

Civil Service Act 1908

Public Act 1908 No 23
Date of assent 4 August 1908

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BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1 Short Title

- (1) The Short Title of this Act is The Civil Service Act 1908.

- (2) This Act is a consolidation of the enactments mentioned in Schedule 1 hereto, and with respect to those enactments the following provisions shall apply:—
- (a) All Orders in Council, orders, regulations, warrants, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.
 - (b) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.
- (3) This Act is divided into Parts, as follows:—
- PART 1—Appointments. (Sections 4 to 11)
 - PART 2—Discipline. (Sections 12 to 21)
 - PART 3—Officers' Guarantee. (Sections 22 to 27)
 - PART 4—Miscellaneous and Saving Provisions. (Sections 28 to 31)

2 Persons excepted from operation of Act

- (1) Nothing in this Act shall, except as herein provided, apply to—
- (a) Any responsible Minister; or
 - (b) Any Judge of the High Court or Court of Arbitration; or
 - (c) Any officer of either House of Parliament; or
 - (d) The Controller and Auditor-General; or
 - (e) Any officer the right to appoint whom is not vested in the Governor; or
 - (f) Any officer of or member of the Defence Force; or
 - (g) Any person paid by fees or commission; or
 - (h) Any officer appointed by the Governor to whose office a salary is not appropriated by Parliament; or
 - (i) Any person holding any honorary office or employed for any temporary service only.

- (2) This Act applies to females as well as to males, and words herein importing the masculine gender shall be construed to include females.

The words “High Court” were substituted, as from 1 April 1980, for the words the “Supreme Court” pursuant to section 12 Judicature Amendment Act 1979 (1979 No 124).

3 Persons may be employed temporarily

[Repealed]

Section 3 was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

Part 1 Appointments

Part 1, comprising sections 4 to 11, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

4 Qualifications of persons appointed to Civil Service

[Repealed]

Part 1, comprising sections 4 to 11, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

Subsection (3)(a) was repealed, as from 15 September 1908, by section 7 Civil Service Amendment Act 1908 (1908 No 217).

Subsection (4) was repealed, as from 15 September 1908, by section 7 Civil Service Amendment Act 1908 (1908 No 217).

5 Messengers’ qualifications

[Repealed]

Part 1, comprising sections 4 to 11, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

6 Competitive examination

[Repealed]

Part 1, comprising sections 4 to 11, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

7 Civil servant a three-monthly servant

[Repealed]

Part 1, comprising sections 4 to 11, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

8 Modification as to bailiffs and constables appointed Clerk of District Court

[Repealed]

Part 1, comprising sections 4 to 11, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

The words “District Court” were substituted, as from 1 April 1980, for the words “Magistrates Court” pursuant to section 18(1) District Courts Amendment Act 1979 (1979 No 125).

9 Limit of salary until examination passed

[Repealed]

Part 1, comprising sections 4 to 11, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

10 Railway staff exempted

[Repealed]

Part 1, comprising sections 4 to 11, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

11 Post and Telegraph Department may be excepted from operation of Act

[Repealed]

Part 1, comprising sections 4 to 11, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

**Part 2
Discipline**

Part 2, comprising sections 12 to 21, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

12 Abolition and consolidation of offices

[Repealed]

Part 2, comprising sections 12 to 21, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

13 Regulations

[Repealed]

Part 2, comprising sections 12 to 21, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

14 Forfeiture of office*[Repealed]*

Part 2, comprising sections 12 to 21, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

15 Dismissal*[Repealed]*

Part 2, comprising sections 12 to 21, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

16 Misconduct*[Repealed]*

Part 2, comprising sections 12 to 21, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

17 Deduction of fines*[Repealed]*

Part 2, comprising sections 12 to 21, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

18 Inquiry*[Repealed]*

Part 2, comprising sections 12 to 21, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

19 Leave of absence*[Repealed]*

Part 2, comprising sections 12 to 21, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

20 Furlough*[Repealed]*

Part 2, comprising sections 12 to 21, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

21 Leave of absence on retirement*[Repealed]*

Part 2, comprising sections 12 to 21, was repealed, as from 1 April 1913, by section 2 Public Service Act 1912 (1912 No 23).

