

PUBLIC SERVICE ORDINANCE 1922-1940.⁽¹⁾

An Ordinance for the Regulation of the Public Service.

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in-pursuance of the powers conferred by the *New Guinea Act 1920*, as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Public Service Ordinance 1922-1940*.⁽¹⁾

Short title.
Amended by
No. 3 of 1934,
s. 50.

2.—(1.) This Ordinance shall commence on a date to be fixed by proclamation by the Governor-General in the *Commonwealth Gazette* and the *New Guinea Gazette*.⁽¹⁾

Commencement.

(1) The *Public Service Ordinance 1922-1940* comprises the *Public Service Ordinance 1922*, as amended by the other Ordinances referred to in the following Table:—

TABLE.
PART I.—ORDINANCES MADE BY GOVERNOR-GENERAL IN COUNCIL.

Short title, number and year.	Date on which made by Gov.-Gen. in Council.	Date on which notified in <i>Cwlth. Gaz.</i>	Date on which took effect.
<i>Public Service Ordinance 1922</i> (No. 14 of 1922)	22.3.1922	24.3.1922	15.5.1922 (<i>Cwlth. Gaz.</i> of 15.5.1922, and <i>N.G. Gaz.</i> of 15.5.1922)
<i>Public Service Ordinance</i> (No. 2) 1922 (No. 28 of 1922)	8.9.1922	14.9.1922	15.5.1922 (Sec. 2, <i>Public Service Ordinance</i> (No. 2) 1922)
<i>Public Service Ordinance</i> (No. 3) 1922 (No. 38 of 1922)	20.12.1922	28.12.1922	15.5.1922 (Sec. 2, <i>Public Service Ordinance</i> (No. 3) 1922)
<i>Public Service Ordinance 1923</i> (No. 9 of 1923)	7.3.1923	15.3.1923	15.3.1923 (<i>Cwlth. Gaz.</i> of 15.3.1923)
<i>Public Service Ordinance 1923</i> (No. 2) (No. 26 of 1923)	20.6.1923	23.6.1923	23.6.1923 (<i>Cwlth. Gaz.</i> of 23.6.1923)
<i>Public Service Ordinance 1923</i> (No. 3) (No. 40 of 1923)	14.11.1923	15.11.1923	The whole except Sec. 2, on 15.11.1923 (<i>Cwlth. Gaz.</i> of 15.11.1923); and Sec. 2 on 15.5.1922 (Sec. 2(2), <i>Public Service Ordinance 1923</i> (No. 3))
<i>Public Service Ordinance 1925</i> (No. 15 of 1925)	7.5.1925	14.5.1925	14.5.1925 (<i>Cwlth. Gaz.</i> of 14.5.1925)
<i>Public Service Ordinance</i> (No. 2) 1926 (No. 17 of 1926)	30.6.1926	1.7.1926	1.7.1926 (<i>Cwlth. Gaz.</i> of 1.7.1926)
<i>Public Service Ordinance 1928</i> (No. 3 of 1928)	24.1.1928	26.1.1928	The whole except Sec. 5, on 26.1.1928 (<i>Cwlth. Gaz.</i> of 26.1.1928); and Sec. 5 on 1.7.1926 (Sec. 5(2), <i>Public Service Ordinance 1928</i>)

[Footnote continued on next page.]

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(2.) Classification of Officers and regulations and instruments under this Ordinance may be made before the commencement thereof in order that they may come into operation immediately upon such commencement.

Parts.

3. This Ordinance is divided into Parts, as follows:—

Part I.—Preliminary.

(1)—continued.

Short title, number and year.	Date on which made by Gov.-Gen. in Council.	Date on which notified in <i>Cwltth. Gaz.</i>	Date on which took effect.
<i>Public Service Ordinance</i> 1929 (No. 5 of 1929)	28.6.1929	4.7.1929	1.7.1928 (Sec. 2, <i>Public Service Ordinance</i> 1929)
<i>Public Service Ordinance</i> 1930 (No. 17 of 1930)	22.9.1930	25.9.1930	25.9.1930 (<i>Cwltth. Gaz.</i> of 25.9.1930)
<i>Public Service Ordinance</i> 1932 (No. 22 of 1932)	23.11.1932	1.12.1932	1.12.1932 (<i>Cwltth. Gaz.</i> of 1.12.1932)
<i>Public Service Ordinance</i> 1933 (No. 26 of 1933)	27.4.1933	28.4.1933	The whole except Secs. 3, 4, 7 and 8, on 28.4.1933 (<i>Cwltth. Gaz.</i> of 28.4.1933); and Secs. 3, 4, 7 and 8 on 14.12.1932 (Secs. 3(2), 4(2), 7(2) and 8(2), <i>Public Service Ordinance</i> 1933)

PART II.—ORDINANCES OF THE LEGISLATIVE COUNCIL.

Short title, number and year.	Date of assent by Administrator.	Date notified in <i>N.G. Gaz.</i> as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
<i>Public Service Ordinance</i> 1934 (No. 22 of 1934)	7.2.1934	31.8.1934	7.2.1934 (<i>Laws of T.N.G.</i> , Vol. XIII, p. 61)
<i>Public Service Ordinance</i> 1935 (No. 28 of 1935)	31.7.1935	15.2.1936	31.7.1935 (<i>Laws of T.N.G.</i> , Vol. XIII, p. 325)
<i>Public Service Ordinance</i> 1936 (No. 17 of 1936)	26.2.1936	15.6.1936	The whole except Sec. 3, on 26.2.1936 (<i>Laws of T.N.G.</i> , Vol. XIII, p. 409); Sec. 3 on 1.7.1935 (Sec. 3(2) <i>Public Service Ordinance</i> 1936)
<i>Public Service Ordinance</i> 1938 (No. 5 of 1938)	10.2.1938	14.5.1938	The whole except Sec. 10, on 10.2.1938 (<i>Laws of T.N.G.</i> , Vol. XIV, p. 117); Sec. 10 on 1.1.1938 (Sec. 10(2) <i>Public Service Ordinance</i> 1938)
<i>Public Service Ordinance</i> (No. 2) 1938 (No. 10 of 1938)	24.8.1938	14.1.1939	The whole except Sec. 6, on 24.8.1938 (<i>Laws of T.N.G.</i> , Vol. XIV, p. 128); Sec. 6 on 1.1.1938 (Sec. 6(2) <i>Public Service Ordinance</i> (No. 2) 1938)
<i>Public Service Ordinance</i> 1939 (No. 2 of 1939)	2.3.1939	15.5.1939	2.3.1939 (<i>Laws of T.N.G.</i> , Vol. XV, p. 4)
<i>Public Service Ordinance</i> (No. 2) 1939 (No. 17 of 1939)	5.9.1939	16.12.1939	5.9.1939 (<i>Laws of T.N.G.</i> , Vol. XV, p. 48)
<i>Public Service Ordinance</i> 1940 (No. 4 of 1940)	2.4.1940	(a)	2.9.1939 (Sec. 2, <i>Public Service Ordinance</i> 1940)

(a) No notice of non-disallowance has been published in *N.G. Gaz.*

Part II.—Divisions of the Public Service, and Appointments.

Part III.—Internal Administration.

Part IV.—Classification.

Part V.—Offences, Boards of Inquiry and Appeal.

Part VI.—Leave of Absence and Furlough.

Part VII.—Miscellaneous.

4. In this Ordinance, unless the contrary intention appears— Definitions.

“Classification” means the arrangement of officers and offices in classes, and includes the allotment to officers or offices of salaries or limits of salary according to the value of the work; Inserted by No. 5 of 1938, s. 2.

“Department” means any Department of the Public Service which is prescribed; Inserted by No. 28 of 1922, s. 3; substituted by No. 5 of 1933, s. 2.

“Exempt Officer” means any officer or employee who is appointed by the Governor-General, and who is an officer or employee to whom or to whose class the Governor-General by notification in the *New Guinea Gazette* declares that the provisions of this Ordinance shall not apply; Inserted by No. 28 of 1935, s. 2.

“Officer” means an officer in the Public Service, whether appointed or transferred thereto before or after the commencement of this Ordinance, but does not include a person temporarily employed in the Public Service;

“Permanent Head” means the Permanent Head of the Department wherein is employed any officer in connexion with whom the term is used or is applicable;

“Public Service” means the Public Service of the Territory;

“Returned Soldier” means any person who enlisted, prior to the eleventh day of November, One thousand nine hundred and eighteen and served in the war with satisfactory record in any Expeditionary Force raised under the provisions of the *Commonwealth Defence Act 1903-1918*,⁽²⁾ and includes—

(a) a member of the Army Medical Corps Nursing Service who was accepted or appointed by the Director-General of Medical Services for service outside Australia during the war;

(2) Now the *Defence Act 1903-1945*.

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- (b) any member of the Naval Forces of the Commonwealth who was during the war on active service outside Australia or on a ship of war;
- (c) any person who, during the war, was employed in the transport service in connexion with any such Expeditionary Force, and who, while so employed, served in the zone of war; and
- (d) any person who was born in Australia, or resident in Australia within six months prior to enlistment, and who, at any time during the war, served with satisfactory record in a Naval or Military Expeditionary Force raised in the United Kingdom or in any British Dominion.

