

## TRANSFERRED OFFICERS EXTENDED LEAVE ACT.

### Act No. 13, 1961.

An Act to make provision with respect to the entitlement to extended leave with pay of certain persons who transfer to the New South Wales public service or to the service of certain New South Wales authorities; to amend the Public Service (Amendment) Act, 1919, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 24th March, 1961.]

Elizabeth II,  
No. 13, 1961

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Transferred Officers Extended Leave Act, 1961".

Short  
title.

2. (1) In this Act, unless the context or subject-matter otherwise indicates or requires—

Inter-  
pretation.

"Extended leave" means extended or long service leave, with pay, whether accruing under or by virtue of any Act or otherwise.

"Governmental authority of the Commonwealth or another State" means any department, commission, board, authority or instrumentality declared by the Governor, pursuant to subsection two of this section, to be a governmental authority of the Commonwealth or another State for the purposes of this Act.

"Public service of the Commonwealth or another State" means public service of the Commonwealth of Australia, of any Australian State other than New South Wales, or of any Territory of the Commonwealth of Australia but does not include service with a local authority.

"Public

No. 13, 1961

“Public service of the State” means service under the provisions of the Public Service Act, 1902, as amended by subsequent Acts, and includes service in any department to which the provisions of that Act, as so amended, apply.

“Service with the armed forces of the Commonwealth” means full time service with the armed forces of the Commonwealth of Australia including full time service with the Commonwealth Military Forces, the Australian Regular Army, the Regular Army Special Reserve, the Volunteer Defence Corps and National Service (Training).

“State authority” means any department, commission, board, authority or instrumentality declared by the Governor, pursuant to subsection two of this section, to be a State authority for the purposes of this Act.

(2) The Governor may by notice published in the Gazette—

(a) declare to be a governmental authority of the Commonwealth or another State for the purposes of this Act any department, commission, board, authority or instrumentality created—

- (i) by or under any Act of the Parliament of the Commonwealth of Australia or of any Australian State other than New South Wales;
- (ii) by or under any Ordinance of any Territory of the Commonwealth of Australia; or
- (iii) jointly by or under any Acts of the Parliaments of any two or more Australian States, or of the Commonwealth of Australia and one or more Australian States; and

(b) declare to be a State authority for the purposes of this Act any department, commission, board, authority or instrumentality created by or under any Act.

Any department, commission, board, authority or instrumentality so created may, pursuant to this section, be declared to be a governmental authority of the Commonwealth  
or

or another State or a State authority, as the case may be, No. 13, 1961 notwithstanding that it has ceased to exist at the time when the declaration is made, and whether it ceased to exist before or after the commencement of this Act.

3. (1) This Act applies to any person, who being a person under sixty years of age— Application  
of Act.

- (a) transfers from employment in the public service of the State to employment in the service of a State authority;
- (b) transfers from employment in the service of a State authority to employment in the public service of the State;
- (c) transfers from employment in the service of one State authority to employment in the service of another State authority;
- (d) transfers from employment in the public service of the Commonwealth or another State or in the service of a governmental authority of the Commonwealth or another State to employment in the public service of the State or in the service of a State authority;
- (e) before the commencement of this Act, transferred from employment in the public service of the Commonwealth or another State to employment in the public service of the State, and at such commencement is employed in the public service of the State;
- (f) before the date of publication of any notice hereinafter referred to in this paragraph, transferred, whether before or after the commencement of this Act, from the service of one employer to the service of some other employer, where—
  - (i) such firstmentioned employer has, by notice published pursuant to subsection two of section two of this Act, been declared to be a governmental authority of the Commonwealth or another State or a State authority;
  - (ii) such other employer has, by notice published as aforesaid, been declared to be a State authority; and

(iii)

**Transferred Officers Extended Leave Act.**

No. 13, 1961

- (iii) at the time when the later of such declarations was made, such person was employed in the service of such other employer;
- (g) before the date of publication of the notice hereinafter referred to in this paragraph, transferred, whether before or after the commencement of this Act, from the service of one employer to the public service of the State, where—
  - (i) such employer has, by notice published pursuant to subsection two of section two of this Act, been declared to be a governmental authority of the Commonwealth or another State or a State authority; and
  - (ii) at the time when such declaration was made, such person was employed in the public service of the State;
- (h) before the date of publication of the notice hereinafter referred to in this paragraph, transferred, whether before or after the commencement of this Act, from the public service of the State or the public service of the Commonwealth or another State to the service of another employer, where—
  - (i) such other employer has, by notice published pursuant to subsection two of section two of this Act, been declared to be a State authority; and
  - (ii) at the time when such declaration was made, such person was employed in the service of such other employer;
- (i) transfers from service with the armed forces of the Commonwealth to employment in the public service of the State or in the service of a State authority;
- (j) before the commencement of this Act, transferred from service with the armed forces of the Commonwealth to the public service of the State and at such commencement is employed in the public service of the State; or

(k)

**Transferred Officers Extended Leave Act.**

87

(k) before the date of publication of any notice No. 13, 1961 hereinafter referred to in this paragraph, transferred, whether before or after the commencement of this Act, from service with the armed forces of the Commonwealth to the service of an employer, where—

(i) such employer has, by notice published pursuant to subsection two of section two of this Act, been declared to be a State authority; and

(ii) at the time when such declaration was made, such person was employed in the service of such employer.

