



# Public Service Reform Act 1984

No. 63 of 1984

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# Public Service Reform Act 1984

No. 63 of 1984

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## An Act relating to reform of the Australian Public Service, and for related purposes

[Assented to 25 June 1984]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

### PART I—PRELIMINARY

#### Short title

1. This Act may be cited as the *Public Service Reform Act 1984*.

#### Commencement

2. (1) Sections 1, 2, 3, 4 and 7, sub-sections 29 (1) and (3), sections 107 and 108, Parts III and IV and sections 125, 138, 142, 144 and 149 shall come into operation on the day on which this Act receives the Royal Assent.

(2) Section 21, sub-section 29 (2), sections 32, 33 and 35, sub-sections 37 (1) and 38 (1), sections 39, 40 and 41, sub-section 43 (1), sections 44 and 46 to 50 (inclusive), sub-section 56 (1), section 59, sub-sections 87 (1), 96 (2), 97 (4), 99 (3), 100 (2), 104 (2) and 105 (2), section 106, sub-sections 109 (2), 110 (3) and 130 (2) and section 157 shall come into operation immediately after section 27 of the *Public Service Acts Amendment Act 1982* comes into operation.

(3) Section 13 and sub-sections 97 (1), 100 (1), 105 (1), 109 (1) and 130 (1) shall come into operation immediately after section 15 of the *Public Service Acts Amendment Act 1982* comes into operation.

(4) The remaining provisions of this Act shall come into operation on such day as is, or on such respective days as are, fixed by Proclamation.

## **PART II—AMENDMENTS OF THE PUBLIC SERVICE ACT 1922**

### **Principal Act**

3. The *Public Service Act 1922*<sup>1</sup> is in this Part referred to as the Principal Act.

4. After section 5 of the Principal Act the following section is inserted:

### **Chief object of Act**

“6. The chief object of this Act is to constitute a public service for the efficient, equitable and proper conduct, in accordance with sound management practices (including personnel management practices), of the public administration of the Australian Government and this Act shall be construed accordingly.”.

### **Interpretation**

5. (1) Section 7 of the Principal Act is amended—

(a) by omitting the definition of “Classification” and substituting the following definition:

“ ‘classification’ means—

- (a) in relation to an office—a description that identifies the class of offices to which that office belongs, being a class of offices that are of a similar kind, that have responsibilities of a similar level, the performance of the duties of which requires work of similar value and the salary, or range of salaries, applicable to which are the same;
- (b) in relation to an officer who holds an office—the classification of that office; and
- (c) in relation to an unattached officer—the classification that the officer has as an unattached officer determined in accordance with sub-sections 28 (4) and 42 (2);”;

(b) by inserting after the definition of “Employee” in sub-section (1) the following definition:

“ ‘industrial award’ means—

- (a) a determination under the *Public Service Arbitration Act 1920*;
- (b) an award or order under the *Conciliation and Arbitration Act 1904*; or



- (c) a determination, award or order made by a prescribed person, tribunal or body under a law of the Commonwealth or of a Territory;”.

**(2) Section 7 of the Principal Act is amended—**

- (a) by omitting from sub-section (1) the definition of “Permanent Head”;
- (b) by inserting after the definition of “Returned soldier” in sub-section (1) the following definition:

“‘Secretary’ means a person for the time being holding, or performing the duties of, an office of Secretary;” and

- (c) by adding at the end of sub-section (1) the following definition:

“‘unattached Secretary’ means a person who—

- (a) is an unattached officer; and
- (b) immediately before becoming an unattached officer held an office referred to in paragraph (a) of the definition of ‘office of Secretary’.”.

(3) For the purposes of the definition of “unattached Secretary” in sub-section 7 (1) of the *Public Service Act 1922* as amended by sub-section (2) of this section, a person who at any time before the commencement of this sub-section was a member of the First Division of the Service shall be deemed to have held at that time, an office of Secretary referred to in paragraph (a) of the definition of “office of Secretary” in that sub-section.

**(4) Section 7 of the Principal Act is amended—**

- (a) by inserting before the definition of “specified defence service” in sub-section (1) the following definitions:

“‘Senior Executive Service office’ means an office that has a classification declared by the Board under sub-section 28 (1A) to be a Senior Executive Service classification;

“‘Senior Executive Service officer’ means—

- (a) an officer who holds a Senior Executive Service office; and
- (b) an unattached officer who has a Senior Executive Service classification;” and

- (b) by inserting “(not having a Senior Executive Service classification or a classification lower than the lowest Senior Executive Service classification)” after “officer” in paragraph (a) of the definition of “unattached Secretary” in sub-section (1).

**(5) Section 7 of the Principal Act is amended—**

- (a) by inserting after the definition of “employee” in sub-section (1) the following definition:

“‘full-time office’ means an office other than a part-time office;” and

(b) by inserting after the definition of “overseas” in sub-section (1) the following definition:

“ ‘part-time office’ means an office in relation to which a declaration under sub-section 29B (1) is in force,”.

(6) Section 7 of the Principal Act is amended by inserting after the definition of “relevant Secretary” in sub-section (1) the following definition:

“ ‘relevant staff organization’, in relation to an office in a Department, means an organization—

- (a) that is registered under the *Conciliation and Arbitration Act 1904*;
- (b) for membership of which a person holding the office would be eligible; and
- (c) that is a party to an industrial award that applies in relation to the salary payable in respect of the office, being an industrial award to which the Minister who is responsible for the Department is also a party;”.

(7) Section 7 of the Principal Act is amended by omitting paragraph (a) of the definition of “industrial award” in sub-section (1).

(8) Section 7 of the Principal Act is amended by inserting after the definition of “classification” in sub-section (1) the following definition:

“ ‘Commonwealth authority’ means:

- (a) a body corporate incorporated, whether before or after the commencement of sub-section 5 (8) of the *Public Service Reform Act 1984*, for a public purpose by an Act, by regulations made under an Act or by or under a law of a Territory (other than the Northern Territory), being a body employing staff on its own behalf;
- (b) an authority or body, not being a body corporate, established, whether before or after the commencement of sub-section 5 (8) of the *Public Service Reform Act 1984*, for a public purpose by, or in accordance with the provisions of, an Act, regulations made under an Act or a law of a Territory (other than the Northern Territory), being an authority or body employing staff on its own behalf;
- (c) a company or other body corporate incorporated, whether before or after the commencement of sub-section 5 (8) of the *Public Service Reform Act 1984*, under a law of the Commonwealth, of a State or of a Territory, being a company or body corporate in which the Commonwealth has a controlling interest; or
- (d) an authority or body established, whether before or after the commencement of sub-section 5 (8) of the *Public Service Reform Act 1984* and whether by, or in accordance with the provisions of, an Act, regulations made under an Act or a law of

a Territory or otherwise, and whether a body corporate or not, being an authority or body that is financed in whole or in substantial part, either directly or indirectly, by money provided by the Commonwealth and employs staff on its own behalf.”.

(9) Section 7 of the Principal Act is amended by inserting after the definition of “Department” in sub-section (1) the following definition:

“ ‘designated group’ means any of the following classes of persons:

- (a) members of the Aboriginal race of Australia or persons who are descendants of indigenous inhabitants of the Torres Strait Islands;
- (b) persons who have migrated to Australia and whose first language is a language other than English, and the children of such persons;
- (c) persons who are physically or mentally disabled; and
- (d) any other class of persons declared by the regulations to be a designated group for the purposes of this definition;”.

