

**PUBLIC SERVICE (PROMOTION APPEALS)
AMENDMENT ACT, 1979, No. 90**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 90, 1979.

An Act to amend the Public Service Act, 1902, consequent on and in connection with the enactment of the Public Service Act, 1979. [Assented to, 16th May, 1979.]

Public Service (Promotion Appeals) Amendment.

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 :—

Short title.

1. This Act may be cited as the "Public Service (Promotion Appeals) Amendment Act, 1979".

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 the day appointed and notified under section 2 (2) of the Public Service Act, 1979.

Principal
Act.

3. The Public Service Act, 1902, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

Amendment
of Act No.
31, 1902.

5. The Principal Act is amended in the manner set forth in Schedule 1.

Savings and
transitional
provisions.

6. Schedule 2 has effect.

Public Service (Promotion Appeals) Amendment.

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 1—

Omit “Public Service Act, 1902,”, insert instead “Public Service (Promotion Appeals) Act, 1902”.

(2) Section 4 (1), (1A)—

Omit section 4 (1), insert instead :—

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

“association of employees” means an industrial union whose name for the time being is included in Schedule 2;

“industrial union” has the meaning ascribed to that expression by the Industrial Arbitration Act, 1940;

“Tribunal” means a Promotions Appeal Tribunal constituted under section 69H and, in relation to an appeal made under Part IIA, means the Promotions Appeal Tribunal so constituted in respect of that appeal.

(1A) This Act shall be construed with, and as if it formed part of, the Public Service Act, 1979.

(3) (a) Section 69A—

Omit “the Board” wherever occurring, insert instead “a Department Head”.

(b) Section 69A—

Omit “49 (2)” wherever occurring, insert instead “62 (2) of the Public Service Act, 1979”.

Public Service (Promotion Appeals) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (c) Section 69A, definition of “efficient”—
Omit “49 (1)”, insert instead “62 (1) of the Public Service Act, 1979”.
- (d) Section 69A, definition of “recommended officer”—
Omit “office”, insert instead “position”.
- (e) Section 69A (2)—
At the end of section 69A, insert :—
(2) Where, pursuant to section 33 (1) (b) of the Public Service Act, 1979, the Board decides to make a recommendation referred to in section 62 (2) of that Act—
(a) this Part applies to and in respect of the decision in the same way as it applies to a decision of a Department Head; and
(b) references in this Part to a Department Head shall accordingly be read and construed as references to the Board.
- (4) (a) Section 69B (11)—
Omit “this Act, other than this Part,”, insert instead “the Public Service Act, 1979,”.
- (b) Section 69B (11)—
Omit “this Act other than this Part”, insert instead “that Act”.
- (5) Section 69D—
Omit “office”, insert instead “position”.

Public Service (Promotion Appeals) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) (a) Section 69G (1)—

Omit “the Board” where firstly occurring, insert instead “a Department Head”.

(b) Section 69G (1) (b)—

Omit “Board” wherever occurring, insert instead “Department Head”.

(c) Section 69G (2)—

Omit “office”, insert instead “position”.

(d) Section 69G (3)—

Omit “Board” wherever occurring, insert instead “Department Head”.

(7) (a) Section 69H (1)—

Omit “the Board” where firstly occurring, insert instead “a Department Head”.

(b) Section 69H (1) (b)—

Omit “Board”, insert instead “Department Head”.

(8) (a) Section 69I (1), (2), (3)—

Omit “the Board” wherever occurring, insert instead “a Department Head”.

(b) Section 69I (2) (a) (ii)—

Omit “49A (2)”, insert instead “72 (2) of the Public Service Act, 1979”.