Part 3

Officers' guarantee

Part 3, comprising sections 22 to 27, was repealed, as from 14 August 1914, by section 2 Civil Service Officers' Guarantee Repeal Act 1914 (1914 No 10).

22 To whom this Part does not apply

[Repealed]

Part 3, comprising sections 22 to 27, was repealed, as from 14 August 1914, by section 2 Civil Service Officers' Guarantee Repeal Act 1914 (1914 No 10).

23 To whom it does apply

[Repealed]

Part 3, comprising sections 22 to 27, was repealed, as from 14 August 1914, by section 2 Civil Service Officers' Guarantee Repeal Act 1914 (1914 No 10).

24 Regulations

[Repealed]

Part 3, comprising sections 22 to 27, was repealed, as from 14 August 1914, by section 2 Civil Service Officers' Guarantee Repeal Act 1914 (1914 No 10).

25 Operation of regulations

[Repealed]

Part 3, comprising sections 22 to 27, was repealed, as from 14 August 1914, by section 2 Civil Service Officers' Guarantee Repeal Act 1914 (1914 No 10).

26 Acts providing for security not to operate when officer guaranteed under this Act

[Repealed]

Part 3, comprising sections 22 to 27, was repealed, as from 14 August 1914, by section 2 Civil Service Officers' Guarantee Repeal Act 1914 (1914 No 10).

27 Regulations to provide for contribution from Consolidated Fund

[Repealed]

Part 3, comprising sections 22 to 27, was repealed, as from 14 August 1914, by section 2 Civil Service Officers' Guarantee Repeal Act 1914 (1914 No 10).

Part 4

Miscellaneous and saving provisions

28 Pensions only to be granted hereunder

- (1) No pension, superannuation, or other annual retiring-allowance of any kind or character whatsoever shall be granted to any person retiring from the public service, excepting in accordance with the provisions following, that is to say:—
- (a) No such pension, superannuation allowance, or other annual retiring-allowance shall be granted without the knowledge of the General Assembly.
 - (b) Where any person retires from the public service, or from any cause whatever ceases to be employed in such service, it shall not be lawful to grant or allow to such person any pension, superannuation allowance, or other annual retiring-allowance unless and until the proposal to grant such pension or allowance has been notified to the General Assembly in Parliament assembled.
 - (c) At the same time that any such notification is made there shall be placed before the General Assembly an official report by the Controller and Auditor-General upon the case of the person affected by such notification; and no action shall be taken to procure the granting of the pension, superannuation allowance, or other annual retiring-allowance referred to in such notification and report until the end of the session of the General Assembly during which such notification and report are given and made.
 - (d) In case any person enjoying any superannuation or retiring allowance is appointed to fill any office in any public Department, or in any other way becomes the recipient of money paid out of the public revenue by way of salary or allowance, such superannuation or retiring allowance shall cease to be paid for any period subsequent to such appointment during the time that he holds the same, if the annual amount of the profits of the office or other appointment or emolument to which he has become entitled are equal to those of the office formerly held by him; and if they are not equal to those of his former office, then no more of such superannuation or

retiring allowance shall be paid to him than what, with the salary of his new appointment or other emolument, is equal to that of his former office.

- (2) Nothing in this section shall be deemed to refer to the superannuation allowance granted or to be granted to any Judge of the High Court or Court of Arbitration under the respective Acts authorising the same, or to any retiring or other allowances granted out of the respective funds established under The Public Service Classification and Superannuation Act 1908, *[Repealed]* The Government Railways Act 1908, *[Repealed]* The Police Force Act 1908, *[Repealed]* or The Education Act 1908.

The words "High Court" were substituted, as from 1 April 1980, for the words the "Supreme Court" pursuant to section 12 Judicature Amendment Act 1979 (1979 No 124).