#### **Officers of the Parliament**

6. Section 9 of the Principal Act is amended—

- (a) by omitting from paragraph (2A) (a) “persons temporarily employed” and substituting “employees”; and
- (b) by omitting from paragraph (2A) (b) “persons temporarily employed” (wherever occurring) and substituting “employees”.

#### **Termination of employment**

7. Section 15 of the Principal Act is amended by omitting from paragraph (1) (c) “Governor-General” and substituting “Prime Minister”.

#### **Delegation by Board**

8. Section 16 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “the Chairman of the Board, to another member of the Board, to an officer or employee or to a person appointed to an office, under a law of the Commonwealth, by the Governor-General or a Minister” and substituting “a person (not being a person engaged as a consultant under section 4 of the *Members of Parliament (Staff) Act 1984*)”; and
- (b) by omitting sub-section (4).

#### **Records of officers**

9. Section 21 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:

- “(1) The Board shall cause to be kept a record of each officer, showing—
- (a) the date of birth of the officer;
  - (b) the date on which the officer was appointed to the Service; and

(c) the classification of the officer.”.

10. (1) After Part II of the Principal Act the following Part is inserted:

**“PART IIA—PERSONNEL MANAGEMENT**

**Personnel management reviews**

“22A. (1) The Board may, by notice in writing to the Secretary of a Department, require the Secretary to give the Board, within the time specified in the notice, a report in writing on personnel management in the Department.

“(2) A notice under sub-section (1) may specify the particular aspects of personnel management that are to be dealt with in the report.

“(3) Where, pursuant to a notice under sub-section (1), the Secretary of a Department gives a report to the Board, the Board, after considering the report, may make recommendations to the Secretary on the action that should or could be taken to improve personnel management in the Department.

“(4) If the Secretary does not concur in or adopt a recommendation made by the Board under sub-section (3) on the action that should be taken to improve personnel management in the Department, the Secretary shall, within a reasonable time, inform the Minister administering the Department, in writing, of his reasons for not concurring in or not adopting the recommendation and give a copy of a statement of those reasons to the Board.

“(5) The Board shall, in a report furnished to the Prime Minister in accordance with section 22, report on the operation of this section.”.

(2) If this section comes into operation during the first 6 months of a financial year, the Board shall report on the operation of section 22A of the *Public Service Act 1922*, in relation to the period commencing on the day on which this section comes into operation and ending on the expiration of that financial year, in the first report that is furnished to the Prime Minister, under section 22 of that Act, after the expiration of that financial year.

(3) If this section comes into operation during the last 6 months of a financial year, the Board shall report on the operation of section 22A of the *Public Service Act 1922*, in relation to the period commencing on the day on which this section comes into operation and expiring at the end of that financial year, in the first report that is furnished to the Prime Minister, under section 22 of that Act, after the expiration of the financial year next succeeding that financial year.

11. (1) After section 22A of the Principal Act the following section is inserted in Part IIA:

**Equal employment opportunity programs**

“22B. (1) In this section, unless the contrary intention appears—

‘employment matters’, in relation to a Department, means—

- (a) the selection of persons for appointment as officers, or for employment as employees, in the Department;
- (b) the promotion and transfer of—
  - (i) officers to offices in the Department; and
  - (ii) officers in the Department to offices in other Departments;
- (c) training and staff development for officers and employees in the Department;
- (d) conditions of service of officers and employees in the Department; and
- (e) any other matter related to the employment of officers and employees in the Department;

‘equal employment opportunity program’, in relation to a Department, means a program designed to ensure that—

- (a) appropriate action is taken to eliminate unjustified discrimination against women and persons in designated groups in relation to employment matters in the Department; and
- (b) measures are taken to enable women and persons in designated groups to—
  - (i) compete for promotion and transfer in the Department and in the Service generally; and
  - (ii) pursue careers in the Department and in the Service generally,

as effectively as other persons;

‘program’ includes—

- (a) the particular objectives to be achieved by the program;
- (b) the policies to be adopted, and the procedures to be followed, to achieve those objectives;
- (c) the quantitative or other indicators against which the effectiveness of the program is to be assessed; and
- (d) the allocation of staff and other resources to the task of giving effect to the program.

‘unjustified discrimination’ includes discrimination that is unlawful under the *Racial Discrimination Act 1975* or the *Sex Discrimination Act 1984*.

“(2) Without limiting the generality of the definition of ‘equal employment opportunity program’ in sub-section (1), the equal employment opportunity program for a Department shall include provision for action to be taken to—

- (a) examine practices in relation to employment matters in the Department to identify—
  - (i) any practices that unjustifiably discriminate against women or persons in designated groups; and
  - (ii) any patterns (whether ascertained statistically or otherwise) of inequality of opportunity in respect of women or persons in designated groups;
- (b) eliminate any practices, and eliminate or ameliorate any patterns, identified in pursuance of paragraph (a);
- (c) inform officers and employees in the Department, and relevant staff organizations in relation to offices in the Department, of the contents of the program and of the results of any review of the program under sub-section (4);
- (d) the collection and recording of information, including statistical information, relevant to the operation of the program;
- (e) assess the effectiveness of the program by comparing information collected in relation to the results of the program with the indicators against which the effectiveness of the program is to be assessed; and
- (f) give effect to any guidelines issued under sub-section (10).

“(3) As soon as practicable after the commencement of this section and, in any event, within 12 months after the commencement of this section, the Secretary of a Department shall—

- (a) after giving relevant staff organizations in relation to offices in the Department and such other persons as the Secretary considers appropriate an opportunity to put their views, cause to be developed an equal employment opportunity program for the Department;
- (b) cause to be prepared a statement in writing setting out the program so developed; and
- (c) give a copy of the statement to the Board.

“(4) The Secretary of a Department shall—

- (a) from time to time, after giving relevant staff organizations in relation to offices in the Department and such other persons as the Secretary considers appropriate an opportunity to put their views, cause the equal employment opportunity program for the Department to be reviewed;
- (b) cause to be prepared a statement in writing setting out the results of any review (including particulars of any alteration to be made to the program); and
- (c) give a copy of the statement to the Board.

“(5) The Secretary of a Department shall take any action necessary to give effect to the equal employment opportunity program for the Department and

any person who exercises powers in relation to employment matters in the Department shall have regard to the program in exercising those powers.

“(6) The Board may, by notice in writing to the Secretary of a Department, require the Secretary to give the Board, within the time specified in the notice, a report in writing in relation to the development, implementation or review of the equal employment opportunity program for the Department.

“(7) A notice under sub-section (6) may specify the particular aspects of the equal employment opportunity program for the Department that are to be dealt with in the report.

“(8) Where the Board receives a statement under sub-section (3) or (4) or a report under sub-section (6), the Board, after considering the statement or report, may make recommendations to the relevant Secretary on the action that should or could be taken to improve the effectiveness of the equal employment opportunity program for the Department.

“(9) If the Secretary does not concur in or adopt a recommendation made by the Board under sub-section (8) on the action that should be taken to improve the effectiveness of the equal employment opportunity program for the Department, the Secretary shall, within a reasonable time, inform the Minister administering the Department, in writing, of his reasons for not concurring in or adopting the recommendation and give a copy of a statement of those reasons to the Board.

“(10) The Board may from time to time, by notice in writing to Secretaries, issue guidelines on the provisions to be made by, and the development, implementation and review of, equal employment opportunity programs for Departments.

“(11) The Board shall, in a report furnished to the Prime Minister in accordance with section 22, report on the operation of this section.

