

GOVERNMENT AND RELATED EMPLOYEES APPEAL TRIBUNAL BILL, 1980

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill :—

- Police Regulation (Priority Lists) Amendment Bill, 1980;
- Police Regulation (Appeals) Appeal Tribunal (Amendment) Bill, 1980;
- Industrial Arbitration (Appeal Tribunal) Amendment Bill, 1980;
- Electricity Commission (Appeal Tribunal) Amendment Bill, 1980;
- Judges' Pensions (Appeal Tribunal) Amendment Bill, 1980;
- Teaching Service (Appeal Tribunal) Amendment Bill, 1980;
- Supreme Court (Appeal Tribunal) Amendment Bill, 1980;
- Statutory and Other Offices Remuneration (Appeal Tribunal) Amendment Bill, 1980;
- Police Regulation (Allegations of Misconduct) Appeal Tribunal (Amendment) Bill, 1980;
- Public Service (Appeal Tribunal) Amendment Bill, 1980.

The objects of this Bill are—

- (a) to specify the grounds on which government and related employees may appeal against decisions relating to their promotion and discipline; and
- (b) to establish the Government and Related Employees Appeal Tribunal ("the Tribunal"), to vest in the Tribunal the jurisdiction presently vested in the Crown Employees Appeal Board, the Promotions Appeal Tribunals constituted under the Public Service (Promotion Appeals) Act, 1902, and the Appeal Board established under the Electricity Commission Act, 1950, and to otherwise specify the functions of the Tribunal.

Part I of the proposed Act contains clauses 1–4. The Part contains provisions relating to the short title, the commencement, the arrangement and the interpretation of the proposed Act.

Part II of the proposed Act contains clauses 5–18 and deals with the establishment and functions of the Tribunal. Clause 7 enables the Governor to appoint a Supreme Court Judge or a member of the Industrial Commission of New South Wales as the Senior Chairman of the Tribunal. Clause 8 provides that the Senior Chairman holds office for a term not exceeding 7 years. Clause 9 enables the Governor to appoint

an Acting Senior Chairman. Clause 10 enables the Governor to appoint one or more Chairmen of the Tribunal. Clause 11 provides that a Chairman holds office for a term not exceeding 7 years. Schedule 1 contains further provisions relating to the offices of Senior Chairman and Chairmen. Clause 13 provides that, for the purpose of hearing an appeal, the Tribunal shall be constituted by 3 members comprising the Senior Chairman (or a Chairman selected by the Senior Chairman), an employer's representative and an employee's representative. Clauses 14-16 and Schedule 2 provide for the nomination and appointment of employers' representatives and employees' representatives. Clause 17 makes provisions with respect to sittings of the Tribunal. Clause 18 enables the appointment of the staff of the Tribunal.

Part III of the proposed Act contains clauses 19-33 and deals with appeals to the Tribunal.

Division 1 relates to promotions appeals. Clause 19 requires employers to circulate among their employees particulars of decisions to appoint employees to fill vacant offices in their establishments. Clause 20 specifies the circumstances in which an employee may appeal to the Tribunal against a promotion decision of his employer. Clause 21 specifies a number of qualifications on the right of appeal under clause 20.

Division 2 relates to disciplinary appeals. Clause 23 requires an employer to notify an employee of certain decisions relating to his discipline. Clause 24 confers on an employee a right of appeal to the Tribunal against a decision referred to in clause 23. Clause 25 makes provision with respect to alternative rights of appeal of employees against disciplinary decisions. Clauses 26 and 27 provide for the time at which a disciplinary decision takes effect and the effect of a disciplinary decision on the payment of salary or wages.

Division 3 deals with procedures relating to the making of appeals. Clause 28 provides for the lodging of a notice of appeal. Clause 29 specifies the time for the making of an appeal and clause 30 enables an appellant to appoint an agent for certain purposes. Clauses 31-33 deal with the arrangements to be made by the Tribunal for the hearing and determination of appeals.

Part IV of the proposed Act contains clauses 34-53 and deals with the hearing and determination of appeals by the Tribunal.

Division 1 provides for formal and informal sittings of the Tribunal. By clause 35, promotions appeals may be heard formally or informally depending on the number of appellants and the wishes expressed by them. By clause 36, disciplinary appeals are heard formally. Clauses 37 and 38 specify the provisions that apply to informal sittings of the Tribunal and formal sittings of the Tribunal respectively.

Division 2 specifies the general powers of the Tribunal relating to the hearing and determination of appeals. The Division makes provision with respect to the procedure for the conduct of business at sittings of the Tribunal, the order for the presentation of cases, the application of the rules of evidence, the discovery of documents, the attendance of witnesses, the administration of oaths, the adjournment of hearings, the withdrawal of appeals, the determination of appeals, the recording and transcription of proceedings and other related matters. Clauses 50 and 51 provide protection from proceedings for defamation and proceedings relating to secrecy of information, respectively, in respect of the evidence of persons appearing before the Tribunal.

Part V of the proposed Act contains clauses 54–56 and enables the making of appeals to the Supreme Court, in accordance with the provisions of the Part, against any decision of the Tribunal on a question of law.

Part VI of the proposed Act contains clauses 57–60. Clause 57 makes provision with respect to the service of notices under the proposed Act. Clause 58 provides for the repeal of the enactments listed in Schedule 5. Clause 59 relates to savings, transitional and other provisions arising as a consequence of the repeal of those enactments. Clause 60 enables the making of regulations.

**GOVERNMENT AND RELATED EMPLOYEES
APPEAL TRIBUNAL BILL, 1980**

No. , 1980.

A BILL FOR

An Act to constitute the Government and Related Employees Appeal Tribunal, to specify the circumstances in which government and related employees may appeal to the Tribunal against decisions relating to their promotion and discipline, and to otherwise provide for the functions of the

See also Police Regulation (Priority Lists) Amendment Bill, 1980; Police Regulation (Appeals) Appeal Tribunal (Amendment) Bill, 1980; Industrial Arbitration (Appeal Tribunal) Amendment Bill, 1980; Electricity Commission (Appeal Tribunal) Amendment Bill, 1980; Judges' Pensions (Appeal Tribunal) Amendment Bill, 1980; Teaching Service (Appeal Tribunal) Amendment Bill, 1980; Supreme Court (Appeal Tribunal) Amendment Bill, 1980; Statutory and Other Offices Remuneration (Appeal Tribunal) Amendment Bill, 1980; Police Regulation (Allegations of Misconduct) Appeal Tribunal (Amendment) Bill, 1980; and Public Service (Appeal Tribunal) Amendment Bill, 1980.

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Tribunal; and to repeal the Public Service (Promotion Appeals) Act, 1902, the Crown Employees Appeal Board Act, 1944, and certain other enactments.

[MR WRAN—20 February, 1980.]

5 **BE** 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 :—

PART I.

10

PRELIMINARY.

1. This Act may be cited as the "Government and Related
Employees Appeal Tribunal Act, 1980". Short title.

2. (1) This section and section 1 shall commence on the date
of assent to this Act. Commence-
ment.

15 (2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

20 (3) For the purpose only of enabling the Tribunal to be constituted in accordance with this Act on or after (but not before) the day appointed and notified under subsection (2), appointments and nominations may be made in accordance with Part II and Schedules 1 and 2, and any act, matter or thing may be done, before that day, as if the whole of this Act commenced on the date
25 of assent to this Act.

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3. This Act is divided as follows :—

Arrangement.

PART I.—PRELIMINARY—ss. 1–4.

PART II.—GOVERNMENT AND RELATED EMPLOYEES
APPEAL TRIBUNAL—ss. 5–18.

5 PART III.—APPEALS TO THE TRIBUNAL—ss. 19–33.

DIVISION 1.—*Promotions Appeals*—ss. 19–22.

DIVISION 2.—*Disciplinary Appeals*—ss. 23–27.

DIVISION 3.—*Procedures Relating to the Making of Appeals*—ss. 28–33.

10 PART IV.—HEARING OF APPEALS—ss. 34–53.

DIVISION 1.—*Formal and Informal Sitzings of the Tribunal*
—ss. 34–38.

DIVISION 2.—*General Powers of the Tribunal*—ss. 39–53.

PART V.—APPEALS FROM THE TRIBUNAL—ss. 54–56.

15 PART VI.—MISCELLANEOUS—ss. 57–60.

SCHEDULE 1.—PROVISIONS RELATING TO THE OFFICES OF
SENIOR CHAIRMAN AND CHAIRMAN.

20 SCHEDULE 2.—PROVISIONS RELATING TO THE NOMINA-
TION OF EMPLOYERS' REPRESENTATIVES AND
EMPLOYEES' REPRESENTATIVES.

SCHEDULE 3.—ASSOCIATIONS OF EMPLOYEES.

SCHEDULE 4.—EMPLOYING AUTHORITIES.

SCHEDULE 5.—REPEALS.

25 SCHEDULE 6.—SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS.

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4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

“appeal” means an appeal under section 20 or 24;

5 “association of employees” means an industrial union whose name for the time being is included in Schedule 3;

“Chairman” means a person for the time being appointed as a Chairman of the Tribunal under section 10 (1);

“employee” means—

10 (a) a person who is an officer within the meaning of section 4 (1) of the Public Service Act, 1979, a term officer within the meaning of that subsection or a temporary employee within the meaning of that subsection;

15 (b) a person who is an officer within the meaning of section 3 of the Teaching Service Act, 1970, or an employee within the meaning of that section;

(c) a person who is employed, whether permanently or otherwise, in the service of an employing authority;

20 (d) a person who is employed, whether permanently or otherwise—

(i) as an officer of either House of Parliament; or

25 (ii) in any position under the separate control of the President of the Legislative Council or Speaker of the Legislative Assembly, or under their joint control; or

30 (e) a person (not being a person to whom paragraph (a), (b), (c) or (d) applies, an officer within the meaning of section 3 (g) of the Government Railways Act, 1912, or an officer or employee of the Department of Motor Transport) who is

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employed in the service of the Crown by a person other than the Public Service Board or an employing authority;

“employer” means—

- 5 (a) in relation to an employee of the class referred to in paragraph (a) of the definition of “employee”—
 - 10 (i) for the purposes of those provisions of this Act relating to the membership and constitution of the Tribunal—the Public Service Board; and
 - 15 (ii) for the purposes of those provisions of this Act relating to the making of appeals and the hearing of appeals—the person against whose decision the appeal is made, being, as the case may require, the Public Service Board or the appropriate Department Head within the meaning of section 4 (1) of the Public Service Act, 1979;
 - 20
- (b) in relation to an employee of the class referred to in paragraph (b) of that definition—
 - 25 (i) for the purposes of those provisions of this Act relating to the membership and constitution of the Tribunal—the Director-General of Education; and
 - 30 (ii) for the purposes of those provisions of this Act relating to the making of appeals and the hearing of appeals—the person against whose decision the appeal is made, being, as the case may require, the Director-General of Education or a prescribed officer within the meaning of section 37 of the Teaching Service Act, 1970;
 - 35

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(c) in relation to an employee of the class referred to in paragraph (c) of that definition, the employing authority in whose service the employee is employed;

(d) in relation to an employee of the class referred to in paragraph (d) of that definition—

(i) where the employee is an officer of the Legislative Council or under the separate control of the President of the Legislative Council—the President;

(ii) where the employee is an officer of the Legislative Assembly or under the separate control of the Speaker of the Legislative Assembly—the Speaker; or

(iii) where the employee is under the joint control of the President of the Legislative Council and the Speaker of the Legislative Assembly—the President and Speaker jointly; and

(e) in relation to an employee of the class referred to in paragraph (e) of that definition—

(i) for the purposes of those provisions of this Act relating to the membership and constitution of the Tribunal—the Public Service Board; and

(ii) for the purposes of those provisions of this Act relating to the making of appeals and the hearing of appeals—the person in whose service the employee is employed;

“employing authority” means, subject to subsection (8), a person whose name is included in Schedule 4;

“functions” includes powers, authorities and duties;

“industrial union” means—

(a) an industrial union within the meaning of section 5 (1) of the Industrial Arbitration Act, 1940; and

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- (b) an association of employees registered as an organization under the Conciliation and Arbitration Act 1904, as subsequently amended, of the Parliament of the Commonwealth;
- 5 “notice of appeal” means a notice of appeal lodged with the Registrar under section 28;
- “office” includes position;
- “Public Service” has the meaning ascribed to that expression by section 4 (1) of the Public Service Act, 1979;
- 10 “Public Service Board” means the Public Service Board of New South Wales constituted under the Public Service Act, 1979;
- “Registrar” means the person for the time being appointed, as referred to in section 18, as Registrar of the Tribunal;
- 15 “regulation” means a regulation under this Act;
- “Senior Chairman” means the person for the time being appointed as Senior Chairman of the Tribunal under section 7 (1);
- 20 “Tribunal” means the Government and Related Employees Appeal Tribunal established under section 5 (1).

(2) A reference in this Act to the exercise of a function includes, where that function is a duty, the performance of that duty.

- (3) A reference in this Act to—
- 25 (a) the appointment of an employee to fill a vacant office includes a reference to the appointment of an employee to a higher position; and
- (b) a vacant office includes a reference to a higher position the subject of an appointment referred to in paragraph
- 30 (a).

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(4) A reference in this Act to the hearing of an appeal includes a reference to the determination of the appeal and the hearing and determination of any business arising out of the appeal.

5 (5) A reference in this Act to an approved form is a reference to a form in or to the effect of a form approved by the Senior Chairman.

(6) The Governor may, by proclamation published in the Gazette, amend Schedule 3—

- 10 (a) by inserting therein the name of any industrial union whose members, in the opinion of the Governor, consist of, or consist of a substantial number of, employees;
- (b) by omitting therefrom the name of any industrial union whose members, in the opinion of the Governor, no
- 15 longer consist of a substantial number of employees; or
- (c) by omitting therefrom the name of any industrial union which has changed its name or has amalgamated with one or more other industrial unions if the industrial registrar under the Industrial Arbitration Act, 1940, has
- 20 made the record required by that Act of the change or amalgamation and by inserting therein the changed name of the industrial union or the name of the industrial union which comprises the industrial unions which have amalgamated, as the case may require.

25 (7) Where the industrial registrar under the Industrial Arbitration Act, 1940, has made the record required by that Act of the change of name of an industrial union whose name, before the change, was included in Schedule 3 or of the amalgamation, with one or more other industrial unions, of an industrial union

30 whose name, before the amalgamation, was included in that Schedule, the industrial union which bears the changed name or which comprises the industrial unions which have amalgamated, as the case may be, shall be deemed to be an association of employees within the meaning of this Act

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(8) Where the name of a person is included in Schedule 4 in respect of a person or class of persons, the firstmentioned person is, for the purposes of this Act, an employing authority only in respect of that other person or class of persons.

5 (9) The Governor may, by proclamation published in the Gazette, amend Schedule 4—

(a) by inserting therein—

- (i) the name of any person, whether or not in respect of any other person or class of persons; or
- 10 (ii) in respect of an employing authority, a person or class of persons;

(b) by omitting therefrom—

- (i) the name of any person, whether or not in respect of any other person or class of persons; or
- 15 (ii) in respect of an employing authority, a person or class of persons; or

(c) by altering—

- (i) the name of any person; or
- (ii) a class of persons.

20 (10) A reference in this Act to the selection of a member of the Tribunal as an employer's representative or an employee's representative includes a reference to the selection of such a member by a person authorised in that behalf by the employer or the association of employees, as the case may be, entitled in
25 accordance with this Act to make the selection.

Government and Related Employees Appeal Tribunal.

PART II.

GOVERNMENT AND RELATED EMPLOYEES APPEAL TRIBUNAL.

5. (1) There shall be a Government and Related Employees Appeal Tribunal. The Tribunal.

5 (2) Subject to this Act, the members of the Tribunal are the Senior Chairman, the Chairmen and the persons for the time being nominated in accordance with this Act as employers' representatives and employees' representatives.

6. (1) The Tribunal shall have and may exercise the functions Functions of the Tribunal.
10 conferred upon it by or under this or any other Act.

(2) In the exercise of its functions, the Tribunal shall do all such things as are necessary to ensure—

- (a) that appeals are set down for hearing with as much expedition as is reasonably possible; and
- 15 (b) that the hearing of appeals is concluded within as short a period as is reasonably possible.

7. (1) The Governor may appoint any qualified person to be Senior Chairman.
the Senior Chairman of the Tribunal.

(2) A person is qualified to be appointed as the Senior
20 Chairman if he is—

- (a) a Judge of the Supreme Court; or
- (b) a member of the Industrial Commission of New South Wales,

and has not attained the age of 70 years.

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8. The Senior Chairman shall, subject to this Act, be appointed for such term, not exceeding 7 years, as shall be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for reappointment as Senior Chairman.

Term of
office of
Senior
Chairman.

5 9. (1) The Governor may appoint a person qualified to be appointed as the Senior Chairman to be Acting Senior Chairman of the Tribunal during such period as the Senior Chairman may be absent from his duties.

Acting
Senior
Chairman.

(2) While holding office, the Acting Senior Chairman of
10 the Tribunal—

(a) shall have and may exercise the functions of the Senior Chairman; and

(b) shall be entitled to such remuneration (including travelling and subsistence allowances) as the Minister
15 may from time to time determine in respect of him.

10. (1) The Governor may appoint one or more qualified persons to be a Chairman of the Tribunal or Chairmen of the Tribunal.

Chairman.

(2) A person is qualified to be appointed as a Chairman
20 if he has, in the opinion of the Governor, suitable qualifications and experience to enable him properly to perform the functions of a Chairman and has not attained the age of 65 years.

11. A Chairman shall, subject to this Act, be appointed for such term, not exceeding 7 years, as shall be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for reappointment as a Chairman.

Term of
office of
Chairman.

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12. Schedule 1 has effect with respect to the offices of Senior Chairman and Chairman.

Provisions relating to the offices of Senior Chairman and Chairman.

13. (1) The Tribunal shall, for the purpose of hearing an appeal, be constituted by 3 members comprising—

Constitution of the Tribunal.

- 5 (a) the Senior Chairman or a Chairman selected by the Senior Chairman;
- (b) an employer's representative qualified and selected in accordance with section 14; and
- 10 (c) an employee's representative qualified and selected in accordance with section 15.

(2) The Senior Chairman shall not select a Chairman to be a member of the Tribunal for the purpose of hearing an appeal under section 24 unless the Chairman is a barrister admitted by, or a solicitor of, the Supreme Court or a person qualified to be

15 admitted as a barrister by, or a solicitor of, that Court.

(3) In proceedings by or against the Tribunal no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Tribunal; or
- 20 (b) the appointment, nomination or selection of any member of the Tribunal.

14. The employer's representative shall be a person—

- (a) whose name is included in the panel of persons nominated in accordance with this Act by the appellant's employer; and
- 25 (b) who is selected, as nearly as practicable in accordance with the order of preference set out in the nomination referred to in clause 1 of Schedule 2, by the employer.

Employers' representatives.

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15. (1) The employee's representative shall be a person—

Employees'
represent-
atives.

- (a) whose name is included in the panel of persons nominated in accordance with this Act by the appropriate association of employees; and
- 5 (b) who is selected, as nearly as practicable in accordance with the order of preference set out in the nomination referred to in clause 1 of Schedule 2, by the appropriate association of employees.

(2) A reference in subsection (1) to the appropriate
10 association of employees is a reference—

- (a) where only one notice of appeal is lodged in respect of the decision of an employer appealed against—
 - 15 (i) if the appellant has indicated in his notice of appeal that he is a member of only one association of employees—to that association of employees; or
 - (ii) except as provided by subparagraph (i)—to such association of employees as the Senior Chairman determines; and
- 20 (b) where 2 or more notices of appeal are lodged in respect of the decision of an employer appealed against—
 - (i) if each of the appellants has indicated in his notice of appeal that he is a member of the one association of employees and none of them is a
25 member of any other such association—to that one association of employees; or
 - (ii) except as provided by subparagraph (i)—to such association of employees as the Senior Chairman determines.

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16. Schedule 2 has effect with respect to the nomination of employers' representatives and employees' representatives.

Provisions relating to the nomination of employers' representatives and employees' representatives.

17. Where one or more Chairmen have been appointed, more than one sitting of the Tribunal may be held at the same time.

Sittings of the Tribunal.

5 18. A Registrar of the Tribunal and such other persons as may be required for the proper administration of this Act shall be appointed under and subject to the Public Service Act, 1979.

Registrar and other staff of the Tribunal.

PART III.

APPEALS TO THE TRIBUNAL.

DIVISION 1.—*Promotions Appeals.*

10

19. (1) Except as provided by subsections (2) and (3), each employer shall publish and distribute to its employees, at intervals of not more than one month, a notice, in the prescribed form, containing particulars of any decision to appoint or recommend the appointment of an employee of the employer to fill a vacant office in the establishment of the employer, particulars of which have not previously been published in accordance with this subsection.

Publication of notices.

Government and Related Employees Appeal Tribunal.

(2) Nothing in subsection (1) applies to or in respect of an employer who is required, by or under any other Act, to give a notice to its employees containing particulars of the kind referred to in that subsection.

5 (3) The Senior Chairman may, on application by an employer, permit the employer to notify its employees of particulars of the kind referred to in subsection (1) by means of an approved form.

20 **20.** Subject to and in accordance with this Part, where an employer has made a decision to appoint or recommend the appointment of one of its employees to fill a vacant office in the establishment of the employer, any other employee of the employer may appeal against that decision to the Tribunal on the ground that the appellant is, having regard to the provisions of any Act, 15 statutory instrument, industrial award or agreement or any advertisement published bona fide in relation to the vacant office, being an Act, statutory instrument, industrial award or agreement or advertisement which is required to be applied or taken into consideration by the employer in respect of an appointment to the 20 vacant office, more entitled to be appointed to the vacant office than the employee in whose favour the decision is made.

21. (1) An employee is not entitled to appeal under section 20 in respect of the decision of an employer relating to a vacant office— Excluded circumstances.

- 25 (a) if the appointment to the vacant office is not a permanent appointment;
- (b) if the vacant office is an office specified in Schedule 1, 2 or 3 to the Statutory and Other Offices Remuneration Act, 1975;
- 30 (c) if the vacant office is in the Special Division of the Public Service;

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- (d) if the maximum salary applicable to the vacant office at the date of the decision of the employer exceeds—
 - (i) except as provided in subparagraph (ii)—the amount equal to the maximum salary applicable to an office graded Grade 11 in the Administrative and Clerical Division of the Public Service; or
 - (ii) where another amount is prescribed—that other amount;
- (e) unless the maximum salary applicable to the vacant office is greater than the salary paid, at the date of the decision of the employer, to the appellant in relation to the office held by him at that date;
- (f) unless the maximum salary applicable to the vacant office is greater than the salary paid, at the date of the decision of the employer, to the employee in whose favour that decision is made in relation to the office held by him at that date;
- (g) unless, where an invitation to apply for appointment to the vacant office was published in a notice given by the employer to its employees or in a newspaper, he duly made application for appointment to the vacant office or had reasonable cause for failing to do so;
- (h) unless he satisfies the minimum requirements, in relation to the vacant office, of any Act, statutory instrument, industrial award or agreement or advertisement referred to in section 20;
- (i) unless he is willing to take up duties in the vacant office; or
- (j) if he or the employee in whose favour the decision of the employer is made is—
 - (i) a term officer within the meaning of section 4 (1) of the Public Service Act, 1979, or a temporary employee within the meaning of that subsection;

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- (ii) an employee within the meaning of section 3 of the Teaching Service Act, 1970; or
- (iii) in relation to an employee of a class referred to in paragraph (c), (d) or (e) of the definition of "employee" in section 4 (1), an employee who is employed, otherwise than permanently, in the service of his employer.

(2) Nothing in subsection (1) (j) prevents an employee, being a person employed, otherwise than permanently, in the Wages Division of the Metropolitan Water Sewerage and Drainage Board, from appealing, under section 20, against a decision of the Board to appoint another such employee to a permanent office in the Wages Division of the Board and, for the purposes of any such appeal, a reference in subsection (1) to salary shall be read and construed as including a reference to wages.

22. Where no invitation to apply for appointment to a vacant office in the establishment of an employer is published in a notice given by the employer to its employees or in a newspaper, and—

Effect of failure to notify vacancy.

- (a) where the employer is a person other than the Public Service Board—any employee employed by the employer; or
- (b) where the employer is the Public Service Board—only employees employed in the same administrative unit (within the meaning of section 4 (1) of the Public Service Act, 1979) of which the vacant office forms part,

may, if otherwise entitled, appeal to the Tribunal against the decision of the employer to appoint or recommend the appointment of one of its employees to fill the vacant office.

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DIVISION 2.—Disciplinary Appeals.

23. (1) Where, in relation to an employee, an employer makes a decision, or a decision to make a recommendation—

Notice of
certain
decisions,
etc.

- 5 (a) to defer, for a period in excess of 12 months, the payment of an increment to the employee;
- (b) to reduce the rank, classification, position, grade or pay of the employee;
- (c) to impose a fine or forfeit pay in respect of any offence of which the employee is held to be guilty;
- 10 (d) to annul the appointment of an employee appointed on probation;
- (e) to suspend the employee as a punishment where the employee is held to be guilty of misconduct or contravention of any law or any rule or direction of the employer;
- 15 (f) to dismiss the employee; or
- (g) to direct or to require the employee to resign,

the employer shall, except as may be otherwise provided by an order made under subsection (3), give the employee notice, in writing, of the decision as soon as practicable after the decision is made.

(2) Where an employer is unable to give an employee notice, under subsection (1), of a decision within 14 days after the decision is made, the employer may apply to the Senior Chairman for an order as to the giving of the notice.