29 Former provisions as to deductions from salaries continued as to certain officers

- (1) Notwithstanding the passing of this Act, but subject to the provisions of Part 2 of The Public Service Classification and Superannuation Act 1908, *[Repealed]* the officers who on the coming into operation of this Act are subject to the provisions of The Civil Service Reform Act 1886, *[Repealed]* relating to deductions from salary, or are subject to the provisions of The Civil Service Insurance Act 1893, *[Repealed]* shall continue to be subject thereto in like manner as if those provisions were not repealed.
- (2) For convenience of reference the aforesaid provisions are set out in Schedule 2 hereto.
- (3) Subsection one hereof shall, in so far as relates to The Civil Service Insurance Act 1893, *[Repealed]* apply also to persons who pursuant to The Public Service Classification and Superannuation Act 1908, *[Repealed]* are hereafter deemed to be officers permanently appointed by reason of five years' service, and who would have been subject to the first-mentioned Act if it were not repealed.

30 Rights of certain officers under Civil Service Act 1866, [Repealed] to superannuation allowances

- (1) Where on the coming into operation of this Act any officer of the Civil Service has, under The Civil Service Act 1866, *[Repealed]* or any other Act relating to the Civil Service, an absolute or contingent right, claim, or interest to a superannuation allowance or to compensation for loss of office, such right, claim, or interest shall not be affected by the passing of this Act.
- (2) The provisions of The Civil Service Act 1866, *[Repealed]* and of Acts amending the same relating to superannuation allowances and compensation for loss of office in force with regard to any officer to whom this section applies are for convenience of reference set out in Schedule 3 hereto.

31 Act to be construed subject to certain enactments

This Act shall be construed subject to the following enactments:—

- The Public Service Classification and Superannuation Act 1908;
- Part 9 of The Education Act 1908;
- Part 3 of The Government Railways Act 1908 *[Repealed]*; and
- Part 2 of The Police Force Act 1908. *[Repealed]*

Schedule 1
Enactments consolidated

- 1866, No 59—The Civil Service Act 1866.
- 1871, No 54—The Civil Service Act Amendment Act 1871.
- 1878, No 12—The Civil Service Acts Amendment Act 1878.
- 1884, No 8—The Pensions Act 1884.
- 1886, No 33—The Civil Service Reform Act 1886.
- 1887, No 21—The Civil Service Reform Act Amendment Act 1887.

- 1893, No 21—The Civil Service Officers' Guarantee Act 1893.
- 1893, No 32—The Civil Service Insurance Act 1893.
- 1900, No 34—The Civil Service Examination Act 1900.

Schedule 2

Sections 11, 29

Certain enactments continued in force with regard to certain officers.

The Civil Service Reform Act 1886 [Repealed]: sections 11 and 12.

11 Percentage of salary to be deducted for investment at interest

Out of the salary of every Civil servant hereafter appointed there shall be deducted the sum of five per centum per annum, which said sum, with all interest which may accrue thereon, shall be paid into a separate fund to the Public Trustee, to be invested at interest on such security as the Public Trust Office shall approve. It may invest the same along with other sums, but a separate account shall be kept for the amount paid to the credit of each such officer, and no sums to the credit of any Civil servant shall be attached for debt or be deemed an asset in the event of his bankruptcy.

12 How fund to be applied on retirement or death

On retirement from the service, from whatever cause except the commission of a crime, there shall be paid to the Civil servant the amount to his credit in the Public Trust Office, or in case of his or her death the amount shall be paid in manner as may be directed by his or her will, and in the absence of such will, then according to the law for the time being in force regulating the distribution of the estates of persons dying intestate:

Provided that in case of retirement from the service on account of the commission of a crime the amount to his or her credit may, after paying any defalcations he or she may have made, be paid to his wife

or her husband, as the case may be, and in the event of there being no wife or husband, then to any children of him or her:

Provided further that the said sums to the credit of the Civil servants may be supplemented from time to time by the appropriation of the General Assembly, and such sums so supplemented shall be appropriated as determined by the Appropriation Act or by rules approved of by the Governor in Council.

The Civil Service Insurance Act 1893 [Repealed]: the whole Act.

1 Short Title

The Short Title of this Act is The Civil Service Insurance Act 1893, and it shall come into operation on the first day of January, one thousand eight hundred and ninety-four, save that nevertheless all sections hereof necessary for regulating the administration of this Act shall be deemed to be in force as from the passing hereof.