“(12) Where a Department comes into existence after the commencement of this section, this section applies in relation to the Department as if a reference in sub-section (3) to the commencement of this section were a reference to the day on which the Department comes into existence.

“(13) The regulations may provide that this section shall apply to and in relation to a Commonwealth authority and, where the regulations so provide, this section applies to and in relation to the Commonwealth authority as if—

- (a) the Commonwealth authority were a Department;
- (b) references to the Secretary of a Department were references to the person for the time being holding, or performing the duties of, the office specified in the regulations for the purposes of this paragraph;
- (c) a reference in sub-section (3) to the commencement of this section were a reference to the day on which the regulations came into force; and
- (d) if the regulations provide that a specified Minister is the prescribed authority for the purposes of the application of this section in relation

to the Commonwealth authority—references in sub-sections (3), (4), (6), (7), (8) and (9) to the Board were references to the Minister so specified.

“(14) The regulations may provide that the provisions of this section shall, subject to such modifications and adaptations (if any) as are prescribed, apply to and in relation to the employment of—

- (a) members of the Australian Federal Police;
- (b) persons appointed as officers or engaged as employees under the *Commonwealth Teaching Service Act 1972*;
- (c) persons who hold offices or appointments (not being offices or appointments in the Defence Force) under regulations made under the *Naval Defence Act 1910*; or
- (d) persons who are employed under section 10 of the *Supply and Development Act 1939*.
- (e) persons employed as officers of the Australian Security Intelligence Organization; or
- (f) officers appointed in pursuance of section 10 of the *Trade Commissioners Act 1933*.

“(15) In sub-section (14), ‘modifications’ includes the addition or omission of a provision or the substitution of a provision for another provision.”.

(2) If this section comes into operation during the first 6 months of a financial year, the Board shall report on the operation of section 22B of the *Public Service Act 1922*, in relation to the period commencing on the day on which this section comes into operation and ending on the expiration of that financial year, in the first report that is furnished to the Prime Minister, under section 22 of that Act, after the expiration of that financial year.

(3) If this section comes into operation during the last 6 months of a financial year, the Board shall report on the operation of section 22B of the *Public Service Act 1922*, in relation to the period commencing on the day on which this section comes into operation and expiring at the end of that financial year, in the first report that is furnished to the Prime Minister, under section 22 of that Act, after the expiration of the financial year next succeeding that financial year.

12. (1) After section 22B of the Principal Act the following section is inserted in Part IIA:

#### **Industrial democracy plans**

“22C. (1) In this section, ‘industrial democracy plan’, in relation to a Department, means a plan designed to achieve appropriate participation by officers and employees in the decision-making processes of the Department.



“(2) As soon as practicable after the commencement of this section and, in any event, within 12 months after the commencement of this section, the Secretary of a Department shall—

- (a) in consultation with relevant staff organizations in relation to offices in the Department and with such other persons as the Secretary considers appropriate, cause to be developed an industrial democracy plan for the Department;
- (b) cause to be prepared a statement in writing setting out the plan so developed; and
- (c) give a copy of the statement to the Board.

“(3) The Secretary of a Department shall—

- (a) in consultation with relevant staff organizations in relation to offices in the Department and with such other persons as the Secretary considers appropriate, cause the industrial democracy plan for the Department to be reviewed from time to time;
- (b) cause to be prepared a statement in writing setting out the results of any review (including particulars of any alteration to be made to the plan); and
- (c) give a copy of the statement to the Board.

“(4) The Secretary of a Department shall take any action necessary to give effect to the industrial democracy plan for the Department.

“(5) The Board may, by notice in writing to the Secretary of a Department, require the Secretary to give the Board, within the time specified in the notice, a report in writing in relation to the development, implementation or review of the industrial democracy plan for the Department.

“(6) A notice under sub-section (5) may specify the particular aspects of the industrial democracy plan that are to be dealt with in the report.

“(7) Where the Board receives a statement under sub-section (2) or (3) or a report under sub-section (5), the Board, after considering the statement or report, may make recommendations to the relevant Secretary on the action that should or could be taken to improve the effectiveness of the industrial democracy plan for the Department.

“(8) If the Secretary does not concur in or adopt a recommendation made by the Board under sub-section (7) on the action that should be taken to improve the effectiveness of the industrial democracy plan for the Department, the Secretary shall, within a reasonable time, inform the Minister administering the Department, in writing, of his reasons for not concurring in or adopting the recommendation and give a copy of a statement of those reasons to the Board.

“(9) The Board may from time to time, by notice in writing to Secretaries, issue guidelines on the development, implementation and review of industrial democracy plans for Departments.

“(10) The Board shall, in a report furnished to the Prime Minister in accordance with section 22, report on the operation of this section.

“(11) Where a Department comes into existence after the commencement of this section, this section applies in relation to the Department as if a reference in sub-section (2) to the commencement of this section were a reference to the day on which the Department comes into existence.

“(12) The regulations may provide that this section shall apply to and in relation to a Commonwealth authority specified in the regulations and, where the regulations so provide, this section applies to and in relation to the Commonwealth authority as if—

- (a) the Commonwealth authority were a Department;
- (b) references to the Secretary of a Department were references to the person for the time being holding, or performing the duties of, the office specified in the regulations for the purposes of this paragraph;
- (c) a reference in sub-section (2) to the commencement of this section were a reference to the day on which the regulations came into force; and
- (d) if the regulations provide that a specified Minister is the prescribed authority for the purposes of the application of this section in relation to the Commonwealth authority—references in sub-sections (2), (3), (5), (7) and (8) to the Board were references to the Minister so specified.

“(13) The regulations may provide that the provisions of this section shall, subject to such modifications and adaptations (if any) as are prescribed by the regulations, apply to and in relation to the employment of—

- (a) members of the Australian Federal Police;
- (b) persons appointed as officers or engaged as employees under the *Commonwealth Teaching Service Act 1972*;
- (c) persons who hold offices or appointments (not being offices or appointments in the Defence Force) under regulations made under the *Naval Defence Act 1910*;
- (d) persons who are employed under section 10 of the *Supply and Development Act 1939*;
- (e) persons employed as officers of the Australian Security Intelligence Organization; or
- (f) officers appointed in pursuance of section 10 of the *Trade Commissioners Act 1933*.

“(14) In sub-section (13), ‘modifications’ includes the addition or omission of a provision or the substitution of a provision for another provision.”

(2) If this section comes into operation during the first 6 months of a financial year, the Board shall report on the operation of section 22C of the *Public Service Act 1922*, in relation to the period commencing on the day on which this section comes into operation and ending on the expiration of that

financial year, in the first report that is furnished to the Prime Minister, under section 22 of that Act, after the expiration of that financial year.

(3) If this section comes into operation during the last 6 months of a financial year, the Board shall report on the operation of section 22C of the *Public Service Act 1922*, in relation to the period commencing on the day on which this section comes into operation and expiring at the end of that financial year, in the first report that is furnished to the Prime Minister, under section 22 of that Act, after the expiration of the financial year next succeeding that financial year.

(4) The Secretary of each Department shall include in the Annual Report of the Department to be laid before each House of the Parliament information on the implementation and operation of industrial democracy plans in that Department under section 22C of the *Public Service Act 1922*.