Non-application
of the Ordinance
to certain officers.

Section 5
amended by
No. 22 of 1934,
s. 2.

5. Unless the contrary intention appears, this Ordinance shall not apply to—

the Administrator;

the Judges of the Supreme Court;

any person remunerated by fees, allowances, or commission only; or

any officer or class of officers or any employee or class of employees to whom or to which the Governor-General by notification⁽³⁾ in the *New Guinea Gazette* declares that the provisions of this Ordinance shall not apply:

Proviso added
by No. 22 of
1932, s. 2.

Provided that the Minister⁽⁴⁾ may from time to time determine⁽⁵⁾ the rates of payment and the conditions of employment of any such officer or class of officers, or employee or class of employees.

Delegation.

Section 5A
inserted by
No. 22 of 1932,
s. 3.

5A.—(1.) The Governor-General may, by instrument under his hand, delegate to the Minister⁽⁴⁾ or the Administrator any of his powers or functions under this Ordinance or under any Regulation made thereunder (except this power of delegation) so that the delegated powers or functions may be exercised by the delegate with respect to the matters or class of matters specified in the instrument of delegation.

(2.) Every such delegation shall be revocable at will and no

(3) A Table containing particulars of notices made pursuant to Section 5 is printed on p. 4267, and the notices still in force are printed immediately after the Table.

(4) Section 4 of the *Ordinances Interpretation Ordinance 1934-1941* provides that in any Ordinance "unless the contrary intention appears—'Minister' means the Minister of State for the time being administering the *New Guinea Act 1920-1932*".

(5) Pursuant to Section 5, the Minister, by notice dated 29.10.1941, published in *N.G. Gaz.* of 15.11.1941, and printed on p. 4270, determined the rates of payment and conditions of employment of exempt officers and employees.

delegation shall prevent the exercise of any power or function by the Governor-General.

6. Nothing in this Ordinance—

Saving clause.

- (a) shall operate as an appropriation of public moneys; or
- (b) shall affect the right of the Governor-General to dispense with the services of any person employed in the Public Service.

PART II.—DIVISIONS OF THE PUBLIC SERVICE AND APPOINTMENTS.

7. The Public Service of the Territory shall consist of three Divisions, viz:—

Divisions of the Service.

- The First Division;
- The Second Division; and
- The Third Division.

8.—(1.) The First Division shall include all Permanent Heads of Departments and such other officers whose offices are classified in the First Division.

First Division.

(2.) The Second Division shall include all officers other than those classified in the First and Third Divisions whose duties are of an executive or professional or clerical nature and whose offices are classified in the Second Division.

Second Division.

(3.) The Third Division shall include all officers not included in the First or Second Divisions whose offices are classified in the Third Division.

Third Division.

(4.) The persons for the time being holding such offices as are prescribed shall be the Permanent Heads of Departments.

Permanent Heads.
Sub-section (4) substituted by No. 28 of 1922, s. 4.

(5.) The Permanent Head of a Department shall be responsible for its general working and for the business thereof.

9. Officers in the First Division (except officers paid at a special rate by virtue of any Act or Ordinance) shall be paid such salaries in accordance with such fixed amounts or scales as are prescribed.

Salaries of First Division.
Amended by No. 28 of 1922, s. 5, No. 10 of 1938, s. 2, and by No. 2 of 1939, s. 2.

10. Officers in the Second and Third Divisions (except officers paid at a special rate by virtue of any Act or Ordinance) shall be paid such salaries and wages in accordance with such fixed amounts or scales as are prescribed.

Salaries of other Divisions.

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Admission to Public Service. Section 11 substituted by No. 3 of 1928, s. 2.

11. No person shall be admitted to the Public Service unless—

- (a) he is a natural-born British subject;
- (b) he produces evidence, to the satisfaction of the Minister,⁽⁴⁾ as to his—
 - (i) health and physical fitness; and
 - (ii) possession of qualifications of the nature and standard prescribed for appointment to the office, or class of office, of the Public Service, to which his appointment is contemplated; and
 - (iii) date of birth; and
 - (iv) good character; and

Paragraph (ba) inserted by No. 26 of 1933, s. 2; omitted by No. 22 of 1934, s. 3.

* * * * *

Paragraph (c) substituted by No. 22 of 1934, s. 3.

(c) he makes and subscribes an oath or affirmation in accordance with the form in the Second Schedule to this Ordinance.

Paragraph (d) omitted by No. 22 of 1934, s. 3.

* * * * *

Appointments.

12.—(1.) Appointments to the Public Service shall be made by the Governor-General.

Sub-section (2) omitted by No. 22 of 1932, s. 4.

* * * * *

Sub-section (3) amended by No. 22 of 1932, s. 4.

(3.) In the making of appointments to the Public Service, preference shall, subject to competency, be given to returned soldiers.

Appointments to be on probation only except in certain cases.

13.— * * * * *

Sub-section (1) omitted by No. 22 of 1932, s. 5.

Sub-section (2) amended by No. 15 of 1925, s. 2, No. 3 of 1928, s. 3, and by No. 22 of 1932, s. 5; re-numbered (1) by No. 22 of 1932, s. 5.

(1.) Except as otherwise provided in this section, every appointment to the Public Service shall be probationary for a period of twelve months, upon the expiry of which the Governor-General may confirm or annul the appointment, or may extend the probation for a period not exceeding twelve months.

Sub-section (2A) inserted by No. 15 of 1925, s. 2; omitted by No. 3 of 1928, s. 3.

* * * * *

(4) See footnote (4) printed on p. 4200.

(2.) The services of a probationer may be dispensed with by the Governor-General at any time during the period of probation.

Sub-section (3) re-numbered (2) by No. 22 of 1932, s. 5.

(3.) The Governor-General may dispense with the period of probation—

Sub-section (4) re-numbered (3) by No. 22 of 1932, s. 5.

(a) in the case of appointments to the Public Service of—

Paragraph (a) amended by No. 26 of 1933, s. 3; substituted by No. 5 of 1938, s. 3.

(i) officers from the Public Service of the Commonwealth, a State, or a Territory of, or under the authority of, the Commonwealth, including a Territory governed by the Commonwealth under a Mandate;

(ii) members of the European Constabulary Branch of the New Guinea Police Force; or

(iii) exempt officers; or

(b) in any special case in which the Governor-General thinks it expedient or desirable in the interests of the Public Service so to do.

(4.) Appointments may be made to the First and Second Divisions of persons who, before confirmation of appointment, may be required to undergo a prescribed special course of training for the Public Service at a University or elsewhere, and in such cases the period of probation may be extended until the completion of the course of training.

Sub-section (5) re-numbered (4) by No. 22 of 1932, s. 5.

(5.) Any appointment as to which the Governor-General has not, under sub-section (3.) of this section, dispensed with the period of probation and which has not been confirmed or annulled under sub-section (1.) of this section, may, after the expiration of any period of probation, be confirmed or annulled by the Governor-General.

Sub-section (6) added by No. 17 of 1930, s. 2; re-numbered (5) by No. 22 of 1932, s. 5; and amended by No. 22 of 1932, s. 5, and by No. 5 of 1938, s. 3.

13A. Notwithstanding anything contained in this Ordinance—

Promotion of Cadets to Patrol Officers.

(a) a person appointed to an office of Cadet shall, upon the confirmation of his appointment, if he has not already been promoted, be promoted to be a Patrol Officer as from the date of such confirmation, whether there is a vacant office of Patrol Officer in the Classification of the Public Service or not;

Section 13A inserted by No. 22 of 1932, s. 6.

(b) where any Cadet is promoted to an office of Patrol Officer or to be a Patrol Officer he shall thereupon have seniority over any officer (other than a Cadet) appointed or promoted to an office of Patrol Officer on or subsequent to the date upon which the Cadet so promoted was appointed to the office of Cadet; and

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- (c) any Cadet promoted to an office of Patrol Officer prior to the commencement of this section shall, if the Administrator so determines, have seniority over any officer (other than a Cadet) appointed or promoted to an office of Patrol Officer on or subsequent to the date upon which the Cadet so promoted was appointed to the office of Cadet.

14.—(1.) Except as otherwise provided in this section, appointments to the Public Service shall be made at the minimum salary of the class or office to which appointed.

Appointments to be made at minimum salary except in certain cases.

Sub-section (1) amended by No. 22 of 1934, s. 4.

Sub-section (2) amended by No. 26 of 1933, s. 4, No. 22 of 1934, s. 4, No. 28 of 1935, s. 3, and by No. 17 of 1936, s. 2; substituted by No. 5 of 1938, s. 4.

(2.) In the case of appointments to the Public Service of—

- (a) officers from the Public Service of the Commonwealth, a State, or a Territory of, or under the authority of, the Commonwealth, including a Territory governed by the Commonwealth under a Mandate;
- (b) members of the European Constabulary Branch of the New Guinea Police Force;
- (c) exempt officers; or
- (d) persons temporarily employed in the Public Service,

the appointment may be at such salary, within the limits of the class or office to which the appointment is made, as is fixed by the Minister.⁽⁴⁾

Sub-section (3) amended by No. 22 of 1934, s. 4, and by No. 5 of 1938, s. 4.