2 Repeal

Subject to the provisions of this Act, sections eleven and twelve of The Civil Service Reform Act 1886 [Repealed], are hereby repealed.

3 Act to apply to females

This Act shall apply, *mutatis mutandis*, to females as well as to males, and words herein importing the masculine gender shall be construed to apply to and to include females.

4 To whom Act does not apply

Except as provided by this Act, nothing herein shall apply to—

- (1) Responsible Ministers of the Crown;
- (2) Judges of the High Court;
- (3) The Speaker or Chairman of Committees of either House of the General Assembly;
- (4) The Agent-General of the colony in London;
- (5) Officers, non-commissioned officers, and men of the Defence Force;

- (6) Postmasters not permanently and exclusively employed in the Civil Service;
- (7) Railway servants in permanent employ as such;
- (8) Persons employed in the public service paid by fees or commission as their sole remuneration or in lieu of salary;
- (9) Persons employed in manual labour, mechanics, artificers, and persons permanently employed in the Government Printing Office;
- (10) Women and girls employed in the telegraph or telephone service of the Government;
- (11) Persons holding any honorary office, or employed for temporary service only.

The words "High Court" were substituted, as from 1 April 1980, for the words the "Supreme Court" pursuant to section 12 Judicature Amendment Act 1979 (1979 No 124).

5 Interpretation

In this Act,—

Officer means any person employed in any permanent capacity, and paid an annual salary out of the public moneys

Regulations means regulations made under this Act

Salary means the money annually appropriated by Parliament, whether in one or several sums, payable to an officer as remuneration for his services, not including fees or allowances

This Act includes all regulations made thereunder.

6 Governor may make, alter, or revoke regulations

The Governor, by Order in Council, from time to time may make, alter, or revoke any regulations required for the due administration of this Act, and for all matters in relation thereto.

7 Officers to retire at sixty years of age

Every person appointed to the Civil Service under The Civil Service Reform Act 1886 [*Repealed*] (herein referred to as **the said Act**), or hereafter appointed thereto, shall retire therefrom on his attaining the age of sixty years; but the Governor in Council may nevertheless require any such officer who has attained such age to continue to perform his duties unless he

shall be unfit to do so by reason of ill health or other sufficient cause.

8 To provide for life assurance and annuity on retirement

Every officer hereafter appointed to the Civil Service shall, on his appointment thereto, be required to effect a policy on his life, providing for the following combined benefits:—

- (1) The payment of a sum of money on the death of such officer should it occur before he attains the age of sixty, years; and,
- (2) The payment to such officer of an annuity until death should he survive the age of sixty years.

And every such policy shall be effected with the Government Insurance Commissioner appointed under The Government Insurance and Annuities Act 1874 [*Repealed*], and on such terms and conditions, precedent or otherwise, as may from time to time be made by regulations under this Act.

Nothing in this section contained shall prevent any such officer as aforesaid from paying such additional premiums as may be necessary to make the amount assured under subsection one of this section payable at death whenever it may happen.

9 Officers appointed under Act of 1886 to come under this Act

Every officer who, before the commencement of this Act, has been appointed to the Civil Service under the said Act may, at his option, and within such period and subject to such conditions as shall be determined by regulations, be brought under the provisions of the last-preceding section, and shall then be entitled to the benefit and advantage thereof accordingly, and the amount standing to his credit under the said Act shall be paid by the Public Trustee to the Government Insurance Commissioner, who shall apply the same for or towards an increase of the annuity provided by the policy effected on his life under section eight. In any such case the provisions of sections eleven and twelve of the said Act shall cease to be applicable to any such officer.

10 Certain officers may either have deductions accumulated in Public Trust Office or applied towards payment of premiums

- (1) With respect to officers who have been appointed as last aforesaid, and who may not elect to avail themselves of the provisions of section eight of this Act; and
- (2) With respect to officers who may hereafter be appointed to the Civil Service, and have attained a certain age, to be determined by the Governor in Council, which would render it inexpedient or impossible that they should effect policies providing for the combined insurance and annuity benefits as aforesaid:

Every such officer shall elect, within such period as may be determined by the Governor in Council, either to have the deductions provided for in section eleven of the said Act accumulated in the Public Trust Office, in which case the provisions of sections eleven and twelve of the said Act shall remain in full force with respect to such officer, or to have such deductions applied, together with the amount accumulated at his credit in the Public Trust Office, towards the payment of the premiums on a policy issued under the Acts and regulations in force relating to the Government Life Insurance Department.