### **Division Heading**

13. The heading to Division 1 of Part III of the Principal Act is repealed and the following heading is substituted:

*“Division 1—Secretaries of Departments, the Senior Executive Service and Chief Officers”.*

### **Secretaries of Departments**

14. (1) Section 25 of the Principal Act is amended—

(a) by inserting in sub-section (2) “, under the Minister,” after “Department shall”;

(b) by omitting sub-section (3) and substituting the following sub-section:

“(3) The Secretary of a Department may, in any case in which he thinks fit, exercise all or any of the powers, or perform all or any of the functions, conferred by—

(a) a relevant Act;

(b) the regulations made under a relevant Act;

(c) a determination under sub-section 9 (7A) or section 82D; or

(d) an industrial award,

on a Chief Officer of the Department, and, for the purposes of the exercise of such powers, or the performance of such functions, by the Secretary, any reference in the relevant Act, the regulations, the determination or the industrial award, as the case requires, to a Chief Officer shall, unless the context otherwise requires, be read as a reference to the Secretary.”; and

(c) by omitting sub-sections (5) and (6) and substituting the following sub-section:

“(5) In sub-section (3), ‘relevant Act’ means—

(a) this Act; and

- (b) the *Merit Protection (Australian Government Employees) Act 1984*.”.

(2) Notwithstanding the omission of sub-sections 25 (5) and (6) of the Principal Act by sub-section (1), a delegation in force under sub-section 25 (5) of the Principal Act immediately before the date of commencement of this section continues in force, on and after that date, as if it had been made under section 26 of the *Public Service Act 1922* as amended by section 15 of this Act.

15. (1) Section 26 of the Principal Act is repealed and the following sections are substituted:

**Delegation by Secretaries of Departments**

“26. (1) Subject to sub-section (4), a Secretary may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a person (not being a person engaged as a consultant under section 4 of the *Members of Parliament (Staff) Act 1984*) all or any of his powers or functions under—

- (a) a relevant Act;
- (b) the regulations made under a relevant Act;
- (c) a determination under sub-section 9 (7A) or section 82D; or
- (d) an industrial award,

other than this power of delegation.

“(2) A power or function so delegated, when exercised or performed by the delegate, shall, for the purposes of the relevant Act, the regulations, the determination or the industrial award, as the case requires, be deemed to have been exercised or performed, as the case may be, by the Secretary.

“(3) A delegation by a Secretary under this section does not prevent the exercise of the power or the performance of the function, as the case requires, by the Secretary.

“(4) A Secretary is not empowered to delegate a power or function under sub-section (1) to a person who is not—

- (a) an officer or an employee; or
- (b) a person appointed to an office, under a law of the Commonwealth, by the Governor-General or a Minister,

unless the Board approves, in writing, the delegation of the power or function to that person.

“(5) The reference in sub-section (1) to the powers or functions that may be delegated by a Secretary includes a reference to a power or function that the Secretary may exercise or perform by virtue of sub-section 25 (3).

“(6) In this section, ‘relevant Act’ means—

- (a) this Act; or
- (b) the *Merit Protection (Australian Government Employees) Act 1984*.

### **Chief Officers**

“26A. (1) The Secretary of a Department may, in writing, appoint—

- (a) an officer or an employee; or
- (b) a person appointed to an office, under a law of the Commonwealth, by the Governor-General or a Minister,

to be a Chief Officer of the Department.

“(2) The Secretary of a Department may, in writing, declare—

- (a) an office in the Service; or
- (b) an office created by or under a law of the Commonwealth,

to be a prescribed office in relation to the Department for the purposes of this section.

“(3) Where an office is declared by the Secretary of a Department under sub-section (2) to be a prescribed office in relation to the Department for the purposes of this section, any person who holds that office or performs all or part of the duties of that office is a Chief Officer of the Department.

“(4) Subject to sub-section (5), a Chief Officer of a Department may exercise and perform, in relation to the Department, the powers and functions that are conferred on Chief Officers under—

- (a) a relevant Act;
- (b) the regulations made under a relevant Act;
- (c) a determination under sub-section 9 (7A) or section 82D; or
- (d) an industrial award.

“(5) The Secretary of a Department may, in writing, determine that a Chief Officer of the Department may exercise and perform the powers and functions referred to in sub-section (4) only in relation to—

- (a) the officers, or officers included in the class of officers, specified in the determination; and
- (b) the employees, or employees included in the class of employees, specified in the determination.

“(6) In addition to the powers and functions referred to in sub-section (4), a Chief Officer of a Department may exercise such other powers and shall perform such other functions in relation to the Department as the relevant Secretary, by writing, determines.

“(7) In this section, ‘relevant Act’ means—

- (a) this Act; or
- (b) the *Merit Protection (Australian Government Employees) Act 1984*.”

(2) Notwithstanding the repeal of section 26 of the Principal Act by sub-section (1), an appointment of a person as Chief Officer of a Department that was in force under that section immediately before the date of commencement of this section continues in force, on and after that date, as if it had been made under section 26A of the *Public Service Act 1922* as amended by sub-section (1).

(3) Notwithstanding the repeal of section 26 of the Principal Act by sub-section (1), a declaration of an office as an office which constitutes the occupant a Chief Officer that was in force under that section immediately before the date of commencement of this section continues in force, on and after that date, as if it were a declaration made in relation to the office under sub-section 26A (2) of the *Public Service Act 1922* as amended by sub-section (1).

16. After section 26 of the Principal Act the following section is inserted:

**The Senior Executive Service**

“26AA. (1) The officers who are Senior Executive Service officers constitute the Senior Executive Service.

“(2) The Senior Executive Service is established in order to provide for a group of officers who—

- (a) may undertake higher level policy advice, managerial and professional responsibilities in Departments; and
- (b) may be deployed by Secretaries within Departments, and by the Board between Departments, so as best to promote the efficiency of the Australian Public Service.”.

17. (1) Section 29 of the Principal Act is repealed and the following sections are substituted:

**Creation and abolition of offices**

“27. (1) The Secretary of a Department, for the purpose of enabling the Department to perform its functions, may, in writing—

- (a) create an office in the Department; or
- (b) abolish an office in the Department.

“(2) An instrument under sub-section (1) creating an office shall specify the classification of the office, being an approved classification under sub-section 28 (1).

**Classification of offices and officers**

“28. (1) A classification is an approved classification for the purposes of this Act if and only if—

- (a) a determination under section 82D is in force in respect of salary in relation to offices having that classification; or
- (b) in a case to which paragraph (a) does not apply—the Board declares, in writing, that the classification is an approved classification for the purposes of this sub-section.

“(2) Where the rate of salary, or the maximum rate of salary, as the case requires, payable in respect of 2 offices is the same, the classifications of the 2 offices shall be taken to be equal.

“(3) Where the rate of salary, or the maximum rate of salary, as the case requires, payable in respect of an office is greater than the rate of salary, or the

maximum rate of salary, as the case requires, payable in respect of another office, the classification of the first-mentioned office shall be taken to be higher than the classification of the second-mentioned office.

“(4) An unattached officer who held an office immediately before becoming an unattached officer shall, until he ceases to be an unattached officer, have a classification corresponding to the classification of that office.

“(5) Nothing in sub-section (1) shall be taken as limiting in any way the provision that may be made by an industrial award to vary the salary applicable in relation to an office or an officer.

#### **Administrative re-arrangements**

“29. (1) Where a Department is abolished, the Prime Minister may, in writing—

- (a) create in another Department, or direct the relevant Secretary of another Department to create in that other Department, an office (in this sub-section referred to as the ‘substituted office’)—
  - (i) that has the same classification as an office (in this sub-section referred to as the ‘former office’) that existed in the first-mentioned Department immediately before it was abolished; and
  - (ii) the holder of which is required to perform substantially the same duties as the holder of the former office was required to perform; and
- (b) declare the substituted office to be, or when created to be, in substitution for the former office.