Public Service (Promotion Appeals) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (c) Section 69I (2) (a) (ii), (d), (5)—
Omit “Board” wherever occurring.
- (d) Section 69I (2) (a)—
Omit “49A (1)”, insert instead “72 (1) of that Act”.
- (e) Section 69I (2) (b), (c), (d), (e), (g), (5)—
Omit “office” wherever occurring, insert instead
“position”.
- (f) Section 69I (2) (f)—
(i) Omit “office” where firstly occurring, insert
instead “position”.
(ii) Omit “an office”, insert instead “a position”.
- (g) Section 69I (3)—
Omit “49A (1)”, insert instead “72 (1) of the Public
Service Act, 1979”.
- (h) Section 69I (5)—
Omit “Board’s decision”, insert instead “decision of a
Department Head”.
- (9) Section 69J—
Omit “the Board” wherever occurring, insert instead “a
Department Head”.
- (10) (a) Section 69M (1)—
Omit “the Board”, insert instead “a Department
Head”.

Public Service (Promotion Appeals) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 69M (2)—

Omit the subsection, insert instead :—

(2) Where an appeal against a decision of a Department Head is pending before a Tribunal, the Department Head or an officer appointed by the Department Head is entitled to be present before the Tribunal while any matter is being presented to the Tribunal.

(c) Section 69M (3)—

Omit “the Board and, by an officer, the Board”, insert instead “a Department Head, and the Department Head or an officer appointed by the Department Head”.

(d) Section 69M (4)–(7)—

Omit “the Board” wherever occurring, insert instead “a Department Head”.

(e) Section 69M (8)—

Omit “member of the Board”, insert instead “Department Head”.

(f) Section 69M (8)—

After “appointed”, insert “by him”.

(11) (a) Section 69o (2), (3)—

Omit “employee” wherever occurring, insert instead “temporary employee”.

Public Service (Promotion Appeals) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) Section 69o (2) (b)—
Omit “49 (1)”, insert instead “62 (1) of the Public Service Act, 1979”.
- (12) Section 69Q (1)—
Omit “Board”, insert instead “Department Head concerned”.
- (13) (a) Section 69R—
Omit “the Board” where firstly and secondly occurring, insert instead “a Department Head”.
- (b) Section 69R (b)—
Omit the paragraph, insert instead :—
(b) in the case of a Department Head—by delivering it to him personally or by sending it by pre-paid post to him addressed to him at his office.

Sec. 6.

SCHEDULE 2.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. (1) Subject to this clause, on and from the commencement of this Schedule, a reference in any other Act to the “Public Service Act, 1902” shall be read and construed as a reference to the “Public Service (Promotion Appeals) Act, 1902”.

(2) Subclause (1) of this clause applies only where the reference is made exclusively in connection with a provision of the Public Service Act, 1902, not repealed by the Public Service Act, 1979, or is made exclusively in connection with a Promotions Appeal Tribunal.

Public Service (Promotion Appeals) Amendment.

SCHEDULE 2—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(3) Subclause (1) of this clause does not apply to the Public Service Act, 1979.

2. (1) Any proceedings pending under Part IIA of the Public Service Pending Act, 1902, immediately before the commencement of this Schedule shall be heard and disposed of as if this Act and the Public Service Act, 1979, had not been enacted.

(2) Proceedings may be commenced under the Public Service (Promotion Appeals) Act, 1902, in respect of any decision made before the commencement of this Schedule, and may be heard and disposed of, as if this Act and the Public Service Act, 1979, had not been enacted.

(3) A Promotions Appeal Tribunal may, in proceedings referred to in subclause (1) or (2) of this clause, make such a determination as appears to it to be appropriate having regard to the enactment of this Act and the Public Service Act, 1979.

(4) The determination of a Promotions Appeal Tribunal in proceedings referred to in subclause (1) or (2) of this clause shall be given effect to, according to its spirit and intention, by all persons and authorities having authority under the Public Service Act, 1979, in relation to the subject-matter of the proceedings.

3. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act. Regulations.

(2) The provisions of clause 20 (2)–(4) of Schedule 6 to the Public Service Act, 1979, apply to and in respect of regulations made under this clause in the same way as they apply to and in respect of regulations made under clause 20 of that Schedule.

In the name and on behalf of Her Majesty I assent to this Act.