(3) On receipt of an application under subsection (2), the Senior Chairman may make such order as he thinks fit as to the giving of the notice or may make an order dispensing with the giving of the notice.

30 (4) A notice may be given, or the giving of a notice may be dispensed with, in accordance with an order made under subsection (3).

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24. Notwithstanding anything contained in any other Act, an employee may, subject to and in accordance with this Part, appeal to the Tribunal against a decision of his employer, being a decision of a kind referred to in section 23 (1). Right of appeal.

5 **25.** (1) Nothing in section 24 derogates from or otherwise affects any right of appeal an employee may have, or other proceedings which may be instituted by him or on his behalf, under any other Act or law or any industrial award or agreement (whether enacted, existing or made before, on or after the day
10 appointed and notified under section 2 (2)) in respect of a decision of a kind referred to in section 23 (1). Alternative rights of appeal.

(2) Where—

15 (a) an employee elects, in writing, to forgo a right of appeal under section 24 in respect of a decision of a kind referred to in section 23 (1); or

20 (b) an employee makes an appeal or institutes other proceedings or proceedings are instituted on his behalf in respect of a decision of a kind referred to in section 23 (1) under an Act or law or an industrial award or agreement referred to in subsection (1),

he may not thereafter appeal to the Tribunal under section 24 in respect of that decision.

(3) Where an employee appeals to the Tribunal under section 24 in respect of a decision of a kind referred to in section
25 23 (1), he may not thereafter, in respect of that decision, appeal or institute other proceedings or proceedings may not be instituted on his behalf under an Act or law or an industrial award or agreement referred to in subsection (1).

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26. (1) A decision of a kind referred to in section 23 (1) shall not be carried into effect—

Carrying
into
effect of
certain
decisions,
etc.

(a) where no notice of appeal is lodged with respect to the decision within the time limited by section 29—until the expiration of that time; or

(b) where a notice of appeal is lodged with respect to the decision within the time limited by section 29—until the appeal is determined.

(2) Where an order is made under section 23 (3) dispensing with the giving of a notice to an employee of a decision of a kind referred to in section 23 (1), nothing in subsection (1) operates so as to prevent the decision from having effect at any time after the order is made, unless the Tribunal otherwise orders.

27. Where an employee has appealed under section 24 against a decision of his employer to dismiss him, the employee shall not, except to such extent, if any, as the Tribunal otherwise determines on the appeal, be entitled to any salary, wages or allowances in respect of any period occurring after the date of the decision.

Effect of
decision
to dismiss
on payment
of salary,
etc.

DIVISION 3.—Procedures Relating to the Making of Appeals.

28. An employee may make an appeal by lodging with the Registrar a notice of appeal in the approved form.

Notice of
appeal.

29. (1) An employee shall lodge a notice of appeal—

(a) in respect of an appeal under section 20—

Time for
making
appeal.

(i) where a notice containing particulars of the decision appealed against is given in accordance with section 19 (1) or by or under any other Act as referred to in section 19 (2)—within a period of 28 days after the date of the notice; and

Government and Related Employees Appeal Tribunal.

- (ii) where notification of the particulars of the decision appealed against is given in accordance with section 19 (3)—within a period of 28 days after the date of notification; or
- 5 (b) in respect of an appeal under section 24—within a period of 28 days after the employee is notified of the decision appealed against.

(2) Nothing in subsection (1) prevents an employee from appealing to the Tribunal against a decision of his employer
10 particulars of which have not been given in accordance with section 19 (1), or by or under any other Act as referred to in section 19 (2), or in accordance with section 19 (3).

30. (1) An employee may, by notice of appointment in or to the effect of the prescribed form, appoint a person to be his agent
15 for the purposes of— **Appoint-
ment of
agents.**

- (a) accepting service of—
- (i) a notice referred to in section 19 (1) or (2);
- (ii) a notification given under section 19 (3); or
- 20 (iii) a notice of a decision of a kind referred to in section 23 (1); and
- (b) completing and lodging a notice of appeal.

(2) A copy of a notice of appointment under subsection (1) shall—

- 25 (a) where the employee referred to in that subsection is employed by an employer to whom section 19 (3) applies—be given to that employer; and
- (b) where a notice of appeal is lodged with the Registrar under section 28 by the person appointed pursuant to the notice of appointment—be given to
30 the Registrar on the lodging of the notice of appeal.

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31. (1) On receipt of a notice of appeal lodged in accordance with this Act against the decision of an employer, the Senior Chairman shall, as soon as practicable after the expiration of the period within which a notice of appeal may, under section 29, be lodged against that decision—

Arrange-
ments for
hearing
appeals.

(a) determine that—

(i) he shall preside as chairman; or

(ii) a Chairman selected by him shall preside as chairman,

10 at the sitting of the Tribunal for the purpose of hearing appeals against that decision;

(b) appoint a time, date and place for the hearing of those appeals; and

15 (c) notify the Registrar of the arrangements made under paragraphs (a) and (b).

(2) The Senior Chairman may, if he thinks fit, determine that 2 or more appeals in respect of the same decision shall be heard at one sitting of the Tribunal and, where the Tribunal hears 2 or more appeals at one sitting, it may make a single composite decision with respect to all or any of those appeals.

32. (1) Where the Registrar is notified under section 31 (1) of the arrangements made for the hearing of appeals, he shall thereupon, by notice in writing—

Notifica-
tion of
arrange-
ments.

25 (a) inform each appellant, the employer against whose decision the appeals are brought and the appropriate association of employees within the meaning of section 15 of the time, date and place appointed for the hearing of the appeals;

30 (b) inform that employer and that association of the particulars of the appeals;

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- (c) request that employer—
 - (i) to select, in accordance with this Act, a member of the Tribunal to be the employer's representative at the sitting of the Tribunal for the purpose of hearing the appeals;
 - (ii) to notify the member so selected of his selection and of the particulars of the appeals; and
 - (iii) to notify the Registrar of the name of the member so selected; and
 - (d) request that association—
 - (i) to select, in accordance with this Act, a member of the Tribunal to be the employee's representative at the sitting of the Tribunal for the purpose of hearing the appeals;
 - (ii) to notify the member so selected of his selection and of the particulars of the appeals; and
 - (iii) to notify the Registrar of the name of the member so selected.
- (2) The particulars referred to in subsection (1) (b), (c) (ii) and (d) (ii) are particulars setting forth, in respect of each appeal—
- (a) the name and address of the appellant;
 - (b) where the appeal is—
 - (i) an appeal under section 20—the vacant office in respect of which the notice of appeal is lodged; or
 - (ii) an appeal under section 24—the decision of the employer appealed against;
 - (c) a brief statement of the grounds of appeal specified in the notice of appeal lodged by each appellant; and
 - (d) such other particulars as the Senior Chairman may direct, either generally or in a particular case or class of cases.

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33. (1) Where a member of the Tribunal selected, in accordance with this Act, to be the employer's representative or the employee's representative at a sitting of the Tribunal for the purpose of hearing appeals—

Selection of persons to act in place of certain members.

- 5 (a) has neglected or refused to take and subscribe the oath referred to in clause 8 of Schedule 2; or
- (b) is not present at the time, on the date and at the place appointed for the hearing of the appeals,

the Senior Chairman, or, where the sitting of the Tribunal is
10 presided over by a Chairman, the Chairman, may, in accordance with subsection (2), select a person to act in place of the member.

(2) A person selected as referred to in subsection (1) shall be—

- 15 (a) where the member referred to in that subsection is an employer's representative—any person; or
- (b) where the member referred to in that subsection is an employee's representative—any employee.

(3) A person selected as referred to in subsection (1) while acting in the place of a member shall have and may exercise
20 the functions of the member.

PART IV.

HEARING OF APPEALS.

DIVISION 1.—*Formal and Informal Sitzings of the Tribunal.*

34. Subject to this or any other Act, a sitting of the Tribunal
25 for the purpose of hearing an appeal may be formal or informal.

Nature of sittings of the Tribunal.

Government and Related Employees Appeal Tribunal.

35. A sitting of the Tribunal for the purpose of hearing appeals under section 20—

Sittings relating to promotions appeals.

- (a) where there is one appellant—shall be informal unless the appellant specifies in his notice of appeal that the sitting is to be formal; and
- (b) where there are 2 or more appellants—shall be formal unless each appellant specifies in his notice of appeal that the sitting is to be informal.

36. A sitting of the Tribunal for the purpose of hearing an appeal under section 24 shall be formal.

Sittings relating to disciplinary appeals.

37. (1) Where a sitting of the Tribunal is informal, the proceedings before the Tribunal shall not be conducted in an adversary manner and shall, subject to this Act, be conducted in accordance with such directions as may be given by the Senior Chairman or Chairman presiding at the sitting.

Provisions relating to informal sittings.

(2) The persons entitled to be present at an informal sitting of the Tribunal are—

- (a) an appellant whose appeal is being heard by the Tribunal;
- (b) a person appointed by the employer against whose decision the appeal is brought, being a person appointed generally or in respect of a particular appeal or class of appeals; and
- (c) where the appeal is an appeal under section 20, the employee in whose favour the decision referred to in paragraph (b) has been made.

(3) The persons entitled, pursuant to subsection (2), to be present at an informal sitting of the Tribunal are not entitled to be represented by counsel, solicitor or agent or otherwise.

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(4) A person entitled, pursuant to subsection (2), to be present at an informal sitting of the Tribunal—

- 5 (a) may adduce, orally and in writing, to the Tribunal such matters, and address the Tribunal on such matters, as are relevant to the appeal;
- (b) may produce documents or exhibits to the Tribunal; and
- (c) may with the leave of the Tribunal, and shall, where directed to do so by the Tribunal, give evidence on oath.

10 (5) A person entitled, pursuant to subsection (2), to be present at an informal sitting of the Tribunal shall not—

- (a) call or examine any witness; or
- (b) cross-examine any other such person.

15 (6) Where a sitting of the Tribunal is informal, the proceedings before the Tribunal shall not be recorded unless the Senior Chairman or Chairman presiding at the sitting otherwise directs.

20 **38.** (1) Where a sitting of the Tribunal is formal, evidence in the proceedings before the Tribunal shall be given on oath and shall be subject to cross-examination. Provisions relating to formal sittings.

(2) The persons entitled to be present at a formal sitting of the Tribunal are the persons referred to in section 37 (2) (a), (b) and (c).

25 (3) Where a sitting of the Tribunal is formal, the sitting shall be open to the public unless the Tribunal, on the application of a person entitled, pursuant to subsection (2), to be present at the sitting, otherwise directs in relation to the whole or any part of the sitting.

30 (4) The persons entitled, pursuant to subsection (2), to be present at a formal sitting of the Tribunal are entitled to be represented by counsel, solicitor or agent or otherwise.

Government and Related Employees Appeal Tribunal.

(5) A person entitled, pursuant to subsection (2), to be present at a formal sitting of the Tribunal may call and examine any witness.

(6) A person proposed to be called as a witness in proceedings at a formal sitting of the Tribunal, not being a person entitled, pursuant to subsection (2), to be present at the sitting, shall, unless the Tribunal otherwise orders, be excluded from the proceedings prior to giving his evidence and the Tribunal may exclude a person proposed to be called as a witness from giving evidence if he has been present at the sitting prior to giving his evidence.

(7) Where a sitting of the Tribunal is formal, the proceedings before the Tribunal shall be recorded.

DIVISION 2.—General Powers of the Tribunal.

39. The procedure for the conduct of business at any sitting of the Tribunal shall, subject to this Part and the regulations, be as determined by the Senior Chairman.

Procedure
at sittings
of the
Tribunal.

40. The Senior Chairman, or the Chairman selected by the Senior Chairman, as the case may require, shall preside as chairman at a sitting of the Tribunal.

Chairman.

41. (1) At a sitting of the Tribunal, each member of the Tribunal present shall have one vote.

Votes of
members.

(2) At a sitting of the Tribunal, the decision on any matter arising for the determination of the Tribunal of a majority of the members of the Tribunal present and voting shall, except as provided by subsection (3), be the decision of the Tribunal.

Government and Related Employees Appeal Tribunal.

(3) The decision of the Senior Chairman or a Chairman, as the case may be, at a sitting of the Tribunal on any question of law or procedure which may arise in the hearing of an appeal before the Tribunal shall be the decision of the Tribunal.

5 (4) Where a Chairman presides at a sitting of the Tribunal, he shall, where he does not have a legal qualification referred to in section 13 (2), and may, in any other case, consult with the Senior Chairman before deciding any question of law or procedure which may arise in the hearing of an appeal before
10 the Tribunal.

42. (1) At the hearing of an appeal by the Tribunal, the employer's case shall be presented first. Order of
presenta-
tion of
cases.

(2) Nothing in subsection (1) removes from an appellant or any other person the onus of proving any ground on which he
15 relies.

43. (1) The Tribunal is not bound by the rules or practice Evidence. as to evidence and may, subject to subsection (2), inform itself on any matter in such manner as it thinks fit.

(2) The Tribunal shall not inform itself on, or take into
20 consideration, any matter which has not been disclosed in evidence at a sitting of the Tribunal if the matter is one which ought, in the interests of justice, to be available for challenge or testing by the persons entitled to be present at the sitting.

(3) Nothing in subsection (2) prevents the Tribunal from
25 informing itself on, or taking into consideration, any matter of which it is entitled to take judicial notice.

Government and Related Employees Appeal Tribunal.

44. (1) In relation to an appeal, the Senior Chairman or a Chairman, by instrument in writing—

Discovery
of docu-
ments, atten-
dance of
witnesses,
etc.

- 5 (a) may require a person, being an employer or any person entitled, pursuant to section 37 (2) or 38 (2), to be present at a sitting of the Tribunal for the purpose of hearing the appeal, to produce, on or before such date as is specified in the instrument, for the inspection of any other such person so specified, any document or exhibit relevant to the appeal and which is so specified;
- 10 (b) may require a person referred to in paragraph (a) to do either or both of the following things, namely :—
- 15 (i) to lodge with the Tribunal, on or before such date as is specified in the instrument, a written case setting out the arguments on which the person relies in relation to the appeal;
- (ii) to serve, on or before such date as is specified in the instrument, on any other such person so specified, a copy of a written case referred to in subparagraph (i);
- 20 (c) may require the persons referred to in paragraph (a) to lodge with the Tribunal, on or before such date as is specified in the instrument, a statement of such facts or matters as are agreed upon between them in relation to the appeal;
- 25 (d) may require any person to appear before the Tribunal and to give evidence; and
- (e) may require any person to produce before the Tribunal any document or exhibit relevant to the appeal.

(2) A person who fails or neglects to comply with a
30 requirement made of him under subsection (1) is guilty of an offence against this Act and liable on conviction before a court of petty sessions constituted by a stipendiary magistrate sitting alone to a penalty not exceeding \$500.

Government and Related Employees Appeal Tribunal.

45. Any member of the Tribunal may administer an oath to any person giving evidence before the Tribunal. Administration of oath.

46. (1) The Tribunal may from time to time adjourn the hearing of an appeal to such times, dates and places and for such 5 reasons as it thinks fit. Adjournment.

(2) In the absence from a sitting of the Tribunal of one or two members of the Tribunal, the remaining member or members may exercise the Tribunal's powers under subsection (1).

47. (1) An appellant may at any time withdraw his appeal against a decision of his employer, whether or not the Tribunal has commenced to consider the appeal. Withdrawal of appeals.

(2) Where the consideration by the Tribunal of appeals against a decision referred to in subsection (1) has not commenced, the appellant may withdraw his appeal by notifying the Registrar, 15 in writing, that he withdraws his appeal.

(3) Where the consideration by the Tribunal of appeals against a decision referred to in subsection (1) has commenced, the appellant may withdraw his appeal by informing the Tribunal that he withdraws his appeal.

20 48. (1) The Tribunal, in relation to an appeal under section 20, may decide to allow or disallow the appeal. Decisions with respect to appeals.

(2) The Tribunal, in relation to an appeal under section 24, may decide to allow or disallow the appeal or make such other decision with respect to the appeal as it thinks fit.

25 (3) The decision of the Tribunal in respect of an appeal shall, except as provided by Part V, be final and shall be given effect to by the employer against whose decision the appeal was brought.

Government and Related Employees Appeal Tribunal.

(4) The decision of the Tribunal in respect of an appeal shall be in the form of an instrument in writing signed by the Senior Chairman or Chairman before whom the appeal was heard and shall include the reasons for the decision.

5 49. (1) Where proceedings before the Tribunal are recorded, they shall be recorded in such manner as the Senior Chairman directs. Transcripts of proceedings.

(2) A record of proceedings before the Tribunal which is made by means of shorthand, stenotype machine or sound-recording apparatus shall not be transcribed unless the Senior Chairman or a Chairman so determines or the transcription is required by law.

(3) Except as provided by subsection (4), a transcription made under subsection (2) shall be supplied only to a member of the Tribunal approved by the Senior Chairman or by a Chairman or for the purposes of an appeal against a decision of the Tribunal.

(4) A copy of a record of proceedings before the Tribunal or a transcription made under subsection (2) in respect of proceedings at a formal sitting of the Tribunal may, at the discretion of the Senior Chairman presiding at the proceedings or sitting or the Chairman so presiding, be supplied to any person in accordance with such terms and conditions as the Minister may, from time to time, determine.

25 (5) Where, within 6 months after an appeal is determined, no transcription of the proceedings before the Tribunal on that appeal has been made under subsection (2), the record of those proceedings may be destroyed.

50. For the purposes of section 18 of the Defamation Act, 1974, the proceedings of the Tribunal shall be deemed to be an inquiry within the meaning of that section. Application of the Defamation Act, 1974.

Government and Related Employees Appeal Tribunal.

51. A person appearing before the Tribunal on the hearing of an appeal shall not be guilty of an offence against or otherwise be in breach of any law relating to the confidentiality or secrecy of information in respect of anything disclosed by him to the Tribunal which is relevant to the appeal.

Offences relating to secrecy of information.

52. Every document requiring authentication by the Tribunal may be sufficiently authenticated if signed by the Senior Chairman or a Chairman.

Authentication of documents.

53. Judicial notice shall be taken of the signature of the Senior Chairman, a Chairman or the Registrar when appearing on a document issued by the Tribunal.

Judicial notice of certain signatures.

PART V.

APPEALS FROM THE TRIBUNAL.

54. A person being—

15 (a) an employer against whose decision an appeal is brought;

(b) an appellant with respect to that decision; or

(c) where the appeal is an appeal under section 20, the employee in whose favour that decision is made,

may, subject to this Part, appeal to the Supreme Court against any

20 decision of the Tribunal on a question of law.

Appeal to Supreme Court on point of law.

55. (1) An appeal under section 54 shall be made within 21 days after the date of the Tribunal's decision on the question of law the subject of the appeal and shall be made in accordance with the rules of the Supreme Court.

Time for making appeal, etc.

Government and Related Employees Appeal Tribunal.

(2) An appellant under section 54 shall, within the period of 21 days referred to in subsection (1), serve a copy of the process originating the appeal on the Tribunal and each other person referred to in section 54.

5 **56.** (1) The Supreme Court shall hear and determine the question of law arising on an appeal under section 54 and shall— Determina-
tion of
question of
law.

(a) remit the decision of the Court thereon to the Tribunal;
or

10 (b) make such order in relation to the appeal as to it seems
fit.

(2) The Tribunal or a member of the Tribunal shall not be liable to any costs in respect of the decision of the appeal.

PART VI.

MISCELLANEOUS.

15 **57.** (1) Any notice or notification which, by or under this Act, is required or authorised to be given to any person may be given— Service of
notices.

20 (a) in the case of an employee—by delivering it personally to him or, where he has, under section 30 (1), appointed an agent, to his agent or by sending it by pre-paid post addressed to him at his place of employment or place of residence or, where he has, under section 30 (1), appointed an agent, to the address specified in the notice of appointment for the giving of notices under this Act;

25 (b) in the case of an employer not being a statutory body—by delivering it to him personally or by sending it by pre-paid post addressed to him at his place of business

Government and Related Employees Appeal Tribunal.

(c) in the case of an employer being a statutory body—

(i) by leaving it at the principal office of the statutory body with a person apparently in the service of the statutory body and apparently not less than 16 years of age; or

(ii) by delivering it, or by sending it by pre-paid post, addressed to the statutory body at the address, if any, specified by the statutory body for the giving of notices under this Act, or, where no such address is specified, at the principal office of the statutory body; or

(d) in the case of the Tribunal—by delivering it to the Registrar or by sending it by pre-paid post to the Tribunal addressed to the Registrar at the office of the Tribunal.

(2) Notice or notification shall, in respect of a notice or notification sent by pre-paid post in accordance with subsection (1) (a), (b) or (c) (ii), be deemed to have been given at the time at which the notice or notification would be delivered in the ordinary course of post.

58. Each Act specified in Column 1 of Schedule 5 is, to the extent specified opposite that Act in Column 2 of Schedule 5, repealed.

59. Schedule 6 has effect.

Savings,
transitional
and other
provisions.

60. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Government and Related Employees Appeal Tribunal.

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

10

SCHEDULE 1.

Sec. 12.

PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND CHAIRMAN.

- 15 1. The Public Service Act, 1979, does not apply to or in respect of the appointment of the Senior Chairman, the Acting Senior Chairman or a Chairman and a person so appointed is not, in his capacity as the Senior Chairman, the Acting Senior Chairman or a Chairman, subject to that Act while he holds office as the Senior Chairman, the Acting Senior Chairman or a Chairman. Applica-
tion of
Public
Service Act,
1979.
- 20 2. (1) The appointment of a holder of a judicial office or a magisterial office as the Senior Chairman or a Chairman shall not, nor shall his services as the Senior Chairman or a Chairman, affect his tenure of that office or his rank, title, status, precedence, salary or other rights or privileges as a holder of that office. Appoint-
ment of
holder of
judicial or
magisterial
office.
- 25 (2) A holder of a judicial office or a magisterial office may, notwithstanding that he is the Senior Chairman or a Chairman, exercise his functions as a holder of that office, but while he is the Senior Chairman or a Chairman he shall not (unless otherwise provided by the instrument of his appointment as the Senior Chairman or a Chairman) be required to exercise his functions as a holder of that office.
- 30 (3) The service, as Senior Chairman or Chairman, of a holder of a judicial office or a magisterial office shall, for all purposes, be taken to be service as a holder of that judicial office or magisterial office, as the case may be.

Government and Related Employees Appeal Tribunal.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND
CHAIRMAN—*continued.*

3. (1) A person appointed as a Chairman who was not, at the time
5 of his appointment, the holder of a judicial office or a magisterial office shall, on his appointment, take the oath of allegiance and the judicial oath
as prescribed in the Oaths Act, 1900. Taking of certain oaths.
- (2) Sections 11, 11A and 12 of the Oaths Act, 1900, apply to and
10 in respect of an oath required to be taken under subclause (1) of this clause as if the oath were required to be taken under Part II of that Act.
4. A person appointed as a Chairman who was not, at the time of his
appointment, the holder of a judicial office or a magisterial office shall
devote the whole of his time to the duties of his office. Full-time appointments.
5. Each Chairman, not being a holder of a judicial office or a magisterial
15 office, is entitled to be paid— Remuneration.
 - (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
 - (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.
- 20 6. The Senior Chairman shall retire on the day on which he attains the
age of 70 years, unless he is granted retiring leave, in which case he shall
retire on the expiration of that leave. Retirement of Senior Chairman.
7. The Governor may remove the Senior Chairman or a Chairman, being
the holder of a judicial office, from office upon the address of both Houses
25 of Parliament, but not otherwise. Removal from office of holder of judicial office.
8. The Governor may remove a Chairman, not being the holder of a
judicial office, from office for inability, misbehaviour or failure to comply
with the terms and conditions of his appointment. Removal from office of Chairman not being holder of judicial office.

Government and Related Employees Appeal Tribunal.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND
CHAIRMAN—*continued.*

9. A Chairman, not being the holder of a judicial office, shall be deemed
5 to have vacated his office—

Vacation of
office by
Chairmen
not being
holders of
judicial
office.

(a) if he dies;

(b) if—

10 (i) not being the holder of a magisterial office, he engages
(whether in New South Wales or elsewhere) during his
term of office in any paid employment outside the duties
of his office; or

15 (ii) being the holder of a magisterial office, he engages
(whether in New South Wales or elsewhere) during his
term of office in any paid employment outside the duties
of his office, not being employment within the duties of
his magisterial office;

20 (c) if he becomes bankrupt, applies to take the benefit of any law for
the relief of bankrupt or insolvent debtors, compounds with his
creditors or makes an assignment of his remuneration for their
benefit;

(d) if he becomes a temporary patient, a continued treatment patient,
a protected person or an incapable person within the meaning of
the Mental Health Act, 1958, or a person under detention under
Part VII of that Act;

25 (e) if he is convicted in New South Wales of a crime or an offence
punishable by imprisonment for 12 months or upwards, or if he
is convicted elsewhere than in New South Wales of a crime or
an offence which if committed in New South Wales would be a
crime or an offence so punishable;

30 (f) if he resigns his office by writing under his hand addressed to
the Governor;

(g) if he is removed from office by the Governor under clause 8; or

(h) upon his attaining the age of 65 years.

10. (1) In this clause—

35 “statutory body” means any body declared under clause 12 to be a
statutory body for the purposes of this Schedule;

Preservation
of rights of
Chairmen
previously
public
servants, etc.