“(2) Where, by virtue of administrative arrangements approved by the Governor-General or by the Prime Minister, a matter is to be dealt with by a different Department from the Department by which that matter was dealt with immediately before those arrangements were approved, the Prime Minister may, in writing—

- (a) abolish, or direct the Secretary of the second-mentioned Department to abolish, an office (in this sub-section referred to as the ‘former office’) in the second-mentioned Department the holder of which is required to perform duties that—
  - (i) relate wholly or mainly to that matter; or
  - (ii) are, in the opinion of the Prime Minister, ancillary to, or attributable to, that matter;
- (b) create, or direct the Secretary of the first-mentioned Department to create, in the first-mentioned Department an office (in this sub-section referred to as the ‘substituted office’)—
  - (i) that has the same classification as the former office; and
  - (ii) the holder of which is required to perform substantially the same duties as the holder of the former office was required to perform; and

- (c) declare the substituted office to be, or when created to be, in substitution for the former office.

### **Re-classification of offices**

“29A. (1) The Secretary of a Department may, in writing, alter the classification of an office in the Department to the classification specified in the instrument, being a classification that is an approved classification under sub-section 28 (1).

“(2) The Board may, by notice in writing to the Secretary of a Department, direct the Secretary to alter the classification of an office in a Department or the classification of offices in the Department, being offices included in a class of offices specified in the notice, to the classification specified in the notice, being a classification that is an approved classification under sub-section 28 (1).

“(3) Subject to sub-section (4), where—

- (a) the classification of an office is altered; and
- (b) the rate of salary, or the maximum rate of salary, payable in respect of the office immediately after the alteration is different from the rate of salary, or the maximum rate of salary, payable in respect of the office immediately before the alteration,

the office becomes vacant and the officer who held the office immediately before the alteration becomes an unattached officer.

“(4) The Board may, in writing, direct that sub-section (3) shall not apply to or in relation to alterations of the classification of offices included in a specified class of alterations of the classification of offices.”.

(2) Notwithstanding the repeal of section 29 of the Principal Act by sub-section (1), an office created in a Department under sub-section 29 (1) of that Act and in existence immediately before the date of commencement of this section continues in existence on and after that date as if it had been created by the relevant Secretary under sub-section 27 (1) of the *Public Service Act 1922* as amended by sub-section (1).

### **Classification of offices and officers**

**18. Section 28 of the Principal Act is amended—**

- (a) by inserting after sub-section (1) the following sub-section:

“(1A) The Board may, in writing—

- (a) declare a classification to be a Senior Executive Service classification; or
  - (b) declare all classifications included in a specified class of classifications to be Senior Executive Service classifications.”;
- and

- (b) by omitting from sub-section (4) “An” and substituting “subject to sub-section 76F (1A), an”.



19. After Division 2A of Part III of the Principal Act the following Division is inserted:

***“Division 2B—Part-time Offices***

**Part-time offices**

“29B. (1) An office in a Department (other than an office of Secretary) may be declared by the relevant Secretary, in writing, to be a part-time office.

“(2) Where—

(a) a declaration is made under sub-section (1) in relation to an office; or

(b) a declaration under sub-section (1) in relation to an office is revoked, the office becomes vacant and the officer who held the office immediately before the declaration was made or revoked, as the case may be, becomes an unattached officer.

“(3) Where—

(a) an office (in this sub-section referred to as the ‘former office’) is a part-time office; and

(b) another office (in this sub-section referred to as the ‘substituted office’) is created in another Department and is declared, under sub-section 29 (1) or (2), to be in substitution for the former office,

the declaration made under sub-section (1) in respect of the former office has effect, after the creation of the substituted office, as if it had been made in relation to the substituted office by the Secretary of the Department referred to in paragraph (b).

“(4) The Board, after consultations with the organizations that are relevant staff organizations in relation to offices in Departments, may, by notice published in the *Gazette*, notify procedures to be followed in relation to the operation of the provisions of this Act in relation to part-time employment.

**Hours of attendance of part-time officers**

“29C. (1) A declaration under sub-section 29B (1) in relation to an office shall specify, subject to sub-section (2), the hours of attendance that are to be applicable to the officer who occupies the office.

“(2) A declaration under sub-section 29B (1) in relation to an office shall not specify hours of attendance that are—

(a) greater than the hours of attendance prescribed by the regulations, for the purpose of this paragraph, in relation to that office or in relation to a class of offices in which that office is included; or

(b) less than the hours of attendance prescribed by the regulations, for the purpose of this paragraph, in relation to that office or in relation to a class of offices in which that office is included.

“(3) Regulations made for the purpose of paragraph (2) (a) shall not prescribe hours of attendance in relation to an office, or offices included in a class of offices, that are greater than the hours of attendance that would be

applicable to the office, or those offices, if a declaration, or declarations, under sub-section 29B (1) were not made in relation to the office, or those offices.

“(4) The hours of attendance applicable to an officer who holds an office in relation to which there is in force a declaration under sub-section 29B (1) shall, notwithstanding anything in—

(a) the regulations or in a determination under sub-section 9 (7A) or section 82D; or

(b) an industrial award made before the commencement of this section, be the hours of attendance specified in the declaration.

“(5) A declaration under sub-section 29B (1) in relation to an office shall not be varied or amended without the consent of the officer holding the office.

#### **Hours of attendance of certain unattached officers**

“29D. (1) Subject to sub-section (5), where an officer—

(a) becomes an unattached officer (whether by virtue of sub-section 29B (2) or otherwise); and

(b) immediately before becoming an unattached officer, held a part-time office,

the hours of attendance applicable to the unattached officer shall, until he ceases to be an unattached officer, be the hours of attendance applicable to the officer immediately before he became an unattached officer.

“(2) Subject to sub-section (5), where—

(a) a person who had previously ceased to be an officer is re-appointed to the Service as an unattached officer in pursuance of section 63F, 63G, 87Q or 87R; and

(b) the person, immediately before he ceased, or last ceased, to be an officer—

(i) held a part-time office; or

(ii) was an unattached officer to whom sub-section (1) of this section applied,

the hours of attendance applicable to the person shall, until he ceases to be an unattached officer, be the hours of attendance applicable to him immediately before he ceased, or last ceased, to be an officer.

“(3) Subject to sub-section (5), where—

(a) a person is appointed under section 40, or re-appointed under section 47B or 47C, to the Service as an unattached officer; and

(b) the Board is satisfied that the person will, when he ceases to be an unattached officer, be appointed to a part-time office,

the Board may declare, in writing, that the hours of attendance that are applicable to the officer shall, until he ceases to be an unattached officer, be those specified in the declaration.

“(4) The hours of attendance applicable to an officer in relation to whom there is in force a declaration under sub-section (3) shall, notwithstanding anything in—

(a) the regulations or a determination under sub-section 9 (7A) or section 82D; or

(b) an industrial award made before the commencement of this section, be the hours of attendance specified in the declaration.

“(5) Where the hours of attendance applicable to a person are ascertained in accordance with sub-section (1), (2), (3) or a previous application of this sub-section, the relevant Secretary may, with the consent of the person, determine, in writing, that the hours of attendance applicable to the person are those specified in the determination and, where such a determination is made, the hours of attendance that are applicable to the person shall, until he ceases to be an unattached officer, be those specified in the determination.