(3.) Persons appointed on probation under the provisions of sub-section (4.) of section thirteen of this Ordinance shall, during their period of probation, be paid such salaries not exceeding the maximum salary of the class or office to which appointed as may from time to time be approved by the Minister.⁽⁴⁾

Sub-section (4) added by No. 3 of 1928, s. 4.

(4.) Notwithstanding anything contained in this section, a medical officer may be appointed at such salary as is fixed by the Minister⁽⁴⁾ within the limits of salary prescribed for that office.

Appointments from European Constabulary Branch of the New Guinea Police Force. Section 14A inserted by No. 26 of 1933, s. 5.

14A.—(1.) Subject to this Ordinance for the purposes of this Ordinance where any member of the European Constabulary Branch of the New Guinea Police Force is appointed to be an officer of the Public Service his service in the European Constabulary Branch of the New Guinea Police Force shall, if continuous with his service in the Public Service be deemed to be service in the Public Service.

(2.) A member of the European Constabulary Branch of the New Guinea Police Force who is appointed to the Public Service

(4) See footnote (4) printed on p. 4200.

shall have such seniority as is determined by the Minister⁽⁴⁾ at the time of the appointment.

Temporary Employment.

15.—(1.) Whenever, in the opinion of the Administrator, the business of a Department renders temporary assistance necessary he may authorize the employment of persons to render temporary assistance.

Temporary employment.
Cf. P.S.B. c. 77.

(2.) There shall be a register of applicants for temporary employment.

(3.) The hours of work and the rates of pay of temporary employees and the allowances and leave of absence which may be granted to them shall be as prescribed.

Sub-section (3) substituted by No. 5 of 1929, s. 3; amended by No. 10 of 1938, s. 3.

(4.) A returned soldier whose name is enrolled in the register for temporary employment shall, if competent for the work required, be considered for temporary employment in priority to any person who is not a returned soldier.

Temporary employment of returned soldiers.

(5.) Persons may be employed to render temporary assistance for any period not exceeding six months, but the period may be extended by the Administrator upon a report from the Permanent Head that such extension is desirable.

(6.) Persons employed to render temporary assistance shall be subject to the provisions of this Ordinance and of the regulations with regard to duration of employment, attendance, absence from duty, performance of duties, and holidays.

(7.) The services of any person employed to render temporary assistance may be dispensed with at any time by the Administrator or the Permanent Head.

PART III.—INTERNAL ADMINISTRATION.

16.—(1.) The Governor-General may, on the recommendation of the Administrator made, except in a case involving the abolition or classification of the office of a Permanent Head, after obtaining a report from the Permanent Head—

Power to create and abolish offices and vary classification.

(a) create a new office in any Division;

(b) abolish any office; or

(c) raise or lower the classification of any office the duties of which have been materially changed.

Sub-section (1) amended by No. 17 of 1926, s. 2; substituted by No. 22 of 1934, s. 5.

(2.) If an office is abolished in pursuance of the last preceding sub-section, the officer (if any) who held the office immediately

Sub-section (2) added by No. 28 of 1922, s. 6.

(4) See footnote (4) printed on p. 4200.

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prior to its abolition may, subject to the Regulations, be retired from the Public Service.

Increments.

17.—(1.) Increments of salary which are prescribed within the limits of a class or in any respect to any particular office shall be annual, except where otherwise prescribed, and no increment shall accrue to any salary until the officer in receipt of the salary has received the salary for a period of twelve months.

(2.) The right to receive an increment in any year shall depend upon the good and diligent conduct and efficiency of the officer.

Sub-section (3) substituted by No. 22 of 1934, s. 6.

(3.) If, in the opinion of the Administrator, an officer is not entitled to receive an increment, the Administrator may make an order depriving the officer of the increment or postponing the payment of the increment until such time as the Administrator thinks fit.

Sub-section (4) substituted by No. 22 of 1934, s. 6.

(4.) An officer whose increment is the subject of an order referred to in the last preceding sub-section may request the Administrator to reconsider the order for the reasons stated in the request, and, after such further inquiry as he thinks fit, the Administrator may confirm, annul, or vary the order.

Filling of vacancies.

Section 18 amended by No. 10 of 1933, s. 4.

18. Where a vacancy occurs which it is expedient to fill by the transfer or promotion of an officer—

(a) if the vacancy is in the First Division the Governor-General after report from the Administrator, and,

(b) if the vacancy is in the Second or Third Division the Administrator after report from the Permanent Head,

may transfer or promote to fill the vacancy an officer of any Department.

Power of Governor-General to declare office vacant upon transfer of Territory officer under section 43 of *Commonwealth Public Service Act 1922-1937*.
Inserted by No. 2 of 1939, s. 3.

18AA. Where an officer is transferred to an office in the Commonwealth Service in pursuance of section forty-three of the *Commonwealth Public Service Act 1922-1937*⁽⁶⁾ and circumstances exist which in the opinion of the Governor-General render it desirable that the office in the Public Service of the Territory from which the officer is transferred should be filled, the Governor-General may declare the office vacant, and thereupon the office shall become vacant.

Officers transferred under section 43 of *Commonwealth Public Service Act 1922-1937*.
Inserted by No. 17 of 1939, s. 2.

18AB. Where an officer is transferred to an office in the Commonwealth Public Service in pursuance of section forty-three of the *Commonwealth Public Service Act 1922-1937*,⁽⁶⁾ subject to any conditions determined by the Governor-General in pursuance of that section—

(6) Now the *Commonwealth Public Service Act 1922-1945*.

- (a) the officer shall not be entitled during the period of transfer to any payment of salary in accordance with the provisions of this Ordinance; and
- (b) the period of transfer shall be included for all other purposes as part of his period of service as an officer of the Public Service of the Territory.

18A.—(1.) The Administrator may permit any officer to decline an offer of promotion or transfer without prejudice to any claim he might have to promotion or transfer at some later date.

Right to decline promotion or transfer.

Section 18A inserted by No. 22 of 1934, s. 7.

(2.) Where the Administrator makes an order directing the transfer of an officer from one office to another of equal or higher classification, the officer shall comply with the order.

19. In the filling of vacancies by promotion regard shall be had to the relative efficiency of officers for the discharge of the duties of the particular office to be filled, and in the event of equality of efficiency of two or more officers, then to the relative seniority of those officers.

Efficiency and seniority.

20. Before a vacancy is filled an officer may be required to prove his fitness therefor by the satisfactory performance of the duties of such office for a period not exceeding three months.

Proof of fitness.

20A.—(1.) The Minister⁽⁴⁾ may provide by regulation that transfer or promotion from any Division to any other Division or from any office or class of office to any other office or class of office shall be dependent upon passing such examination or upon the possession of such qualifications as is or are prescribed for such transfer or promotion.

Qualifications for particular offices.

Section 20A inserted by No. 26 of 1933, s. 6.

(2.) The Administrator may appoint examiners for the purpose of carrying out the provisions of this section.

PART IV.—CLASSIFICATION.

21.—(1.) The Administrator may from time to time with the concurrence of the Minister⁽⁴⁾ appoint a Classification Board of one or more persons to review the organization, classification, and conditions of employment of the Public Service or any Department or any office or class of office in the Public Service, other than the office of Permanent Head of a Department, and to make recommendations for any changes which it considers desirable.

Classification.

Section 21 substituted by No. 22 of 1934, s. 8; re-substituted by No. 5 of 1938, s. 5.

(2.) The recommendations of the Classification Board in respect of the classification of each office referred to it shall be published in the *New Guinea Gazette*.

(4) See footnote (4) printed on p. 4200.

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(3.) Any officer dissatisfied with the recommendations of the Classification Board affecting his office may, within thirty days of the publication of the recommendations in the *New Guinea Gazette* or such further period as the Administrator directs, forward to the Administrator a notice of appeal setting forth the grounds of his dissatisfaction.

(4.) On receipt of a notice of appeal under the last preceding sub-section the Administrator shall appoint an Appeal Board (in this section referred to as the Appeal Board), consisting of three Permanent Heads of Departments, to consider and report on the appeal.

(5.) The Administrator shall appoint one of the members of the Appeal Board to be chairman.

(6.) The Appeal Board shall consider every appeal referred to it by the Administrator at a meeting of all its members and each member shall have one vote.

(7.) The Appeal Board may inform itself with regard to an appeal in such manner as it thinks fit and necessary and shall forward its report and recommendation thereon to the Administrator:

Provided that any member in the minority may submit a separate report and recommendation.

(8.) The Administrator shall forward to the Minister⁽⁴⁾—

- (a) the recommendations of the Classification Board;
- (b) all notices of appeal and all reports and recommendations thereon under the last preceding sub-section; and
- (c) his recommendations.

(9.) On receipt of the recommendations, notices of appeal, and reports referred to in the last preceding sub-section, the Minister⁽⁴⁾ may classify any officer, office, class of office, or Department referred to therein, as the case may be.