L. W. STREET,
*By Deputation from
His Excellency the Governor.*

*Government House,
Sydney, 16th May, 1979.*

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF POLITICAL SCIENCE
1100 SOUTH EAST ASIAN BUILDING
CHICAGO, ILLINOIS 60607
TEL: 773-936-3100

Dear Sir/Madam,
I am writing to you regarding the information provided in your letter of the 15th of October 1972. I am sorry that I cannot provide you with a more definitive answer at this time, but the matter is still under review.

The information you have provided is being carefully examined by the relevant departments. I will contact you again as soon as a final decision has been reached. Your patience is appreciated.

Yours faithfully,
[Signature]

I am sorry that I cannot provide you with a more definitive answer at this time, but the matter is still under review. The information you have provided is being carefully examined by the relevant departments.

I will contact you again as soon as a final decision has been reached. Your patience is appreciated.

Yours faithfully,
[Signature]

**PUBLIC SERVICE (PROMOTION APPEALS)
AMENDMENT BILL, 1979**

EXPLANATORY NOTE

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

This Bill is cognate with the Public Service Bill, 1979.

The object of this Bill is to effect amendments to the Public Service Act, 1902, consequent on and in connection with the enactment of the proposed Public Service Act, 1979.

The proposed Public Service Act, 1979, will, if enacted, repeal all provisions of the Public Service Act, 1902, except those dealing with appeals respecting promotions. This Bill amends the remaining provisions to bring them into conformity with the proposed Public Service Act, 1979.

The Bill also changes the short title of the amended Act to the "Public Service (Promotion Appeals) Act, 1902".

AMENDMENT BILL 177
PUBLIC SERVICE (PROVISIONS) BILL

1954

THE PARLIAMENT OF NEW ZEALAND: IN SESSION ASSEMBLED

IN THE HOUSE OF REPRESENTATIVES
THE 15th DECEMBER 1954

THE GOVERNMENT OF NEW ZEALAND
IN PARLIAMENT ASSEMBLED

THE 15th DECEMBER 1954

AMENDMENT BILL 177

**PUBLIC SERVICE (PROMOTION APPEALS)
AMENDMENT BILL, 1979**

No. , 1979.

A BILL FOR

An Act to amend the Public Service Act, 1902, consequent on and
in connection with the enactment of the Public Service Act,
1979.

[MR WRAN—18 *April*, 1979.]

Public Service (Promotion Appeals).

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 :—

5 1. This Act may be cited as the “Public Service (Promotion Short title. Appeals) Amendment Act, 1979”.

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

(2) Except as provided by subsection (1), this Act shall
10 commence on the day appointed and notified under section 2 (2)
of the Public Service Act, 1979.

3. The Public Service Act, 1902, is referred to in this Act as Principal
the Principal Act. Act.

4. This Act contains the following Schedules :— Schedules.
15 SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.
SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

5. The Principal Act is amended in the manner set forth in Amendment
Schedule 1. of Act No.
31, 1902.

6. Schedule 2 has effect. Savings and
transitional
provisions.

Public Service (Promotion Appeals).

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 1—

5 Omit “Public Service Act, 1902,” insert instead “Public Service (Promotion Appeals) Act, 1902”.

(2) Section 4 (1), (1A)—

Omit section 4 (1), insert instead :—

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

10 “association of employees” means an industrial union whose name for the time being is included in Schedule 2;

“industrial union” has the meaning ascribed to that expression by the Industrial Arbitration Act, 1940;

15 “Tribunal” means a Promotions Appeal Tribunal constituted under section 69H and, in relation to an appeal made under Part IIA, means the Promotions Appeal Tribunal so constituted in respect of that appeal.

20 (1A) This Act shall be construed with, and as if it formed part of, the Public Service Act, 1979.

(3) (a) Section 69A—

Omit “the Board” wherever occurring, insert instead “a Department Head”.

25 (b) Section 69A—

Omit “49 (2)” wherever occurring, insert instead “62 (2) of the Public Service Act, 1979”.