“(6) Sub-section 29C (2) applies in relation to a determination under sub-section (5) in like manner as it applies in relation to a declaration under sub-section 29B (1).

“(7) Sub-sections (1), (2) and (5) have effect notwithstanding anything in an industrial award made before the commencement of this section.

### **Salaries of officers**

**20.** Section 30 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(5) The reference in sub-section (2) to a determination in force under section 82D does not include a reference to a determination under section 82D that makes provision for or in relation to a matter referred to in sub-paragraph 82D (4) (a) (xii), (xiii) or (xiv).”.

**21.** Before section 33 of the Principal Act the following section is inserted in Subdivision A of Division 4 of Part III:

### **Interpretation**

“33AAA. (1) In this Division, unless the contrary intention appears—

‘Committee’ means a Promotion Appeal Committee;

‘prescribed day’ means—

(a) in relation to a promotion of an officer under section 49B, 50 or 50DA—the later of—

(i) a day ascertained in accordance with the regulations, being a day occurring not earlier than the day on which the promotion is notified in the *Gazette*; and

(ii) the day on which the office to which the officer is promoted becomes vacant; and

(b) in relation to a transfer of an officer under section 49, 50 or 50DA—the later of—

- (i) a day ascertained in accordance with the regulations, being a day occurring not earlier than the day on which the officer is given notice of the transfer under sub-section 49 (4), 50 (5A) or 50DA (8), as the case requires; and
- (ii) the day on which the office to which the officer is transferred becomes vacant;

'promotion', in relation to an officer, means a movement of the officer within the Service for the purpose of his holding an office in respect of which a rate of salary is payable, or a maximum rate of salary is applicable, that is higher than the rate of salary that was payable, or the maximum rate of salary that was applicable, as the case may be, in respect of the office held by him, or, in the case of an unattached officer, to or in respect of him, immediately before the movement took place;

'Promotion Appeal Committee' means a Promotion Appeal Committee established under section 50C.

"(2) In this Division, unless the contrary intention appears, a reference to a vacant office includes a reference to an office that is expected to become vacant and a reference to a vacancy includes a reference to a vacancy that is expected to occur.

"(3) In this Division, a reference to the determination of an appeal against the promotion of an officer is a reference to the allowing or disallowing of the appeal under section 50D.

"(4) For the purposes of this Division, an appeal shall be taken to become inoperative if—

- (a) the appeal is withdrawn;
- (b) the appeal lapses by virtue of section 50F or 50G;
- (c) the appellant or the officer against whose promotion the appeal was made ceases to be an officer, otherwise than by virtue of his becoming a person to whom Division 3 of Part IV applies;
- (d) the appellant or the officer against whose promotion the appeal was made ceases, by reason of his promotion to another office having taken effect or for any other reason, to be eligible for promotion to the office concerned;
- (e) the officer against whose promotion the appeal was made is granted permission by the Board under section 52 to decline the promotion; or
- (f) the promotion against which the appeal was made ceases to have effect under sub-section 50E (7) or section 50EA.

"(5) For the purposes of this Division, the parties to particular appeal proceedings are the officer promoted under section 50 and the appellant or appellants."

### **Interpretation**

**22.** Section 33AAA of the Principal Act is amended by omitting “section 50C” from the definition of “Promotion Appeal Committee” in sub-section (1) and substituting “Subdivision B of Division 2 of Part II of the *Merit Protection (Australian Government Employees) Act 1984*”.

**23. (1)** Section 33 of the Principal Act is repealed and the following heading and sections are substituted:

#### ***“Subdivision A—Preliminary***

##### **Application of merit principle, prohibition of patronage, &c.**

“33. (1) Powers under this Act in respect of appointment shall be exercised in accordance with procedures that ensure that, in each case where an appointment to the Service is to be made—

- (a) all persons who are eligible for appointment to the Service have, so far as is practicable, a reasonable opportunity to apply for the appointment; and
- (b) the appointment is made on the basis of an assessment of the relative suitability of the applicants for the appointment, having regard to—
  - (i) the nature of the duties to be performed by the person appointed; and
  - (ii) the abilities, qualifications, experience and other attributes of each applicant that are relevant to the performance of those duties.

“(2) Without limiting the generality of sub-section (1), powers under this Act in respect of appointments, transfers and promotions shall be exercised in accordance with procedures that preclude patronage and favouritism.

“(3) Without limiting the generality of sub-section (1), powers under this Act in respect of appointments, transfers and promotions shall, subject to sub-section (4), be exercised in accordance with procedures that preclude—

- (a) discrimination on the ground of political affiliation, race, colour, ethnic origin, social origin, religion, sex, sexual preference, marital status, pregnancy, age or physical or mental disability;
- (b) discrimination that is unlawful under the *Racial Discrimination Act 1975* or the *Sex Discrimination Act 1984*; and
- (c) any other unjustified discrimination.

“(4) The reference in sub-section (3) to discrimination in relation to a power in respect of appointment, transfer or promotion shall be read as not including a reference to—

- (a) discrimination that is essential for the effective performance of the duties to which the appointment, transfer or promotion relates, is not unlawful under the *Racial Discrimination Act 1975* or the *Sex*

*Discrimination Act 1984* and is declared by the regulations not to be discrimination for the purposes of sub-section (3); or

- (b) discrimination in relation to appointment that is not unlawful under the *Racial Discrimination Act 1975* or the *Sex Discrimination Act 1984* and is in accordance with a program to encourage the appointment of women or persons in a designated group to the Service, being a program that is declared by the regulations to be an approved program for the purposes of this paragraph.

“(5) Where the exercise of a power in respect of appointment is, by virtue of paragraph (4) (b), not discrimination for the purpose of sub-section (3), the power shall be taken to have been exercised in accordance with procedures of the kind referred to in sub-section (1).

#### **Notification of certain matters related to appointment, transfer or promotion**

“33A. (1) The Board may from time to time, by notice published in the *Gazette*, notify—

- (a) the manner in which applications for appointment to the Service will be invited;
- (b) the manner of ascertaining the order in which appointments of persons who apply for appointment to specified vacancies or to vacancies included in a specified class of vacancies will be made;
- (c) the academic or other qualifications required, or the conditions to be satisfied, for appointment to the Service;
- (d) the academic or other qualifications required, or the conditions to be satisfied, for appointment, transfer or promotion to a specified office or to an office included in a specified class of offices, or for appointment as an unattached officer of the Service;
- (e) the circumstances in which notification of the existence of vacant offices in Departments will be published in the *Gazette*; or
- (f) such other matters with respect to appointments, transfers or promotions as the Board considers desirable.

“(2) A qualification or condition set out in a notification under paragraph (1) (c) or (d) may be a qualification or condition that is defined or expressed by reference to the opinion of the Board in relation to a particular matter.

#### **Board may arrange for tests and examinations**

“33B. The Board may, from time to time, for the purposes of this Division, arrange for the taking of tests or examinations—

- (a) by applicants for appointment to the Service, or by applicants for appointment to the Service included in a particular class of such applicants; or
- (b) by officers who wish to become eligible for promotion or transfer to particular offices, or to offices included in a particular class of offices.

### **Unattached officers**

“33C. (1) The Board may, with the consent in writing of an officer who holds an office, declare, in writing, that the officer shall, on a day specified in the declaration, become an unattached officer and, if the Board does so, the office so held by the officer becomes vacant on the day so specified.