(10.) A classification under the last preceding sub-section shall be published in the *New Guinea Gazette* and shall take effect from a date specified by the Minister.⁽⁴⁾

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Section 21A
inserted by
No. 22 of 1934,
s. 8; repealed
by No. 5 of
1938, s. 5.

PART V.—OFFENCES, BOARDS OF INQUIRY AND APPEAL.

Offences.

22.—(1.) An officer other than an officer of the First Division who—

(4) See footnote (4) printed on p. 4200.

- (a) commits any breach of the provisions of this Ordinance or the regulations; or
- (b) wilfully disobeys or disregards any lawful order made or given by any person having authority to make or give it; or
- (c) is negligent or careless in the discharge of his duties; or
- (d) is inefficient or incompetent from causes which appear to be within his own control; or
- (e) uses intoxicating liquors or drugs to excess; or
- (f) solicits or accepts a fee, reward, gratuity or gift in connexion with the discharge of his official duties; or
- (g) is guilty of any disgraceful or improper conduct, either in his official capacity or otherwise; or
- (h) having made or subscribed an oath or affirmation in the form in the Schedule to this Ordinance does or says anything in violation of that oath or affirmation,

shall be guilty of an offence, and shall be liable to be dealt with and punished in pursuance of this Part.

(2.) If the Permanent Head, or any officer prescribed as having Minor offences. power to deal with minor offences, has any reason to believe that an officer has committed a minor offence, he may call upon the officer for an explanation as to the alleged offence, and if, on consideration of the explanation, he is of opinion that the offence has been committed, he may caution or reprimand the offending officer, or fine him a sum not exceeding Five shillings.

Any caution, reprimand, or fine by an officer other than the Permanent Head shall be forthwith reported to the Permanent Head, and where the offence has been punished by a fine, the officer affected may appeal to the Permanent Head within forty-eight hours of the notification to him of the punishment.

Upon such appeal the Permanent Head may confirm, annul, or reduce the punishment, and his decision shall be final.

23.—(1.) Where there is reason to believe that an officer (not Serious offences. being an officer of the First Division) has committed an offence, other than a minor offence punishable under the provisions of the preceding section—

- (a) The officer may be charged by the Permanent Head, or any other officer prescribed as having power to lay a charge, and may if it is considered that the charge is of such a serious nature that the charged officer should not continue in the performance of his duty, be suspended by the Permanent Head, or, in emergent cases, by any other officer having power as aforesaid.

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- (b) Suspension may be effected prior to or at the time of, or subsequent to, the laying of the charge, and may be removed at any time by the Permanent Head pending determination of the charge, or, in any case where the charge has not been sustained, immediately upon a finding to that effect.
- (c) Upon a charge being laid against an officer, he shall forthwith be furnished with a copy of the charge, and shall be directed to forthwith reply in writing, stating whether he admits or denies the truth of the charge, and to give any explanation he desires in regard thereto. If a reply is not made by the officer within forty-eight hours of his receipt of the charge, the officer shall be deemed to have admitted the truth of the charge.
- (d) If the Permanent Head, after consideration of reports relating to the offence and charge and the reply and explanation, if any, of the officer charged, and any further reports he may consider necessary, is of opinion that the charge has been sustained, he may—
- (i) fine the officer any sum not exceeding Five pounds; or
 - (ii) reduce his salary; or
 - (iii) recommend to the Administrator that the officer be reduced to a lower office and salary, or transferred to some other office or locality, or both; or
 - (iv) recommend to the Administrator that the officer be dismissed from the Public Service.

Sub-paragraph (iii) amended by No. 22 of 1934, s. 9; substituted by No. 5 of 1938, s. 6.

Sub-paragraph (iv) substituted by No. 5 of 1938, s. 6.

Sub-paragraph (v) omitted by No. 5 of 1938, s. 6.

Paragraph (e) substituted by No. 26 of 1923, s. 2; re-substituted by No. 5 of 1938, s. 6.

- * * * * *
- (e) Where the Permanent Head makes a recommendation in pursuance of the last preceding paragraph, he shall notify the officer of the recommendation and, unless the officer appeals within the prescribed time, the Administrator may, where the recommendation is in pursuance of—
- (i) sub-paragraph (iii) of the last preceding paragraph, impose the punishment recommended or any other punishment, except dismissal, specified in that paragraph; or
 - (ii) sub-paragraph (iv) of the last preceding paragraph, dismiss the officer from the

Public Service or impose any other punishment specified in that paragraph.

- (f) If the punishment imposed or recommended by the Permanent Head under paragraph (d) of this subsection be other than the imposition of a fine not exceeding Two pounds the officer may appeal against the punishment, and the appeal shall be heard by an Appeal Board constituted as provided in this section.

Paragraph (f) inserted by No. 26 of 1923, s. 2.

(2.) Appeal may be made on the ground of innocence of the charge, or excessive severity of the punishment, and the Appeal Board may confirm, annul, or vary the decision appealed against, and its decision shall be final, except that in any case where the Appeal Board considers the officer should be dismissed, the case shall be referred by the Chairman of the Appeal Board to the Administrator, who may dismiss the officer from the Public Service, or may impose any such other punishment as is prescribed in the preceding sub-section. In the hearing of any appeal against the excessive severity of the punishment the Appeal Board shall take into consideration the previous record of the officer.

Grounds on which appeal may be made.

(3.) The Appeal Board shall consist of—

- (i) a Judge of the Supreme Court, who shall be the Chairman of the Board;
- (ii) an officer (not being an officer concerned in the laying of the charge against the appellant); and
- (iii) the representative of the Division to which the appellant belongs elected or appointed as prescribed.

Appeal Board. Sub-section (3) substituted by No. 28 of 1922, s. 7; amended by No. 22 of 1934, ss. 2 and 9.

23A. Where no provision is made for an appeal from a punishment imposed on an officer under either of the last two preceding sections, the officer may appeal to the Administrator, who may confirm, annul, or vary the punishment.

Appeal to Administrator. Inserted by No. 22 of 1934, s. 10.

24.—(1.) Where the Administrator has reason to believe that any officer of the First Division has committed any of the offences mentioned in section twenty-two of this Ordinance, the Administrator may charge, and, if he deems fit, suspend, the officer, and shall forthwith report the charge, and suspension, if any to the Minister.⁽⁴⁾ If the officer does not in writing admit the truth of the charge, the Administrator shall appoint a Board of Inquiry (consisting of three persons, one of whom shall be a Judge of the Supreme Court, who shall be the Chairman of the Board of Inquiry, and none of whom shall be the person by whom the charge was made).

Offences by officer of First Division. Sub-section (1) amended by No. 9 of 1923, s. 2 and by No. 22 of 1934, s. 11.

(4) See footnote (4) printed on p. 4200.

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(2.) The Board shall inquire into the truth of the charge, and shall report to the Administrator its opinion thereon.

Sub-section (3)
amended by
No. 22 of 1934,
s. 11.

(3.) If any of the charges are admitted, or are found by the Board of Inquiry to be proved, then the Administrator may make such recommendation to the Minister⁽⁴⁾ in reference thereto, and as to the punishment or otherwise of the person charged as to the Administrator seems fit. On receiving such recommendation, the Minister⁽⁴⁾ may dismiss the officer from the Service, or reduce the officer to a lower office and salary, or impose such penalty or other punishment as the case demands.

(4.) If the charges are found by the Board of Inquiry not to be proved, the suspension shall be immediately removed.

Powers of
Chairman of
Board of
Inquiry or
Appeal Board.
Section 24A
inserted by
No. 22 of 1934,
s. 12.

24A.—(1.) The Chairman of any Board of Inquiry or Appeal Board may at any time—

- (a) summon any person whose evidence is likely to be material to the consideration of any question which the Board has to determine under the provisions of this Ordinance;
- (b) administer an oath or affirmation to any person summoned by him; and
- (c) require any person to produce documents within his possession or subject to his control.

(2.) Any officer who, without reasonable cause, neglects or fails to attend in obedience to the summons, or to be sworn, or to answer questions or produce documents relevant to the subject of the appeal or inquiry, shall be guilty of an offence.

Penalty: Twenty pounds.

(3.) Any person, not being an officer, who, after payment or tender of reasonable expenses, neglects or fails, without reasonable cause to attend in obedience to the summons, or to be sworn, or to answer questions or produce documents relevant to the subject of the appeal or inquiry, shall be guilty of an offence.

Penalty: Twenty pounds.

(4.) Nothing in this section shall be construed as rendering any person compellable to answer any question which might tend to incriminate him.

Proceedings
before Board
of Inquiry or
Appeal Board.

25.—(1.) Any officer, upon the hearing by a Board of Inquiry or Appeal Board in relation to any charge against him, shall be entitled to be represented by counsel, attorney, or agent, who may examine witnesses and address the Board on his behalf. The

(4) See footnote (4) printed on p. 4200.

charging authority may likewise be represented at such hearing by counsel, attorney, or agent.

(2.) It shall be the duty of the Board of Inquiry or Appeal Board to make a thorough investigation without regard to legal forms and solemnities, and to inform itself by the best evidence which it can procure or which is laid before it, whether the evidence is such as the law would require or admit in other cases or not.