Government and Related Employees Appeal Tribunal.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND
CHAIRMAN—*continued.*

- 5 “superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.
- (2) Subject to subclause (3) of this clause and to the terms of his appointment, where a person appointed as a Chairman, not being the holder of a judicial office or a magisterial office, was, immediately before
10 his appointment—
- (a) an officer of the Public Service;
 - (b) a contributor to a superannuation scheme;
 - (c) an officer employed by a statutory body; or
 - 15 (d) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,
- he—
- (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
 - 20 (f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as a Chairman; and
 - (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,
- 25 as if he had continued to be such an officer, contributor or person during his service as a Chairman, and—
- (h) his service as a Chairman shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continued
30 to contribute or by which that entitlement is conferred; and
 - (i) he shall be deemed to be an officer or employee, and the Tribunal shall be deemed to be his employer, for the purposes of the superannuation scheme to which he is entitled to contribute under this clause.
- 35 (3) If a Chairman would, but for this subclause, be entitled under subclause (2) of this clause to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme, he shall

Government and Related Employees Appeal Tribunal.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND
CHAIRMAN—*continued.*

- not be so entitled upon his becoming (whether upon his appointment as a
5 Chairman or at any later time while he holds office as a Chairman) a
contributor to any other superannuation scheme, and the provisions of
subclause (2) (i) of this clause cease to apply to or in respect of him
and the Tribunal in any case where he becomes a contributor to such
another superannuation scheme.
- 10 (4) Subclause (3) of this clause does not prevent the payment to a
Chairman upon his ceasing to be a contributor to a superannuation scheme
of such amount as would have been payable to him if he had ceased, by
reason of his resignation, to be an officer or employee for the purposes
of that scheme.
- 15 (5) A Chairman shall not, in respect of the same period of service,
be entitled to claim a benefit under this Act and another Act.
11. (1) In this clause—
“retiring age” means—
- 20 (a) in relation to a person who was, immediately before his
appointment as a Chairman, an officer of the Public Service
—the age of 60 years; and
- 25 (b) in relation to a person who was, immediately before his
appointment as a Chairman, an officer or employee of a
statutory body—the age at which officers or employees
(being officers or employees of the class to which that
person belonged immediately before his appointment as a
Chairman), as the case may be, of that statutory body are
entitled to retire;
- 30 “statutory body” means any body declared under clause 12 to be a
statutory body for the purposes of this Schedule.
- (2) A person, not being the holder of a judicial office or a magisterial
office, who ceases to be a Chairman, otherwise than pursuant to clause 9
(paragraph (f) excepted), shall, if he has not attained the retiring age, be
entitled to be appointed, where, immediately before his appointment as a
35 Chairman, he was—
- (a) an officer of the Public Service—to some office in the Public
Service; or

Re-appoint-
ment to
former em-
ployment in
certain
cases.

Government and Related Employees Appeal Tribunal.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND
CHAIRMAN—*continued.*

- 5 (b) an officer or employee of a statutory body—to some office in the service of that body,
not lower in classification and salary than that which he held immediately before his appointment as a Chairman.

- 10 12. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule. Declarations of statutory bodies.

SCHEDULE 2.

Sec. 16.

PROVISIONS RELATING TO THE NOMINATION OF EMPLOYERS'
REPRESENTATIVES AND EMPLOYEES' REPRESENTATIVES.

- 15 1. (1) The Registrar, at the direction of the Senior Chairman, shall, at all such times as may be necessary for the due administration of this Act, by notice in writing to an employer or an association of employees, direct the employer or association, as the case may be, to nominate, on or before such date as is specified in the notice, a panel of not less than 2 and not more than 12 persons, in order of preference, to be members of the Tribunal. Direction relating to nominations.

- 20 (2) The order of preference referred to in subclause (1) of this clause may, where the staff establishment of an employer or the membership of an association of employees is divided into different classes or groups, be nominated in relation to appeals made by members of those classes or groups.

- 25 2. (1) A nomination pursuant to a direction under clause 1 shall be—
(a) in the approved form; and
(b) accompanied by—
(i) the consent, in writing, to his nomination of each person nominated; and

Form of nomination.

Government and Related Employees Appeal Tribunal.

SCHEDULE 2—*continued.*

PROVISIONS RELATING TO THE NOMINATION OF EMPLOYERS' REPRESENTATIVES AND EMPLOYEES' REPRESENTATIVES—*continued.*

- 5 (ii) the oath referred to in clause 8 sworn by each person nominated.
- (2) A nomination pursuant to a direction under clause 1 shall be made by lodging the document required pursuant to subclause (1) of this clause with the Registrar.
- 10 3. A person nominated by the Public Service Board in accordance with this Schedule shall be—
- (a) a member of the Public Service Board; or
- (b) an employee.
4. A person nominated by the Director-General of Education in accordance with this Schedule shall be—
- 15 (a) the Director-General of Education;
- (b) an officer within the meaning of section 3 of the Teaching Service Act, 1970; or
- (c) an officer within the meaning of section 4 (1) of the Public Service Act, 1979, employed in the Department of Education.
- 20 5. A person nominated by an employing authority in accordance with this Schedule shall be—
- (a) an employee; or
- (b) where the employing authority is—
- 25 (i) a corporate body—a member of the corporate body;
- (ii) a corporation sole—the person constituting the corporation sole; or
- (iii) an individual—that individual.

Representative of Public Service Board.

Representatives of Director-General of Education.

Representatives of employing authorities.

Government and Related Employees Appeal Tribunal.

SCHEDULE 2—*continued.*

PROVISIONS RELATING TO THE NOMINATION OF EMPLOYERS' REPRESENTATIVES AND EMPLOYEES' REPRESENTATIVES—*continued.*

6. A person nominated by an association of employees in accordance with this Schedule shall be an employee. Representatives of associations of employees.

7. A person nominated in accordance with this Schedule as an employer's representative or an employee's representative shall, subject to this Act, hold office as a member of the Tribunal for a term of 3 years from the date specified in the notice given by the Registrar under clause 1 in pursuance of which the person's nomination was made and shall, if otherwise qualified, be eligible for renomination as an employer's representative or an employee's representative, as the case may be. Term of office.

8. (1) A person nominated in accordance with this Schedule as an employer's representative or an employee's representative shall not act as a member of the Tribunal unless he has taken an oath in the prescribed form. Oath.

(2) Sections 11, 11A and 12 of the Oaths Act, 1900, apply to and in respect of an oath required to be taken under subclause (1) of this clause as if the oath were an oath required to be taken under Part II of that Act.

9. The Governor may remove a member of the Tribunal, being an employer's representative or an employee's representative, from office if, without proper cause or excuse, he neglects or refuses to sit as a member of the Tribunal at any sitting at which he is required, by notice given under section 32 (1), to attend as an employer's representative or an employee's representative, as the case may be. Removal from office.

10. A member of the Tribunal, being an employer's representative or an employee's representative, shall be deemed to have vacated his office if— Vacation of office.

(a) he dies;

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

Government and Related Employees Appeal Tribunal.

SCHEDULE 2—*continued.*PROVISIONS RELATING TO THE NOMINATION OF EMPLOYERS' REPRESENTATIVES AND EMPLOYEES' REPRESENTATIVES—*continued.*

- 5 (c) he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- 10 (d) he is convicted in New South Wales of a crime or an offence punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of a crime or an offence which if committed in New South Wales would be a crime or an offence so punishable;
- (e) he resigns his office by writing under his hand addressed to the Registrar;
- 15 (f) he is removed from office by the Governor; or
- (g) he ceases to hold the qualification by virtue of which he was nominated as an employer's representative or an employee's representative, as the case may be.
- 20 11. (1) On the occurrence of a vacancy in the office of a member of the Tribunal, being an employer's representative or an employee's representative, the employer or association of employees who nominated the member may, within one month after the occurrence of the vacancy, nominate, in the same manner, a person having the same qualifications as the member whose office has become vacant was nominated and qualified. Filling of casual vacancy.
- 25 (2) A person nominated under subclause (1) of this clause shall, subject to this Act, hold office as a member of the Tribunal for the balance of his predecessor's term of office.
- 30 12. (1) Where, for the purposes of this Act, no nomination or no proper nomination is made by an employer of a person to be a member of the Tribunal— Failure to make nomination.
- (a) on or before the date specified in a notice given by the Registrar under clause 1 to the employer; or
- (b) within one month after the occurrence of a vacancy in the office of a member nominated by the employer,
- 35 the Governor may appoint a person to be a member of the Tribunal, being a person qualified to be nominated by the employer to be a member of the Tribunal.

Government and Related Employees Appeal Tribunal.

SCHEDULE 2—*continued.*

PROVISIONS RELATING TO THE NOMINATION OF EMPLOYERS' REPRESENTATIVES AND EMPLOYEES' REPRESENTATIVES—*continued.*

5 (2) Where, for the purposes of this Act, no nomination or no proper nomination is made by an association of employees of a person to be a member of the Tribunal—

(a) on or before the date specified in a notice given by the Registrar under clause 1 to the association of employees; or

10 (b) within one month after the occurrence of a vacancy in the office of a member nominated by the association of employees,

the Governor may appoint a person to be a member of the Tribunal, being a person qualified to be nominated by the association of employees to be a member of the Tribunal.

(3) A person appointed as a member of the Tribunal—

15 (a) under subclause (1) of this clause—shall be deemed to have been nominated in accordance with this Act by the employer in respect of whose neglect or default he was so appointed; or

20 (b) under subclause (2) of this clause—shall be deemed to have been nominated in accordance with this Act by the association of employees in respect of whose neglect or default he was so appointed.

SCHEDULE 3.

ASSOCIATIONS OF EMPLOYEES.

Sec. 4 (1),
defn. of
"association of
employees",
(6), (7).

Association of Railway Professional Officers of Australia.

25 Australasian Society of Engineers.

Australian Institute of Marine and Power Engineers.

Australian Railways Union.

Australian Theatrical and Amusement Employees' Association.

Australian Timber Workers' Union.

30 Australian Workers' Union.

Building Workers' Industrial Union of Australia.

Government and Related Employees Appeal Tribunal.

SCHEDULE 3—*continued.*

ASSOCIATIONS OF EMPLOYEES—*continued.*

- Dental Technicians' Association of New South Wales.
- Electricity Supply Professional Officers' Association.
- 5 Federated Clerks' Union of Australia.
- Federated Engine Drivers and Fireman's Association of Australasia.
- Federated Ironworkers' Association of Australia.
- Federated Liquor and Allied Industries Employees Union of Australia.
- Federated Mining Mechanics' Association of Australasia.
- 10 Federated Municipal and Shire Council Employees' Union of Australia.
- Federated Rubber and Allied Workers Union of Australia.
- Federated Ship Painters and Dockers' Union of Australia.
- Federated Storemen and Packers' Union of Australia.
- Firemen and Deckhands' Union of New South Wales.
- 15 Furnishing Trades Society of New South Wales.
- National Union of Railwaymen of Australia.
- New South Wales Fire Brigade Employees' Union.
- New South Wales Nurses' Association.
- New South Wales Public Medical Officers Association.
- 20 New South Wales Public Service Professional Officers Association.
- New South Wales Real Estate Salesmen's Association.
- New South Wales Teachers Federation.
- Operative Plasterers and Plaster Workers' Federation of Australia.
- Operative Painters and Decorators' Union of Australia.
- 25 Operative Stonemasons Society of Australia.
- Plumbers and Gasfitters Employees' Union of Australia.
- Police Association of New South Wales.
- Printing and Kindred Industries Union.
- Public Service Association of New South Wales.
- 30 Seamen's Union of Australia.
- The Amalgamated Metal Workers' and Shipwrights' Union.
- The Amalgamated Society of Carpenters and Joiners of Australia.
- The Association of Architects, Engineers, Surveyors and Draughtsmen of Australia.
- 35 The Association of Professional Engineers, Australia.
- The Australasian Coal and Shale Employees Federation.

*Government and Related Employees Appeal Tribunal.*SCHEDULE 3—*continued.*ASSOCIATIONS OF EMPLOYEES—*continued.*

- The Australasian Meat Industry Employees Union.
- The Australasian Transport Officers Federation.
- 5 The Australian Journalists' Association.
- The Boot Trades Employees Federation.
- The Clothing and Allied Trades Union of Australia.
- The Electrical Trades Union of Australia.
- The Federated Brick, Tile and Pottery Industrial Union of Australia.
- 10 The Federated Miscellaneous Workers' Union.
- The Federated Moulders' (Metal) Union of Australia.
- The Health and Research Employees Association of Australia.
- The Hunter District Water Board Employees' Association.
- The Institute of Inspectors of Schools of New South Wales.
- 15 The M.S.B. Officers' Association.
- The Merchant Service Guild of Australia.
- The Professional Officers Association of New South Wales.
- Transport Workers' Union of Australia.
- Water and Sewerage Employees' Union.

SCHEDULE 4.

EMPLOYING AUTHORITIES.

- 20 Board of Fire Commissioners of New South Wales.
- Board of Tick Control.
- Dairy Industry Authority of New South Wales.
- 25 Fish Marketing Authority.
- Forestry Commission in respect of all casual and general employees on forest work engaged under section 10 (1) of the Forestry Act, 1916.
- Greyhound Racing Control Board.
- Health Commission of New South Wales in respect of persons appointed
- 30 and employed under section 14A of the Health Commission Act, 1972.
- Homebush Abattoir Corporation.

Sec. 4 (1),
defn. of
"employing
authority",
(8), (9).

Government and Related Employees Appeal Tribunal.

SCHEDULE 4—continued.

EMPLOYING AUTHORITIES—continued.

- Metropolitan Waste Disposal Authority.
 New South Wales Film Corporation.
 5 New South Wales Retirement Board.
 Pastures protection boards.
 Sydney Cove Redevelopment Authority.
 Sydney Farm Produce Market Authority.
 The Broken Hill Water Board.
 10 The Commissioner for Main Roads.
 The Electricity Commission of New South Wales.
 The Grain Elevators Board of New South Wales.
 The Hunter District Water Board.
 The Maritime Services Board of New South Wales.
 15 The Metropolitan Water Sewerage and Drainage Board.
 Totalizator Agency Board.
 Trotting Authority of New South Wales.
 Water Resources Commission.
 Zoological Parks Board of New South Wales.

20

SCHEDULE 5.

Sec. 58.

REPEALS.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
25		
1902, No. 31	Public Service (Promotion Appeals) Act, 1902.	The unrepealed portion.
1944, No. 15	Crown Employees Appeal Board Act, 1944.	The whole Act.
30		
1952, No. 38	Crown Employees Appeal Board (Amendment) Act, 1952.	The whole Act.
1954, No. 36	Grain Elevators Act, 1954	Section 28.
1957, No. 55	Crown Employees Appeal Board (Amendment) Act, 1957.	The whole Act.

Government and Related Employees Appeal Tribunal.

SCHEDULE 5—continued.

REPEALS—continued.

Column 1.		Column 2.	
5	Year and number of Act.	Short title of Act.	Extent of repeal.
	1960, No. 16	Crown Employees Appeal Board (Amendment) Act, 1960.	The whole Act.
10	1963, No. 59	State Planning Authority Act, 1963.	Section 9.
	1964, No. 10	Crown Employees Appeal Board (Amendment) Act, 1964.	The unrepealed portion.
	1964, No. 57	Crown Employees Appeal Board (Further Amendment) Act, 1964.	The whole Act.
15	1968, No. 11	Sydney Farm Produce Market Authority Act, 1968.	Section 8.
	1968, No. 56	Sydney Cove Redevelopment Authority Act, 1968.	Section 9.
20	1970, No. 29	Dairy Industry Authority Act, 1970.	Section 13 (2) and (3) and so much of Part II of the First Schedule as relates to Act No. 15, 1944.
	1970, No. 40	Crown Employees Appeal Board (Amendment) Act, 1970.	The whole Act.
25	1970, No. 97	Waste Disposal Act, 1970	Section 14.
	1971, No. 43	Crown Employees Appeal Board (Amendment) Act, 1971.	The whole Act.
30	1974, No. 86	Public Service and Crown Employees Appeal Board (Amendment) Act, 1974.	The unrepealed portion.
	1975, No. 39	Public Service and Crown Employees Appeal Board (Amendment) Act, 1975.	The whole Act.
35	1975, No. 54	Crown Employees Appeal Board (Amendment) Act, 1975.	The whole Act.
	1976, No. 34	Water Resources Commission Act, 1976.	So much of Schedule 6 as relates to Act No. 15, 1944.
40	1976, No. 63	Statute Law Revision Act, 1976	So much of Schedule 1 as relates to Act No. 10, 1964.
	1976, No. 72	Ambulance Services Act, 1976	So much of Schedule 2 as relates to Act No. 15, 1944, and clause 17 of Schedule 3.
45	1977, No. 55	New South Wales Film Corporation Act, 1977.	So much of Schedule 5 as relates to Act No. 15, 1944.
	1979, No. 90	Public Service (Promotion Appeals) Amendment Act, 1979.	The whole Act.
50	1979, No. 93	Crown Employees Appeal Board (Public Service) Amendment Act, 1979.	The whole Act.

Government and Related Employees Appeal Tribunal.

SCHEDULE 6.

Sec. 59.

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

1. In this Schedule—

Interpre-
tation:
Sch. 6.

“appointed day” means the day appointed and notified under section
2 (2);

“cognate Acts” means the Industrial Arbitration (Appeal Tribunal)
Amendment Act, 1980, the Judges’ Pensions (Appeal Tribunal)
Amendment Act, 1980, the Teaching Service (Appeal Tribunal)
Amendment Act, 1980, the Supreme Court (Appeal Tribunal)
Amendment Act, 1980, the Statutory and Other Offices Remunera-
tion (Appeal Tribunal) Amendment Act, 1980, and the Public
Service (Appeal Tribunal) Amendment Act, 1980;

“former appellate body” means the Crown Employees Appeal Board or
a Promotions Appeal Tribunal constituted under section 69H of
the Public Service (Promotion Appeals) Act, 1902.

2. (1) An appeal against any decision of an employer, being a decision
made before the appointed day, may be made to, or continued and
completed before, a former appellate body and shall be given effect to, in
all respects as if this Act and the cognate Acts had not been enacted, and
not otherwise.

Appeals
against
decisions
made
before the
appointed
day.

(2) For any purpose of or incidental to subclause (1) of this clause,
the provisions of the Acts repealed by this Act, the provisions of the Acts
amended by the cognate Acts and the provisions of any instrument made
under those Acts and in force immediately before the appointed day shall,
notwithstanding any other provision of this Act or any provision of the
cognate Acts, continue in force.

(3) Nothing in this clause limits any saving in the Interpretation
Act, 1897.

(4) A person who is concerned in the hearing and determination of
an appeal to which this clause applies shall not, in respect of the same
period of service, be entitled to claim a benefit under this Act and an Act
the provisions of which are continued in force by subclause (2) of this
clause.

3. (1) On and from the appointed day, a reference in a provision of
any other Act or of any regulation, by-law or other statutory instrument
or of any other document, whether of the same or of a different kind (not
being a prescribed provision), to—

Construc-
tion of
certain
references.

(a) a former appellate body shall be read and construed as a reference
to the Tribunal; and

Government and Related Employees Appeal Tribunal.

SCHEDULE 6—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- 5 (b) the Chairman of the Crown Employees Appeal Board shall be read and construed as a reference to the Senior Chairman of the Tribunal.

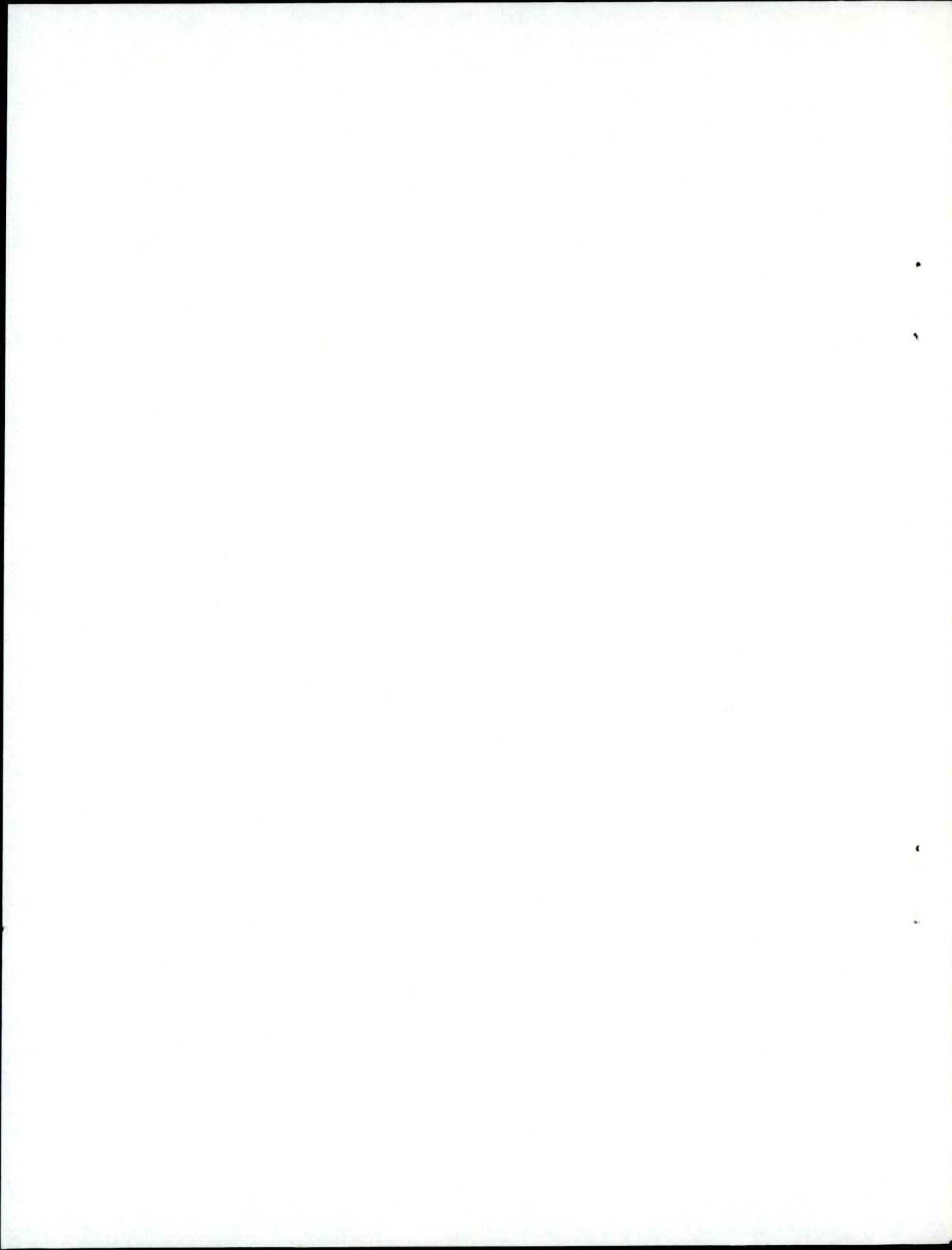
(2) For the purposes of subclause (1) of this clause, the following provisions are prescribed provisions:—

- (a) clause 2;
 (b) section 8 (1) (c) of the Judges' Pensions Act, 1953;
 10 (c) section 4 (2) of the Police Regulation (Priority Lists and Appeals) Amendment Act, 1978; and
 (d) section 5 of the Police Regulation (Appeals) Appeal Tribunal (Amendment) Act, 1980.

- 15 4. Section 69D of the Public Service (Promotion Appeals) Act, 1902, shall, notwithstanding the repeal of that Act, continue to apply after the date of repeal of that Act in favour of a person in respect of whom the section applied immediately before that date. Certain right of re-appointment to Public Service.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980



This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, March, 1980.*

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. , 1980.

An Act to constitute the Government and Related Employees Appeal Tribunal, to specify the circumstances in which government and related employees may appeal to the Tribunal against decisions relating to their promotion and discipline, and to otherwise provide for the functions of the

See also Police Regulation (Priority Lists) Amendment Bill, 1980; Police Regulation (Appeals) Appeal Tribunal (Amendment) Bill, 1980; Industrial Arbitration (Appeal Tribunal) Amendment Bill, 1980; Electricity Commission (Appeal Tribunal) Amendment Bill, 1980; Judges' Pensions (Appeal Tribunal) Amendment Bill, 1980; Teaching Service (Appeal Tribunal) Amendment Bill, 1980; Supreme Court (Appeal Tribunal) Amendment Bill, 1980; Statutory and Other Offices Remuneration (Appeal Tribunal) Amendment Bill, 1980; Police Regulation (Allegations of Misconduct) Appeal Tribunal (Amendment) Bill, 1980; and Public Service (Appeal Tribunal) Amendment Bill, 1980.

Government and Related Employees Appeal Tribunal.

Tribunal; and to repeal the Public Service (Promotion Appeals) Act, 1902, the Crown Employees Appeal Board Act, 1944, and certain other enactments.

5 **BE** 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 :—

PART I.

10

PRELIMINARY.

1. This Act may be cited as the "Government and Related Employees Appeal Tribunal Act, 1980". Short title.

2. (1) This section and section 1 shall commence on the date of assent to this Act. Commence-
ment.

15 (2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

20 (3) For the purpose only of enabling the Tribunal to be constituted in accordance with this Act on or after (but not before) the day appointed and notified under subsection (2), appointments and nominations may be made in accordance with Part II and Schedules 1 and 2, and any act, matter or thing may be done, before that day, as if the whole of this Act commenced on the date
25 of assent to this Act.

Government and Related Employees Appeal Tribunal.

3. This Act is divided as follows :—

Arrange-
ment.

PART I.—PRELIMINARY—ss. 1–4.

PART II.—GOVERNMENT AND RELATED EMPLOYEES
APPEAL TRIBUNAL—ss. 5–18.

5 PART III.—APPEALS TO THE TRIBUNAL—ss. 19–33.

DIVISION 1.—*Promotions Appeals*—ss. 19–22.

DIVISION 2.—*Disciplinary Appeals*—ss. 23–27.