“(2) A person who is, or is deemed to be, an unattached officer of the Service shall, for the purposes of this Act and of any other Act, be taken to be included in such Department, or in a Department that is identified in such manner, as the Board, in writing, directs.”.

(2) An appointment to the Service made before the commencement of this section under section 33 of the Principal Act is not affected by the repeal of section 33 of the Principal Act effected by sub-section (1), but, after the commencement of this section, any reference in an instrument of appointment made under sub-section 33 (1) of the Principal Act to an appointment of an officer in a Division of the Service shall be read as a reference to an appointment of an officer to the Service.

### **Notification of certain matters related to appointment, transfer or promotion**

24. Section 33A of the Principal Act is amended by inserting in paragraph (1) (e) “(other than Senior Executive Service offices)” after “offices”.

25. After section 33A of the Principal Act the following section is inserted:

### **Notification of vacancies in Senior Executive Service offices**

“33AA. (1) Where a vacancy exists, or is expected to occur within the period prescribed by the regulations for the purposes of this sub-section, in a Senior Executive Service office in a Department, the relevant Secretary shall give notice in writing to the Board of the vacancy or expected vacancy.

“(2) Where the relevant Secretary proposes that a vacancy in a Senior Executive Service office be filled, within the period prescribed by the regulations for the purposes of this sub-section, otherwise than by the exercise of a power under section 49 to transfer an officer to the office, the relevant Secretary shall—

- (a) cause notification of the vacancy to be published in the *Gazette*; and
- (b) take such other action (if any) as the Secretary thinks necessary to advertise the vacancy.

“(3) Sub-sections (1) and (2) do not apply to a vacancy in a Senior Executive Service office in a case where the Board directs that the vacancy is to be filled by the re-appointment of a person in accordance with section 47C.

“(4) Where a vacancy in a Senior Executive Service office is notified in the *Gazette* in pursuance of sub-section (2)—

- (a) any person (not being an officer) who is eligible for appointment to the Service may apply for appointment to the office; and
- (b) any officer may apply for promotion or transfer to the office.”.

**Eligibility for appointment to the Service**

**26.** Section 34 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “A person” and substituting “Subject to this section, a person”;
- (b) by omitting from paragraph (1) (a) “a British subject” and substituting “an Australian citizen”; and
- (c) by adding at the end thereof the following sub-sections:

“(4) Where, in the opinion of an appointing authority, it is desirable to do so for the more efficient operation of the Service or it is otherwise in the public interest to do so, the authority may, in writing, waive, for a specified period or otherwise, the requirement for appointment referred to in paragraph (1) (a) in relation to—

- (a) the appointment of a specified person—
  - (i) to any office in respect of which that authority has the power of appointment; or
  - (ii) as an unattached officer of the Service; or
- (b) the appointment of any person—
  - (i) to a specified office, or an office included in a specified class of offices, in respect of which that authority has the power of appointment; or
  - (ii) as a specified unattached officer or an unattached officer included in a specified class of unattached officers.

“(5) Notwithstanding sub-section (4), a waiver by the Board under that sub-section is not effective unless and until the Prime Minister has, in writing, approved the waiver.

“(6) In this section, unless the contrary intention appears—  
‘appoint’ does not include re-appoint;

‘appointing authority’ means any person who is empowered by this Act to appoint a person to the Service, and includes the Board.”.

**27.** Sections 35 to 46 (inclusive) of the Principal Act are repealed and the following Subdivision, Subdivision heading and sections are substituted:

***“Subdivision B—Appointment of Secretaries of Departments***

**Interpretation**

“35. In this Subdivision, unless the contrary intention appears—

‘appointment’ includes re-appointment;

‘Chairman’ means Chairman of the Board and includes a person acting as the Chairman of the Board;



‘office of Secretary’ means an office referred to in paragraph (a) of the definition of ‘office of Secretary’ in sub-section 7 (1), but does not include an office to or in relation to which section 9 applies.

### **Appointment of Secretaries of Departments**

“36. (1) The Governor-General may, by instrument signed by him, appoint a person to an office of Secretary.

“(2) The power of the Governor-General to appoint a person to an office under sub-section (1) shall be exercised only in accordance with advice that is consistent with a recommendation by the Prime Minister.

“(3) The Prime Minister shall not recommend, for the purpose of sub-section (2), that a person be appointed under sub-section (1) to an office of Secretary unless he has received a report in writing from the Chairman in relation to the filling of the vacancy or expected vacancy in the office.

“(4) The Chairman shall, before preparing a report for the purposes of sub-section (3) in relation to the filling of a vacancy or expected vacancy in an office of Secretary of a Department, consult with the Minister administering that Department in relation to that matter.

“(5) The appointment of a person to an office of Secretary is not invalidated, and shall not be called in question, by reason of a defect or irregularity in or in connection with his appointment.

### **Fixed-term appointments**

“37. (1) Where a person who is not an officer is appointed to an office of Secretary, the instrument of appointment may provide that the person is appointed to the Service to hold office as Secretary for such period (not exceeding 5 years and not extending beyond the day on which the person will attain the age of 65 years) as is specified in the instrument of appointment and, where the instrument of appointment so provides, the appointment is a fixed-term appointment for the purposes of this section.

“(2) Where a person who holds an office of Secretary under a fixed-term appointment (in this sub-section referred to as the ‘first appointment’) is appointed (otherwise than under sub-section (8)) to another office of Secretary, the instrument of appointment to that other office may provide that the person is appointed to hold office as Secretary for such period (not exceeding 5 years, not extending beyond the day on which the person will attain the age of 65 years and not expiring before the expiration of the period for which the first appointment was made) as is specified in the instrument of appointment to that other office and, where the instrument of appointment so provides—

- (a) the appointment to that other office is a fixed-term appointment for the purposes of this section;
- (b) the first appointment terminates upon the making of the appointment to that other office;

- (c) sub-section (6) ceases to apply to the person in relation to the first appointment; and
- (d) the person ceases to be entitled to benefits under any determination made under sub-section (4) in relation to the first appointment.

“(3) Where a person who—

- (a) held an office of Secretary under a fixed-term appointment (in this sub-section referred to as the ‘first appointment’); and
- (b) has become an unattached Secretary under sub-section (5),

is appointed to an office (in this sub-section referred to as the ‘second office’) of Secretary, the instrument of appointment to the second office may provide that the person is appointed to hold office as Secretary for such period (not exceeding 5 years, not extending beyond the day on which the person will attain the age of 65 years and not expiring before the expiration of the period for which the first appointment was made) as is specified in the instrument of appointment to the second office and, where the instrument of appointment so provides—

- (c) the appointment to the second office is a fixed-term appointment for the purposes of this section;
- (d) sub-section (6) ceases to apply to the person in relation to the first appointment; and
- (e) the person ceases to be entitled to benefits under any determination made under sub-section (4) in relation to the first appointment.

“(4) The Governor-General, in accordance with advice that is consistent with a recommendation by the Board, may, at the time when a person is given a fixed-term appointment to an office of Secretary, determine in writing that, subject to the conditions (if any) specified in the determination, if the person is retired from the Service under sub-section (6) before the expiration of the period for which the appointment is made, the person shall be entitled to such compensation as is specified in, or ascertained in accordance with, the determination.

“(5) Where a person holds an office of Secretary under a fixed-term appointment, the appointment of the person to that office terminates and the person becomes an unattached Secretary if—

- (a) the office is abolished; or
- (b) the Governor-General directs, in writing, that the appointment of the person to that office is terminated,

and, immediately after the event referred to in paragraph (a) or (b) occurs, the person does not hold another office of Secretary.