(3.) If an Appeal Board is of opinion that the appellant officer had no reasonable grounds for appeal, and that the appeal was frivolous or vexatious, it may recommend to the Administrator that the officer be required to pay such sum as it thinks fit, but not exceeding the cost of the hearing, and the Administrator may order the appellant to pay such sum or such less amount as he thinks fit, and the sum so ordered shall be recoverable in the manner prescribed for the recovery of fines for breaches of this Ordinance or the regulations made under it.

Sub-section (3) amended by No. 22 of 1934, s. 13.

25A.—(1.) Where the Administrator, a Permanent Head, a Board of Inquiry, an Appeal Board, or any person imposes under this Ordinance any fine or pecuniary penalty upon an officer or employee, the amount of the fine or pecuniary penalty shall be deducted from the salary or pay of the officer or employee as and when the salary or pay becomes payable.

Deduction of fines &c. from salary.

Section 25A inserted by No. 22 of 1934, s. 14.

(2.) The deduction shall be made by instalments equal as nearly as practicable to one-fourth of the salary or pay payable from time to time to the officer or employee.

(3.) All fines and penalties imposed and deducted under this Ordinance shall be paid into and form part of the public revenue of the Territory.

26.—(1.) Where it appears to a Board of Inquiry or Appeal Board that it is undesirable, by reason of the officer charged being stationed in a remote locality, or by reason of expense, inconvenience, or delay, to require the officer or any particular witness to attend before the Board to give evidence, the Board may, by order in writing under the hand of the Chairman, appoint some fit and proper person to take the evidence of the officer or witness.

Proceedings where officer or witness in remote locality.

Sub-section (1) amended by No. 23 of 1922, s. 8.

(2.) The person so appointed shall take the evidence of the officer or witness on oath or affirmation, and for the purpose of so doing shall have all the powers of the Chairman of the Board.

Sub-section (2) amended by No. 23 of 1922, s. 8.

(3.) Any party to the appeal entitled to be represented before the Board shall be entitled to be represented before any person taking evidence in pursuance of this section.

Sub-section (3) amended by No. 23 of 1922, s. 8.

(4.) The evidence so taken shall be certified under the hand of the person taking it and forwarded to the Board, and considered by it in connexion with the appeal.

Sub-section (4) amended by No. 23 of 1922, s. 8.

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Proceedings on
inquiry or
appeal.

27.—(1.) In any case where a charge against an officer is dealt with by a Board of Inquiry or Appeal Board, a copy of all documents intended to be used at the inquiry shall, where practicable, be furnished to the officer at least seven days before the inquiry is held.

(2.) Where any charge against an officer is dealt with by a Board of Inquiry or Appeal Board, the Board shall have the right to direct that the inquiry shall be held in public or in private.

(3.) In any case where a Board finds that the charge is not proved or upholds the appeal, it may recommend that the reasonable expenses, or any part thereof incurred by the officer in meeting the charges or prosecuting the appeal be paid, the amount of such expenses to be mentioned in the recommendation, and, if approved by the Administrator, the amount may be paid to the officer.

(4.) Where an officer has been suspended for an offence under this Ordinance, he shall be entitled to receive his salary during the period of suspension, unless he absconds, or unless otherwise ordered by the Administrator, upon report of the Permanent Head.

Procedure where
address of officer
unknown.

28.—(1.) In the event of the address for the time being of an officer being unknown to the Permanent Head, all notices, orders, or communications to or for the officer shall be posted to the last-known address of the officer, and compliance with this section shall be deemed a sufficient service on the officer of any such notice, order, or communication.

(2.) Where any such notice, order, or communication relates to any charges made against an officer, then if, within any time specified in the notice, order, or communication, no answer is received by the authority which has asked whether the officer admits the truth of the charges brought against him, the officer shall be deemed to deny the truth of the charges, and the charges may be dealt with in the absence of the officer.

Officer convicted
of criminal
offence.

29.—(1.) Where an officer is charged with having committed any criminal offence, punishable either on indictment or on summary conviction, he may be suspended by the Permanent Head.

Sub-section (2)
amended by
No. 22 of 1934,
s. 15.

(2.) If the officer is convicted of the offence by any Court of competent jurisdiction, the Administrator may (whether the officer has been suspended or not) dismiss him from the Service, or reduce him to a lower office and salary, or reduce his salary, or inflict such other punishment as the case demands.

(3.) Any officer who is so suspended or dismissed shall, unless the Administrator otherwise directs, not receive any salary from the date upon which or for the period during which, he ceased to perform the duties of his office.

(4.) The Permanent Head may at any time remove the suspension of any officer suspended under this section, whether before or after conviction.

(5.) This section shall not prevent an officer from being dealt with under some other provision of this Ordinance, but an officer shall not be punished under this Ordinance twice in respect of the same offence or matter.

30. Any Board of Inquiry or of Appeal under this Ordinance may take evidence on oath. Power to take evidence on oath.

31. Any officer or officers of the Public Service aiding, fomenting, or taking part in any strike which interferes with or prevents the carrying on of any part of the Public Services or utilities of the Territory shall be deemed to have committed an illegal action against the peace and good order of the Territory, and any such officer or officers adjudged by the Administrator to be guilty of such action, may be summarily dismissed by the Governor-General from the Service, without regard to the procedure prescribed in this Ordinance for dealing with offences under this Ordinance. Officers taking part in strikes against Government.

PART VI.—LEAVE OF ABSENCE AND FURLOUGH.

32.—(1.) The Administrator may grant, as prescribed, to every officer leave of absence for recreation calculated at the rate of one day's leave for every week of the officer's service in respect of which the officer has not previously been granted leave of absence for recreation; but the granting of the leave shall be dependent upon the officer's good conduct and regular attention to duty. Leave of absence for recreation, &c. Section 32 substituted by No. 9 of 1923, s. 3; amended by No. 3 of 1928, s. 5; re-substituted by No. 22 of 1934, s. 16.

(2.) The period of leave of absence for recreation shall be inclusive of any time occupied by the officer in travelling to and from the Territory:

Provided that the Administrator may grant such additional time for travelling not exceeding fourteen days as he thinks fit.

(3.) The period of leave of absence for recreation shall be exclusive of all public holidays occurring during the leave of absence.

(4.) Leave of absence for recreation shall not be accumulated for a period of service exceeding three years and twenty-six weeks.

(5.) If any officer resumes duty before the expiration of the period of leave of absence for recreation, the unexpired portion of the period may, with the consent of the Administrator, be added to the next period of leave of absence for recreation granted to the officer.

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Sub-section (6)
added by No. 2
of 1939, s. 4;
substituted by
No. 17 of 1939,
s. 3.

(6.) Where, before the expiration of a period of leave of absence for recreation granted to him, an officer has applied for leave of absence from the date of the expiration of that period, the Administrator may, on sufficient cause being shown, grant him leave of absence not exceeding fourteen days from that date, and such leave of absence shall be deducted from his next accruing leave of absence for recreation:

Provided that where an officer who has been granted leave of absence under this sub-section retires or is retired from the Public Service before the completion of a period of forty-six weeks' service commencing from the expiration of the leave of absence, a sum equivalent to the salary paid to the officer for the period of the leave of absence shall be deducted from any money due to the officer by the Administration or shall be refunded by the officer to the Administration.

Sub-section (7)
added by No. 17
of 1939, s. 3.

(7.) The period of an officer's absence on leave granted under this section shall not be taken into account as service for the purpose of computing the amount of leave of absence for recreation which he may be granted subsequently.

Special leave.
Section 32A
inserted by
No. 10 of 1938,
s. 5; substituted
by No. 17 of
1939, s. 4.

32A.—(1.) Subject to the next succeeding sub-section, the Administrator, or an officer authorized by him, may, on sufficient cause being shown, grant to any officer leave of absence.

(2.) Where leave of absence granted to an officer under the last preceding sub-section in any twelve months exceeds three days, the leave of absence in excess of three days shall be without salary or shall be deducted from leave of absence for recreation due or next accruing to the officer, as the Administrator directs:

Provided that where the Administrator has directed that the leave of absence in excess of three days shall be deducted from leave of absence for recreation due or next accruing to the officer and the officer retires or is retired from the Public Service before a period of leave of absence for recreation greater than or equal to the leave of absence in excess of three days may be granted to the officer, a sum equivalent to the salary paid to the officer for the period of the leave of absence in excess of three days shall be deducted from any money due to the officer by the Administration or shall be refunded by the officer to the Administration.

(3.) An officer who grants leave of absence to an officer under this section shall report the granting of the leave of absence to the Government Secretary.

Leave without
pay.

Sub-section (1)
amended by
No. 22 of 1934,
s. 17.

33.—(1.) In case of pressing necessity the Administrator may grant leave of absence for a period not exceeding three months without salary to any officer, and such leave may be in addition to recreation leave or sick leave.

(2.) The Administrator may grant leave of absence without salary to any officer for any period not less than three months but not exceeding twelve months, but the period of such leave shall not for any purpose be included as part of the officer's period of service.

Cf. Papua, reg. 23.
Sub-section (2) amended by No. 22 of 1934, s. 17.