Public Service (Promotion Appeals).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 69A, definition of “efficient”—

5 Omit “49 (1)”, insert instead “62 (1) of the Public Service Act, 1979”.

(d) Section 69A, definition of “recommended officer”—

Omit “office”, insert instead “position”.

(e) Section 69A (2)—

At the end of section 69A, insert :—

10 (2) Where, pursuant to section 33 (1) (b) of the Public Service Act, 1979, the Board decides to make a recommendation referred to in section 62 (2) of that Act—

15 (a) this Part applies to and in respect of the decision in the same way as it applies to a decision of a Department Head; and

(b) references in this Part to a Department Head shall accordingly be read and construed as references to the Board.

20 (4) (a) Section 69B (11)—

Omit “this Act, other than this Part,”, insert instead “the Public Service Act, 1979,”.

(b) Section 69B (11)—

25 Omit “this Act other than this Part”, insert instead “that Act”.

(5) Section 69D—

Omit “office”, insert instead “position”.

Public Service (Promotion Appeals).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (6) (a) Section 69G (1)—
5 Omit “the Board” where firstly occurring, insert
instead “a Department Head”.
- (b) Section 69G (1) (b)—
Omit “Board” wherever occurring, insert instead
“Department Head”.
- (c) Section 69G (2)—
10 Omit “office”, insert instead “position”.
- (d) Section 69G (3)—
Omit “Board” wherever occurring, insert instead
“Department Head”.
- (7) (a) Section 69H (1)—
15 Omit “the Board” where firstly occurring, insert
instead “a Department Head”.
- (b) Section 69H (1) (b)—
Omit “Board”, insert instead “Department Head”.
- (8) (a) Section 69I (1), (2), (3)—
20 Omit “the Board” wherever occurring, insert instead
“a Department Head”.
- (b) Section 69I (2) (a) (ii)—
Omit “49A (2)”, insert instead “72 (2) of the Public
Service Act, 1979”.

Public Service (Promotion Appeals).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (c) Section 69I (2) (a) (ii), (d), (5)—
Omit “Board” wherever occurring.
- 5 (d) Section 69I (2) (a)—
Omit “49A (1)”, insert instead “72 (1) of that Act”.
- (e) Section 69I (2) (b), (c), (d), (e), (g), (5)—
Omit “office” wherever occurring, insert instead
“position”.
- 10 (f) Section 69I (2) (f)—
(i) Omit “office” where firstly occurring, insert
instead “position”.
(ii) Omit “an office”, insert instead “a position”.
- (g) Section 69I (3)—
15 Omit “49A (1)”, insert instead “72 (1) of the Public
Service Act, 1979”.
- (h) Section 69I (5)—
Omit “Board’s decision”, insert instead “decision of a
Department Head”.
- 20 (9) Section 69J—
Omit “the Board” wherever occurring, insert instead “a
Department Head”.
- (10) (a) Section 69M (1)—
25 Omit “the Board”, insert instead “a Department
Head”.

Public Service (Promotion Appeals).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 69M (2)—

Omit the subsection, insert instead :—

5 (2) Where an appeal against a decision of a
Department Head is pending before a Tribunal, the
Department Head or an officer appointed by the
Department Head is entitled to be present before the
10 Tribunal while any matter is being presented to the
Tribunal.

(c) Section 69M (3)—

15 Omit “the Board and, by an officer, the Board”, insert
instead “a Department Head, and the Department
Head or an officer appointed by the Department
Head”.

(d) Section 69M (4)–(7)—

Omit “the Board” wherever occurring, insert instead
“a Department Head”.

(e) Section 69M (8)—

20 Omit “member of the Board”, insert instead
“Department Head”.

(f) Section 69M (8)—

After “appointed”, insert “by him”.

(11) (a) Section 69o (2), (3)—

25 Omit “employee” wherever occurring, insert instead
“temporary employee”.

Public Service (Promotion Appeals).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 69o (2) (b)—

5 Omit “49 (1)”, insert instead “62 (1) of the Public Service Act, 1979”.

(12) Section 69Q (1)—

Omit “Board”, insert instead “Department Head concerned”.