11 Government Insurance and Annuities Act 1874 [Repealed]

Nothing in this Act contained shall be construed to annul, limit, or repeal the provisions of sections six to thirteen of The Government Insurance and Annuities Act 1874 [Repealed].

12 Monthly deduction from salary for securing the benefits

From the salary of every officer who shall effect a policy in accordance with the provisions of section eight there shall be deducted a sum of money according to the rate of his salary, as set forth in the Schedule appended to this Act; and every such deduction shall be paid into the Government Insurance Account and treated as the premium for such policy.

13 Policy not to be assignable

No policy effected as aforesaid, or the moneys secured thereby, including bonuses, shall, during the time such person remains in the Civil Service, be assignable either at law or in equity,

or be mortgaged or charged in any way, wholly or in part, nor shall the same or any part thereof be attachable or liable to be taken in execution in any way.

14 Government Insurance Acts to be deemed to authorise the policy

The Acts in force relating to the Government Life Insurance Department shall be deemed to authorise the Government Insurance Commissioner to enter into any contracts under those Acts that may be necessary to give effect to this Act, with such provisions, variations, and modifications as may be necessary for that purpose; and regulations and tables may from time to time be made, altered, or varied under those aforesaid Acts for all or any of the purposes hereinbefore mentioned.

15 Benefits on retirement

When, after the commencement of this Act, the services of any officer are dispensed with from any cause whatever other than his own default or misconduct, compensation shall, subject, however, to the following provisions of this Act, be paid in accordance with the provisions hereinafter contained:—

- (1) If the officer was in the Civil Service prior to the passing of the said Act he shall be entitled to be paid such compensation as he would have been entitled to if this Act had not been passed.
- (2) If the officer has been appointed to the Civil Service under the said Act, and
 - (a) Has elected, in terms of section ten of this Act, to have the deductions made as required by section eleven of the said Act, he shall, subject to the provisions of the said Act, be entitled to be repaid the amount standing to his credit under the said Act:
 - (b) Has effected a policy on his life in terms of sections eight, nine, or ten of this Act, he shall, subject to regulations respecting surrender values, be entitled to be paid the surrender value of his policy effected under this Act, unless he shall elect to continue paying the premiums thereon.

16 Compensation for loss of office

If any officer appointed under the said Act shall through no fault of his own become permanently incapacitated from further work, there shall be granted a sum equal to one month's salary for each year of service, the conditions of such permanent incapacity to be determined in accordance with regulations made under this Act.

17 Power of dismissal not affected

Nothing in section fifteen shall be deemed to prevent the dismissal of any officer appointed under the said Act for misconduct, or on the commission of a crime which would justify such dismissal; but notwithstanding his dismissal every such officer shall on retirement be entitled to be paid the surrender value of his policy effected under this Act.

18 No compensation on dismissal of officers appointed before 1886

If any officer appointed to the Civil Service prior to the passing of the said Act is dismissed therefrom for misconduct, he shall lose all right to compensation for loss of office; but the Minister may direct that the whole or any part thereof shall be paid to him, or to trustees for the benefit of his wife and children.

19 Provisions as to payment of moneys

Subject to the foregoing provisions of this Act,—

- (1) The Public Trustee shall forthwith pay any officer on retirement from the Service, or in case of his death shall pay his personal representatives, the amount then standing to his credit in the Public Trust Office:
- (2) No assignment, charge, or other disposition made by any officer of moneys so standing to his credit in the Public Trust Office shall be valid or effectual in law or in equity; nor shall any such moneys be attachable or liable to be taken in execution by the process of any Court, or be available for distribution among the creditors of such officer in case of his bankruptcy:

- (3) The Government Insurance Commissioner shall forthwith pay any officer, on retirement from the Service, the surrender value of his policy (if any) effected under this Act:
- (4) The Colonial Treasurer shall issue and pay all sums required by this Act to be paid out of the Consolidated Fund without further appropriation by Parliament.