33A.—(1.) The Administrator may grant leave of absence to any officer who has enlisted in, or been appointed to, any Expeditionary Force raised under the provisions of the *Defence Act 1903-1939*⁽²⁾ of the Commonwealth, or who is called up, in pursuance of that Act, for war service, and the duration of such leave shall not, unless the Administrator otherwise directs, exceed the period of the officer's service with the Expeditionary Force or on war service, as the case may be.

Leave for Defence purposes.
Section 33A inserted by No. 4 of 1940, s. 3.

(2.) Subject to the provisions of the next succeeding sub-section, leave of absence granted under this section shall be without salary.

(3.) An officer who is granted leave of absence under this section may, if his pay as a member of the Defence Force in respect of the first sixteen calendar days of leave so granted is less than his salary as an officer, be paid an amount equal to the difference.

(4.) The period during which any officer is absent on leave granted under this section shall, for all purposes except the calculation of leave of absence under section thirty-two or section thirty-six of this Ordinance, be included as part of the officer's period of service.

(5.) The provisions of this section shall apply to exempt officers and temporary employees:

Provided that, in the case of an exempt officer or a temporary employee, leave shall not be granted beyond the date on which his services would, but for that leave, have been terminated.

34.—(1.) When an officer has continued in the Public Service of the Territory for at least eighteen years, or when the aggregate period of an officer's service in any one or more of the following Services, namely:—

Furlough.
Sub-section (1) amended by No. 22 of 1932, s. 7, No. 26 of 1933, s. 7(a), and by No. 22 of 1934, s. 18; substituted by No. 17 of 1939, s. 5.

- (a) the Public Service of the Commonwealth;
- (b) the Public Service of any State;
- (c) the Public Service of any Territory of the Commonwealth;
- (d) the European Constabulary Branch of the New Guinea Police Force,

in conjunction with the period of his service in the Public Service, amounts to eighteen years continuous service, the Administrator may from time to time grant to him leave of absence as furlough calculated at the rate of one month on full salary or two months on

(2) Now the *Defence Act 1903-1945*.

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half salary for each completed three years of continuous service in respect of which he has not been granted furlough.

Sub-section (2) amended by No. 22 of 1932, s. 7, No. 22 of 1934, s. 18 and by No. 28 of 1935, s. 4; substituted by No. 17 of 1939, s. 5.

(2.) Where an officer who is eligible for furlough in accordance with the last preceding sub-section retires or is retired from the Public Service, the Administrator may grant to the officer a sum equivalent to his salary for a period of furlough not exceeding that which he could have been granted under that sub-section.

Sub-section (3) amended by No. 22 of 1932, s. 7, and by No. 28 of 1935, s. 4; substituted by No. 17 of 1939, s. 5.

(3.) Upon the death of any officer who was eligible at the time of his death for furlough in accordance with sub-section (1.) of this section, the Administrator may pay to the dependants of the deceased officer a sum equivalent to the salary of the officer for a period not exceeding the period of furlough which he could have been granted under that sub-section.

Sub-section (4) added by No. 22 of 1932, s. 7; amended by No. 26 of 1933, s. 7 and by No. 22 of 1934, s. 18.

(4.) Notwithstanding anything contained in this section, where an officer had, prior to his appointment to the Public Service, become eligible for furlough in the Public Service of the Commonwealth or of a State or of a Territory of the Commonwealth or in the European Constabulary Branch of the New Guinea Police Force, only that period of his service in such other Public Service or the European Constabulary Branch of the New Guinea Police Force in respect of which he has not been granted furlough or salary in lieu thereof shall be taken into account in calculating the period of service for the purpose of furlough under this section.

Sub-section (5) added by No. 28 of 1935, s. 4.

(5.) For the purposes of this section and the next succeeding section—

- (a) permanent service in the Railway or Police Service of a State;
- (b) permanent service in the Commonwealth Railways Service;
- (c) permanent service in a civil capacity in the Department of Defence;
- (ca) permanent service under any authority, constituted by the Commonwealth or a State or by or under any Commonwealth or State Act, specified by the Administrator by notice⁽⁷⁾ in the *New Guinea Gazette*;

Paragraph (ca) inserted by No. 2 of 1939, s. 5.

(7) Pursuant to Section 34, the Administrator, by notices, particulars of which are set out in the following Table, specified the authorities set out in the respective notices to be authorities under which permanent service shall, for the purposes of Sections 34 and 35 of the *Public Service Ordinance* 1922-1941 be deemed service in the Public Service of a State.

Date on which notice made by Administrator.	Date on which published in <i>N.G. Gaz.</i>	Authorities specified.
11.10.1939	31.10.1939	The Water Conservation and Irrigation Commission of New South Wales and the Forests Commission of Victoria
1.11.1939	4.11.1939	The Forestry Board of Queensland

- (d) service in a permanent capacity in the Naval, Military, or Air Forces of the Commonwealth; or
- (e) service in the Northern Territory Administration,

shall be deemed service in the Public Service of the Commonwealth or of a State or of a Territory of the Commonwealth (as the case may be).

35.—(1.) The Administrator may grant^(7A) to meritorious officers, prior to their retirement at the age of fifty-five years or upwards, whose period of service is less than eighteen years, leave of absence with full salary as follows:—

Service of 15 years and under 18 years . .	5 months
Service of 12 years and under 15 years . .	4 months
Service of 9 years and under 12 years . .	3 months
Service of 6 years and under 9 years . .	2 months
Service of 4 years and under 6 years . .	1 month.

Leave to certain officers on full salary on retirement.

Cf. Papua, reg. 24.

Sub-section (1) amended by No. 22 of 1932, s. 8, No. 22 of 1934, s. 19, No. 28 of 1935, s. 5, and by No. 17 of 1939, s. 6.

(2.) Where an officer has been appointed to the Public Service of the Territory from the Public Service of the Commonwealth or of a Territory of the Commonwealth or a State or from the European Constabulary Branch of the New Guinea Police Force, the time served as an officer in these Public Services, if continuous with the service in the Public Service of the Territory, may be taken into account in calculating the period of service for the purpose of leave of absence under this section.

Service in Commonwealth or Territory of Commonwealth or State Service to be recognised.

Sub-section (2) amended by No. 26 of 1933, s. 8 and by No. 22 of 1934, s. 19.

(3.) Where an officer, being under the age of fifty-five years and having completed less than eighteen years' service, retires or is retired from the Public Service and satisfies the Administrator that his retirement is caused by physical injury sustained in the execution of duty or ill health which is permanent but not due to misconduct or to causes within the control of the officer, the Administrator may authorise payment to the officer of a sum equivalent to his salary for a period of leave not exceeding that for which, had he attained the age of fifty-five years, he would have been eligible under sub-section (1.) of this section.

Sub-section (3) added by No. 22 of 1934, s. 19; amended by No. 28 of 1935, s. 5, and by No. 5 of 1938, s. 7.

(4.) Upon the death of an officer of any age before he has completed eighteen years' service, the Administrator may authorise the payment to the dependants of the officer of a sum equivalent to the salary the officer would have received for the period of leave which he would have received had he been eligible for, and been granted leave of absence under sub-section (1.) of this section.

Sub-section (4) added by No. 22 of 1934, s. 19; amended by No. 28 of 1935, s. 5.

(7A) As to the grant of leave and furlough by the Minister to officers suspended by regulations 6 and 8 of the National Security (External Territories) Regulations, see Regulation 9A of those Regulations.

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Long leave.
Sub-section (1) substituted by No. 3 of 1928, s. 6; amended by No. 22 of 1932, s. 9, No. 22 of 1934, s. 20, and by No. 2 of 1939, s. 6.

36.—(1.) Subject to the provisions of this section, the Administrator may from time to time grant to every officer leave of absence, to be designated "long leave", calculated⁽⁸⁾ at the rate of one half month on full salary or one month on half salary for every year of service in respect of which the officer has not previously been granted "long leave":

Provided that "long leave" shall not be granted until an officer has continued in the Public Service of the Territory for at least six years, and any further "long leave" shall not be granted until the officer has completed a period of at least six years' service commencing from the expiration of his last preceding "long leave":

Proviso added by No. 22 of 1932, s. 9.

Provided further that "long leave" under this section shall be granted only to an officer who is eligible for a period of at least thirteen weeks leave of absence for recreation:⁽⁹⁾

Proviso inserted by No. 22 of 1934, s. 20.

Provided that an officer may be granted "long leave" calculated at the rate of one month on full salary or two months on half salary per year in respect of each year or part of a year of service prior to the first day of December, One thousand nine hundred and thirty-two in respect of which he has not been granted "long leave":

Proviso inserted by No. 22 of 1934, s. 20.

Provided⁽⁸⁾ further that, notwithstanding the provisions of this section, where "long leave" in respect of any period of service prior to the first day of December, One thousand nine hundred and thirty-two has been granted to an officer at a rate less than that referred to in the last preceding proviso, the Administrator may at any time he thinks fit grant the officer leave equivalent to the difference between leave calculated at the rate of one half month on full salary or one month on half salary per year and leave calculated at the rate of one month on full salary or two months on half salary per year in respect of the said period of service.

Sub-section (2) substituted by No. 22 of 1932, s. 9.