DIVISION 3.—*Procedures Relating to the Making of
Appeals*—ss. 28–33.

10 PART IV.—HEARING OF APPEALS—ss. 34–53.

DIVISION 1.—*Formal and Informal Sitzings of the Tribunal*
—ss. 34–38.

DIVISION 2.—*General Powers of the Tribunal*—ss. 39–53.

PART V.—APPEALS FROM THE TRIBUNAL—ss. 54–56.

15 PART VI.—MISCELLANEOUS—ss. 57–60.

SCHEDULE 1.—PROVISIONS RELATING TO THE OFFICES OF
SENIOR CHAIRMAN AND CHAIRMAN.

20 SCHEDULE 2.—PROVISIONS RELATING TO THE NOMINA-
TION OF EMPLOYERS' REPRESENTATIVES AND
EMPLOYEES' REPRESENTATIVES.

SCHEDULE 3.—ASSOCIATIONS OF EMPLOYEES.

SCHEDULE 4.—EMPLOYING AUTHORITIES.

SCHEDULE 5.—REPEALS.

25 SCHEDULE 6.—SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS.

Government and Related Employees Appeal Tribunal.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

“appeal” means an appeal under section 20 or 24;

5 “association of employees” means an industrial union whose name for the time being is included in Schedule 3;

“Chairman” means a person for the time being appointed as a Chairman of the Tribunal under section 10 (1);

“employee” means—

10 (a) a person who is an officer within the meaning of section 4 (1) of the Public Service Act, 1979, a term officer within the meaning of that subsection or a temporary employee within the meaning of that subsection;

15 (b) a person who is an officer within the meaning of section 3 of the Teaching Service Act, 1970, or an employee within the meaning of that section;

(c) a person who is employed, whether permanently or otherwise, in the service of an employing authority;

20 (d) a person who is employed, whether permanently or otherwise—

(i) as an officer of either House of Parliament; or

25 (ii) in any position under the separate control of the President of the Legislative Council or Speaker of the Legislative Assembly, or under their joint control; or

30 (e) a person (not being a person to whom paragraph (a), (b), (c) or (d) applies, an officer within the meaning of section 3 (g) of the Government Railways Act, 1912, or an officer or employee of the Department of Motor Transport) who is

Government and Related Employees Appeal Tribunal.

employed in the service of the Crown by a person other than the Public Service Board or an employing authority;

“employer” means—

- 5 (a) in relation to an employee of the class referred to in paragraph (a) of the definition of “employee”—
 - 10 (i) for the purposes of those provisions of this Act relating to the membership and constitution of the Tribunal—the Public Service Board; and
 - 15 (ii) for the purposes of those provisions of this Act relating to the making of appeals and the hearing of appeals—the person against whose decision the appeal is made, being, as the case may require, the Public Service Board or the appropriate Department Head within the meaning of section 4 (1) of the Public Service Act, 1979;
 - 20
- (b) in relation to an employee of the class referred to in paragraph (b) of that definition—
 - 25 (i) for the purposes of those provisions of this Act relating to the membership and constitution of the Tribunal—the Director-General of Education; and
 - 30 (ii) for the purposes of those provisions of this Act relating to the making of appeals and the hearing of appeals—the person against whose decision the appeal is made, being, as the case may require, the Director-General of Education or a prescribed officer within the meaning of section 37 of the Teaching Service Act, 1970;
 - 35

Government and Related Employees Appeal Tribunal.

(c) in relation to an employee of the class referred to in paragraph (c) of that definition, the employing authority in whose service the employee is employed;

(d) in relation to an employee of the class referred to in paragraph (d) of that definition—

(i) where the employee is an officer of the Legislative Council or under the separate control of the President of the Legislative Council—the President;

(ii) where the employee is an officer of the Legislative Assembly or under the separate control of the Speaker of the Legislative Assembly—the Speaker; or

(iii) where the employee is under the joint control of the President of the Legislative Council and the Speaker of the Legislative Assembly—the President and Speaker jointly; and

(e) in relation to an employee of the class referred to in paragraph (e) of that definition—

(i) for the purposes of those provisions of this Act relating to the membership and constitution of the Tribunal—the Public Service Board; and

(ii) for the purposes of those provisions of this Act relating to the making of appeals and the hearing of appeals—the person in whose service the employee is employed;

“employing authority” means, subject to subsection (8), a person whose name is included in Schedule 4;

“functions” includes powers, authorities and duties;

“industrial union” means—

(a) an industrial union within the meaning of section 5 (1) of the Industrial Arbitration Act, 1940; and

Government and Related Employees Appeal Tribunal.

(b) an association of employees registered as an organization under the Conciliation and Arbitration Act 1904, as subsequently amended, of the Parliament of the Commonwealth;

5 “notice of appeal” means a notice of appeal lodged with the Registrar under section 28;

“office” includes position;

“Public Service” has the meaning ascribed to that expression by section 4 (1) of the Public Service Act, 1979;

10 “Public Service Board” means the Public Service Board of New South Wales constituted under the Public Service Act, 1979;

“Registrar” means the person for the time being appointed, as referred to in section 18, as Registrar of the Tribunal;

15 “regulation” means a regulation under this Act;

“Senior Chairman” means the person for the time being appointed as Senior Chairman of the Tribunal under section 7 (1);

20 “Tribunal” means the Government and Related Employees Appeal Tribunal established under section 5 (1).

(2) A reference in this Act to the exercise of a function includes, where that function is a duty, the performance of that duty.

(3) A reference in this Act to—

25 (a) the appointment of an employee to fill a vacant office includes a reference to the appointment of an employee to a higher position; and

(b) a vacant office includes a reference to a higher position the subject of an appointment referred to in paragraph (a).
30

Government and Related Employees Appeal Tribunal.

(4) A reference in this Act to the hearing of an appeal includes a reference to the determination of the appeal and the hearing and determination of any business arising out of the appeal.

5 (5) A reference in this Act to an approved form is a reference to a form in or to the effect of a form approved by the Senior Chairman.

(6) The Governor may, by proclamation published in the Gazette, amend Schedule 3—

10 (a) by inserting therein the name of any industrial union whose members, in the opinion of the Governor, consist of, or consist of a substantial number of, employees;

(b) by omitting therefrom the name of any industrial union whose members, in the opinion of the Governor, no
15 longer consist of a substantial number of employees; or

(c) by omitting therefrom the name of any industrial union which has changed its name or has amalgamated with one or more other industrial unions if the industrial registrar under the Industrial Arbitration Act, 1940, has
20 made the record required by that Act of the change or amalgamation and by inserting therein the changed name of the industrial union or the name of the industrial union which comprises the industrial unions which have amalgamated, as the case may require.

25 (7) Where the industrial registrar under the Industrial Arbitration Act, 1940, has made the record required by that Act of the change of name of an industrial union whose name, before the change, was included in Schedule 3 or of the amalgamation, with one or more other industrial unions, of an industrial union
30 whose name, before the amalgamation, was included in that Schedule, the industrial union which bears the changed name or which comprises the industrial unions which have amalgamated, as the case may be, shall be deemed to be an association of employees within the meaning of this Act.

Government and Related Employees Appeal Tribunal.

(8) Where the name of a person is included in Schedule 4 in respect of a person or class of persons, the firstmentioned person is, for the purposes of this Act, an employing authority only in respect of that other person or class of persons.

5 (9) The Governor may, by proclamation published in the Gazette, amend Schedule 4—

(a) by inserting therein—

- (i) the name of any person, whether or not in respect of any other person or class of persons; or
- 10 (ii) in respect of an employing authority, a person or class of persons;

(b) by omitting therefrom—

- (i) the name of any person, whether or not in respect of any other person or class of persons; or
- 15 (ii) in respect of an employing authority, a person or class of persons; or

(c) by altering—

- (i) the name of any person; or
- (ii) a class of persons.

20 (10) A reference in this Act to the selection of a member of the Tribunal as an employer's representative or an employee's representative includes a reference to the selection of such a member by a person authorised in that behalf by the employer or the association of employees, as the case may be, entitled in
25 accordance with this Act to make the selection.

Government and Related Employees Appeal Tribunal.

PART II.

GOVERNMENT AND RELATED EMPLOYEES APPEAL TRIBUNAL.

5. (1) There shall be a Government and Related Employees Appeal Tribunal. ^{The Tribunal.}

5 (2) Subject to this Act, the members of the Tribunal are the Senior Chairman, the Chairmen and the persons for the time being nominated in accordance with this Act as employers' representatives and employees' representatives.

6. (1) The Tribunal shall have and may exercise the functions ^{Functions of the Tribunal.} conferred upon it by or under this or any other Act.

(2) In the exercise of its functions, the Tribunal shall do all such things as are necessary to ensure—

- (a) that appeals are set down for hearing with as much expedition as is reasonably possible; and
- 15 (b) that the hearing of appeals is concluded within as short a period as is reasonably possible.

7. (1) The Governor may appoint any qualified person to be the Senior Chairman of the Tribunal. ^{Senior Chairman.}

(2) A person is qualified to be appointed as the Senior ^{Chairman} Chairman if he is—

- (a) a Judge of the Supreme Court; or
- (b) a member of the Industrial Commission of New South Wales,

and has not attained the age of 70 years.

Government and Related Employees Appeal Tribunal.

8. The Senior Chairman shall, subject to this Act, be appointed for such term, not exceeding 7 years, as shall be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for reappointment as Senior Chairman. Term of office of Senior Chairman.

5 9. (1) The Governor may appoint a person qualified to be appointed as the Senior Chairman to be Acting Senior Chairman of the Tribunal during such period as the Senior Chairman may be absent from his duties. Acting Senior Chairman.

(2) While holding office, the Acting Senior Chairman of the Tribunal—

- (a) shall have and may exercise the functions of the Senior Chairman; and
- (b) shall be entitled to such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

10. (1) The Governor may appoint one or more qualified persons to be a Chairman of the Tribunal or Chairmen of the Tribunal. Chairman.

(2) A person is qualified to be appointed as a Chairman if he has, in the opinion of the Governor, suitable qualifications and experience to enable him properly to perform the functions of a Chairman and has not attained the age of 65 years.

11. A Chairman shall, subject to this Act, be appointed for such term, not exceeding 7 years, as shall be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for reappointment as a Chairman. Term of office of Chairman.

Government and Related Employees Appeal Tribunal.

12. Schedule 1 has effect with respect to the offices of Senior Chairman and Chairman.

Provisions relating to the offices of Senior Chairman and Chairman.

13. (1) The Tribunal shall, for the purpose of hearing an appeal, be constituted by 3 members comprising—

Constitution of the Tribunal.

- 5 (a) the Senior Chairman or a Chairman selected by the Senior Chairman;
- (b) an employer's representative qualified and selected in accordance with section 14; and
- 10 (c) an employee's representative qualified and selected in accordance with section 15.

(2) The Senior Chairman shall not select a Chairman to be a member of the Tribunal for the purpose of hearing an appeal under section 24 unless the Chairman is a barrister admitted by, or a solicitor of, the Supreme Court or a person qualified to be

15 admitted as a barrister by, or a solicitor of, that Court.

(3) In proceedings by or against the Tribunal no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Tribunal; or
- 20 (b) the appointment, nomination or selection of any member of the Tribunal.

14. The employer's representative shall be a person—

Employers' representatives.

- (a) whose name is included in the panel of persons nominated in accordance with this Act by the appellant's employer; and
- 25 (b) who is selected, as nearly as practicable in accordance with the order of preference set out in the nomination referred to in clause 1 of Schedule 2, by the employer.

Government and Related Employees Appeal Tribunal.

15. (1) The employee's representative shall be a person—

Employees'
represent-
atives.

(a) whose name is included in the panel of persons nominated in accordance with this Act by the appropriate association of employees; and

5 (b) who is selected, as nearly as practicable in accordance with the order of preference set out in the nomination referred to in clause 1 of Schedule 2, by the appropriate association of employees.

(2) A reference in subsection (1) to the appropriate
10 association of employees is a reference—

(a) where only one notice of appeal is lodged in respect of the decision of an employer appealed against—

15 (i) if the appellant has indicated in his notice of appeal that he is a member of only one association of employees—to that association of employees; or

(ii) except as provided by subparagraph (i)—to such association of employees as the Senior Chairman determines; and

20 (b) where 2 or more notices of appeal are lodged in respect of the decision of an employer appealed against—

25 (i) if each of the appellants has indicated in his notice of appeal that he is a member of the one association of employees and none of them is a member of any other such association—to that one association of employees; or

(ii) except as provided by subparagraph (i)—to such association of employees as the Senior Chairman determines.

Government and Related Employees Appeal Tribunal.

16. Schedule 2 has effect with respect to the nomination of employers' representatives and employees' representatives.

Provisions relating to the nomination of employers' representatives and employees' representatives.

17. Where one or more Chairmen have been appointed, more than one sitting of the Tribunal may be held at the same time.

Sittings of the Tribunal.

5 18. A Registrar of the Tribunal and such other persons as may be required for the proper administration of this Act shall be appointed under and subject to the Public Service Act, 1979.

Registrar and other staff of the Tribunal.

PART III.

APPEALS TO THE TRIBUNAL.

10 DIVISION 1.—*Promotions Appeals.*

15 19. (1) Except as provided by subsections (2) and (3), each employer shall publish and distribute to its employees, at intervals of not more than one month, a notice, in the prescribed form, containing particulars of any decision to appoint or recommend the appointment of an employee of the employer to fill a vacant office in the establishment of the employer, particulars of which have not previously been published in accordance with this subsection.

Publication of notices.

Government and Related Employees Appeal Tribunal.

(2) Nothing in subsection (1) applies to or in respect of an employer who is required, by or under any other Act, to give a notice to its employees containing particulars of the kind referred to in that subsection.

- 5 (3) The Senior Chairman may, on application by an employer, permit the employer to notify its employees of particulars of the kind referred to in subsection (1) by means of an approved form.

20. Subject to and in accordance with this Part, where an employer has made a decision to appoint or recommend the appointment of one of its employees to fill a vacant office in the establishment of the employer, any other employee of the employer may appeal against that decision to the Tribunal on the ground that the appellant is, having regard to the provisions of any Act, statutory instrument, industrial award or agreement or any advertisement published bona fide in relation to the vacant office, being an Act, statutory instrument, industrial award or agreement or advertisement which is required to be applied or taken into consideration by the employer in respect of an appointment to the vacant office, more entitled to be appointed to the vacant office than the employee in whose favour the decision is made.
- 10 Right of appeal.

21. (1) An employee is not entitled to appeal under section 20 in respect of the decision of an employer relating to a vacant office—

Excluded circumstances.

- 25 (a) if the appointment to the vacant office is not a permanent appointment;
- (b) if the vacant office is an office specified in Schedule 1, 2 or 3 to the Statutory and Other Offices Remuneration Act, 1975;
- 30 (c) if the vacant office is in the Special Division of the Public Service;

Government and Related Employees Appeal Tribunal.

- (d) if the maximum salary applicable to the vacant office at the date of the decision of the employer exceeds—
 - (i) except as provided in subparagraph (ii)—the amount equal to the maximum salary applicable to an office graded Grade 11 in the Administrative and Clerical Division of the Public Service; or
 - (ii) where another amount is prescribed—that other amount;
- (e) unless the maximum salary applicable to the vacant office is greater than the salary paid, at the date of the decision of the employer, to the appellant in relation to the office held by him at that date;
- (f) unless the maximum salary applicable to the vacant office is greater than the salary paid, at the date of the decision of the employer, to the employee in whose favour that decision is made in relation to the office held by him at that date;
- (g) unless, where an invitation to apply for appointment to the vacant office was published in a notice given by the employer to its employees or in a newspaper, he duly made application for appointment to the vacant office or had reasonable cause for failing to do so;
- (h) unless he satisfies the minimum requirements, in relation to the vacant office, of any Act, statutory instrument, industrial award or agreement or advertisement referred to in section 20;
- (i) unless he is willing to take up duties in the vacant office; or
- (j) if he or the employee in whose favour the decision of the employer is made is—
 - (i) a term officer within the meaning of section 4 (1) of the Public Service Act, 1979, or a temporary employee within the meaning of that subsection;

Government and Related Employees Appeal Tribunal.

(ii) an employee within the meaning of section 3 of the Teaching Service Act, 1970; or

5 (iii) in relation to an employee of a class referred to in paragraph (c), (d) or (e) of the definition of "employee" in section 4 (1), an employee who is employed, otherwise than permanently, in the service of his employer.

(2) Nothing in subsection (1) (j) prevents an employee, being a person employed, otherwise than permanently, in the
10 Wages Division of the Metropolitan Water Sewerage and Drainage Board, from appealing, under section 20, against a decision of the Board to appoint another such employee to a permanent office in the Wages Division of the Board and, for the purposes of any such appeal, a reference in subsection (1) to salary shall be read
15 and construed as including a reference to wages.

22. Where no invitation to apply for appointment to a vacant office in the establishment of an employer is published in a notice given by the employer to its employees or in a newspaper, and— Effect of failure to notify vacancy.

20 (a) where the employer is a person other than the Public Service Board—any employee employed by the employer; or

25 (b) where the employer is the Public Service Board—only employees employed in the same administrative unit (within the meaning of section 4 (1) of the Public Service Act, 1979) of which the vacant office forms part,

may, if otherwise entitled, appeal to the Tribunal against the decision of the employer to appoint or recommend the appointment of one of its employees to fill the vacant office.

Government and Related Employees Appeal Tribunal.

DIVISION 2.—Disciplinary Appeals.

23. (1) Where, in relation to an employee, an employer makes a decision, or a decision to make a recommendation—

Notice of
certain
decisions,
etc.

- 5 (a) to defer, for a period in excess of 6 months, the payment of an increment to the employee;
- (b) to reduce the rank, classification, position, grade or pay of the employee;
- (c) to impose a fine or forfeit pay in respect of any offence of which the employee is held to be guilty;
- 10 (d) to annul the appointment of an employee appointed on probation;
- (e) to suspend the employee as a punishment where the employee is held to be guilty of misconduct or contravention of any law or any rule or direction of the employer;
- 15 (f) to dismiss the employee; or
- (g) to direct or to require the employee to resign,

the employer shall, except as may be otherwise provided by an order made under subsection (3), give the employee notice, in
20 writing, of the decision as soon as practicable after the decision is made.

(2) Where an employer is unable to give an employee notice, under subsection (1), of a decision within 14 days after the decision is made, the employer may apply to the Senior Chairman for an order as to the giving of the notice.
25

(3) On receipt of an application under subsection (2), the Senior Chairman may make such order as he thinks fit as to the giving of the notice or may make an order dispensing with the giving of the notice.

30 (4) A notice may be given, or the giving of a notice may be dispensed with, in accordance with an order made under subsection (3).

Government and Related Employees Appeal Tribunal.

24. Notwithstanding anything contained in any other Act, an employee may, subject to and in accordance with this Part, appeal to the Tribunal against a decision of his employer, being a decision of a kind referred to in section 23 (1). Right of appeal.

5 25. (1) Nothing in section 24 derogates from or otherwise affects any right of appeal an employee may have, or other proceedings which may be instituted by him or on his behalf, under any other Act or law or any industrial award or agreement (whether enacted, existing or made before, on or after the day appointed and notified under section 2 (2)) in respect of a decision of a kind referred to in section 23 (1). Alternative rights of appeal.

(2) Where—

15 (a) an employee elects, in writing, to forgo a right of appeal under section 24 in respect of a decision of a kind referred to in section 23 (1); or

20 (b) an employee makes an appeal or institutes other proceedings or proceedings are instituted on his behalf in respect of a decision of a kind referred to in section 23 (1) under an Act or law or an industrial award or agreement referred to in subsection (1),

he may not thereafter appeal to the Tribunal under section 24 in respect of that decision.

(3) Where an employee appeals to the Tribunal under section 24 in respect of a decision of a kind referred to in section 23 (1), he may not thereafter, in respect of that decision, appeal or institute other proceedings or proceedings may not be instituted on his behalf under an Act or law or an industrial award or agreement referred to in subsection (1).

Government and Related Employees Appeal Tribunal.

26. (1) A decision of a kind referred to in section 23 (1) shall not be carried into effect—

Carrying into effect of certain decisions, etc.

(a) where no notice of appeal is lodged with respect to the decision within the time limited by section 29—until the expiration of that time; or

(b) where a notice of appeal is lodged with respect to the decision within the time limited by section 29—until the appeal is determined.

(2) Where an order is made under section 23 (3) dispensing with the giving of a notice to an employee of a decision of a kind referred to in section 23 (1), nothing in subsection (1) operates so as to prevent the decision from having effect at any time after the order is made, unless the Tribunal otherwise orders.

27. Where an employee has appealed under section 24 against a decision of his employer to dismiss him, the employee shall not, except to such extent, if any, as the Tribunal otherwise determines on the appeal, be entitled to any salary, wages or allowances in respect of any period occurring after the date of the decision.

Effect of decision to dismiss on payment of salary, etc.

DIVISION 3.—Procedures Relating to the Making of Appeals.

28. An employee may make an appeal by lodging with the Registrar a notice of appeal in the approved form.

Notice of appeal.

29. (1) An employee shall lodge a notice of appeal—

(a) in respect of an appeal under section 20—

Time for making appeal.

(i) where a notice containing particulars of the decision appealed against is given in accordance with section 19 (1) or by or under any other Act as referred to in section 19 (2)—within a period of 28 days after the date of the notice; and

Government and Related Employees Appeal Tribunal.

- (ii) where notification of the particulars of the decision appealed against is given in accordance with section 19 (3)—within a period of 28 days after the date of notification; or
- 5 (b) in respect of an appeal under section 24—within a period of 28 days after the employee is notified of the decision appealed against.
- (2) Nothing in subsection (1) prevents an employee from appealing to the Tribunal against a decision of his employer 10 particulars of which have not been given in accordance with section 19 (1), or by or under any other Act as referred to in section 19 (2), or in accordance with section 19 (3).
- 30.** (1) An employee may, by notice of appointment in or to the effect of the prescribed form, appoint a person to be his agent Appoint-ment of agents. 15 for the purposes of—
- (a) accepting service of—
- (i) a notice referred to in section 19 (1) or (2);
- (ii) a notification given under section 19 (3); or
- 20 (iii) a notice of a decision of a kind referred to in section 23 (1); and
- (b) completing and lodging a notice of appeal.
- (2) A copy of a notice of appointment under subsection (1) shall—
- 25 (a) where the employee referred to in that subsection is employed by an employer to whom section 19 (3) applies—be given to that employer; and
- (b) where a notice of appeal is lodged with the Registrar under section 28 by the person appointed pursuant to the notice of appointment—be given to 30 the Registrar on the lodging of the notice of appeal.

Government and Related Employees Appeal Tribunal.

31. (1) On receipt of a notice of appeal lodged in accordance with this Act against the decision of an employer, the Senior Chairman shall, as soon as practicable after the expiration of the period within which a notice of appeal may, under section 29, be lodged against that decision—

Arrange-
ments for
hearing
appeals.

(a) determine that—

(i) he shall preside as chairman; or

(ii) a Chairman selected by him shall preside as chairman,

10 at the sitting of the Tribunal for the purpose of hearing appeals against that decision;

(b) appoint a time, date and place for the hearing of those appeals; and

15 (c) notify the Registrar of the arrangements made under paragraphs (a) and (b).

(2) The Senior Chairman may, if he thinks fit, determine that 2 or more appeals in respect of the same decision shall be heard at one sitting of the Tribunal and, where the Tribunal hears 2 or more appeals at one sitting, it may make a single composite decision with respect to all or any of those appeals.

32. (1) Where the Registrar is notified under section 31 (1) of the arrangements made for the hearing of appeals, he shall thereupon, by notice in writing—

Notifica-
tion of
arrange-
ments.

25 (a) inform each appellant, the employer against whose decision the appeals are brought and the appropriate association of employees within the meaning of section 15 of the time, date and place appointed for the hearing of the appeals;

30 (b) inform that employer and that association of the particulars of the appeals;

Government and Related Employees Appeal Tribunal.

- (c) request that employer—
- 5 (i) to select, in accordance with this Act, a member of the Tribunal to be the employer's representative at the sitting of the Tribunal for the purpose of hearing the appeals;
 - (ii) to notify the member so selected of his selection and of the particulars of the appeals; and
 - (iii) to notify the Registrar of the name of the member so selected; and
- 10 (d) request that association—
- (i) to select, in accordance with this Act, a member of the Tribunal to be the employee's representative at the sitting of the Tribunal for the purpose of hearing the appeals;
 - 15 (ii) to notify the member so selected of his selection and of the particulars of the appeals; and
 - (iii) to notify the Registrar of the name of the member so selected.
- (2) The particulars referred to in subsection (1) (b), (c)
- 20 (ii) and (d) (ii) are particulars setting forth, in respect of each appeal—
- (a) the name and address of the appellant;
 - (b) where the appeal is—
 - 25 (i) an appeal under section 20—the vacant office in respect of which the notice of appeal is lodged; or
 - (ii) an appeal under section 24—the decision of the employer appealed against;
 - (c) a brief statement of the grounds of appeal specified in the
 - 30 notice of appeal lodged by each appellant; and
 - (d) such other particulars as the Senior Chairman may direct, either generally or in a particular case or class of cases.

Government and Related Employees Appeal Tribunal.

33. (1) Where a member of the Tribunal selected, in accordance with this Act, to be the employer's representative or the employee's representative at a sitting of the Tribunal for the purpose of hearing appeals—

Selection of persons to act in place of certain members.

5 (a) has neglected or refused to take and subscribe the oath referred to in clause 8 of Schedule 2; or

(b) is not present at the time, on the date and at the place appointed for the hearing of the appeals,

the Senior Chairman, or, where the sitting of the Tribunal is
10 presided over by a Chairman, the Chairman, may, in accordance with subsection (2), select a person to act in place of the member.