20 Police Force, school-teachers, printers, messengers, and others may be brought under Act

The Governor from time to time, by Order in Council, may bring under this Act, upon a requisition signed by not less than two-thirds of the members of any such class or classes respectively, any or all the classes of persons hereunder mentioned, and may prescribe regulations for the adaptation of this Act, with such modifications or limitations thereof as may be required for such adaptation to the circumstances of each class of such persons, or to the respective ages of the persons in any such class:—

- (1) All members of the Police Force;
 - (2) All school-teachers under The Education Act 1877;
 - (3) All women and girls employed in the telegraph or telephone service of the Government;
 - (4) All persons permanently employed in the Government Printing Office;
 - (5) All housekeepers, messengers, and gardeners in the permanent employment of the Government;
 - (6) All warders of prisons, lunatic asylums, or sanatorium attendants, criers of Court, bailiffs, post-office distributors, and telegraph-message boys, light-house-keepers, boatmen, labourers, and other persons in the permanent employment of the Government;
 - (7) All clerks, artisans, workmen, and other persons in the temporary employment of the Government;
 - (8) Officers, non-commissioned officers, and men of the Defence Force.
-

**Schedule
Deductions for Policies**

| Salary per Annum | Annual Deduction from Salary \$ |
|----------------------------|--|
| Under \$300..... | 10.00 |
| \$300 and under \$400..... | 15.00 |
| \$400 .. \$500..... | 20.00 |
| \$500 .. \$600..... | 25.00 |
| \$600 .. \$700..... | 30.00 |
| \$700 .. \$800..... | 35.00 |
| \$800 .. \$900..... | 40.00 |
| \$900 .. \$1000..... | 45.00 |
| \$1000 .. \$1100..... | 50.00 |
| \$1100 .. \$1200..... | 55.00 |
| \$1200 .. \$1300..... | 60.00 |
| \$1300 .. \$1400..... | 65.00 |
| \$1400 .. \$1500..... | 70.00 |
| \$1500 .. \$1600..... | 75.00 |
| \$1600..... | 80.00 |

The decimal currency references were substituted for the previous sterling currency references, as from 10 July 1967, pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

Schedule 3

Section 30

**Certain Enactments Relating to
Superannuation Allowances and
Compensation for Loss of Office
Continued in Force with Regard to
Certain Officers***The Civil Service Act 1866: Sections 12 and 29 to 42*

2

Alteration of Offices

12 Compensation on abolition

When the services of any officer are dispensed with in consequence of the abolition of the office he holds or otherwise and not through any fault of his own he shall as compensation receive for each year of service one month's salary according to the rate paid him at the time of such abolition and a proportionate sum for any additional period less than a year. Such officer shall have a preferent claim subject to consideration as in the case of promotion to employment when a vacancy occurs in any class not superior to the class he occupied at the time of the abolition of his office. Provided always that the amount of compensation so paid shall in no case exceed the amount of salary which would have accrued to such officer between his former and subsequent appointment. Provided also that in the case of the abolition of an office after the passing of this Act and before the date of the classification under it the holder of such office shall have a similar claim to employment when a vacancy occurs in any class not superior to the class in which it is considered he would have occupied at the time of the abolition of his office. Provided further that when an officer has received compensation for the abolition of his office he shall not be entitled in the event of his re-employment to reckon in the computation of his retiring allowance the time during which he was employed previously to such abolition in the service unless he shall first repay the amount received by him as such compensation or such proportion thereof as the Governor in Council may determine.

5

Superannuation and Allowances

XXIX Repeal of Acts

The Acts respectively intituled The Civil Service Superannuation Act 1858 and The Civil Service Amendment Act 1861 are hereby repealed save and provided that nothing in this Act shall prejudice or affect the rights under those Acts or either of them of persons appointed to offices before the passing of this Act.

