

# New Zealand.

ANNO TRICESIMO

## VICTORIÆ REGINÆ.

No. 59.

### ANALYSIS.

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## AN ACT to Organize and Regulate the Civil Service of New Zealand. Title.

[8th October 1866.]

**W**HEREAS it is expedient to organize and classify the Civil Service of New Zealand according to the duties the officers thereof perform and to regulate the salaries therein and to establish therein an equitable and uniform system of appointment promotion and dismissal and to grant officers leave of absence and to provide retiring and other allowances in certain cases Preamble.

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

I. The Short Title of this Act shall be "The Civil Service Act 1866." Short Title.

II. Nothing in this Act shall apply except as hereinafter provided to any Responsible Minister or to any Judge of the Supreme Court or to any officer of either House of Parliament or to the Auditor or Persons excepted from operation of Act.

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Comptroller of Public Accounts or to any officer the right to appoint whom is not vested in the Governor or to any officer of or member of a Colonial Military or Volunteer Force or to any person paid by fees or commission nor to any officer appointed by the Governor to whose office salary is not appropriated by the Colonial Legislature or to any person holding any honorary office or employed for any temporary service only Provided always that when an officer of the General Government also holds a paid provincial office it shall be lawful for the Governor to diminish as he shall think fit the payment to such officer of the salary referred to in this Act Provided further that the computation of superannuation and other allowances specified in this Act shall only be made in case of such officer in respect of the salary paid to him by the General Government except Commissioners of Crown Lands and it is hereby expressly provided that part five of this Act shall apply to all such Commissioners appointed under any Act of the General Assembly.

## PART I.—CLASSIFICATION.

Division of Civil Service.

III. The Civil Service shall for the purposes of this Act be taken to consist of five (5) classes Provided always that the Governor shall have power to create new and to alter existing offices and so soon as salaries have been legally appropriated to such offices shall bring them by Order in Council under the provisions of this Act.

First-class officers.

IV. The officers mentioned in Schedule A. to this Act shall be officers of the first class and (except in the case of officers paid by virtue of any Act now or which hereafter shall be in force) shall have attached to them respectively but subject to such alterations as are hereinafter provided the several salaries which shall be granted to them by the Appropriation Act for the ensuing financial year or by the Appropriation Act next following the creation of any additional first class officer.

Salaries of classes.

V. Every class except the first class shall have a maximum and a minimum limit of salary ascertained in the manner hereinafter directed and every officer therein shall be entitled to receive in every year by way of increase to his salary a sum equal to one-sixth part of the difference between the limits of the salary assigned for that year to the class in which he is placed but no officer shall in any year receive a salary higher than the maximum limit for that year in his class.

Mode of voting salaries.

VI. In the message transmitting the Estimates for the current financial year the Governor may recommend to the House of Representatives the rates of salaries of the officers of the first class and also a maximum and a minimum limit of salary for each class except the first and the rates and the limits of salary thereupon adopted by the House of Representatives for each such respective class shall be the rates and limits of salary as the case may be for that class during that financial year and in any subsequent financial year the Governor may recommend by message to the House of Representatives a rateable reduction or increase if any such be required according to a specified rate in or to the salaries of all classes.

Classification.

VII. As soon as conveniently may be after the passing of this Act the Governor in Council shall determine the number of officers of each class that are required for the efficient working of each department and shall classify the officers of the Civil Service according to the arrangement of offices so determined and as soon as such classification has been completed a statement thereof shall be published in the *New Zealand Gazette*.

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VIII. The salary of no officer shall be reduced through the operation of this Act (except as hereinafter provided) to any amount less than he is now receiving and the annual increase shall in no case be granted except upon satisfactory proof of the efficiency and general good conduct of each officer and if at the time of the passing of this Act any officer is in receipt of a salary within the limits assigned by this Act to the class in which the Governor in Council places him but above the minimum salary of that class such officer shall continue to receive such salary and the annual increases provided for in section five of this Act until he shall have reached the maximum therein provided.

Application of classification.

IX. If at any time any officer thinks that he has been placed in a class lower or be in receipt of a less amount of salary than that which from the nature of his services he ought to have been placed in or entitled to or that the increased duties imposed upon him are such as would devolve on an officer of a higher class than that in which he has been placed in the annual list he may appeal to the Governor in Council and such appeal shall be submitted to the Governor in Council in the manner hereinafter directed and the decision thereupon shall be final.

Appeal.

X. The first class officers at the seat of Government shall form a Board to which all appeals as hereinbefore mentioned shall be referred before they are submitted to the Governor in Council which Board shall inquire thereinto and report thereupon and make such recommendations as to it shall seem fit on such appeals which shall thereafter be submitted together with such report and recommendations to the Governor in Council. And it shall be lawful for any Minister of the Crown at any time to refer to such Board such question as he may think fit connected with the administration of the Civil Service of the Colony in the matters of appointment promotion salary or inquiry or other questions connected with the efficiency and welfare of such service and it shall be the duty of such Board to report for the consideration of the Government on every question so referred and it shall have power and authority to summon and examine witnesses and to call for and obtain papers.