(2) A person selected as referred to in subsection (1) shall be—

15 (a) where the member referred to in that subsection is an employer's representative—any person; or

(b) where the member referred to in that subsection is an employee's representative—any employee.

(3) A person selected as referred to in subsection (1) while acting in the place of a member shall have and may exercise
20 the functions of the member.

PART IV.

HEARING OF APPEALS.

DIVISION 1.—*Formal and Informal Sitzings of the Tribunal.*

34. Subject to this or any other Act, a sitting of the Tribunal
25 for the purpose of hearing an appeal may be formal or informal.

Nature of sittings of the Tribunal.

Government and Related Employees Appeal Tribunal.

35. A sitting of the Tribunal for the purpose of hearing appeals under section 20—

Sittings relating to promotions appeals.

- (a) where there is one appellant—shall be informal unless the appellant specifies in his notice of appeal that the sitting is to be formal; and
- (b) where there are 2 or more appellants—shall be formal unless each appellant specifies in his notice of appeal that the sitting is to be informal.

36. A sitting of the Tribunal for the purpose of hearing an appeal under section 24 shall be formal.

Sittings relating to disciplinary appeals.

37. (1) Where a sitting of the Tribunal is informal, the proceedings before the Tribunal shall not be conducted in an adversary manner and shall, subject to this Act, be conducted in accordance with such directions as may be given by the Senior Chairman or Chairman presiding at the sitting.

Provisions relating to informal sittings.

(2) The persons entitled to be present at an informal sitting of the Tribunal are—

- (a) an appellant whose appeal is being heard by the Tribunal;
- (b) a person appointed by the employer against whose decision the appeal is brought, being a person appointed generally or in respect of a particular appeal or class of appeals; and
- (c) where the appeal is an appeal under section 20, the employee in whose favour the decision referred to in paragraph (b) has been made.

(3) The persons entitled, pursuant to subsection (2), to be present at an informal sitting of the Tribunal are not entitled to be represented by counsel, solicitor or agent or otherwise.

Government and Related Employees Appeal Tribunal.

(4) A person entitled, pursuant to subsection (2), to be present at an informal sitting of the Tribunal—

- 5 (a) may adduce, orally and in writing, to the Tribunal such matters, and address the Tribunal on such matters, as are relevant to the appeal;
- (b) may produce documents or exhibits to the Tribunal; and
- (c) may with the leave of the Tribunal, and shall, where directed to do so by the Tribunal, give evidence on oath.

10 (5) A person entitled, pursuant to subsection (2), to be present at an informal sitting of the Tribunal shall not—

- (a) call or examine any witness; or
- (b) cross-examine any other such person.

15 (6) Where a sitting of the Tribunal is informal, the proceedings before the Tribunal shall not be recorded unless the Senior Chairman or Chairman presiding at the sitting otherwise directs.

20 38. (1) Where a sitting of the Tribunal is formal, evidence in the proceedings before the Tribunal shall be given on oath and shall be subject to cross-examination. Provisions relating to formal sittings.

(2) The persons entitled to be present at a formal sitting of the Tribunal are the persons referred to in section 37 (2) (a), (b) and (c).

25 (3) Where a sitting of the Tribunal is formal, the sitting shall be open to the public unless the Tribunal, on the application of a person entitled, pursuant to subsection (2), to be present at the sitting, otherwise directs in relation to the whole or any part of the sitting.

30 (4) The persons entitled, pursuant to subsection (2), to be present at a formal sitting of the Tribunal are entitled to be represented by counsel, solicitor or agent or otherwise.

Government and Related Employees Appeal Tribunal.

(5) A person entitled, pursuant to subsection (2), to be present at a formal sitting of the Tribunal may call and examine any witness.

(6) A person proposed to be called as a witness in proceedings at a formal sitting of the Tribunal, not being a person entitled, pursuant to subsection (2), to be present at the sitting, shall, unless the Tribunal otherwise orders, be excluded from the proceedings prior to giving his evidence and the Tribunal may exclude a person proposed to be called as a witness from giving evidence if he has been present at the sitting prior to giving his evidence.

(7) Where a sitting of the Tribunal is formal, the proceedings before the Tribunal shall be recorded.

DIVISION 2.—General Powers of the Tribunal.

39. The procedure for the conduct of business at any sitting of the Tribunal shall, subject to this Part and the regulations, be as determined by the Senior Chairman.

Procedure
at sittings
of the
Tribunal.

40. The Senior Chairman, or the Chairman selected by the Senior Chairman, as the case may require, shall preside as chairman at a sitting of the Tribunal.

41. (1) At a sitting of the Tribunal, each member of the Tribunal present shall have one vote.

Votes of
members.

(2) At a sitting of the Tribunal, the decision on any matter arising for the determination of the Tribunal of a majority of the members of the Tribunal present and voting shall, except as provided by subsection (3), be the decision of the Tribunal.

Government and Related Employees Appeal Tribunal.

(3) The decision of the Senior Chairman or a Chairman, as the case may be, at a sitting of the Tribunal on any question of law or procedure which may arise in the hearing of an appeal before the Tribunal shall be the decision of the Tribunal.

5 (4) Where a Chairman presides at a sitting of the Tribunal, he shall, where he does not have a legal qualification referred to in section 13 (2), and may, in any other case, consult with the Senior Chairman before deciding any question of law or procedure which may arise in the hearing of an appeal before
10 the Tribunal.

42. (1) At the hearing of an appeal by the Tribunal, the employer's case shall be presented first. Order of presentation of cases.

(2) Nothing in subsection (1) removes from an appellant or any other person the onus of proving any ground on which he
15 relies.

43. (1) The Tribunal is not bound by the rules or practice Evidence. as to evidence and may, subject to subsection (2), inform itself on any matter in such manner as it thinks fit.

(2) The Tribunal shall not inform itself on, or take into
20 consideration, any matter which has not been disclosed in evidence at a sitting of the Tribunal if the matter is one which ought, in the interests of justice, to be available for challenge or testing by the persons entitled to be present at the sitting.

(3) Nothing in subsection (2) prevents the Tribunal from
25 informing itself on, or taking into consideration, any matter of which it is entitled to take judicial notice.

Government and Related Employees Appeal Tribunal.

44. (1) In relation to an appeal, the Senior Chairman or
a Chairman, by instrument in writing—

Discovery
of docu-
ments, atten-
dance of
witnesses,
etc.

- 5 (a) may require a person, being an employer or any person entitled, pursuant to section 37 (2) or 38 (2), to be present at a sitting of the Tribunal for the purpose of hearing the appeal, to produce, on or before such date as is specified in the instrument, for the inspection of any other such person so specified, any document or exhibit relevant to the appeal and which is so specified;
- 10 (b) may require a person referred to in paragraph (a) to do either or both of the following things, namely :—
- 15 (i) to lodge with the Tribunal, on or before such date as is specified in the instrument, a written case setting out the arguments on which the person relies in relation to the appeal;
- (ii) to serve, on or before such date as is specified in the instrument, on any other such person so specified, a copy of a written case referred to in subparagraph (i);
- 20 (c) may require the persons referred to in paragraph (a) to lodge with the Tribunal, on or before such date as is specified in the instrument, a statement of such facts or matters as are agreed upon between them in relation to the appeal;
- 25 (d) may require any person to appear before the Tribunal and to give evidence; and
- (e) may require any person to produce before the Tribunal any document or exhibit relevant to the appeal.

(2) A person who fails or neglects to comply with a
30 requirement made of him under subsection (1) is guilty of an offence against this Act and liable on conviction before a court of petty sessions constituted by a stipendiary magistrate sitting alone to a penalty not exceeding \$500.

Government and Related Employees Appeal Tribunal.

45. Any member of the Tribunal may administer an oath to any person giving evidence before the Tribunal. Administration of oath.

46. (1) The Tribunal may from time to time adjourn the hearing of an appeal to such times, dates and places and for such 5 reasons as it thinks fit. Adjournment.

(2) In the absence from a sitting of the Tribunal of one or two members of the Tribunal, the remaining member or members may exercise the Tribunal's powers under subsection (1).

47. (1) An appellant may at any time withdraw his appeal 10 against a decision of his employer, whether or not the Tribunal has commenced to consider the appeal. Withdrawal of appeals.

(2) Where the consideration by the Tribunal of appeals against a decision referred to in subsection (1) has not commenced, the appellant may withdraw his appeal by notifying the Registrar, 15 in writing, that he withdraws his appeal.

(3) Where the consideration by the Tribunal of appeals against a decision referred to in subsection (1) has commenced, the appellant may withdraw his appeal by informing the Tribunal that he withdraws his appeal.

20 48. (1) The Tribunal, in relation to an appeal under section 20, may decide to allow or disallow the appeal. Decisions with respect to appeals.

(2) The Tribunal, in relation to an appeal under section 24, may decide to allow or disallow the appeal or make such other decision with respect to the appeal as it thinks fit.

25 (3) The decision of the Tribunal in respect of an appeal shall, except as provided by Part V, be final and shall be given effect to by the employer against whose decision the appeal was brought.

Government and Related Employees Appeal Tribunal.

(4) The decision of the Tribunal in respect of an appeal shall be in the form of an instrument in writing signed by the Senior Chairman or Chairman before whom the appeal was heard and shall include the reasons for the decision.

5 49. (1) Where proceedings before the Tribunal are recorded, they shall be recorded in such manner as the Senior Chairman directs. Transcripts of proceedings.

(2) A record of proceedings before the Tribunal which is made by means of shorthand, stenotype machine or sound-
10 recording apparatus shall not be transcribed unless the Senior Chairman or a Chairman so determines or the transcription is required by law.

(3) Except as provided by subsection (4), a transcription made under subsection (2) shall be supplied only to a member
15 of the Tribunal approved by the Senior Chairman or by a Chairman or for the purposes of an appeal against a decision of the Tribunal.

(4) A copy of a record of proceedings before the Tribunal or a transcription made under subsection (2) in respect of pro-
20 ceedings at a formal sitting of the Tribunal may, at the discretion of the Senior Chairman presiding at the proceedings or sitting or the Chairman so presiding, be supplied to any person in accordance with such terms and conditions as the Minister may, from time to time, determine.

25 (5) Where, within 6 months after an appeal is determined, no transcription of the proceedings before the Tribunal on that appeal has been made under subsection (2), the record of those proceedings may be destroyed.

30 50. For the purposes of section 18 of the Defamation Act, 1974, the proceedings of the Tribunal shall be deemed to be an inquiry within the meaning of that section. Application of the Defamation Act, 1974.

Government and Related Employees Appeal Tribunal.

51. A person appearing before the Tribunal on the hearing of an appeal shall not be guilty of an offence against or otherwise be in breach of any law relating to the confidentiality or secrecy of information in respect of anything disclosed by him to the Tribunal which is relevant to the appeal.

Offences relating to secrecy of information.

52. Every document requiring authentication by the Tribunal may be sufficiently authenticated if signed by the Senior Chairman or a Chairman.

Authentication of documents.

53. Judicial notice shall be taken of the signature of the Senior Chairman, a Chairman or the Registrar when appearing on a document issued by the Tribunal.

Judicial notice of certain signatures.

PART V.

APPEALS FROM THE TRIBUNAL.

54. A person being—
 15 (a) an employer against whose decision an appeal is brought;
 (b) an appellant with respect to that decision; or
 (c) where the appeal is an appeal under section 20, the employee in whose favour that decision is made,
 may, subject to this Part, appeal to the Supreme Court against any
 20 decision of the Tribunal on a question of law.

Appeal to Supreme Court on point of law.

55. (1) An appeal under section 54 shall be made within 21 days after the date of the Tribunal's decision on the question of law the subject of the appeal and shall be made in accordance with the rules of the Supreme Court.

Time for making appeal, etc.

Government and Related Employees Appeal Tribunal.

(2) An appellant under section 54 shall, within the period of 21 days referred to in subsection (1), serve a copy of the process originating the appeal on the Tribunal and each other person referred to in section 54.

5 **56.** (1) The Supreme Court shall hear and determine the question of law arising on an appeal under section 54 and shall— Determina-
tion of
question of
law.

(a) remit the decision of the Court thereon to the Tribunal;
or

10 (b) make such order in relation to the appeal as to it seems fit.

(2) The Tribunal or a member of the Tribunal shall not be liable to any costs in respect of the decision of the appeal.

PART VI.

MISCELLANEOUS.

15 **57.** (1) Any notice or notification which, by or under this Act, is required or authorised to be given to any person may be given— Service of
notices.

20 (a) in the case of an employee—by delivering it personally to him or, where he has, under section 30 (1), appointed an agent, to his agent or by sending it by pre-paid post addressed to him at his place of employment or place of residence or, where he has, under section 30 (1), appointed an agent, to the address specified in the notice of appointment for the giving of notices under this Act;

25 (b) in the case of an employer not being a statutory body—by delivering it to him personally or by sending it by pre-paid post addressed to him at his place of business;

Government and Related Employees Appeal Tribunal.

(c) in the case of an employer being a statutory body—

(i) by leaving it at the principal office of the statutory body with a person apparently in the service of the statutory body and apparently not less than 16 years of age; or

(ii) by delivering it, or by sending it by pre-paid post, addressed to the statutory body at the address, if any, specified by the statutory body for the giving of notices under this Act, or, where no such address is specified, at the principal office of the statutory body; or

(d) in the case of the Tribunal—by delivering it to the Registrar or by sending it by pre-paid post to the Tribunal addressed to the Registrar at the office of the Tribunal.

(2) Notice or notification shall, in respect of a notice or notification sent by pre-paid post in accordance with subsection (1) (a), (b) or (c) (ii), be deemed to have been given at the time at which the notice or notification would be delivered in the ordinary course of post.

58. Each Act specified in Column 1 of Schedule 5 is, to the extent specified opposite that Act in Column 2 of Schedule 5, repealed.

59. Schedule 6 has effect.

Savings,
transitional
and other
provisions.

60. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations.

Government and Related Employees Appeal Tribunal.

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- 5 (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

10

SCHEDULE 1.

Sec. 12.

PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND CHAIRMAN.

1. The Public Service Act, 1979, does not apply to or in respect of the appointment of the Senior Chairman, the Acting Senior Chairman or a
 15 Chairman and a person so appointed is not, in his capacity as the Senior Chairman, the Acting Senior Chairman or a Chairman, subject to that Act while he holds office as the Senior Chairman, the Acting Senior Chairman or a Chairman. Applica-
tion of
Public
Service Act,
1979.
2. (1) The appointment of a holder of a judicial office or a magisterial
 20 office as the Senior Chairman or a Chairman shall not, nor shall his services as the Senior Chairman or a Chairman, affect his tenure of that office or his rank, title, status, precedence, salary or other rights or privileges as a holder of that office. Appoint-
ment of
holder of
judicial or
magisterial
office.
- (2) A holder of a judicial office or a magisterial office may, not-
 25 withstanding that he is the Senior Chairman or a Chairman, exercise his functions as a holder of that office, but while he is the Senior Chairman or a Chairman he shall not (unless otherwise provided by the instrument of his appointment as the Senior Chairman or a Chairman) be required to exercise his functions as a holder of that office.
- (3) The service, as Senior Chairman or Chairman, of a holder of a
 30 judicial office or a magisterial office shall, for all purposes, be taken to be service as a holder of that judicial office or magisterial office, as the case may be.

*Government and Related Employees Appeal Tribunal.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND
CHAIRMAN—*continued.*

3. (1) A person appointed as a Chairman who was not, at the time
5 of his appointment, the holder of a judicial office or a magisterial office shall, on his appointment, take the oath of allegiance and the judicial oath
as prescribed in the Oaths Act, 1900. Taking of certain oaths.

(2) Sections 11, 11A and 12 of the Oaths Act, 1900, apply to and
in respect of an oath required to be taken under subclause (1) of this clause
10 as if the oath were required to be taken under Part II of that Act.

4. A person appointed as a Chairman who was not, at the time of his
appointment, the holder of a judicial office or a magisterial office shall
devote the whole of his time to the duties of his office. Full-time appointments.

5. Each Chairman, not being a holder of a judicial office or a magisterial
15 office, is entitled to be paid— Remuneration.

(a) remuneration in accordance with the Statutory and Other Offices
Remuneration Act, 1975; and

(b) such travelling and subsistence allowances as the Minister may
from time to time determine in respect of him.

6. The Senior Chairman shall retire on the day on which he attains the
age of 70 years, unless he is granted retiring leave, in which case he shall
20 retire on the expiration of that leave. Retirement of Senior Chairman.

7. The Governor may remove the Senior Chairman or a Chairman, being
the holder of a judicial office, from office upon the address of both Houses
25 of Parliament, but not otherwise. Removal from office of holder of judicial office.

8. The Governor may remove a Chairman, not being the holder of a
judicial office, from office for inability, misbehaviour or failure to comply
with the terms and conditions of his appointment. Removal from office of Chairman not being holder of judicial office.

Government and Related Employees Appeal Tribunal.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND
CHAIRMAN—*continued.*

9. A Chairman, not being the holder of a judicial office, shall be deemed
5 to have vacated his office—

Vacation of
office by
Chairmen
not being
holders of
judicial
office.

(a) if he dies;

(b) if—

10 (i) not being the holder of a magisterial office, he engages
(whether in New South Wales or elsewhere) during his
term of office in any paid employment outside the duties
of his office; or

15 (ii) being the holder of a magisterial office, he engages
(whether in New South Wales or elsewhere) during his
term of office in any paid employment outside the duties
of his office, not being employment within the duties of
his magisterial office;

20 (c) if he becomes bankrupt, applies to take the benefit of any law for
the relief of bankrupt or insolvent debtors, compounds with his
creditors or makes an assignment of his remuneration for their
benefit;

(d) if he becomes a temporary patient, a continued treatment patient,
a protected person or an incapable person within the meaning of
the Mental Health Act, 1958, or a person under detention under
Part VII of that Act;

25 (e) if he is convicted in New South Wales of a crime or an offence
punishable by imprisonment for 12 months or upwards, or if he
is convicted elsewhere than in New South Wales of a crime or
an offence which if committed in New South Wales would be a
crime or an offence so punishable;

30 (f) if he resigns his office by writing under his hand addressed to
the Governor;

(g) if he is removed from office by the Governor under clause 8; or

(h) upon his attaining the age of 65 years.

10. (1) In this clause—

35 “statutory body” means any body declared under clause 12 to be a
statutory body for the purposes of this Schedule;

Preservation
of rights of
Chairmen
previously
public
servants, etc.

Government and Related Employees Appeal Tribunal.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND
CHAIRMAN—*continued.*

- 5 “superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.
- (2) Subject to subclause (3) of this clause and to the terms of his appointment, where a person appointed as a Chairman, not being the holder of a judicial office or a magisterial office, was, immediately before
10 his appointment—
- (a) an officer of the Public Service;
 - (b) a contributor to a superannuation scheme;
 - (c) an officer employed by a statutory body; or
 - (d) a person in respect of whom provision was made by any Act that
15 he retain any rights accrued or accruing to him as an officer or employee,
- he—
- (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
 - (f) may continue to contribute to any superannuation scheme to
20 which he was a contributor immediately before his appointment as a Chairman; and
 - (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,
- 25 as if he had continued to be such an officer, contributor or person during his service as a Chairman, and—
- (h) his service as a Chairman shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continued to contribute or by which that entitlement is conferred; and
 - (i) he shall be deemed to be an officer or employee, and the Tribunal shall be deemed to be his employer, for the purposes of the superannuation scheme to which he is entitled to contribute under
30 this clause.
- 35 (3) If a Chairman would, but for this subclause, be entitled under subclause (2) of this clause to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme, he shall

Government and Related Employees Appeal Tribunal.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND
CHAIRMAN—*continued.*

not be so entitled upon his becoming (whether upon his appointment as a
5 Chairman or at any later time while he holds office as a Chairman) a
contributor to any other superannuation scheme, and the provisions of
subclause (2) (i) of this clause cease to apply to or in respect of him
and the Tribunal in any case where he becomes a contributor to such
another superannuation scheme.

10 (4) Subclause (3) of this clause does not prevent the payment to a
Chairman upon his ceasing to be a contributor to a superannuation scheme
of such amount as would have been payable to him if he had ceased, by
reason of his resignation, to be an officer or employee for the purposes
of that scheme.

15 (5) A Chairman shall not, in respect of the same period of service,
be entitled to claim a benefit under this Act and another Act.

11. (1) In this clause—

“retiring age” means—

20 (a) in relation to a person who was, immediately before his
appointment as a Chairman, an officer of the Public Service
—the age of 60 years; and

25 (b) in relation to a person who was, immediately before his
appointment as a Chairman, an officer or employee of a
statutory body—the age at which officers or employees
(being officers or employees of the class to which that
person belonged immediately before his appointment as a
Chairman), as the case may be, of that statutory body are
entitled to retire;

30 “statutory body” means any body declared under clause 12 to be a
statutory body for the purposes of this Schedule.

(2) A person, not being the holder of a judicial office or a magisterial
office, who ceases to be a Chairman, otherwise than pursuant to clause 9
(paragraph (f) excepted), shall, if he has not attained the retiring age, be
entitled to be appointed, where, immediately before his appointment as a
35 Chairman, he was—

(a) an officer of the Public Service—to some office in the Public
Service; or

Re-appoint-
ment to
former em-
ployment in
certain
cases.

Government and Related Employees Appeal Tribunal.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND
CHAIRMAN—*continued.*

5 (b) an officer or employee of a statutory body—to some office in the
service of that body,

not lower in classification and salary than that which he held immediately
before his appointment as a Chairman.

12. The Governor may, by proclamation published in the Gazette, declare
any body constituted by or under any Act to be a statutory body for the
10 purposes of this Schedule. Declarations
of statutory
bodies.

SCHEDULE 2.

Sec. 16.

PROVISIONS RELATING TO THE NOMINATION OF EMPLOYERS'
REPRESENTATIVES AND EMPLOYEES' REPRESENTATIVES.

15 1. (1) The Registrar, at the direction of the Senior Chairman, shall, at all
such times as may be necessary for the due administration of this Act, by
notice in writing to an employer or an association of employees, direct the
employer or association, as the case may be, to nominate, on or before such
date as is specified in the notice, a panel of not less than 2 and not more
than 12 persons, in order of preference, to be members of the Tribunal. Direction
relating to
nominations.

20 (2) The order of preference referred to in subclause (1) of this clause
may, where the staff establishment of an employer or the membership of
an association of employees is divided into different classes or groups, be
nominated in relation to appeals made by members of those classes or
groups.

25 2. (1) A nomination pursuant to a direction under clause 1 shall be—

(a) in the approved form; and

(b) accompanied by—

(i) the consent, in writing, to his nomination of each person
nominated; and

Form of
nomination.

Government and Related Employees Appeal Tribunal.

SCHEDULE 2—*continued.*

PROVISIONS RELATING TO THE NOMINATION OF EMPLOYERS' REPRESENTATIVES AND EMPLOYEES' REPRESENTATIVES—*continued.*

- 5 (ii) the oath referred to in clause 8 sworn by each person nominated.

(2) A nomination pursuant to a direction under clause 1 shall be made by lodging the document required pursuant to subclause (1) of this clause with the Registrar.

- 10 3. A person nominated by the Public Service Board in accordance with this Schedule shall be—

(a) a member of the Public Service Board; or

(b) an employee.

Representative of Public Service Board.

4. A person nominated by the Director-General of Education in accordance with this Schedule shall be—

- 15 (a) the Director-General of Education;

(b) an officer within the meaning of section 3 of the Teaching Service Act, 1970; or

(c) an officer within the meaning of section 4 (1) of the Public Service Act, 1979, employed in the Department of Education.

Representatives of Director-General of Education.

- 20 5. A person nominated by an employing authority in accordance with this Schedule shall be—

(a) an employee; or

(b) where the employing authority is—

- 25 (i) a corporate body—a member of the corporate body;
(ii) a corporation sole—the person constituting the corporation sole; or
(iii) an individual—that individual.

Representatives of employing authorities.

Government and Related Employees Appeal Tribunal.

SCHEDULE 2—*continued.*

PROVISIONS RELATING TO THE NOMINATION OF EMPLOYERS' REPRESENTATIVES AND EMPLOYEES' REPRESENTATIVES—*continued.*

- 5 6. A person nominated by an association of employees in accordance with this Schedule shall be an employee. Representatives of associations of employees.
7. A person nominated in accordance with this Schedule as an employer's representative or an employee's representative shall, subject to this Act, hold office as a member of the Tribunal for a term of 3 years from the date specified in the notice given by the Registrar under clause 1 in pursuance of which the person's nomination was made and shall, if otherwise qualified, be eligible for renomination as an employer's representative or an employee's representative, as the case may be. Term of office.
- 10 8. (1) A person nominated in accordance with this Schedule as an employer's representative or an employee's representative shall not act as a member of the Tribunal unless he has taken an oath in the prescribed form. Oath.
- 15 (2) Sections 11, 11A and 12 of the Oaths Act, 1900, apply to and in respect of an oath required to be taken under subclause (1) of this clause as if the oath were an oath required to be taken under Part II of that Act.
- 20 9. The Governor may remove a member of the Tribunal, being an employer's representative or an employee's representative, from office if, without proper cause or excuse, he neglects or refuses to sit as a member of the Tribunal at any sitting at which he is required, by notice given under section 32 (1), to attend as an employer's representative or an employee's representative, as the case may be. Removal from office.
- 25 10. A member of the Tribunal, being an employer's representative or an employee's representative, shall be deemed to have vacated his office if— Vacation of office.
 - (a) he dies;
 - (b) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- 30

Government and Related Employees Appeal Tribunal.