XXX New Zealand Company's officers

Whereas the New Zealand Company effected the early colonisation of a large portion of New Zealand and was for some time entrusted by the Imperial Parliament with the administration of the Waste Lands of the Crown in the then Province of New Munster in this Colony officers and other persons who have been in the employment of that Company and who are now in the Civil Service of the Colony shall be entitled to reckon in the computation of their retiring allowance the time during which they were in the employment of such Company.

XXXI Provincial officers shall be entitled to reckon services

Any officer now in the Colonial Civil Service who have been formerly in any Provincial Civil Service and has not left that service or been called on to resign for misconduct shall be entitled to reckon in the computation of his retiring allowance the time during which he was in such Provincial Service.

XXXII Retirement

When any officer after the passing of this Act (except as hereinafter provided) has attained the full age of sixty years he shall thereupon retire from active service upon a superannuation allowance.

XXXIII Superannuation allowance to present officers

Any officer who at the passing of this Act has attained or within ten years thereafter shall have attained the age of sixty years if or as soon as he shall have been fifteen years in the Civil

5—continued

Service of New Zealand and if he has not received any other compensation or retiring allowance in respect of such service shall retire from active service on an annual allowance of half the average annual salary received by him during the two years preceding his superannuation.

XXXIV Officers retiring may be required to continue

The Governor in Council may nevertheless require any officer who would otherwise retire as aforesaid notwithstanding his age to continue to perform his duties.

XXXV Retirement on ill health

When any officer desires to retire from active service and has not attained the full age of sixty years if he produce medical evidence satisfactory to the Governor in Council that he is incapable from infirmity of mind or body to discharge the duties of his office and that such infirmity is likely to be permanent the Governor in Council may permit such officer to retire accordingly upon a superannuation allowance as hereinafter provided Provided always that if any officer shall before the passing of this Act have attained the full age of sixty-four years and shall have been twelve years in the Civil Service and shall produce such medical evidence to the effect aforesaid the Governor in Council may permit such officer to retire accordingly upon an allowance of two-fifths of the average annual salary received by him during the two years preceding such superannuation.

XXXVI Forfeiture of allowance in certain cases

If the Governor in Council require any officer to resume his duties in his former office or in any other office for which he is qualified and if such officer be in such a state of health as to be able to perform such duties and if he decline to undertake such duties or neglect duly to perform the same such officer shall forfeit his right to the superannuation allowance which had been granted to him and in case any person enjoying any superannuation or retiring allowance under this Act shall be

5—*continued*

appointed to fill any office in the Civil Service every such allowance shall cease to be paid for any period subsequent to such appointment if the annual amount of the profits of the office to which he shall be appointed shall be equal to those of the office formerly held by him and in case they shall not be equal to those of his former office then no more of such superannuation allowance shall be paid to him than what with the salary of his new appointment shall be equal to that of his former office.

XXXVII Computation of allowances

Every superannuated officer (except as hereinbefore expressly provided) whether his remuneration be computed by day pay weekly wages or annual salary shall receive in respect of such superannuation the following annual allowance (that is to say) after ten years' service and under eleven years' ten-sixtieths of the average annual salary received by him during three years preceding his superannuation after eleven and under twelve years' service eleven-sixtieths of such annual salary and in like manner for each additional year of service an addition to his annual allowance of one-sixtieth of such salary until he has completed the full term of service of forty years but the total amount of any superannuation allowance shall in no case exceed forty-sixtieths of the salary on which the allowance is computed.

XXXVIII Allowance to officer disabled in performance of duty

If any officer without his own default and in the active discharge of his public duty receives such bodily injury as to incapacitate him from the discharge of his duties the Governor in Council may grant to such officer an allowance not exceeding his then rate of salary.

XXXIX Allowance to relatives of officer killed in discharge of duty

If any officer shall be killed or die from bodily injury received without his own default in the active discharge of his public

5—continued

duty the Governor in Council may grant to the widow or children or at his discretion to any other relations of such officer an allowance not exceeding one year's pay at the average annual salary he was receiving during the two years preceding his death.