(2) (a) Where a person transfers or transferred from employment in the service of one employer to employment in the service of another employer as is mentioned in paragraph (a), (b), (c), (d), (e), (f), (g) or (h) of subsection one of this section,—

(i) the employer from whose service any such person so transfers or transferred is in this Act referred to as such person's first employer; and

(ii) the employer to whose service such person so transfers or transferred is in this Act referred to as such person's second employer.

(b) Where a person transfers or transferred from service with the armed forces of the Commonwealth to employment in the service of another employer as is mentioned in paragraph (i), (j) or (k) of subsection one of this section,—

(i) his service with the armed forces of the Commonwealth shall for the purposes of this Act be deemed to have been employment as an employee in the service of an employer who shall for the purposes of this Act be deemed to be his first employer; and

(ii) the employer to whose service such person so transfers or transferred is in this Act referred to as such person's second employer.

(3)

88      **Transferred Officers Extended Leave Act.**

No. 13, 1961      (3) (a) For the purposes of this Act, a person to whom this Act applies—

- (i) by virtue of paragraph (a), (b), (c), (d), (e), (f), (g) or (h) of subsection one of this section; or
- (ii) by virtue of paragraph (i), (j) or (k) of the said subsection one, such person's service with his first employer not having been during, or partly during, a period of war in which the naval, military or air forces of the Commonwealth of Australia were engaged, or not having been service with the Korea and Malaya Operations Forces,

shall only be regarded as transferring from employment in the service of his first employer to employment in the service of his second employer where he ceased employment in the service of his first employer (otherwise than by reason of his dismissal on any ground except retrenchment or reduction of work) and, on the working day next following his so ceasing, he commenced employment in the service of his second employer.

For the purpose of this paragraph, no account shall be taken of any interval, not exceeding two months, between the time when any such person ceased his employment in the service of his first employer and the time when he commenced employment in the service of his second employer, if such person had, before his ceasing to be employed in the service of his first employer, been accepted for employment in the service of his second employer.

(b) Where the first employer of a person to whom this Act applies furnishes to such person's second employer a certificate that such person's service with his first employer terminated by reason of his resignation being accepted—

- (i) following his being required by his first employer, for disciplinary reasons, to resign;
- (ii) as an alternative to his being dismissed by his first employer; or

(iii)

- (iii) following his being charged with an offence against discipline in the service of his first employer, such charge not having been finally determined in favour or against such person before his resignation was accepted, No. 13, 1961

such termination shall, for the purposes of paragraph (a) of this subsection be deemed to be a dismissal, unless, in the case referred to in subparagraph (iii) of this paragraph, the first employer further certifies that such person's service with such first employer was in the opinion of such first employer satisfactory.

(c) For the purposes of this Act, a person to whom this Act applies by virtue of paragraph (i), (j) or (k) of subsection one of this section, such person's service with his first employer having been during, or partly during, a period of war in which the naval, military or air forces of the Commonwealth of Australia were engaged, or having been service with the Korea and Malaya Operations Forces, shall only be regarded as transferring from employment in the service of his first employer to employment in the service of his second employer where he commenced employment in the service of his second employer within twelve months after his ceasing his service with the armed forces of the Commonwealth.

4. (1) The period of continuous employment of any person to whom this Act applies with his first employer immediately preceding his transferring to the employment of his second employer shall be reckoned, for the purpose of calculating his entitlement to extended leave as an employee in the service of his second employer, as service in the service of his second employer.

Method of reckoning service of certain employees in the public service of the State and of certain State authorities.

(2) Where a person to whom this Act applies was entitled, as an employee employed in the service of his first employer, to have any period of employment prior to his employment in the service of his first employer reckoned, for the purpose of calculating his entitlement to extended leave, as service in the service of his first employer, such prior period of employment shall, for the purposes of this section, be reckoned as continuous employment in the service of his first employer.

(3)

No. 13, 1961

(3) Where any person to whom this Act applies has been granted by his employer for the time being, and has taken, any extended leave, or leave in the nature of extended leave, in respect of a period of employment which, but for this subsection, he would have been entitled to have reckoned, for the purpose of calculating his entitlement to extended leave as an employee in the service of his second employer, as service with his second employer, or any other benefit in lieu of such leave, the leave so granted and taken or the leave in lieu of which the other benefit was so granted and taken shall be deducted from any extended leave to which such person may become entitled, whether by virtue of this Act or otherwise, in respect of his employment in the service of his second employer.

---