SCHEDULE 2—*continued.*

PROVISIONS RELATING TO THE NOMINATION OF EMPLOYERS' REPRESENTATIVES AND EMPLOYEES' REPRESENTATIVES—*continued.*

- 5 (c) he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- 10 (d) he is convicted in New South Wales of a crime or an offence punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of a crime or an offence which if committed in New South Wales would be a crime or an offence so punishable;
- (e) he resigns his office by writing under his hand addressed to the Registrar;
- 15 (f) he is removed from office by the Governor; or
- (g) he ceases to hold the qualification by virtue of which he was nominated as an employer's representative or an employee's representative, as the case may be.

20 11. (1) On the occurrence of a vacancy in the office of a member of the Tribunal, being an employer's representative or an employee's representative, the employer or association of employees who nominated the member may, within one month after the occurrence of the vacancy, nominate, in the same manner, a person having the same qualifications as the member whose office has become vacant was nominated and qualified. Filling of casual vacancy.

25 (2) A person nominated under subclause (1) of this clause shall, subject to this Act, hold office as a member of the Tribunal for the balance of his predecessor's term of office.

30 12. (1) Where, for the purposes of this Act, no nomination or no proper nomination is made by an employer of a person to be a member of the Tribunal— Failure to make nomination.

- (a) on or before the date specified in a notice given by the Registrar under clause 1 to the employer; or
- (b) within one month after the occurrence of a vacancy in the office of a member nominated by the employer,

35 the Governor may appoint a person to be a member of the Tribunal, being a person qualified to be nominated by the employer to be a member of the Tribunal.

Government and Related Employees Appeal Tribunal.

SCHEDULE 2—*continued.*

PROVISIONS RELATING TO THE NOMINATION OF EMPLOYERS' REPRESENTATIVES AND EMPLOYEES' REPRESENTATIVES—*continued.*

- (2) Where, for the purposes of this Act, no nomination or no proper nomination is made by an association of employees of a person to be a member of the Tribunal—
- (a) on or before the date specified in a notice given by the Registrar under clause 1 to the association of employees; or
 - (b) within one month after the occurrence of a vacancy in the office of a member nominated by the association of employees,
- the Governor may appoint a person to be a member of the Tribunal, being a person qualified to be nominated by the association of employees to be a member of the Tribunal.
- (3) A person appointed as a member of the Tribunal—
- (a) under subclause (1) of this clause—shall be deemed to have been nominated in accordance with this Act by the employer in respect of whose neglect or default he was so appointed; or
 - (b) under subclause (2) of this clause—shall be deemed to have been nominated in accordance with this Act by the association of employees in respect of whose neglect or default he was so appointed.

SCHEDULE 3.

ASSOCIATIONS OF EMPLOYEES.

- Association of Railway Professional Officers of Australia.
- 25 Australasian Society of Engineers.
- Australian Institute of Marine and Power Engineers.
- Australian Railways Union.
- Australian Theatrical and Amusement Employees' Association.
- Australian Timber Workers' Union.
- 30 Australian Workers' Union.
- Building Workers' Industrial Union of Australia.

Sec. 4 (1),
defn. of
"association
of
employees",
(6), (7).

Government and Related Employees Appeal Tribunal.

SCHEDULE 3—*continued.*

ASSOCIATIONS OF EMPLOYEES—*continued.*

- Dental Technicians' Association of New South Wales.
- Electricity Supply Professional Officers' Association.
- 5 Federated Clerks' Union of Australia.
- Federated Engine Drivers and Fireman's Association of Australasia.
- Federated Ironworkers' Association of Australia.
- Federated Liquor and Allied Industries Employees Union of Australia.
- Federated Mining Mechanics' Association of Australasia.
- 10 Federated Municipal and Shire Council Employees' Union of Australia.
- Federated Rubber and Allied Workers Union of Australia.
- Federated Ship Painters and Dockers' Union of Australia.
- Federated Storemen and Packers' Union of Australia.
- Firemen and Deckhands' Union of New South Wales.
- 15 Furnishing Trades Society of New South Wales.
- National Union of Railwaymen of Australia.
- New South Wales Fire Brigade Employees' Union.
- New South Wales Nurses' Association.
- New South Wales Public Medical Officers Association.
- 20 New South Wales Public Service Professional Officers Association.
- New South Wales Real Estate Salesmen's Association.
- New South Wales Teachers Federation.
- Operative Plasterers and Plaster Workers' Federation of Australia.
- Operative Painters and Decorators' Union of Australia.
- 25 Operative Stonemasons Society of Australia.
- Plumbers and Gasfitters Employees' Union of Australia.
- Police Association of New South Wales.
- Printing and Kindred Industries Union.
- Public Service Association of New South Wales.
- 30 Seamen's Union of Australia.
- The Amalgamated Metal Workers' and Shipwrights' Union.
- The Amalgamated Society of Carpenters and Joiners of Australia.
- The Association of Architects, Engineers, Surveyors and Draughtsmen of Australia.
- 35 The Association of Professional Engineers, Australia.
- The Australasian Coal and Shale Employees Federation.

Government and Related Employees Appeal Tribunal.

SCHEDULE 3—*continued.*

ASSOCIATIONS OF EMPLOYEES—*continued.*

- The Australasian Meat Industry Employees Union.
- The Australasian Transport Officers Federation.
- 5 The Australian Journalists' Association.
- The Boot Trades Employees Federation.
- The Clothing and Allied Trades Union of Australia.
- The Electrical Trades Union of Australia.
- The Federated Brick, Tile and Pottery Industrial Union of Australia.
- 10 The Federated Miscellaneous Workers' Union.
- The Federated Moulders' (Metal) Union of Australia.
- The Health and Research Employees Association of Australia.
- The Hunter District Water Board Employees' Association.
- The Institute of Inspectors of Schools of New South Wales.
- 15 The M.S.B. Officers' Association.
- The Merchant Service Guild of Australia.
- The Professional Officers Association of New South Wales.
- Transport Workers' Union of Australia.
- Water and Sewerage Employees' Union.

SCHEDULE 4.

EMPLOYING AUTHORITIES.

- Board of Fire Commissioners of New South Wales.
- Board of Tick Control.
- Dairy Industry Authority of New South Wales.
- 25 Fish Marketing Authority.
- Forestry Commission in respect of all casual and general employees on forest work engaged under section 10 (1) of the Forestry Act, 1916.
- Greyhound Racing Control Board.
- Health Commission of New South Wales in respect of persons appointed
- 30 and employed under section 14A of the Health Commission Act, 1972.
- Homebush Abattoir Corporation.

Sec. 4 (1),
defn. of
"employing
authority",
(8), (9).

*Government and Related Employees Appeal Tribunal.*SCHEDULE 4—*continued.*EMPLOYING AUTHORITIES—*continued.*

- Metropolitan Waste Disposal Authority.
- New South Wales Film Corporation.
- 5 New South Wales Retirement Board.
- Pastures protection boards.
- Sydney Cove Redevelopment Authority.
- Sydney Farm Produce Market Authority.
- The Broken Hill Water Board.
- 10 The Commissioner for Main Roads.
- The Electricity Commission of New South Wales.
- The Grain Elevators Board of New South Wales.
- The Hunter District Water Board.
- The Maritime Services Board of New South Wales.
- 15 The Metropolitan Water Sewerage and Drainage Board.
- Totalizator Agency Board.
- Trotting Authority of New South Wales.
- Water Resources Commission.
- Zoological Parks Board of New South Wales.

20

SCHEDULE 5.

Sec. 58.

REPEALS.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
25		
1902, No. 31	Public Service (Promotion Appeals) Act, 1902.	The unrepealed portion.
1944, No. 15	Crown Employees Appeal Board Act, 1944.	The whole Act.
30 1952, No. 38	Crown Employees Appeal Board (Amendment) Act, 1952.	The whole Act.
1954, No. 36	Grain Elevators Act, 1954	Section 28.
1957, No. 55	Crown Employees Appeal Board (Amendment) Act, 1957.	The whole Act.

Government and Related Employees Appeal Tribunal.

SCHEDULE 5—continued.

REPEALS—continued.

Column 1.		Column 2.
5	Year and number of Act.	Short title of Act.
		Extent of repeal.
	1960, No. 16	Crown Employees Appeal Board (Amendment) Act, 1960. The whole Act.
	1963, No. 59	State Planning Authority Act, 1963. Section 9.
10	1964, No. 10	Crown Employees Appeal Board (Amendment) Act, 1964. The unrepealed portion.
	1964, No. 57	Crown Employees Appeal Board (Further Amendment) Act, 1964. The whole Act.
15	1968, No. 11	Sydney Farm Produce Market Authority Act, 1968. Section 8.
	1968, No. 56	Sydney Cove Redevelopment Authority Act, 1968. Section 9.
20	1970, No. 29	Dairy Industry Authority Act, 1970. Section 13 (2) and (3) and so much of Part II of the First Schedule as relates to Act No. 15, 1944.
	1970, No. 40	Crown Employees Appeal Board (Amendment) Act, 1970. The whole Act.
25	1970, No. 97	Waste Disposal Act, 1970. Section 14.
	1971, No. 43	Crown Employees Appeal Board (Amendment) Act, 1971. The whole Act.
30	1974, No. 86	Public Service and Crown Employees Appeal Board (Amendment) Act, 1974. The unrepealed portion.
	1975, No. 39	Public Service and Crown Employees Appeal Board (Amendment) Act, 1975. The whole Act.
35	1975, No. 54	Crown Employees Appeal Board (Amendment) Act, 1975. The whole Act.
	1976, No. 34	Water Resources Commission Act, 1976. So much of Schedule 6 as relates to Act No. 15, 1944.
	1976, No. 63	Statute Law Revision Act, 1976. So much of Schedule 1 as relates to Act No. 10, 1964.
40	1976, No. 72	Ambulance Services Act, 1976. So much of Schedule 2 as relates to Act No. 15, 1944, and clause 17 of Schedule 3.
	1977, No. 55	New South Wales Film Corporation Act, 1977. So much of Schedule 5 as relates to Act No. 15, 1944.
45	1979, No. 90	Public Service (Promotion Appeals) Amendment Act, 1979. The whole Act.
50	1979, No. 93	Crown Employees Appeal Board (Public Service) Amendment Act, 1979. The whole Act.

Government and Related Employees Appeal Tribunal.

SCHEDULE 6.

Sec. 59.

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

1. In this Schedule—

Interpre-
tation:
Sch. 6.

5 “appointed day” means the day appointed and notified under section
2 (2);

10 “cognate Acts” means the Industrial Arbitration (Appeal Tribunal)
Amendment Act, 1980, the Judges’ Pensions (Appeal Tribunal)
Amendment Act, 1980, the Teaching Service (Appeal Tribunal)
Amendment Act, 1980, the Supreme Court (Appeal Tribunal)
Amendment Act, 1980, the Statutory and Other Offices Remunera-
tion (Appeal Tribunal) Amendment Act, 1980, and the Public
Service (Appeal Tribunal) Amendment Act, 1980;

15 “former appellate body” means the Crown Employees Appeal Board or
a Promotions Appeal Tribunal constituted under section 69H of
the Public Service (Promotion Appeals) Act, 1902.

20 2. (1) An appeal against any decision of an employer, being a decision
made before the appointed day, may be made to, or continued and
completed before, a former appellate body and shall be given effect to, in
all respects as if this Act and the cognate Acts had not been enacted, and
not otherwise.

Appeals
against
decisions
made
before the
appointed
day.

25 (2) For any purpose of or incidental to subclause (1) of this clause,
the provisions of the Acts repealed by this Act, the provisions of the Acts
amended by the cognate Acts and the provisions of any instrument made
under those Acts and in force immediately before the appointed day shall,
notwithstanding any other provision of this Act or any provision of the
cognate Acts, continue in force.

(3) Nothing in this clause limits any saving in the Interpretation
Act, 1897.

30 (4) A person who is concerned in the hearing and determination of
an appeal to which this clause applies shall not, in respect of the same
period of service, be entitled to claim a benefit under this Act and an Act
the provisions of which are continued in force by subclause (2) of this
clause.

35 3. (1) On and from the appointed day, a reference in a provision of
any other Act or of any regulation, by-law or other statutory instrument
or of any other document, whether of the same or of a different kind (not
being a prescribed provision), to—

Construc-
tion of
certain
references.

(a) a former appellate body shall be read and construed as a reference
to the Tribunal; and

Government and Related Employees Appeal Tribunal.

SCHEDULE 6—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- 5 (b) the Chairman of the Crown Employees Appeal Board shall be read and construed as a reference to the Senior Chairman of the Tribunal.

(2) For the purposes of subclause (1) of this clause, the following provisions are prescribed provisions:—

- (a) clause 2;
- (b) section 8 (1) (c) of the Judges' Pensions Act, 1953;
- 10 (c) section 4 (2) of the Police Regulation (Priority Lists and Appeals) Amendment Act, 1978; and
- (d) section 5 of the Police Regulation (Appeals) Appeal Tribunal (Amendment) Act, 1980.

- 15 4. Section 69D of the Public Service (Promotion Appeals) Act, 1902, shall, notwithstanding the repeal of that Act, continue to apply after the date of repeal of that Act in favour of a person in respect of whom the section applied immediately before that date. Certain right of re-appointment to Public Service.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980

**GOVERNMENT AND RELATED EMPLOYEES
APPEAL TRIBUNAL ACT, 1980, No. 39**

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

* * * * *

Act No. 39, 1980.

An Act to constitute the Government and Related Employees Appeal Tribunal, to specify the circumstances in which government and related employees may appeal to the Tribunal against decisions relating to their promotion and discipline, and to otherwise provide for the functions of the

See also Police Regulation (Priority Lists) Amendment Act, 1980; Police Regulation (Appeals) Appeal Tribunal (Amendment) Act, 1980; Industrial Arbitration (Appeal Tribunal) Amendment Act, 1980; Electricity Commission (Appeal Tribunal) Amendment Act, 1980; Judges' Pensions (Appeal Tribunal) Amendment Act, 1980; Teaching Service (Appeal Tribunal) Amendment Act, 1980; Supreme Court (Appeal Tribunal) Amendment Act, 1980; Statutory and Other Offices Remuneration (Appeal Tribunal) Amendment Act, 1980; Police Regulation (Allegations of Misconduct) Appeal Tribunal (Amendment) Act, 1980; and Public Service (Appeal Tribunal) Amendment Act, 1980.

Government and Related Employees Appeal Tribunal.

Tribunal; and to repeal the Public Service (Promotion Appeals) Act, 1902, the Crown Employees Appeal Board Act, 1944, and certain other enactments. [Assented to, 28th April, 1980.]

BE 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 :—

PART I.

PRELIMINARY.

Short
title.

1. This Act may be cited as the "Government and Related Employees Appeal Tribunal Act, 1980".

Commence-
ment.

2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) For the purpose only of enabling the Tribunal to be constituted in accordance with this Act on or after (but not before) the day appointed and notified under subsection (2), appointments and nominations may be made in accordance with Part II and Schedules 1 and 2, and any act, matter or thing may be done, before that day, as if the whole of this Act commenced on the date of assent to this Act.

Government and Related Employees Appeal Tribunal.

3. This Act is divided as follows :—

Arrange-
ment.

PART I.—PRELIMINARY—ss. 1–4.

PART II.—GOVERNMENT AND RELATED EMPLOYEES
APPEAL TRIBUNAL—ss. 5–18.

PART III.—APPEALS TO THE TRIBUNAL—ss. 19–33.

DIVISION 1.—*Promotions Appeals*—ss. 19–22.

DIVISION 2.—*Disciplinary Appeals*—ss. 23–27.

DIVISION 3.—*Procedures Relating to the Making of
Appeals*—ss. 28–33.

PART IV.—HEARING OF APPEALS—ss. 34–53.

DIVISION 1.—*Formal and Informal Sitzings of the Tribunal*
—ss. 34–38.

DIVISION 2.—*General Powers of the Tribunal*—ss. 39–53.

PART V.—APPEALS FROM THE TRIBUNAL—ss. 54–56.

PART VI.—MISCELLANEOUS—ss. 57–60.

SCHEDULE 1.—PROVISIONS RELATING TO THE OFFICES OF
SENIOR CHAIRMAN AND CHAIRMAN.

SCHEDULE 2.—PROVISIONS RELATING TO THE NOMINA-
TION OF EMPLOYERS' REPRESENTATIVES AND
EMPLOYEES' REPRESENTATIVES.

SCHEDULE 3.—ASSOCIATIONS OF EMPLOYEES.

SCHEDULE 4.—EMPLOYING AUTHORITIES.

SCHEDULE 5.—REPEALS.

SCHEDULE 6.—SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS.

Government and Related Employees Appeal Tribunal.

**Interpre-
tation.**

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“appeal” means an appeal under section 20 or 24;

“association of employees” means an industrial union whose name for the time being is included in Schedule 3;

“Chairman” means a person for the time being appointed as a Chairman of the Tribunal under section 10 (1);

“employee” means—

- (a) a person who is an officer within the meaning of section 4 (1) of the Public Service Act, 1979, a term officer within the meaning of that subsection or a temporary employee within the meaning of that subsection;
- (b) a person who is an officer within the meaning of section 3 of the Teaching Service Act, 1970, or an employee within the meaning of that section;
- (c) a person who is employed, whether permanently or otherwise, in the service of an employing authority;
- (d) a person who is employed, whether permanently or otherwise—
 - (i) as an officer of either House of Parliament; or
 - (ii) in any position under the separate control of the President of the Legislative Council or Speaker of the Legislative Assembly, or under their joint control; or
- (e) a person (not being a person to whom paragraph (a), (b), (c) or (d) applies, an officer within the meaning of section 3 (g) of the Government Railways Act, 1912, or an officer or employee of the Department of Motor Transport) who is

Government and Related Employees Appeal Tribunal.

employed in the service of the Crown by a person other than the Public Service Board or an employing authority;

“employer” means—

- (a) in relation to an employee of the class referred to in paragraph (a) of the definition of “employee”—
 - (i) for the purposes of those provisions of this Act relating to the membership and constitution of the Tribunal—the Public Service Board; and
 - (ii) for the purposes of those provisions of this Act relating to the making of appeals and the hearing of appeals—the person against whose decision the appeal is made, being, as the case may require, the Public Service Board or the appropriate Department Head within the meaning of section 4 (1) of the Public Service Act, 1979;
- (b) in relation to an employee of the class referred to in paragraph (b) of that definition—
 - (i) for the purposes of those provisions of this Act relating to the membership and constitution of the Tribunal—the Director-General of Education; and
 - (ii) for the purposes of those provisions of this Act relating to the making of appeals and the hearing of appeals—the person against whose decision the appeal is made, being, as the case may require, the Director-General of Education or a prescribed officer within the meaning of section 37 of the Teaching Service Act, 1970;

Government and Related Employees Appeal Tribunal.

- (c) in relation to an employee of the class referred to in paragraph (c) of that definition, the employing authority in whose service the employee is employed;
- (d) in relation to an employee of the class referred to in paragraph (d) of that definition—
 - (i) where the employee is an officer of the Legislative Council or under the separate control of the President of the Legislative Council—the President;
 - (ii) where the employee is an officer of the Legislative Assembly or under the separate control of the Speaker of the Legislative Assembly—the Speaker; or
 - (iii) where the employee is under the joint control of the President of the Legislative Council and the Speaker of the Legislative Assembly—the President and Speaker jointly; and
- (e) in relation to an employee of the class referred to in paragraph (e) of that definition—
 - (i) for the purposes of those provisions of this Act relating to the membership and constitution of the Tribunal—the Public Service Board; and
 - (ii) for the purposes of those provisions of this Act relating to the making of appeals and the hearing of appeals—the person in whose service the employee is employed;

“employing authority” means, subject to subsection (8), a person whose name is included in Schedule 4;

“functions” includes powers, authorities and duties;

“industrial union” means—

- (a) an industrial union within the meaning of section 5 (1) of the Industrial Arbitration Act, 1940; and

Government and Related Employees Appeal Tribunal.

- (b) an association of employees registered as an organization under the Conciliation and Arbitration Act 1904, as subsequently amended, of the Parliament of the Commonwealth;

“notice of appeal” means a notice of appeal lodged with the Registrar under section 28;

“office” includes position;

“Public Service” has the meaning ascribed to that expression by section 4 (1) of the Public Service Act, 1979;

“Public Service Board” means the Public Service Board of New South Wales constituted under the Public Service Act, 1979;

“Registrar” means the person for the time being appointed, as referred to in section 18, as Registrar of the Tribunal;

“regulation” means a regulation under this Act;

“Senior Chairman” means the person for the time being appointed as Senior Chairman of the Tribunal under section 7 (1);

“Tribunal” means the Government and Related Employees Appeal Tribunal established under section 5 (1).

(2) A reference in this Act to the exercise of a function includes, where that function is a duty, the performance of that duty.

(3) A reference in this Act to—

- (a) the appointment of an employee to fill a vacant office includes a reference to the appointment of an employee to a higher position; and
- (b) a vacant office includes a reference to a higher position the subject of an appointment referred to in paragraph (a).

Government and Related Employees Appeal Tribunal.

(4) A reference in this Act to the hearing of an appeal includes a reference to the determination of the appeal and the hearing and determination of any business arising out of the appeal.

(5) A reference in this Act to an approved form is a reference to a form in or to the effect of a form approved by the Senior Chairman.

(6) The Governor may, by proclamation published in the Gazette, amend Schedule 3—

- (a) by inserting therein the name of any industrial union whose members, in the opinion of the Governor, consist of, or consist of a substantial number of, employees;
- (b) by omitting therefrom the name of any industrial union whose members, in the opinion of the Governor, no longer consist of a substantial number of employees; or
- (c) by omitting therefrom the name of any industrial union which has changed its name or has amalgamated with one or more other industrial unions if the industrial registrar under the Industrial Arbitration Act, 1940, has made the record required by that Act of the change or amalgamation and by inserting therein the changed name of the industrial union or the name of the industrial union which comprises the industrial unions which have amalgamated, as the case may require.

(7) Where the industrial registrar under the Industrial Arbitration Act, 1940, has made the record required by that Act of the change of name of an industrial union whose name, before the change, was included in Schedule 3 or of the amalgamation, with one or more other industrial unions, of an industrial union whose name, before the amalgamation, was included in that Schedule, the industrial union which bears the changed name or which comprises the industrial unions which have amalgamated, as the case may be, shall be deemed to be an association of employees within the meaning of this Act.

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(8) Where the name of a person is included in Schedule 4 in respect of a person or class of persons, the firstmentioned person is, for the purposes of this Act, an employing authority only in respect of that other person or class of persons.

(9) The Governor may, by proclamation published in the Gazette, amend Schedule 4—

(a) by inserting therein—

- (i) the name of any person, whether or not in respect of any other person or class of persons; or
- (ii) in respect of an employing authority, a person or class of persons;

(b) by omitting therefrom—

- (i) the name of any person, whether or not in respect of any other person or class of persons; or
- (ii) in respect of an employing authority, a person or class of persons; or

(c) by altering—

- (i) the name of any person; or
- (ii) a class of persons.

(10) A reference in this Act to the selection of a member of the Tribunal as an employer's representative or an employee's representative includes a reference to the selection of such a member by a person authorised in that behalf by the employer or the association of employees, as the case may be, entitled in accordance with this Act to make the selection.

Government and Related Employees Appeal Tribunal.

PART II.

GOVERNMENT AND RELATED EMPLOYEES APPEAL TRIBUNAL.

The
Tribunal.

5. (1) There shall be a Government and Related Employees Appeal Tribunal.

(2) Subject to this Act, the members of the Tribunal are the Senior Chairman, the Chairmen and the persons for the time being nominated in accordance with this Act as employers' representatives and employees' representatives.

Functions
of the
Tribunal.

6. (1) The Tribunal shall have and may exercise the functions conferred upon it by or under this or any other Act.

(2) In the exercise of its functions, the Tribunal shall do all such things as are necessary to ensure—

- (a) that appeals are set down for hearing with as much expedition as is reasonably possible; and
- (b) that the hearing of appeals is concluded within as short a period as is reasonably possible.

Senior
Chairman.

7. (1) The Governor may appoint any qualified person to be the Senior Chairman of the Tribunal.

(2) A person is qualified to be appointed as the Senior Chairman if he is—

- (a) a Judge of the Supreme Court; or
- (b) a member of the Industrial Commission of New South Wales,

and has not attained the age of 70 years.

Government and Related Employees Appeal Tribunal.

8. The Senior Chairman shall, subject to this Act, be appointed for such term, not exceeding 7 years, as shall be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for reappointment as Senior Chairman. Term of office of Senior Chairman.

9. (1) The Governor may appoint a person qualified to be appointed as the Senior Chairman to be Acting Senior Chairman of the Tribunal during such period as the Senior Chairman may be absent from his duties. Acting Senior Chairman.

(2) While holding office, the Acting Senior Chairman of the Tribunal—

- (a) shall have and may exercise the functions of the Senior Chairman; and
- (b) shall be entitled to such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

10. (1) The Governor may appoint one or more qualified persons to be a Chairman of the Tribunal or Chairmen of the Tribunal. Chairman.

(2) A person is qualified to be appointed as a Chairman if he has, in the opinion of the Governor, suitable qualifications and experience to enable him properly to perform the functions of a Chairman and has not attained the age of 65 years.

11. A Chairman shall, subject to this Act, be appointed for such term, not exceeding 7 years, as shall be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for reappointment as a Chairman. Term of office of Chairman.

Government and Related Employees Appeal Tribunal.

Provisions
relating to
the offices
of Senior
Chairman
and
Chairman.