(13) (a) Section 69R—

10 Omit “the Board” where firstly and secondly occurring, insert instead “a Department Head”.

(b) Section 69R (b)—

Omit the paragraph, insert instead :—

15 (b) in the case of a Department Head—by delivering it to him personally or by sending it by pre-paid post to him addressed to him at his office.

SCHEDULE 2.

Sec. 6.

SAVINGS AND TRANSITIONAL PROVISIONS.

20 1. (1) Subject to this clause, on and from the commencement of this Schedule, a reference in any other Act to the “Public Service Act, 1902” shall be read and construed as a reference to the “Public Service (Promotion Appeals) Act, 1902”.

25 (2) Subclause (1) of this clause applies only where the reference is made exclusively in connection with a provision of the Public Service Act, 1902, not repealed by the Public Service Act, 1979, or is made exclusively in connection with a Promotions Appeal Tribunal.

Public Service (Promotion Appeals).

SCHEDULE 2—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(3) Subclause (1) of this clause does not apply to the Public Service Act, 1979.

5 2. (1) Any proceedings pending under Part IIA of the Public Service Pending Act, 1902, immediately before the commencement of this Schedule shall be heard and disposed of as if this Act and the Public Service Act, 1979, had not been enacted.

(2) Proceedings may be commenced under the Public Service
10 (Promotion Appeals) Act, 1902, in respect of any decision made before the commencement of this Schedule, and may be heard and disposed of, as if this Act and the Public Service Act, 1979, had not been enacted.

(3) A Promotions Appeal Tribunal may, in proceedings referred to
15 in subclause (1) or (2) of this clause, make such a determination as appears to it to be appropriate having regard to the enactment of this Act and the Public Service Act, 1979.

(4) The determination of a Promotions Appeal Tribunal in
20 proceedings referred to in subclause (1) or (2) of this clause shall be given effect to, according to its spirit and intention, by all persons and authorities having authority under the Public Service Act, 1979, in relation to the subject-matter of the proceedings.

3. (1) The Governor may make regulations containing other provisions Regulations. of a savings or transitional nature consequent on the enactment of this Act.

25 (2) The provisions of clause 20 (2)–(4) of Schedule 6 to the Public Service Act, 1979, apply to and in respect of regulations made under this clause in the same way as they apply to and in respect of regulations made under clause 20 of that Schedule.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1979

Public Service (Promotion Appeals)

SCHEDULE 2—continued

SAVINGS AND TRANSITIONAL PROVISIONS—continued

(3) Subclause (1) of this clause does not apply to the Public Service Act 1979.

(1) Any proceedings pending under Part III of the Public Service Act 1902 immediately before the commencement of this Schedule shall appear to be heard and disposed of as if this Act and the Public Service Act 1979 had not been enacted.

(2) Proceedings may be commenced under the Public Service (Promotion Appeals) Act 1902 in respect of any decision made before the commencement of this Schedule and may be heard and disposed of as if this Act and the Public Service Act 1979 had not been enacted.

(3) A Promotion Appeal Tribunal may in proceedings referred to in subclauses (1) or (2) of this clause make a determination as respects to it to be appropriate having regard to the content of this Act and the Public Service Act 1979.

(4) The determination of a Promotion Appeal Tribunal in proceedings referred to in subclauses (1) or (2) of this clause shall be given effect to according to its writ and instruction by all persons and authorities having authority under the Public Service Act 1979 in relation to the subject-matter of the proceedings.

(5) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act.

(6) The provisions of clause 10 (3)-(4) of Schedule 6 to the Public Service Act 1979 apply in and in respect of regulations made under this clause in the same way as they apply to and in respect of regulations made under clause 10 of that Schedule.

BY APPOINTMENT
THE GOVERNOR GENERAL
WEST GORONGON, PERTH NEW SOUTH WALES-1979