(2.) "Long leave"⁽⁸⁾ granted under this section shall be taken immediately before or after a period of at least thirteen weeks leave of absence for recreation.⁽⁹⁾

(8) See Section 9(2) of the *Public Service Ordinance* 1932, printed on p. 4230.
(9) See now the *National Security (External Territories) Regulations* of the Commonwealth, Regulation 20A of which reads as follows:—
"20A. The Ordinance and Regulations specified in the first column of the Schedule to these Regulations shall operate as if they were amended as respectively specified in the second column of that Schedule."
The Schedule referred to reads, so far as it is relevant to the Territory of New Guinea, as follows:

"THE SCHEDULE.

Reg. 20A.

Ordinance and Regulations.	Amendments.
* * *	* * * *
New Guinea— <i>Public Service Ordinance</i> 1922-1940	Section 36— Omit the second proviso to sub-section (1.) Omit sub-sections (2.) and (2A.).

Operation of certain laws of the Territories varied.

Public Service Ordinance 1922-1940.

(2A.) The provisions of the last preceding sub-section, and of the second proviso to sub-section (1.) of this section, shall not apply to an officer who has enlisted in, or been appointed to, any Expeditionary Force raised under the provision of the Defence Act 1903-1939⁽²⁾ of the Commonwealth, or who is called up, in pursuance of that Act, for war service.⁽⁹⁾

Sub-section (2A) inserted by No. 4 of 1940, s. 4.

(3.) Service under the Administration of the Territory of New Guinea subsequent to the eighth day of May, 1921, if continuous, shall for the purposes of this section be deemed service in the Public Service.

Sub-section (3) substituted by No. 40 of 1923, s. 2.

(4.) Temporary service if continuous with permanent service may be taken into account in calculating the period of service for the purpose of leave of absence under this section.

36A. Except upon the retirement of an officer, the total period of any leave of absence as furlough, "long leave" and recreation leave shall not exceed twelve months at any one time.

Total period of leave. Inserted by No. 22 of 1932, s. 10.

36B. For the purposes of sections thirty-four, thirty-five, and thirty-six of this Ordinance, salary includes any prescribed child allowance.

Salary to include certain allowances. Inserted by No. 22 of 1934, s. 21.

36C. Where an officer having been granted leave of absence for recreation, furlough, or "long leave" dies, resigns, retires, or is retired during the period of the leave of absence for recreation, furlough, or "long leave", the Administrator may revoke the grant as from the date of death, resignation, or retirement, as the case may be, and give approval for the payment of salary in lieu of the leave of absence for recreation, furlough, or "long leave" for the residue of the period for which it was granted.

Where death occurs during leave, salary may be approved for residue. Inserted by No. 22 of 1934, s. 21; amended by No. 5 of 1938, s. 8.

36D. Service as an exempt officer if continuous with permanent service in the Public Service shall be deemed to be service in the Public Service for the purpose of calculating the leave of absence which may be granted to an officer for recreation or as furlough or as "long leave" or as sick leave.

Service of exempt officer in calculating leave. Inserted by No. 28 of 1935, s. 6; amended by No. 10 of 1938, s. 6.

37.—(1.) The Administrator, in cases of illness, may, in any period of three years, on such terms as are prescribed, grant to any officer leave not exceeding three months, and may, with the concurrence of the Minister,⁽⁴⁾ and on such terms as are prescribed, extend such leave to a period not exceeding twelve months.

Sick leave. Cf. c. 67, P.S.B. Papua, reg. 19. Sub-section (1) amended by No. 10 of 1938, s. 7.

(2.) Where in case of illness an officer, who has received extended leave of absence for twelve months, is not so far recovered

(2) Now the *Defence Act* 1903-1945.

(4) See footnote (4) printed on p. 4200.

(9) See footnote (9) printed on p. 4220.

PUBLIC SERVICE—

as to be able to resume his duties, the Administrator, with the concurrence of the Minister,⁽⁴⁾ may grant the officer further leave of absence for a period not exceeding six months.

(3.) No salary or allowance shall be paid to the officer during such further leave.

(4.) If at the expiration of such further leave the officer is unable to resume his duties the Governor-General may retire him from the Public Service.

(5.) Upon report by a duly qualified medical practitioner that an officer is in such a state of health as to constitute him a danger to his fellow officers or the public, the Administrator may, subject to the regulations, direct the officer to absent himself from his duties for a specified period, and the officer's absence shall be regarded as leave of absence owing to illness.

(6.) Leave of absence in case of illness shall not be reckoned as or included in leave of absence for recreation, furlough, or "long leave".

Sub-section (6)
amended by
No. 22 of 1934,
s. 22.

PART VII.—MISCELLANEOUS.

Acting
appointments.

38. In the event of the Permanent Head or any officer being absent from his office or unable to perform the duties of his office, or in the event of any vacancy in any office, the Administrator may appoint any officer to act in the place of the Permanent Head or other officer during his absence or inability, or may appoint any officer to temporarily fill the vacancy until a permanent appointment is made.

Age at which
officers entitled,
or may be called
upon, to retire.

Sub-section (1)
amended by
No. 3 of 1928,
s. 7 and by
No. 22 of 1934,
s. 23.

39.—(1.) The Permanent Head shall furnish the Administrator in the month of April in each year with a return of officers in his Department who have attained the age of sixty years or over, together with a report in each case as to whether the officer is able and willing to continue to perform his duties.

Sub-section (2)
amended by
No. 3 of 1928,
s. 7.

(2.) Every officer having attained the age of fifty-five years or having completed twenty years of service shall be entitled to retire from the Public Service if he desires to do so, but, subject to this section, he may continue in the Public Service until he attains the age of sixty-five years.

Sub-section (3)
amended by
No. 3 of 1928,
s. 7 and by
No. 22 of 1934,
s. 23;
substituted by
No. 10 of 1938,
s. 8.

(3.) If an officer continues in the Public Service after he has attained the age of sixty years, the Governor-General may at any time before the officer attains the age of sixty-five years retire him from the Public Service.

(4) See footnote (4) printed on p. 4200.

Public Service Ordinance 1922-1940.

40.—(1.) Every officer shall retire on attaining the age of sixty-five years unless he is requested to continue to perform his duty in the Public Service as provided by sub-section (2.) of this section, and is able and willing so to do.

Officers attaining age of sixty-five to retire unless required to continue.
Cf. Papua No. 4. 1920.

(2.) Notwithstanding that an officer has attained the age of sixty-five years, if the Administrator certifies that in the interests of the Public Service it is desirable that the officer should continue in the performance of the duties of his office or of any office in the Public Service to which he may be appointed, and that the officer is able and willing to do so, the Minister⁽⁴⁾ may direct the officer to continue in the service for such fixed period or periods, not exceeding twelve months, as the Minister⁽⁴⁾ from time to time directs.

(3.) Notwithstanding the provisions of this section, the Minister⁽⁴⁾ may direct that an officer who has attained the age of sixty-five years or has been directed under the last preceding sub-section to continue in the Public Service, shall continue in the Public Service for a further period not exceeding the period of any leave of absence or furlough or both which under this Ordinance may be granted in respect of his service prior to his attaining the age of sixty-five years or the expiration of the period or periods during which he was directed under the last preceding sub-section to continue in the Public Service, as the case may be.

Sub-section (3) added by No. 17 of 1936, s. 3.

41.—(1.) The following days, or any days appointed by the Administrator by proclamation⁽¹⁰⁾ to be observed in lieu thereof, shall be observed as public holidays in the public offices of the Territory, namely:—

Public holidays.
Sub-section (1) amended by No. 22 of 1934, s. 24; substituted by No. 5 of 1938, s. 9.

The first day of January;

The twenty-sixth day of January;

Good Friday and the following Saturday, Monday, and Tuesday;

The twenty-fifth day of April;

The twelfth day of September;

Christmas Day and the following day, and

The day appointed to commemorate the anniversary of the birthday of the Sovereign.

(2.) Whenever any of the said days fall upon a Sunday the next following Monday shall (unless the Administrator otherwise declares) be observed as a holiday in the public offices in lieu thereof.

(4) See footnote (4) printed on p. 4200.

(10) No proclamation has been published in *N.G. Gaz.*

PUBLIC SERVICE—

(3.) The Administrator may by proclamation⁽¹¹⁾ declare that any day or part of a day shall be observed as a public holiday throughout the whole or any part of the Territory in addition to any of the before-mentioned days, and such day or part of a day shall be observed as a public holiday accordingly.

(4.) The Administrator may require a Department or any part thereof to continue work in the public interest for the whole or any portion of a holiday, and may require the attendance and services of any officer of the Department during any such holiday; but in that case every such officer shall be granted in lieu thereof a holiday or half-holiday (as the case may be) upon such other occasion as does not interfere with public business.

(5.) Leave in lieu of public holidays may, subject to the approval of the Administrator, be added to recreation leave or accumulated recreation leave.

Retirements
on account of
infirmity or
incapacity.
Section 42
substituted by
No. 3 of 1928,
s. 8.