12. Schedule 1 has effect with respect to the offices of Senior Chairman and Chairman.

Constitu-
tion of the
Tribunal.

13. (1) The Tribunal shall, for the purpose of hearing an appeal, be constituted by 3 members comprising—

- (a) the Senior Chairman or a Chairman selected by the Senior Chairman;
- (b) an employer's representative qualified and selected in accordance with section 14; and
- (c) an employee's representative qualified and selected in accordance with section 15.

(2) The Senior Chairman shall not select a Chairman to be a member of the Tribunal for the purpose of hearing an appeal under section 24 unless the Chairman is a barrister admitted by, or a solicitor of, the Supreme Court or a person qualified to be admitted as a barrister by, or a solicitor of, that Court.

(3) In proceedings by or against the Tribunal no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Tribunal; or
- (b) the appointment, nomination or selection of any member of the Tribunal.

Employers'
represent-
atives.

14. The employer's representative shall be a person—

- (a) whose name is included in the panel of persons nominated in accordance with this Act by the appellant's employer; and
- (b) who is selected, as nearly as practicable in accordance with the order of preference set out in the nomination referred to in clause 1 of Schedule 2, by the employer.

Government and Related Employees Appeal Tribunal.

15. (1) The employee's representative shall be a person—

Employees'
represent-
atives.

- (a) whose name is included in the panel of persons nominated in accordance with this Act by the appropriate association of employees; and
- (b) who is selected, as nearly as practicable in accordance with the order of preference set out in the nomination referred to in clause 1 of Schedule 2, by the appropriate association of employees.

(2) A reference in subsection (1) to the appropriate association of employees is a reference—

- (a) where only one notice of appeal is lodged in respect of the decision of an employer appealed against—
 - (i) if the appellant has indicated in his notice of appeal that he is a member of only one association of employees—to that association of employees; or
 - (ii) except as provided by subparagraph (i)—to such association of employees as the Senior Chairman determines; and
- (b) where 2 or more notices of appeal are lodged in respect of the decision of an employer appealed against—
 - (i) if each of the appellants has indicated in his notice of appeal that he is a member of the one association of employees and none of them is a member of any other such association—to that one association of employees; or
 - (ii) except as provided by subparagraph (i)—to such association of employees as the Senior Chairman determines.

Government and Related Employees Appeal Tribunal.

Provisions
relating
to the
nomination
of
employers'
represent-
atives
and
employees'
represent-
atives.

16. Schedule 2 has effect with respect to the nomination of employers' representatives and employees' representatives.

Sittings
of the
Tribunal.

17. Where one or more Chairmen have been appointed, more than one sitting of the Tribunal may be held at the same time.

Registrar
and other
staff of the
Tribunal.

18. A Registrar of the Tribunal and such other persons as may be required for the proper administration of this Act shall be appointed under and subject to the Public Service Act, 1979.

PART III.

APPEALS TO THE TRIBUNAL.

DIVISION 1.—*Promotions Appeals.*

Publication
of notices.

19. (1) Except as provided by subsections (2) and (3), each employer shall publish and distribute to its employees, at intervals of not more than one month, a notice, in the prescribed form, containing particulars of any decision to appoint or recommend the appointment of an employee of the employer to fill a vacant office in the establishment of the employer, particulars of which have not previously been published in accordance with this subsection.

Government and Related Employees Appeal Tribunal.

(2) Nothing in subsection (1) applies to or in respect of an employer who is required, by or under any other Act, to give a notice to its employees containing particulars of the kind referred to in that subsection.

(3) The Senior Chairman may, on application by an employer, permit the employer to notify its employees of particulars of the kind referred to in subsection (1) by means of an approved form.

20. Subject to and in accordance with this Part, where an employer has made a decision to appoint or recommend the appointment of one of its employees to fill a vacant office in the establishment of the employer, any other employee of the employer may appeal against that decision to the Tribunal on the ground that the appellant is, having regard to the provisions of any Act, statutory instrument, industrial award or agreement or any advertisement published bona fide in relation to the vacant office, being an Act, statutory instrument, industrial award or agreement or advertisement which is required to be applied or taken into consideration by the employer in respect of an appointment to the vacant office, more entitled to be appointed to the vacant office than the employee in whose favour the decision is made. Right of appeal.

21. (1) An employee is not entitled to appeal under section 20 in respect of the decision of an employer relating to a vacant office— Excluded circumstances.

- (a) if the appointment to the vacant office is not a permanent appointment;
- (b) if the vacant office is an office specified in Schedule 1, 2 or 3 to the Statutory and Other Offices Remuneration Act, 1975;
- (c) if the vacant office is in the Special Division of the Public Service;

Government and Related Employees Appeal Tribunal.

- (d) if the maximum salary applicable to the vacant office at the date of the decision of the employer exceeds—
 - (i) except as provided in subparagraph (ii)—the amount equal to the maximum salary applicable to an office graded Grade 11 in the Administrative and Clerical Division of the Public Service; or
 - (ii) where another amount is prescribed—that other amount;
- (e) unless the maximum salary applicable to the vacant office is greater than the salary paid, at the date of the decision of the employer, to the appellant in relation to the office held by him at that date;
- (f) unless the maximum salary applicable to the vacant office is greater than the salary paid, at the date of the decision of the employer, to the employee in whose favour that decision is made in relation to the office held by him at that date;
- (g) unless, where an invitation to apply for appointment to the vacant office was published in a notice given by the employer to its employees or in a newspaper, he duly made application for appointment to the vacant office or had reasonable cause for failing to do so;
- (h) unless he satisfies the minimum requirements, in relation to the vacant office, of any Act, statutory instrument, industrial award or agreement or advertisement referred to in section 20;
- (i) unless he is willing to take up duties in the vacant office; or
- (j) if he or the employee in whose favour the decision of the employer is made is—
 - (i) a term officer within the meaning of section 4 (1) of the Public Service Act, 1979, or a temporary employee within the meaning of that subsection;

Government and Related Employees Appeal Tribunal.

- (ii) an employee within the meaning of section 3 of the Teaching Service Act, 1970; or
- (iii) in relation to an employee of a class referred to in paragraph (c), (d) or (e) of the definition of "employee" in section 4 (1), an employee who is employed, otherwise than permanently, in the service of his employer.

(2) Nothing in subsection (1) (j) prevents an employee, being a person employed, otherwise than permanently, in the Wages Division of the Metropolitan Water Sewerage and Drainage Board, from appealing, under section 20, against a decision of the Board to appoint another such employee to a permanent office in the Wages Division of the Board and, for the purposes of any such appeal, a reference in subsection (1) to salary shall be read and construed as including a reference to wages.

22. Where no invitation to apply for appointment to a vacant office in the establishment of an employer is published in a notice given by the employer to its employees or in a newspaper, and—

Effect of failure to notify vacancy.

- (a) where the employer is a person other than the Public Service Board—any employee employed by the employer; or
- (b) where the employer is the Public Service Board—only employees employed in the same administrative unit (within the meaning of section 4 (1) of the Public Service Act, 1979) of which the vacant office forms part,

may, if otherwise entitled, appeal to the Tribunal against the decision of the employer to appoint or recommend the appointment of one of its employees to fill the vacant office.

Government and Related Employees Appeal Tribunal.

DIVISION 2.—Disciplinary Appeals.

Notice of
certain
decisions,
etc.

23. (1) Where, in relation to an employee, an employer makes a decision, or a decision to make a recommendation—

- (a) to defer, for a period in excess of 6 months, the payment of an increment to the employee;
- (b) to reduce the rank, classification, position, grade or pay of the employee;
- (c) to impose a fine or forfeit pay in respect of any offence of which the employee is held to be guilty;
- (d) to annul the appointment of an employee appointed on probation;
- (e) to suspend the employee as a punishment where the employee is held to be guilty of misconduct or contravention of any law or any rule or direction of the employer;
- (f) to dismiss the employee; or
- (g) to direct or to require the employee to resign,

the employer shall, except as may be otherwise provided by an order made under subsection (3), give the employee notice, in writing, of the decision as soon as practicable after the decision is made.

(2) Where an employer is unable to give an employee notice, under subsection (1), of a decision within 14 days after the decision is made, the employer may apply to the Senior Chairman for an order as to the giving of the notice.

(3) On receipt of an application under subsection (2), the Senior Chairman may make such order as he thinks fit as to the giving of the notice or may make an order dispensing with the giving of the notice.

(4) A notice may be given, or the giving of a notice may be dispensed with, in accordance with an order made under subsection (3).

Government and Related Employees Appeal Tribunal.

24. Notwithstanding anything contained in any other Act, an employee may, subject to and in accordance with this Part, appeal to the Tribunal against a decision of his employer, being a decision of a kind referred to in section 23 (1). Right of appeal.

25. (1) Nothing in section 24 derogates from or otherwise affects any right of appeal an employee may have, or other proceedings which may be instituted by him or on his behalf, under any other Act or law or any industrial award or agreement (whether enacted, existing or made before, on or after the day appointed and notified under section 2 (2)) in respect of a decision of a kind referred to in section 23 (1). Alternative rights of appeal.

(2) Where—

- (a) an employee elects, in writing, to forgo a right of appeal under section 24 in respect of a decision of a kind referred to in section 23 (1); or
- (b) an employee makes an appeal or institutes other proceedings or proceedings are instituted on his behalf in respect of a decision of a kind referred to in section 23 (1) under an Act or law or an industrial award or agreement referred to in subsection (1),

he may not thereafter appeal to the Tribunal under section 24 in respect of that decision.

(3) Where an employee appeals to the Tribunal under section 24 in respect of a decision of a kind referred to in section 23 (1), he may not thereafter, in respect of that decision, appeal or institute other proceedings or proceedings may not be instituted on his behalf under an Act or law or an industrial award or agreement referred to in subsection (1).

Government and Related Employees Appeal Tribunal.

Carrying
into
effect of
certain
decisions,
etc.

26. (1) A decision of a kind referred to in section 23 (1) shall not be carried into effect—

- (a) where no notice of appeal is lodged with respect to the decision within the time limited by section 29—until the expiration of that time; or
- (b) where a notice of appeal is lodged with respect to the decision within the time limited by section 29—until the appeal is determined.

(2) Where an order is made under section 23 (3) dispensing with the giving of a notice to an employee of a decision of a kind referred to in section 23 (1), nothing in subsection (1) operates so as to prevent the decision from having effect at any time after the order is made, unless the Tribunal otherwise orders.

Effect of
decision
to dismiss
on payment
of salary,
etc.

27. Where an employee has appealed under section 24 against a decision of his employer to dismiss him, the employee shall not, except to such extent, if any, as the Tribunal otherwise determines on the appeal, be entitled to any salary, wages or allowances in respect of any period occurring after the date of the decision.

DIVISION 3.—*Procedures Relating to the Making of Appeals.*

Notice of
appeal.

28. An employee may make an appeal by lodging with the Registrar a notice of appeal in the approved form.

Time for
making
appeal.

29. (1) An employee shall lodge a notice of appeal—

- (a) in respect of an appeal under section 20—
 - (i) where a notice containing particulars of the decision appealed against is given in accordance with section 19 (1) or by or under any other Act as referred to in section 19 (2)—within a period of 28 days after the date of the notice; and

Government and Related Employees Appeal Tribunal.

- (ii) where notification of the particulars of the decision appealed against is given in accordance with section 19 (3)—within a period of 28 days after the date of notification; or
- (b) in respect of an appeal under section 24—within a period of 28 days after the employee is notified of the decision appealed against.

(2) Nothing in subsection (1) prevents an employee from appealing to the Tribunal against a decision of his employer particulars of which have not been given in accordance with section 19 (1), or by or under any other Act as referred to in section 19 (2), or in accordance with section 19 (3).

30. (1) An employee may, by notice of appointment in or to the effect of the prescribed form, appoint a person to be his agent for the purposes of—

Appoint-
ment of
agents.

- (a) accepting service of—
 - (i) a notice referred to in section 19 (1) or (2);
 - (ii) a notification given under section 19 (3); or
 - (iii) a notice of a decision of a kind referred to in section 23 (1); and
- (b) completing and lodging a notice of appeal.

(2) A copy of a notice of appointment under subsection (1) shall—

- (a) where the employee referred to in that subsection is employed by an employer to whom section 19 (3) applies—be given to that employer; and
- (b) where a notice of appeal is lodged with the Registrar under section 28 by the person appointed pursuant to the notice of appointment—be given to the Registrar on the lodging of the notice of appeal.

Government and Related Employees Appeal Tribunal.

Arrangements for hearing appeals.

31. (1) On receipt of a notice of appeal lodged in accordance with this Act against the decision of an employer, the Senior Chairman shall, as soon as practicable after the expiration of the period within which a notice of appeal may, under section 29, be lodged against that decision—

(a) determine that—

(i) he shall preside as chairman; or

(ii) a Chairman selected by him shall preside as chairman,

at the sitting of the Tribunal for the purpose of hearing appeals against that decision;

(b) appoint a time, date and place for the hearing of those appeals; and

(c) notify the Registrar of the arrangements made under paragraphs (a) and (b).

(2) The Senior Chairman may, if he thinks fit, determine that 2 or more appeals in respect of the same decision shall be heard at one sitting of the Tribunal and, where the Tribunal hears 2 or more appeals at one sitting, it may make a single composite decision with respect to all or any of those appeals.

Notification of arrangements.

32. (1) Where the Registrar is notified under section 31 (1) of the arrangements made for the hearing of appeals, he shall thereupon, by notice in writing—

(a) inform each appellant, the employer against whose decision the appeals are brought and the appropriate association of employees within the meaning of section 15 of the time, date and place appointed for the hearing of the appeals;

(b) inform that employer and that association of the particulars of the appeals;

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(c) request that employer—

- (i) to select, in accordance with this Act, a member of the Tribunal to be the employer's representative at the sitting of the Tribunal for the purpose of hearing the appeals;
- (ii) to notify the member so selected of his selection and of the particulars of the appeals; and
- (iii) to notify the Registrar of the name of the member so selected; and

(d) request that association—

- (i) to select, in accordance with this Act, a member of the Tribunal to be the employee's representative at the sitting of the Tribunal for the purpose of hearing the appeals;
- (ii) to notify the member so selected of his selection and of the particulars of the appeals; and
- (iii) to notify the Registrar of the name of the member so selected.

(2) The particulars referred to in subsection (1) (b), (c) (ii) and (d) (ii) are particulars setting forth, in respect of each appeal—

(a) the name and address of the appellant;

(b) where the appeal is—

- (i) an appeal under section 20—the vacant office in respect of which the notice of appeal is lodged; or
- (ii) an appeal under section 24—the decision of the employer appealed against;

(c) a brief statement of the grounds of appeal specified in the notice of appeal lodged by each appellant; and

(d) such other particulars as the Senior Chairman may direct, either generally or in a particular case or class of cases.

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Selection of
persons to
act in place
of certain
members.

33. (1) Where a member of the Tribunal selected, in accordance with this Act, to be the employer's representative or the employee's representative at a sitting of the Tribunal for the purpose of hearing appeals—

- (a) has neglected or refused to take and subscribe the oath referred to in clause 8 of Schedule 2; or
- (b) is not present at the time, on the date and at the place appointed for the hearing of the appeals,

the Senior Chairman, or, where the sitting of the Tribunal is presided over by a Chairman, the Chairman, may, in accordance with subsection (2), select a person to act in place of the member.

(2) A person selected as referred to in subsection (1) shall be—

- (a) where the member referred to in that subsection is an employer's representative—any person; or
- (b) where the member referred to in that subsection is an employee's representative—any employee.

(3) A person selected as referred to in subsection (1) while acting in the place of a member shall have and may exercise the functions of the member.

PART IV.

HEARING OF APPEALS.

DIVISION 1.—*Formal and Informal Sitzings of the Tribunal.*

Nature of
sittings
of the
Tribunal.

34. Subject to this or any other Act, a sitting of the Tribunal for the purpose of hearing an appeal may be formal or informal.

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35. A sitting of the Tribunal for the purpose of hearing appeals under section 20—

Sittings relating to promotions appeals.

- (a) where there is one appellant—shall be informal unless the appellant specifies in his notice of appeal that the sitting is to be formal; and
- (b) where there are 2 or more appellants—shall be formal unless each appellant specifies in his notice of appeal that the sitting is to be informal.

36. A sitting of the Tribunal for the purpose of hearing an appeal under section 24 shall be formal.

Sittings relating to disciplinary appeals.

37. (1) Where a sitting of the Tribunal is informal, the proceedings before the Tribunal shall not be conducted in an adversary manner and shall, subject to this Act, be conducted in accordance with such directions as may be given by the Senior Chairman or Chairman presiding at the sitting.

Provisions relating to informal sittings.

(2) The persons entitled to be present at an informal sitting of the Tribunal are—

- (a) an appellant whose appeal is being heard by the Tribunal;
- (b) a person appointed by the employer against whose decision the appeal is brought, being a person appointed generally or in respect of a particular appeal or class of appeals; and
- (c) where the appeal is an appeal under section 20, the employee in whose favour the decision referred to in paragraph (b) has been made.

(3) The persons entitled, pursuant to subsection (2), to be present at an informal sitting of the Tribunal are not entitled to be represented by counsel, solicitor or agent or otherwise.

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(4) A person entitled, pursuant to subsection (2), to be present at an informal sitting of the Tribunal—

- (a) may adduce, orally and in writing, to the Tribunal such matters, and address the Tribunal on such matters, as are relevant to the appeal;
- (b) may produce documents or exhibits to the Tribunal; and
- (c) may with the leave of the Tribunal, and shall, where directed to do so by the Tribunal, give evidence on oath.

(5) A person entitled, pursuant to subsection (2), to be present at an informal sitting of the Tribunal shall not—

- (a) call or examine any witness; or
- (b) cross-examine any other such person.

(6) Where a sitting of the Tribunal is informal, the proceedings before the Tribunal shall not be recorded unless the Senior Chairman or Chairman presiding at the sitting otherwise directs.

Provisions
relating to
formal
sittings.

38. (1) Where a sitting of the Tribunal is formal, evidence in the proceedings before the Tribunal shall be given on oath and shall be subject to cross-examination.

(2) The persons entitled to be present at a formal sitting of the Tribunal are the persons referred to in section 37 (2) (a), (b) and (c).

(3) Where a sitting of the Tribunal is formal, the sitting shall be open to the public unless the Tribunal, on the application of a person entitled, pursuant to subsection (2), to be present at the sitting, otherwise directs in relation to the whole or any part of the sitting.

(4) The persons entitled, pursuant to subsection (2), to be present at a formal sitting of the Tribunal are entitled to be represented by counsel, solicitor or agent or otherwise.

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(5) A person entitled, pursuant to subsection (2), to be present at a formal sitting of the Tribunal may call and examine any witness.

(6) A person proposed to be called as a witness in proceedings at a formal sitting of the Tribunal, not being a person entitled, pursuant to subsection (2), to be present at the sitting, shall, unless the Tribunal otherwise orders, be excluded from the proceedings prior to giving his evidence and the Tribunal may exclude a person proposed to be called as a witness from giving evidence if he has been present at the sitting prior to giving his evidence.

(7) Where a sitting of the Tribunal is formal, the proceedings before the Tribunal shall be recorded.

DIVISION 2.—General Powers of the Tribunal.

39. The procedure for the conduct of business at any sitting of the Tribunal shall, subject to this Part and the regulations, be as determined by the Senior Chairman.

Procedure
at sittings
of the
Tribunal.

40. The Senior Chairman, or the Chairman selected by the Senior Chairman, as the case may require, shall preside as chairman at a sitting of the Tribunal.

Chairman.

41. (1) At a sitting of the Tribunal, each member of the Tribunal present shall have one vote.

Votes of
members.

(2) At a sitting of the Tribunal, the decision on any matter arising for the determination of the Tribunal of a majority of the members of the Tribunal present and voting shall, except as provided by subsection (3), be the decision of the Tribunal.

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(3) The decision of the Senior Chairman or a Chairman, as the case may be, at a sitting of the Tribunal on any question of law or procedure which may arise in the hearing of an appeal before the Tribunal shall be the decision of the Tribunal.

(4) Where a Chairman presides at a sitting of the Tribunal, he shall, where he does not have a legal qualification referred to in section 13 (2), and may, in any other case, consult with the Senior Chairman before deciding any question of law or procedure which may arise in the hearing of an appeal before the Tribunal.

Order of
presenta-
tion of
cases.

42. (1) At the hearing of an appeal by the Tribunal, the employer's case shall be presented first.

(2) Nothing in subsection (1) removes from an appellant or any other person the onus of proving any ground on which he relies.

Evidence.

43. (1) The Tribunal is not bound by the rules or practice as to evidence and may, subject to subsection (2), inform itself on any matter in such manner as it thinks fit.

(2) The Tribunal shall not inform itself on, or take into consideration, any matter which has not been disclosed in evidence at a sitting of the Tribunal if the matter is one which ought, in the interests of justice, to be available for challenge or testing by the persons entitled to be present at the sitting.

(3) Nothing in subsection (2) prevents the Tribunal from informing itself on, or taking into consideration, any matter of which it is entitled to take judicial notice.

Government and Related Employees Appeal Tribunal.

44. (1) In relation to an appeal, the Senior Chairman or a Chairman, by instrument in writing—

Discovery
of docu-
ments, atten-
dance of
witnesses,
etc.

- (a) may require a person, being an employer or any person entitled, pursuant to section 37 (2) or 38 (2), to be present at a sitting of the Tribunal for the purpose of hearing the appeal, to produce, on or before such date as is specified in the instrument, for the inspection of any other such person so specified, any document or exhibit relevant to the appeal and which is so specified;
- (b) may require a person referred to in paragraph (a) to do either or both of the following things, namely :—
 - (i) to lodge with the Tribunal, on or before such date as is specified in the instrument, a written case setting out the arguments on which the person relies in relation to the appeal;
 - (ii) to serve, on or before such date as is specified in the instrument, on any other such person so specified, a copy of a written case referred to in subparagraph (i);
- (c) may require the persons referred to in paragraph (a) to lodge with the Tribunal, on or before such date as is specified in the instrument, a statement of such facts or matters as are agreed upon between them in relation to the appeal;
- (d) may require any person to appear before the Tribunal and to give evidence; and
- (e) may require any person to produce before the Tribunal any document or exhibit relevant to the appeal.

(2) A person who fails or neglects to comply with a requirement made of him under subsection (1) is guilty of an offence against this Act and liable on conviction before a court of petty sessions constituted by a stipendiary magistrate sitting alone to a penalty not exceeding \$500.

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Administra-
tion of
oath.

45. Any member of the Tribunal may administer an oath to any person giving evidence before the Tribunal.

Adjourn-
ment.

46. (1) The Tribunal may from time to time adjourn the hearing of an appeal to such times, dates and places and for such reasons as it thinks fit.

(2) In the absence from a sitting of the Tribunal of one or two members of the Tribunal, the remaining member or members may exercise the Tribunal's powers under subsection (1).

Withdrawal
of appeals.

47. (1) An appellant may at any time withdraw his appeal against a decision of his employer, whether or not the Tribunal has commenced to consider the appeal.

(2) Where the consideration by the Tribunal of appeals against a decision referred to in subsection (1) has not commenced, the appellant may withdraw his appeal by notifying the Registrar, in writing, that he withdraws his appeal.

(3) Where the consideration by the Tribunal of appeals against a decision referred to in subsection (1) has commenced, the appellant may withdraw his appeal by informing the Tribunal that he withdraws his appeal.

Decisions
with
respect to
appeals.

48. (1) The Tribunal, in relation to an appeal under section 20, may decide to allow or disallow the appeal.

(2) The Tribunal, in relation to an appeal under section 24, may decide to allow or disallow the appeal or make such other decision with respect to the appeal as it thinks fit.

(3) The decision of the Tribunal in respect of an appeal shall, except as provided by Part V, be final and shall be given effect to by the employer against whose decision the appeal was brought.

Government and Related Employees Appeal Tribunal.

(4) The decision of the Tribunal in respect of an appeal shall be in the form of an instrument in writing signed by the Senior Chairman or Chairman before whom the appeal was heard and shall include the reasons for the decision.

49. (1) Where proceedings before the Tribunal are recorded, they shall be recorded in such manner as the Senior Chairman directs. Transcripts of proceedings.

(2) A record of proceedings before the Tribunal which is made by means of shorthand, stenotype machine or sound-recording apparatus shall not be transcribed unless the Senior Chairman or a Chairman so determines or the transcription is required by law.

(3) Except as provided by subsection (4), a transcription made under subsection (2) shall be supplied only to a member of the Tribunal approved by the Senior Chairman or by a Chairman or for the purposes of an appeal against a decision of the Tribunal.

(4) A copy of a record of proceedings before the Tribunal or a transcription made under subsection (2) in respect of proceedings at a formal sitting of the Tribunal may, at the discretion of the Senior Chairman presiding at the proceedings or sitting or the Chairman so presiding, be supplied to any person in accordance with such terms and conditions as the Minister may, from time to time, determine.

(5) Where, within 6 months after an appeal is determined, no transcription of the proceedings before the Tribunal on that appeal has been made under subsection (2), the record of those proceedings may be destroyed.

50. For the purposes of section 18 of the Defamation Act, 1974, the proceedings of the Tribunal shall be deemed to be an inquiry within the meaning of that section. Application of the Defamation Act, 1974.

Government and Related Employees Appeal Tribunal.

Offences
relating
to secrecy
of informa-
tion.

51. A person appearing before the Tribunal on the hearing of an appeal shall not be guilty of an offence against or otherwise be in breach of any law relating to the confidentiality or secrecy of information in respect of anything disclosed by him to the Tribunal which is relevant to the appeal.

Authenti-
cation of
documents.

52. Every document requiring authentication by the Tribunal may be sufficiently authenticated if signed by the Senior Chairman or a Chairman.