XL Gratuity to widow or children

If any officer shall die while in the public service the Governor in Council may grant to his widow or children or to such persons as the Governor may direct in trust on her and their behalf a gratuity not exceeding two months' pay at his then rate of salary for each year of service Provided that such gratuity shall not exceed one year's salary except in consideration of special or lengthened services rendered by any such deceased officer or of any other special circumstances but in any such special case the gratuity to be allowed shall not exceed two years' salary Provided further that this section shall be deemed to apply to the case of any officer who shall have died since the first day of July last.

41 Warrant of allowance

When any superannuation or other allowance or gratuity is granted under this Act the causes of the granting thereof shall be set forth in the warrant granting the same.

42 Bounty of Parliament not restrained

Nothing herein contained shall be taken to prevent the Governor from recommending to Parliament any allowance or gratuity in consideration of any special services rendered by the officers entitled thereto or of any other special circumstances.

The Civil Service Act Amendment Act 1871: section 2.**2 Sections of The Civil Service Act 1866, repealed without prejudice to rights accrued**

The sections of The Civil Service Act 1866, numbered from thirty to forty-three both inclusive and all other provisions of

5—*continued*

the said Act relating to retiring allowances are hereby repealed Provided however that such repeal shall not prejudice or affect the rights claims and interests absolute or contingent under the said Act of persons appointed before the passing of this Act Provided also that nothing herein contained shall deprive officers disabled in the active performance of duty or the widow or children of officers killed or who may die from bodily injury received without his default in the active discharge of his public duty and the widow or children of any officer who may die in the public service of the allowances or gratuities they would be entitled to under clauses thirty-eight, thirty-nine and forty of the said Act.

The Civil Service Acts Amendment Act 1878: sections 2 to 8.

2 Construction

In the construction of this Act the expression “the said Act” means The Civil Service Act 1866, and the expression “the Amendment Act” means The Civil Service Act Amendment Act 1871; and the expression “retiring allowance” includes also “superannuation allowance”.

3 Right to retiring allowances not to be affected by reappointment, or new appointment, or transfer to other offices

Every person in the Civil Service of the colony whose right or claim to have a retiring allowance granted to him purports to be preserved by the said Act, or the Amendment Act, shall be entitled to such retiring allowance, although he may have been reappointed to the same or a like office in such service, or may have been appointed or transferred to some other office in the said service, whether such office has been created prior to or since the passing of the said Act, or the Amendment Act.

In every such case the retiring allowance shall be calculated and allowed in accordance with the Act under which such person claims to be so entitled.

*5—continued***4 Construction of certain sections of The Civil Service Act 1866**

The provisions of the thirtieth and thirty-first sections of the said Act shall confer and be deemed to have conferred upon all officers and persons mentioned in the said sections the right to have a retiring allowance granted to them under either of the Acts repealed by the twenty-ninth section of the said Act, in all cases where such officers and persons entered the Civil Service of the colony prior to the passing of the said Act.

5 Application of Act

This Act shall be deemed to have been in force with respect to any person whose claim to a retiring allowance may have been allowed before the passing of this Act; and this Act shall extend to all rights, claims, and interests, whether absolute or contingent, purporting to be preserved as aforesaid.

6 Application of sections 30 and 31 of said Act

Every officer and person now in the Civil Service who has entered such service prior to the passing of the Amendment Act, and who would be entitled to claim a retiring allowance under The Civil Service Act 1866, shall be entitled to reckon in the computation of his retiring allowance the time during which he was in the employment of the New Zealand Company or in the service of any Provincial Government; and the provisions of sections thirty and thirty-one of the said Act shall extend and apply to all such officers and persons accordingly.

7 Reappointment after Amendment Act coming into operation does not entitle

No person who ceased to be in the Civil Service before the coming into operation of the Amendment Act, and who has been reappointed to the Civil Service after such Amendment Act came into operation, shall thereby become entitled to any retiring allowance under the said Act, or any of the Acts thereby repealed.

5—continued

**8 Provincial officers transferred to Civil Service on
Abolition of Provinces Act 1875 coming into operation,
not entitled**

No person who was a provincial officer on the coming into operation of The Abolition of Provinces Act 1875, and transferred to the Civil Service on the coming into operation of the Act last mentioned, shall be entitled to any retiring allowance under The Civil Service Act 1866, or any Acts repealed by such Act.