal Act the number of which is set out in the First Column of the Schedule to this Act is amended by omitting from that provision the word or words in the Second Column of that Schedule set opposite to the number of the provision and where the word or words in question occur in the provision more than once, omitting the word or words wherever occurring and by inserting in its or their stead, as the case may be, and where omitted more than once wherever omitted, the word or words, if any, in the Third Column of the Schedule to this Act set opposite to the word or words in question so omitted from that provision.

(2) The marginal notes to sections 13, 14, 34 and 43 of the Principal Act are amended by omitting the word “Commissioner” and inserting in its stead the word “Board”.

(3) The marginal note to subsection (2) of section 17 of the Principal Act is amended by omitting the words “Arbitration Act” and inserting in their stead the words “Conciliation and Arbitration Acts”.

(4) The marginal notes to subsections (3) and (5) of section 35 of the Principal Act are amended by omitting the word “Board” and inserting in its stead the words “Appeal Tribunal”.

(5) The marginal note to section 35A of the Principal Act is omitted and the following marginal note is inserted in its stead:—“Judge may be Appeal Tribunal.”.



## SCHEDULE

[s. 31

First Column	Second Column	Third Column
Number of Provision	Word or words to be omitted	Word or words to be inserted
1 (2) .. ..	PART II—ADMINISTRATION;	PART II—PUBLIC SERVICE BOARD; PART IIA— <sup>7</sup> ADMINISTRATION;
4 .. ..	the Commissioner ..	the Board
4B .. ..	Public Service Commissioner	Board
4B (5) .. ..	to the Commissioner ..	of the Board
12 (1), (2) and (4) ..	Commissioner .. ..	Board
12 (3) .. ..	The Commissioner, a Deputy Commissioner or	A Commissioner or the
13 .. ..	Commissioner .. . .	Board
14 .. ..	Commissioner .. ..	Board
17 (1) .. ..	Commissioner .. ..	Board
17 (2) .. ..	or anything contained in <i>The Salaries Act of 1922</i>	..
17 (2) .. ..	<i>The Industrial Arbitration Act of 1916</i>	<i>The Industrial Conciliation and Arbitration Acts 1961 to 1964</i>
17 (2) .. ..	said Act .. ..	said Acts.
18 (2) and (3) .. ..	Commissioner .. ..	Board
18 (3) (iv) .. ..	in his opinion .. ..	in its opinion
18 (3) (v) .. ..	appear to him .. ..	appear to it
18 (3) (v) .. ..	he is hereby .. ..	it is hereby
18 (3) (v) .. ..	Commissioner's .. ..	Board's
18 (3) (v) .. ..	he may continue .. ..	it may continue
20 .. ..	Commissioner .. ..	Board
21 .. ..	Commissioner .. ..	Board
25 .. ..	Commissioner .. ..	Board
26 .. ..	Commissioner .. ..	Board
27 (1) .. ..	Commissioner .. ..	Board
27 (1) .. ..	if he deems it .. ..	if it deems it
28 .. ..	Commissioner .. ..	Board
29 .. ..	Commissioner .. ..	Board
30 .. ..	the Board .. ..	an Appeal Tribunal
31 .. ..	Commissioner .. ..	Board
32 .. ..	Commissioner .. ..	Board
32 (2) .. ..	five pounds .. ..	ten dollars
32 (3) (v) .. ..	he deems .. ..	it deems
32 (3) (v) (b) .. ..	ten pounds .. ..	twenty dollars
32 (3) (vi) .. ..	his decision .. ..	its decision
32 (3) (vii) .. ..	he may .. ..	it may
32 (3) (viii) .. ..	Appeal Board .. ..	Appeal Tribunal
32 (4) .. ..	Appeal Board .. ..	Appeal Tribunal
34 .. ..	Commissioner .. ..	Board
35 .. ..	Board .. ..	Appeal Tribunal
35 .. ..	Commissioner .. ..	Board
35 (1) .. ..	his representative .. ..	its representative
35 (1) (c) .. ..	Government .. ..	

SCHEDULE—*continued*

[s. 31]

First Column	Second Column	Third Column
Number of Provision	Word or words to be omitted	Word or words to be inserted
35 (1) (c) (vi) ..	, 1932 to 1948, .. ..	1961 to 1964
35 (4) ..	police magistrate .. ..	stipendiary magistrate
35A (1) and (2) ..	Appeal Board .. ..	Appeal Tribunal
35A (3) ..	the Board.. ..	the Appeal Tribunal
35A (3) (a) ..	Appeal Board or Board ..	Appeal Tribunal
38 .. ..	Commissioner .. ..	Board
42 .. ..	Commissioner .. ..	Board
43 .. ..	Commissioner .. ..	Board
43 .. ..	his proceedings .. ..	its proceedings
44 .. ..	Commissioner .. ..	Board
45 .. ..	Commissioner .. ..	Appeal Tribunal
46 .. ..	Commissioner .. ..	Board
49 .. ..	Commissioner .. ..	Board
49 .. ..	his report .. ..	its report