Judicial
notice of
certain
signatures.

53. Judicial notice shall be taken of the signature of the Senior Chairman, a Chairman or the Registrar when appearing on a document issued by the Tribunal.

PART V.

APPEALS FROM THE TRIBUNAL.

Appeal to
Supreme
Court
on point
of law.

54. A person being—

- (a) an employer against whose decision an appeal is brought;
- (b) an appellant with respect to that decision; or
- (c) where the appeal is an appeal under section 20, the employee in whose favour that decision is made,

may, subject to this Part, appeal to the Supreme Court against any decision of the Tribunal on a question of law.

Time for
making
appeal, etc.

55. (1) An appeal under section 54 shall be made within 21 days after the date of the Tribunal's decision on the question of law the subject of the appeal and shall be made in accordance with the rules of the Supreme Court.

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(2) An appellant under section 54 shall, within the period of 21 days referred to in subsection (1), serve a copy of the process originating the appeal on the Tribunal and each other person referred to in section 54.

56. (1) The Supreme Court shall hear and determine the question of law arising on an appeal under section 54 and shall— Determination of question of law.

- (a) remit the decision of the Court thereon to the Tribunal;
or
- (b) make such order in relation to the appeal as to it seems fit.

(2) The Tribunal or a member of the Tribunal shall not be liable to any costs in respect of the decision of the appeal.

PART VI.

MISCELLANEOUS.

57. (1) Any notice or notification which, by or under this Act, is required or authorised to be given to any person may be given— Service of notices.

- (a) in the case of an employee—by delivering it personally to him or, where he has, under section 30 (1), appointed an agent, to his agent or by sending it by pre-paid post addressed to him at his place of employment or place of residence or, where he has, under section 30 (1), appointed an agent, to the address specified in the notice of appointment for the giving of notices under this Act;
- (b) in the case of an employer not being a statutory body—by delivering it to him personally or by sending it by pre-paid post addressed to him at his place of business;

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- (c) in the case of an employer being a statutory body—
 - (i) by leaving it at the principal office of the statutory body with a person apparently in the service of the statutory body and apparently not less than 16 years of age; or
 - (ii) by delivering it, or by sending it by pre-paid post, addressed to the statutory body at the address, if any, specified by the statutory body for the giving of notices under this Act, or, where no such address is specified, at the principal office of the statutory body; or
- (d) in the case of the Tribunal—by delivering it to the Registrar or by sending it by pre-paid post to the Tribunal addressed to the Registrar at the office of the Tribunal.

(2) Notice or notification shall, in respect of a notice or notification sent by pre-paid post in accordance with subsection (1) (a), (b) or (c) (ii), be deemed to have been given at the time at which the notice or notification would be delivered in the ordinary course of post.

Repeals.

58. Each Act specified in Column 1 of Schedule 5 is, to the extent specified opposite that Act in Column 2 of Schedule 5, repealed.

**Savings,
transitional
and other
provisions.**

59. Schedule 6 has effect.

Regulations.

60. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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- (2) A provision of a regulation may—
- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
 - (b) apply differently according to different factors of a specified kind; or
 - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.

SCHEDULE 1.

Sec. 12.

PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND CHAIRMAN.

1. The Public Service Act, 1979, does not apply to or in respect of the appointment of the Senior Chairman, the Acting Senior Chairman or a Chairman and a person so appointed is not, in his capacity as the Senior Chairman, the Acting Senior Chairman or a Chairman, subject to that Act while he holds office as the Senior Chairman, the Acting Senior Chairman or a Chairman.

Applica-
tion of
Public
Service Act,
1979.

2. (1) The appointment of a holder of a judicial office or a magisterial office as the Senior Chairman or a Chairman shall not, nor shall his services as the Senior Chairman or a Chairman, affect his tenure of that office or his rank, title, status, precedence, salary or other rights or privileges as a holder of that office.

Appoint-
ment of
holder of
judicial or
magisterial
office.

(2) A holder of a judicial office or a magisterial office may, notwithstanding that he is the Senior Chairman or a Chairman, exercise his functions as a holder of that office, but while he is the Senior Chairman or a Chairman he shall not (unless otherwise provided by the instrument of his appointment as the Senior Chairman or a Chairman) be required to exercise his functions as a holder of that office.

(3) The service, as Senior Chairman or Chairman, of a holder of a judicial office or a magisterial office shall, for all purposes, be taken to be service as a holder of that judicial office or magisterial office, as the case may be.

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SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND
CHAIRMAN—*continued.*

Taking of
certain
oaths.

3. (1) A person appointed as a Chairman who was not, at the time of his appointment, the holder of a judicial office or a magisterial office shall, on his appointment, take the oath of allegiance and the judicial oath as prescribed in the Oaths Act, 1900.

(2) Sections 11, 11A and 12 of the Oaths Act, 1900, apply to and in respect of an oath required to be taken under subclause (1) of this clause as if the oath were required to be taken under Part II of that Act.

Full-time
appoint-
ments.

4. A person appointed as a Chairman who was not, at the time of his appointment, the holder of a judicial office or a magisterial office shall devote the whole of his time to the duties of his office.

Remunera-
tion.

5. Each Chairman, not being a holder of a judicial office or a magisterial office, is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

Retirement
of Senior
Chairman.

6. The Senior Chairman shall retire on the day on which he attains the age of 70 years, unless he is granted retiring leave, in which case he shall retire on the expiration of that leave.

Removal
from office
of holder
of judicial
office.

7. The Governor may remove the Senior Chairman or a Chairman, being the holder of a judicial office, from office upon the address of both Houses of Parliament, but not otherwise.

Removal
from office
of Chairman
not being
holder of
judicial
office.

8. The Governor may remove a Chairman, not being the holder of a judicial office, from office for inability, misbehaviour or failure to comply with the terms and conditions of his appointment.

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SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND
CHAIRMAN—*continued.*

9. A Chairman, not being the holder of a judicial office, shall be deemed to have vacated his office—

Vacation of
office by
Chairmen
not being
holders of
judicial
office.

- (a) if he dies;
- (b) if—
 - (i) not being the holder of a magisterial office, he engages (whether in New South Wales or elsewhere) during his term of office in any paid employment outside the duties of his office; or
 - (ii) being the holder of a magisterial office, he engages (whether in New South Wales or elsewhere) during his term of office in any paid employment outside the duties of his office, not being employment within the duties of his magisterial office;
- (c) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (d) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) if he is convicted in New South Wales of a crime or an offence punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of a crime or an offence which if committed in New South Wales would be a crime or an offence so punishable;
- (f) if he resigns his office by writing under his hand addressed to the Governor;
- (g) if he is removed from office by the Governor under clause 8; or
- (h) upon his attaining the age of 65 years.

10. (1) In this clause—

“statutory body” means any body declared under clause 12 to be a statutory body for the purposes of this Schedule;

Preser-
vation
of rights of
Chairmen
previously
public
servants, etc.

Government and Related Employees Appeal Tribunal.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND
CHAIRMAN—*continued.*

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

(2) Subject to subclause (3) of this clause and to the terms of his appointment, where a person appointed as a Chairman, not being the holder of a judicial office or a magisterial office, was, immediately before his appointment—

- (a) an officer of the Public Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer employed by a statutory body; or
- (d) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

- (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as a Chairman; and
- (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he had continued to be such an officer, contributor or person during his service as a Chairman, and—

- (h) his service as a Chairman shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continued to contribute or by which that entitlement is conferred; and
- (i) he shall be deemed to be an officer or employee, and the Tribunal shall be deemed to be his employer, for the purposes of the superannuation scheme to which he is entitled to contribute under this clause.

(3) If a Chairman would, but for this subclause, be entitled under subclause (2) of this clause to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme, he shall

Government and Related Employees Appeal Tribunal.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND
CHAIRMAN—*continued.*

not be so entitled upon his becoming (whether upon his appointment as a Chairman or at any later time while he holds office as a Chairman) a contributor to any other superannuation scheme, and the provisions of subclause (2) (i) of this clause cease to apply to or in respect of him and the Tribunal in any case where he becomes a contributor to such another superannuation scheme.

(4) Subclause (3) of this clause does not prevent the payment to a Chairman upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of his resignation, to be an officer or employee for the purposes of that scheme.

(5) A Chairman shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

11. (1) In this clause—

“retiring age” means—

- (a) in relation to a person who was, immediately before his appointment as a Chairman, an officer of the Public Service—the age of 60 years; and
- (b) in relation to a person who was, immediately before his appointment as a Chairman, an officer or employee of a statutory body—the age at which officers or employees (being officers or employees of the class to which that person belonged immediately before his appointment as a Chairman), as the case may be, of that statutory body are entitled to retire;

Re-appoint-
ment to
former em-
ployment in
certain
cases.

“statutory body” means any body declared under clause 12 to be a statutory body for the purposes of this Schedule.

(2) A person, not being the holder of a judicial office or a magisterial office, who ceases to be a Chairman, otherwise than pursuant to clause 9 (paragraph (f) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as a Chairman, he was—

- (a) an officer of the Public Service—to some office in the Public Service; or

Government and Related Employees Appeal Tribunal.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE OFFICES OF SENIOR CHAIRMAN AND
CHAIRMAN—*continued.*

- (b) an officer or employee of a statutory body—to some office in the service of that body,

not lower in classification and salary than that which he held immediately before his appointment as a Chairman.

Declarations of statutory bodies. 12. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

Sec. 16.

SCHEDULE 2.

PROVISIONS RELATING TO THE NOMINATION OF EMPLOYERS'
REPRESENTATIVES AND EMPLOYEES' REPRESENTATIVES.

Direction relating to nominations. 1. (1) The Registrar, at the direction of the Senior Chairman, shall, at all such times as may be necessary for the due administration of this Act, by notice in writing to an employer or an association of employees, direct the employer or association, as the case may be, to nominate, on or before such date as is specified in the notice, a panel of not less than 2 and not more than 12 persons, in order of preference, to be members of the Tribunal.

(2) The order of preference referred to in subclause (1) of this clause may, where the staff establishment of an employer or the membership of an association of employees is divided into different classes or groups, be nominated in relation to appeals made by members of those classes or groups.

Form of nomination.

2. (1) A nomination pursuant to a direction under clause 1 shall be—

(a) in the approved form; and

(b) accompanied by—

(i) the consent, in writing, to his nomination of each person nominated; and

Government and Related Employees Appeal Tribunal.

SCHEDULE 2—*continued.*

PROVISIONS RELATING TO THE NOMINATION OF EMPLOYERS' REPRESENTATIVES AND EMPLOYEES' REPRESENTATIVES—*continued.*

(ii) the oath referred to in clause 8 sworn by each person nominated.

(2) A nomination pursuant to a direction under clause 1 shall be made by lodging the document required pursuant to subclause (1) of this clause with the Registrar.

3. A person nominated by the Public Service Board in accordance with this Schedule shall be—

Representative of Public Service Board.

- (a) a member of the Public Service Board; or
- (b) an employee.

4. A person nominated by the Director-General of Education in accordance with this Schedule shall be—

Representatives of Director-General of Education.

- (a) the Director-General of Education;
- (b) an officer within the meaning of section 3 of the Teaching Service Act, 1970; or
- (c) an officer within the meaning of section 4 (1) of the Public Service Act, 1979, employed in the Department of Education.

5. A person nominated by an employing authority in accordance with this Schedule shall be—

Representatives of employing authorities.

- (a) an employee; or
- (b) where the employing authority is—
 - (i) a corporate body—a member of the corporate body;
 - (ii) a corporation sole—the person constituting the corporation sole; or
 - (iii) an individual—that individual.

Government and Related Employees Appeal Tribunal.

SCHEDULE 2—*continued.*PROVISIONS RELATING TO THE NOMINATION OF EMPLOYERS' REPRESENTATIVES AND EMPLOYEES' REPRESENTATIVES—*continued.*

Representatives of associations of employees.

6. A person nominated by an association of employees in accordance with this Schedule shall be an employee.

Term of office.

7. A person nominated in accordance with this Schedule as an employer's representative or an employee's representative shall, subject to this Act, hold office as a member of the Tribunal for a term of 3 years from the date specified in the notice given by the Registrar under clause 1 in pursuance of which the person's nomination was made and shall, if otherwise qualified, be eligible for renomination as an employer's representative or an employee's representative, as the case may be.

Oath.

8. (1) A person nominated in accordance with this Schedule as an employer's representative or an employee's representative shall not act as a member of the Tribunal unless he has taken an oath in the prescribed form.

(2) Sections 11, 11A and 12 of the Oaths Act, 1900, apply to and in respect of an oath required to be taken under subclause (1) of this clause as if the oath were an oath required to be taken under Part II of that Act.

Removal from office.

9. The Governor may remove a member of the Tribunal, being an employer's representative or an employee's representative, from office if, without proper cause or excuse, he neglects or refuses to sit as a member of the Tribunal at any sitting at which he is required, by notice given under section 32 (1), to attend as an employer's representative or an employee's representative, as the case may be.

Vacation of office.

10. A member of the Tribunal, being an employer's representative or an employee's representative, shall be deemed to have vacated his office if—

(a) he dies;

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

Government and Related Employees Appeal Tribunal.

SCHEDULE 2—*continued.*

PROVISIONS RELATING TO THE NOMINATION OF EMPLOYERS' REPRESENTATIVES AND EMPLOYEES' REPRESENTATIVES—*continued.*

- (c) he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (d) he is convicted in New South Wales of a crime or an offence punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of a crime or an offence which if committed in New South Wales would be a crime or an offence so punishable;
- (e) he resigns his office by writing under his hand addressed to the Registrar;
- (f) he is removed from office by the Governor; or
- (g) he ceases to hold the qualification by virtue of which he was nominated as an employer's representative or an employee's representative, as the case may be.

11. (1) On the occurrence of a vacancy in the office of a member of the Tribunal, being an employer's representative or an employee's representative, the employer or association of employees who nominated the member may, within one month after the occurrence of the vacancy, nominate, in the same manner, a person having the same qualifications as the member whose office has become vacant was nominated and qualified. Filling of casual vacancy.

(2) A person nominated under subclause (1) of this clause shall, subject to this Act, hold office as a member of the Tribunal for the balance of his predecessor's term of office.

12. (1) Where, for the purposes of this Act, no nomination or no proper nomination is made by an employer of a person to be a member of the Tribunal— Failure to make nomination.

- (a) on or before the date specified in a notice given by the Registrar under clause 1 to the employer; or
- (b) within one month after the occurrence of a vacancy in the office of a member nominated by the employer,

the Governor may appoint a person to be a member of the Tribunal, being a person qualified to be nominated by the employer to be a member of the Tribunal.

Government and Related Employees Appeal Tribunal.

SCHEDULE 2—*continued.*

PROVISIONS RELATING TO THE NOMINATION OF EMPLOYERS' REPRESENTATIVES AND EMPLOYEES' REPRESENTATIVES—*continued.*

(2) Where, for the purposes of this Act, no nomination or no proper nomination is made by an association of employees of a person to be a member of the Tribunal—

- (a) on or before the date specified in a notice given by the Registrar under clause 1 to the association of employees; or
- (b) within one month after the occurrence of a vacancy in the office of a member nominated by the association of employees,

the Governor may appoint a person to be a member of the Tribunal, being a person qualified to be nominated by the association of employees to be a member of the Tribunal.

(3) A person appointed as a member of the Tribunal—

- (a) under subclause (1) of this clause—shall be deemed to have been nominated in accordance with this Act by the employer in respect of whose neglect or default he was so appointed; or
- (b) under subclause (2) of this clause—shall be deemed to have been nominated in accordance with this Act by the association of employees in respect of whose neglect or default he was so appointed.

SCHEDULE 3.

ASSOCIATIONS OF EMPLOYEES.

Sec. 4 (1),
defn. of
"association
of employees",
(6), (7).

Association of Railway Professional Officers of Australia.
Australasian Society of Engineers.
Australian Institute of Marine and Power Engineers.
Australian Railways Union.
Australian Theatrical and Amusement Employees' Association.
Australian Timber Workers' Union.
Australian Workers' Union.
Building Workers' Industrial Union of Australia.

Government and Related Employees Appeal Tribunal.

SCHEDULE 3—*continued.*

ASSOCIATIONS OF EMPLOYEES—*continued.*

Dental Technicians' Association of New South Wales.
Electricity Supply Professional Officers' Association.
Federated Clerks' Union of Australia.
Federated Engine Drivers and Fireman's Association of Australasia.
Federated Ironworkers' Association of Australia.
Federated Liquor and Allied Industries Employees Union of Australia.
Federated Mining Mechanics' Association of Australasia.
Federated Municipal and Shire Council Employees' Union of Australia.
Federated Rubber and Allied Workers Union of Australia.
Federated Ship Painters and Dockers' Union of Australia.
Federated Storemen and Packers' Union of Australia.
Firemen and Deckhands' Union of New South Wales.
Furnishing Trades Society of New South Wales.
National Union of Railwaymen of Australia.
New South Wales Fire Brigade Employees' Union.
New South Wales Nurses' Association.
New South Wales Public Medical Officers Association.
New South Wales Public Service Professional Officers Association.
New South Wales Real Estate Salesmen's Association.
New South Wales Teachers Federation.
Operative Plasterers and Plaster Workers' Federation of Australia.
Operative Painters and Decorators' Union of Australia.
Operative Stonemasons Society of Australia.
Plumbers and Gasfitters Employees' Union of Australia.
Police Association of New South Wales.
Printing and Kindred Industries Union.
Public Service Association of New South Wales.
Seamen's Union of Australia.
The Amalgamated Metal Workers' and Shipwrights' Union.
The Amalgamated Society of Carpenters and Joiners of Australia.
The Association of Architects, Engineers, Surveyors and Draughtsmen of Australia.
The Association of Professional Engineers, Australia.
The Australasian Coal and Shale Employees Federation.

Government and Related Employees Appeal Tribunal.

SCHEDULE 3—*continued.*

ASSOCIATIONS OF EMPLOYEES—*continued.*

The Australasian Meat Industry Employees Union.
 The Australasian Transport Officers Federation.
 The Australian Journalists' Association.
 The Boot Trades Employees Federation.
 The Clothing and Allied Trades Union of Australia.
 The Electrical Trades Union of Australia.
 The Federated Brick, Tile and Pottery Industrial Union of Australia.
 The Federated Miscellaneous Workers' Union.
 The Federated Moulders' (Metal) Union of Australia.
 The Health and Research Employees Association of Australia.
 The Hunter District Water Board Employees' Association.
 The Institute of Inspectors of Schools of New South Wales.
 The M.S.B. Officers' Association.
 The Merchant Service Guild of Australia.
 The Professional Officers Association of New South Wales.
 Transport Workers' Union of Australia.
 Water and Sewerage Employees' Union.

SCHEDULE 4.

EMPLOYING AUTHORITIES.

Sec. 4 (1),
 defn. of
 "employing
 authority",
 (8), (9).

Board of Fire Commissioners of New South Wales.
 Board of Tick Control.
 Dairy Industry Authority of New South Wales.
 Fish Marketing Authority.
 Forestry Commission in respect of all casual and general employees on forest work engaged under section 10 (1) of the Forestry Act, 1916.
 Greyhound Racing Control Board.
 Health Commission of New South Wales in respect of persons appointed and employed under section 14A of the Health Commission Act, 1972.
 Homebush Abattoir Corporation.

*Government and Related Employees Appeal Tribunal.*SCHEDULE 4—*continued.*EMPLOYING AUTHORITIES—*continued.*

Metropolitan Waste Disposal Authority.
 New South Wales Film Corporation.
 New South Wales Retirement Board.
 Pastures protection boards.
 Sydney Cove Redevelopment Authority.
 Sydney Farm Produce Market Authority.
 The Broken Hill Water Board.
 The Commissioner for Main Roads.
 The Electricity Commission of New South Wales.
 The Grain Elevators Board of New South Wales.
 The Hunter District Water Board.
 The Maritime Services Board of New South Wales.
 The Metropolitan Water Sewerage and Drainage Board.
 Totalizator Agency Board.
 Trotting Authority of New South Wales.
 Water Resources Commission.
 Zoological Parks Board of New South Wales.

SCHEDULE 5.

Sec. 58.

REPEALS.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1902, No. 31	Public Service (Promotion Appeals) Act, 1902.	The unrepealed portion.
1944, No. 15	Crown Employees Appeal Board Act, 1944.	The whole Act.
1952, No. 38	Crown Employees Appeal Board (Amendment) Act, 1952.	The whole Act.
1954, No. 36	Grain Elevators Act, 1954	Section 28.
1957, No. 55	Crown Employees Appeal Board (Amendment) Act, 1957.	The whole Act.

Government and Related Employees Appeal Tribunal.

SCHEDULE 5—continued.

REPEALS—continued.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1960, No. 16	Crown Employees Appeal Board (Amendment) Act, 1960.	The whole Act.
1963, No. 59	State Planning Authority Act, 1963.	Section 9.
1964, No. 10	Crown Employees Appeal Board (Amendment) Act, 1964.	The unrepealed portion.
1964, No. 57	Crown Employees Appeal Board (Further Amendment) Act, 1964.	The whole Act.
1968, No. 11	Sydney Farm Produce Market Authority Act, 1968.	Section 8.
1968, No. 56	Sydney Cove Redevelopment Authority Act, 1968.	Section 9.
1970, No. 29	Dairy Industry Authority Act, 1970.	Section 13 (2) and (3) and so much of Part II of the First Schedule as relates to Act No. 15, 1944.
1970, No. 40	Crown Employees Appeal Board (Amendment) Act, 1970.	The whole Act.
1970, No. 97	Waste Disposal Act, 1970 . .	Section 14.
1971, No. 43	Crown Employees Appeal Board (Amendment) Act, 1971.	The whole Act.
1974, No. 86	Public Service and Crown Employees Appeal Board (Amendment) Act, 1974.	The unrepealed portion.
1975, No. 39	Public Service and Crown Employees Appeal Board (Amendment) Act, 1975.	The whole Act.
1975, No. 54	Crown Employees Appeal Board (Amendment) Act, 1975.	The whole Act.
1976, No. 34	Water Resources Commission Act, 1976.	So much of Schedule 6 as relates to Act No. 15, 1944.
1976, No. 63	Statute Law Revision Act, 1976	So much of Schedule 1 as relates to Act No. 10, 1964.
1976, No. 72	Ambulance Services Act, 1976 . .	So much of Schedule 2 as relates to Act No. 15, 1944, and clause 17 of Schedule 3.
1977, No. 55	New South Wales Film Corporation Act, 1977.	So much of Schedule 5 as relates to Act No. 15, 1944.
1979, No. 90	Public Service (Promotion Appeals) Amendment Act, 1979.	The whole Act.
1979, No. 93	Crown Employees Appeal Board (Public Service) Amendment Act, 1979.	The whole Act.

Government and Related Employees Appeal Tribunal.

SCHEDULE 6.

Sec. 59.

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

1. In this Schedule—

Interpre-
tation:
Sch. 6.

“appointed day” means the day appointed and notified under section 2 (2);

“cognate Acts” means the Industrial Arbitration (Appeal Tribunal) Amendment Act, 1980, the Judges’ Pensions (Appeal Tribunal) Amendment Act, 1980, the Teaching Service (Appeal Tribunal) Amendment Act, 1980, the Supreme Court (Appeal Tribunal) Amendment Act, 1980, the Statutory and Other Offices Remuneration (Appeal Tribunal) Amendment Act, 1980, and the Public Service (Appeal Tribunal) Amendment Act, 1980;

“former appellate body” means the Crown Employees Appeal Board or a Promotions Appeal Tribunal constituted under section 69H of the Public Service (Promotion Appeals) Act, 1902.

2. (1) An appeal against any decision of an employer, being a decision made before the appointed day, may be made to, or continued and completed before, a former appellate body and shall be given effect to, in all respects as if this Act and the cognate Acts had not been enacted, and not otherwise.

Appeals
against
decisions
made
before the
appointed
day.

(2) For any purpose of or incidental to subclause (1) of this clause, the provisions of the Acts repealed by this Act, the provisions of the Acts amended by the cognate Acts and the provisions of any instrument made under those Acts and in force immediately before the appointed day shall, notwithstanding any other provision of this Act or any provision of the cognate Acts, continue in force.

(3) Nothing in this clause limits any saving in the Interpretation Act, 1897.

(4) A person who is concerned in the hearing and determination of an appeal to which this clause applies shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and an Act the provisions of which are continued in force by subclause (2) of this clause.

3. (1) On and from the appointed day, a reference in a provision of any other Act or of any regulation, by-law or other statutory instrument or of any other document, whether of the same or of a different kind (not being a prescribed provision), to—

Construc-
tion of
certain
references.

(a) a former appellate body shall be read and construed as a reference to the Tribunal; and

Government and Related Employees Appeal Tribunal.

SCHEDULE 6—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (b) the Chairman of the Crown Employees Appeal Board shall be read and construed as a reference to the Senior Chairman of the Tribunal.

(2) For the purposes of subclause (1) of this clause, the following provisions are prescribed provisions:—

- (a) clause 2;
- (b) section 8 (1) (c) of the Judges' Pensions Act, 1953;
- (c) section 4 (2) of the Police Regulation (Priority Lists and Appeals) Amendment Act, 1978; and
- (d) section 5 of the Police Regulation (Appeals) Appeal Tribunal (Amendment) Act, 1980.

Certain
right of
re-appoint-
ment to
Public
Service.

4. Section 69D of the Public Service (Promotion Appeals) Act, 1902, shall, notwithstanding the repeal of that Act, continue to apply after the date of repeal of that Act in favour of a person in respect of whom the section applied immediately before that date.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 28th April, 1980.*

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980