42.—(1.) If an officer appears to the Administrator, after full investigation of the circumstances, to be, by reason of mental or bodily infirmity or for any other reason, unfit to discharge or incapable of discharging the duties of his office efficiently, the Administrator may with the consent of the Minister⁽⁴⁾ retire the officer from the Public Service or transfer him to some other position of equal or lower status and salary.

(2.) The retirement of an officer under this section shall not be deemed to be on account of mental or bodily infirmity unless it is so stated in the instrument effecting the retirement.

Insolvency of
officer.

43.—(1.) If an officer is adjudicated insolvent or his estate is sequestrated either voluntarily or compulsorily for the benefit of his creditors, he shall within seven days give written notice thereof, with a statement or explanation of the cause of his embarrassment, to the Permanent Head, who shall forward the same to the Administrator with any remarks he may desire to make thereon.

(2.) Unless the Administrator otherwise directs, the officer shall continue to perform the duties of his position and to receive his salary.

(3.) An officer who is adjudicated insolvent or whose estate is so sequestrated shall apply as soon as he may legally do so to the proper Court for a certificate of discharge:

(4.) If the officer does not apply for a certificate of discharge, or if he applies and it appears from the report of the Court that he has been guilty of fraud, dishonourable conduct, or extravagance, the Minister⁽⁴⁾ may, on the recommendation of the Adminis-

(4) See footnote (4) printed on p. 4200.

(11) No proclamation is still in force.

Public Service Ordinance 1922-1940.

trator, dismiss the officer from the Public Service, or reduce him to a position of lower status and salary.

44. An order for the attachment of the salary, wages, or pay of any officer or employee in the Public Service may be made by any Court of competent jurisdiction.

Salary of officers attachable.

45.—(1.) Except with the express permission of the Administrator, which permission may at any time be withdrawn, an officer shall not—

Officer not to engage in duties unconnected with his office.

Section 45 substituted by No. 3 of 1928, s. 9.

- (a) accept or continue to hold an office in or under the Government of any State, or in or under any public or municipal corporation; or
- (b) accept or continue to hold or discharge the duties of, or be employed in, a paid office in connexion with any banking, insurance, agricultural, mining, mercantile, or other commercial business, whether carried on by any corporation, company, firm or individual; or
- (c) engage in or undertake any such business whether as principal or agent; or
- (d) engage or continue in the private practice of any profession or trade; or
- (e) accept or engage in any remunerative employment other than in connexion with the duties of his office or offices in the Public Service.

(2.) Except as hereinafter provided, the last preceding sub-section shall not be deemed to prevent an officer from becoming a member or shareholder only of any incorporated company, or of any company or society of persons registered under any Act in any State or elsewhere. But an officer shall not take any part in the conduct of the business of the company or society otherwise than by the exercise of his right to vote as a member or shareholder.

(3.) An officer, either personally or by his agent, shall not—

- (a) without the consent in writing of the Administrator, hold shares in any public company operating in the Territory; or
- (b) acquire land in the Territory except upon which a building is or is to be erected, and which is to be occupied by him as a residence:

Provided that nothing herein contained shall prohibit an officer acquiring land upon which is or is to be erected a dwelling house for occasional use by him for reasons of health.

(4.) For the purposes of the last preceding sub-section, the wife of an officer shall be deemed to be the agent of her husband.

PUBLIC SERVICE—

Regulations.
Sub-section (1)
amended by
No. 26 of 1933,
s. 9.

46.—(1.) The Minister⁽⁴⁾ may make regulations,⁽¹²⁾ not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Ordinance or for the efficient control and management of the Public Service, and in particular for all or any of the following purposes:—

Paragraph (a)
substituted by
No. 26 of 1933,
s. 9; amended
by No. 2 of
1939, s. 7.

(a) arranging the First, Second, and Third Divisions into offices and grades of offices and for determining the amounts or scales of salaries to be paid to officers of those Divisions in the several Departments or in any specified Department or part thereof and for defining the seniority of officers in those respective divisions;

Paragraph (aa)
inserted by
No. 26 of 1933,
s. 9.

(aa) prescribing the character or standard of the qualifications to be possessed by any person appointed to any Division or to any office or class of office in any Department;

Paragraph (ab)
inserted by
No. 10 of 1938,
s. 9.

(ab) prescribing the conditions regulating the payment of increments of salary with respect to any particular office and the conditions regulating the promotion to any particular office;

Paragraph (ac)
inserted by
No. 10 of 1938,
s. 9.

(ac) regulating the duties and conduct of officers and temporary employees and the imposition of punishment in any case where the conduct, diligence, or efficiency of a temporary employee is unsatisfactory;

(b) the creation of offices and the allotment of duties to different Departments and officers;

(c) prescribing the conditions under which officers may be transferred from one Division to another;

(d) prescribing the rates of salaries or wages for women employed in any specified office in the Public Service, and the conditions upon which women may be employed;

(e) specifying the powers and regulating the procedure of Boards of Appeal and of Inquiry;

(f) regulating and fixing for breach of any specified regulation penalties not exceeding Twenty pounds;

(g) prescribing the method of electing representatives of officers of the several Divisions on Boards of Appeal;

Paragraph (d)
amended by
No. 10 of 1938,
s. 9.

(4) See footnote (4) printed on p. 4200.

(12) See the *Public Service Regulations*, printed on p. 4233.

Public Service Ordinance 1922-1940.

- (h) regulating the rates of allowance payable to any officer or to any class of officers for transfer, travelling or any other purpose, or for living in localities where the climatic conditions are severe or in places where the cost of living is appreciably higher than the ordinary or normal cost of living at Rabaul; **Paragraph (h) amended by No. 22 of 1932, s. 11.**
- (i) providing for the relief and transfer of officers employed in any such locality after having been so employed for the period prescribed for that locality;
- (ia) providing for the payment of the whole or portion of the fares of officers taking up duty in the Territory and of the cost of conveyance of officers, their wives, and their families when travelling on transfer or promotion or on approved leave and prescribing the terms and conditions upon which payment may be made; **Paragraph (ia) inserted by No. 22 of 1932, s. 11; substituted by No. 28 of 1935, s. 7; amended by No. 10 of 1938, s. 9.**
- (ib) providing for the payment of the cost of conveyance of temporary employees, their wives, and their families, when travelling on transfer within the Territory; **Paragraph (ib) inserted by No. 2 of 1939, s. 7.**
- (j) regulating the hours of attendance of officers and the keeping and signing of records of attendances, or prescribing other methods of recording attendances;
- (k) regulating the performance of, and payment to officers for, extra services, including performance of the duties of offices higher than that in which they are classified and of work outside the ordinary hours of duty; **Paragraph (k) amended by No. 10 of 1938, s. 9.**
- (l) fixing the amount and nature of the security to be given for the fidelity of officers occupying positions the nature of which in the opinion of the Administrator renders it necessary for such officers to find security for their fidelity;
- (m) fixing the maximum or minimum age of persons who may be appointed to any particular division, class, or office;
- (n) prescribing the conditions under which, and the amounts for which, officers may be required to assure their lives;
- (o) determining the dates, times, or periods of time at or within which shall be done all things and acts required or permitted by this Ordinance to be done, and in respect of which no dates, times, or periods of time are specifically provided;

PUBLIC SERVICE—

Paragraph (p)
substituted by
No. 10 of 1938,
s. 9.

(p) prescribing the procedure in regard to the filling of vacancies;

(q) regulating the keeping of a register of applicants for temporary employment, and the employment of persons engaged to render temporary assistance;

Paragraph (r)
amended by
No. 22 of 1932,
s. 11.

(r) prescribing quarters or the rent to be charged for, or the amount to be deducted from salary in respect of, quarters occupied by officers;

Paragraph (s)
amended by
No. 5 of 1938,
s. 10, and by
No. 10 of 1938,
s. 9.

(s) medical attendance for officers and temporary employees and their families;

Paragraph (t)
substituted by
No. 10 of 1938,
s. 9.

(t) providing for and regulating the grant of leave to, and the re-imbursment of, officers and temporary employees attending before a court as witnesses;

Paragraph (u)
added by No. 5
of 1938, s. 10.

(u) providing for and regulating the grant of leave for absence through injury due to accident; and

Paragraph (v)
added by No. 5
of 1938, s. 10.

(v) prescribing, where there is no provision or no sufficient provision in this Ordinance, in respect of any matter or thing necessary to give effect to this Ordinance, in what manner and form the want of provision or the insufficient provision shall be supplied.

(2.) All regulations made in pursuance of this Ordinance shall—

Paragraph (a)
amended by
No. 28 of 1935,
s. 7.

(a) be published in the *New Guinea Gazette*;

Paragraph (b)
amended by
No. 38 of 1922,
s. 4.

(b) take effect from the date of publication, or from a date specified therein at the time of their publication.

First Schedule
repealed by
No. 5 of 1938,
s. 11.

* * * * *

SECOND SCHEDULE.

Section 11.

Oath.

I, A.B., do swear that I will be faithful and bear true allegiance to the King, and will loyally as in duty bound uphold the Constitution of the Commonwealth of Australia established under the Crown of the United Kingdom. So help me, God!

Affirmation.

I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to the King, and will loyally as in duty bound uphold the Constitution of the Commonwealth of Australia established under the Crown of the United Kingdom.