Civil Service Board.

## PART II.—ALTERATION OF OFFICES.

XI. It shall be lawful for the Governor from time to time to abolish or consolidate any offices and alter the distribution of the officers in the Civil Service in each department as circumstances may require.

Abolition and consolidation of offices.

XII. 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

Compensation on abolition.

And re-employment.

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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.

## PART III.—APPOINTMENTS AND PROMOTION.

Conditions precedent to entering service.

XIII. Every person entering the Civil Service of this Colony as a subordinate of the fifth class shall be of the full age of seventeen years and not more than twenty-two years and shall be subject to the probation herein directed and shall be conditionally appointed at the minimum salary of that class and every candidate for admission into the Civil Service shall as a condition precedent to his nomination as a probationer produce such evidence as the Governor may think sufficient as to his age health and moral character and every candidate for admission into the Civil Service shall further pass before a Board of Examiners appointed by the Governor such examination but without competition as the Governor may from time to time direct.

Appointment.

XIV. When any person has been conditionally appointed upon probation in any office in the Civil Service at the expiration of six months from the date of such appointment if the head of the department in which the probationer has served shall have recommended him in writing as a suitable person to become an officer of the Civil Service the Governor may make such appointment absolute and if the probationer be not so recommended his appointment shall lapse.

Promotion.

XV. When in the Civil Service any vacancy occurs in any class except the first class the Governor shall whenever he can do so without detriment to the efficiency of the public service promote to such vacancy that officer being qualified to fill such vacancy who shall stand next in rotation on the classified list of the service and when a vacancy occurs in the first class it shall be lawful for the Governor to refer to the Board as hereinbefore constituted for a recommendation of the officers of the second class qualified to fill the same and thereon to act as he shall think fit.

Special appointment.

XVI. Whenever it is expedient to secure for the public service on the occurrence of any vacancy the services of some person of known ability and to place such person immediately in some of the higher classes of the Civil Service although such person may not have been previously engaged in the Civil Service of this Colony and if there be not in the lower classes of the service officers fully competent to perform the duties of the vacant office the Governor in Council anything in this Act to the contrary notwithstanding may provisionally appoint such person accordingly.

Confirmation of appointment.

XVII. When any such provisional appointment is made a statement thereof and of the reasons for which it has been made shall forthwith be submitted by the Governor to the General Assembly if then in session and if not in session then within one week of the commencement of the session next ensuing and such appointment shall not be confirmed by the Governor until after the termination of such session.

Re-appointment.

XVIII. Notwithstanding anything herein contained any person who at any time has been or shall hereafter be employed in any office in the Civil Service and who has not been dismissed or called on to resign for improper conduct may be appointed to any class in the same manner as if he had never left such service and such service (excluding the period when not in service) shall be taken to be continuous.

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XIX. Whenever any department in any Provincial Civil Service in the Colony is transferred to the Colonial Civil Service it shall be lawful for the Governor in Council to direct in what class each officer in such department shall be placed and thereupon the persons at the time holding office in such department shall become subject to the provisions of this Act and the time during which they were employed in the Provincial service may be counted in respect of any superannuation allowance to which they may be entitled under this Act.

Officers in Provincial service on being transferred to Colonial service to be classified by Governor in Council.

## PART IV.—DISCIPLINE AND LEAVE OF ABSENCE.

XX. The Governor may from time to time make and publish in the *New Zealand Gazette* regulations and repeal or vary the same concerning the duties to be performed by officers of the Civil Service and the discipline to be observed in the performance of such duties and by such regulations may authorize in certain cases the suspension of officers and may affix to breaches of such regulations according to the nature of the offence the penalties therein set forth Provided always that no such regulations shall in any manner alter or affect duties which by any Act now or hereafter to be in force are or shall be required to be performed and if any officer shall become inefficient or be guilty of any breach of such regulations the Governor in Council may according to the nature of the offence upon proof thereof as hereinafter directed dismiss him from the service or reduce him to a lower rank therein or to a lower salary within his class or deprive him of such future annual increment as he would otherwise have been entitled to receive or of any part thereof or of his leave of absence during such time as the Governor in Council thinks fit.

Regulations.

Dismissal or reduction of officer.

XXI. If any officer be convicted of any felony or infamous offence or become bankrupt or apply to take the benefit of any Act now or hereafter to be in force for the relief of insolvent debtors or by any deed or other writing compound with his creditors or make an assignment of his salary for their benefit he shall be deemed to have forfeited his office.

Forfeiture of office.

XXII. When any such officer has forfeited his office by reason of any such pecuniary embarrassment as aforesaid if he prove to the satisfaction of the Governor in Council that such embarrassment has not been caused or attended by any fraud extravagance or dishonourable conduct the Governor in Council may reinstate such officer in his former position in the service.

Reinstatement.

XXIII. Where any officer is guilty of any conduct which in the opinion of the Governor in Council renders him unfit to continue in the Civil Service such officer upon proof thereof as hereinafter directed may be dismissed from the service.

Dismissal.

XXIV. When any officer is negligent or careless in the discharge of his duties if the first class officer in charge of the department wherein such first mentioned officer is engaged be of opinion that the offence is not of so serious a nature that a report thereof should in the course of his duty be made to the Governor in Council such officer in charge may for every such case of misconduct order to be deducted by way of fine from the salary of such other officer such amount as shall be fixed by the regulations aforesaid or if not so fixed a sum not exceeding five pounds and the Responsible Minister of the department may if the officer so punished appeal to him confirm or disallow such penalty and his decision shall be final and without appeal.

Misconduct.

XXV. The Treasurer on receiving notice of any pecuniary penalty imposed under the authority of this Act shall deduct the amount

Penalty.

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thereof from the salary or next payment made by him on account of salary to the officer incurring such penalty.

Inquiry.

XXVI. When any officer is accused of inefficiency offence or breach of his duty or of any conduct rendering it unfit that he should remain in the Civil Service if he deny the truth of such accusation and if the Governor in Council nevertheless think that sufficient cause has been shown for further proceedings the Governor in Council may refer the matter to the Board constituted by section ten of this Act to inquire as to the truth of such charge and such Board shall have authority to hear receive and examine evidence and shall after fully hearing the case report to the Governor in Council their opinion thereon.

Leave of absence.

XXVII. The Responsible Minister of every department may at such times as may be convenient grant to every officer leave of absence for recreation for any period or periods not exceeding in the whole four weeks in each year and in cases of illness or other pressing necessity grant such extended leave not exceeding twelve months and on such terms as he thinks fit.

Furlough.

XXVIII. The Governor may grant to any officer in the Civil Service of at least ten years continuous service twelve months' leave of absence and to any officer of lesser period of service any time not exceeding six months' leave of absence on half salary.

PART V.—SUPERANNUATION AND ALLOWANCES.

Repeal of Acts.

XXIX. 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.

Existing claims reserved.

New Zealand Company's officers.

XXX. 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.

Provincial officers shall be entitled to reckon services.

XXXI. Any officer now in the Colonial Civil Service who shall 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.

Retirement.

XXXII. 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.

Superannuation allowance to present officers.

XXXIII. 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 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.

Officers retiring may be required to continue.

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

Retirement on ill health.

XXXV. When any officer desires to retire from active service and has not attained the full age of sixty years if he produce medical

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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. 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 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.

Forfeiture of allowance in certain cases.

Rates of salary and allowance.

XXXVII. 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.

Computation of allowances.

XXXVIII. 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.

Allowance to officer disabled in performance of duty.

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

Allowance to relatives of officer killed in discharge of duty.

XL. 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

Gratuity to widow or children.

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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.

Warrant of allowance.

XLII. 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.

Bounty of Parliament not restrained.

XLIII. 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.

No vested interest to be created under this Act.

XLIII. Nothing in this Act contained shall entitle any person whomsoever except such as may have actually retired from the Civil Service of New Zealand under the foregoing provisions in that behalf to any vested interest in any advantage to accrue under the same as to any compensation for the loss thereof should this Act be repealed or so altered or amended by the General Assembly within three years from the passing of this Act as to diminish or take away any such interest or advantage.

## PART VI.—MISCELLANEOUS.

Part of Act only applicable to certain officers.

XLIV. The provisions contained in sections four twenty-seven twenty-eight and in such sections as are included in part five of this Act and in section forty-four and none others shall apply to the Auditor of Public Accounts and to the Comptroller of Public Accounts.

Messengers &c. subject to certain sections.

XLV. The provisions contained in sections eleven twelve twenty-one twenty-two twenty-three twenty-four twenty-five twenty-six and twenty-seven and parts five and six of this Act and none others shall apply to the public servants mentioned in Schedule B. hereto and such persons shall receive respectively such salaries as Parliament may from year to year provide.

Annual increase to salaries of messengers &c.

XLVI. The public servants mentioned in such Schedule to whom annual salaries are payable shall be allowed an annual increment of five pounds per centum per annum upon the amount of the original salary for each complete year of service in their respective situations from and after the commencement of the current financial year. Provided always that such increment shall not be payable except on the recommendation of the Ministerial head of their respective departments and provided also that such salary with the accrued increments shall never for one year exceed double the original salary.

## SCHEDULE A.

Permanent Law Officer	Assistant Treasurer
District Judges	Geological Surveyor
Judges of Native Land Courts	Superintendent of Telegraphs
Registrar-General of Land	Auditor of Public Accounts
Secretary for Crown Lands	Under Secretary for Colonial Defence
Under Secretary	Under Secretary for Native Affairs
Inspector of Customs	Comptroller of the Public Accounts of the
Secretary Postal Department	General Government
Registrar-General	

## SCHEDULE B.

Messengers	Criers	Warders
Housekeepers	Lettercarriers	Boatmen
Courtkeepers	Bailiffs	Gardeners

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