“(6) Subject to paragraphs (2) (c) and (3) (d), where a person is a Secretary by virtue of a fixed-term appointment, the appointment of the person to the Service terminates and the person is deemed to be retired from the Service if—

- (a) the period for which the appointment was made expires; or

- (b) the Governor-General, before the expiration of the period for which the appointment was made, directs, in writing, that the appointment of the person to the Service is terminated on a day specified in the instrument of direction, being a day not earlier than the day on which the direction is given.

“(7) The Governor-General shall not direct under sub-section (6) that the appointment of a person to the Service be terminated by reason only of the fact that the person has done, or omitted to do, an act or thing in respect of which a charge could be laid against the person under Division 6, or on the ground that a court has convicted the person of a criminal offence within the meaning of that Division or found, without recording a conviction, that he has committed such an offence.

“(8) Where a person holds an office (in this sub-section referred to as the ‘first office’) of Secretary under a fixed-term appointment, the Governor-General may, in writing, appoint the person to hold, in addition to the first office, another office (in this sub-section referred to as the ‘second office’) of Secretary for such period (not expiring after the day on which the period for which the appointment to the first office was made expires) as is specified in the instrument of appointment to the second office and, where an appointment is made under this sub-section, the appointment to the second office—

- (a) is a fixed-term appointment for the purposes of this section;
- (b) terminates, subject to sub-section (5), upon the expiration of the period for which the appointment to the second office is made; and
- (c) shall not terminate by reason only of the termination of the appointment to the first office.

“(9) If a person who holds an office of Secretary under a fixed-term appointment is appointed under sub-section (8) to another office of Secretary, the person shall be paid remuneration (whether by way of salary, annual allowance or otherwise) in respect of his holding only one of those offices.

“(10) Where sub-section (9) applies in relation to a person in respect of 2 offices and the remuneration payable in respect of one of those offices is higher than the remuneration payable in respect of the other office, the person shall be paid remuneration in respect of his holding the office in respect of which that higher remuneration is payable.

“(11) A power of the Governor-General under this section (other than sub-section (4)) shall be exercised only in accordance with advice that is consistent with a recommendation by the Prime Minister.

“(12) The Prime Minister shall not recommend, for the purposes of sub-section (11), the taking of an action under this section unless he has received a report in writing from the Chairman in relation to the taking of the action.

“(13) A person who is retired from the Service under sub-section (6) is eligible for re-appointment to the Service (whether by way of fixed-term appointment or otherwise).

“(14) Where a person who is a Secretary by virtue of a fixed-term appointment is appointed, otherwise than by way of fixed term appointment, to an office of Secretary—

- (a) the fixed-term appointment terminates; and
- (b) the person ceases to be entitled to benefits under any determination made under sub-section (4) in relation to the fixed-term appointment.

“(15) Division 8A does not apply to or in relation to a person who is a Secretary by virtue of a fixed-term appointment.

### **Superannuation benefits for fixed-term Secretaries of Departments**

“38. (1) In this section—

‘pensioner’ means—

- (a) a person to whom an invalidity pension within the meaning of the *Superannuation Act 1976* is payable; or
- (b) a person to whom a pension under the *Superannuation Act 1922* is payable, being a person who was retired on the ground of invalidity or of physical or mental incapacity to perform the person’s duties;

‘relevant person’ means a person other than—

- (a) an eligible employee within the meaning of the *Superannuation Act 1976*; or
- (b) a pensioner.

“(2) For the purposes of the *Superannuation Act 1976*, a person who holds a fixed-term appointment, within the meaning of section 37, to an office of Secretary and was a relevant person immediately before being given the appointment is not, by reason only of his holding that appointment, an eligible employee within the meaning of that Act.

“(3) The Governor-General, in accordance with advice that is consistent with a recommendation by the Minister for Finance, may, at the time when a relevant person is given a fixed-term appointment, within the meaning of section 37, to an office of Secretary, make a determination in writing in relation to the provision to the person of superannuation benefits or benefits in the nature of superannuation benefits.

“(4) Without limiting the generality of sub-section (3), a determination under that sub-section in relation to a relevant person may provide that the *Superannuation Act 1976* applies in relation to the person as if the person were a temporary employee, within the meaning of that Act, employed under a contract for a term of not less than 1 year and, where a determination so provides, the *Superannuation Act 1976* applies in relation to the person in accordance with the determination.

“(5) Notwithstanding anything in the *Superannuation Act 1976* or any other Act, the *Superannuation Act 1976*—

- (a) does not apply in relation to a person who holds a fixed-term appointment, within the meaning of section 37, to an office of Secretary and was a relevant person immediately before being given the appointment unless the application of that Act is expressly provided for, in accordance with sub-section (4), in a determination under sub-section (3) in relation to the person; and
- (b) does not apply in relation to the person except as provided by sub-section (4).

### **Acting appointments of Secretaries of Departments**

“39. (1) The Governor-General may, by instrument signed by him, appoint an officer or employee to act in an office of Secretary—

- (a) during a vacancy in the office, whether or not an appointment has previously been made to the office;
- (b) during a period (if any) when the holder of the office is suspended from duty under section 57 or 59; or
- (c) during a period, or during all periods, when the holder of the office is absent from duty or from Australia or is, for any other reason, unable to perform the functions of his office.

“(2) An appointment under this section by reason of a vacancy in an office shall not be made, or continue to have effect, after the expiration of a period of 12 months from the date of the occurrence of the vacancy.

“(3) An appointment of an officer or employee under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

“(4) The Governor-General may, at any time, by instrument signed by him, terminate an appointment under sub-section (1).

“(5) Where an officer or employee is acting in an office in accordance with paragraph (1) (b) or (c) and that office becomes vacant while that officer or employee is so acting, then, subject to sub-section (3), that officer or employee may continue so to act until the Governor-General otherwise directs, the vacancy is filled or a period of 6 months from the date on which the vacancy occurred expires, whichever first happens.

“(6) While an officer or employee is acting in an office in accordance with sub-section (1), he has and may exercise all the powers, and shall perform all the functions, of the holder of that office under this Act or any other law.

“(7) The validity of anything done by or in relation to an officer or employee purporting to act under sub-section (1) shall not be called in question on the ground that—

- (a) the occasion for his appointment had not arisen;

- (b) there is a defect or irregularity in or in connection with his appointment;
- (c) the appointment had ceased to have effect; or
- (d) the occasion for him to act had not arisen or had ceased.

“(8) In this section, ‘office of Secretary’ includes an office referred to in paragraph (a) of the definition of ‘office of Secretary’ in sub-section 7 (1) that is an office to or in relation to which section 9 applies.

### **Dual appointment of Secretaries of Departments**

“40. (1) Where a person who holds an office of Secretary is appointed to hold another office of Secretary, the person shall, unless the instrument of appointment to the second-mentioned office otherwise provides, cease to hold the first-mentioned office upon being so appointed.

“(2) Sub-section (1) does not apply in relation to a person who holds an appointment to an office of Secretary that is a fixed-term appointment within the meaning of section 37.

“(3) A person who at any time holds an office of Secretary may be appointed to act in another office of Secretary and shall not, by reason only of being so appointed, cease to hold the first-mentioned office.

“(4) Where a person who holds an appointment to act in an office of Secretary is appointed to act in another office of Secretary, the person shall, unless the instrument of appointment to act in the second-mentioned office otherwise provides, cease to hold the first-mentioned appointment upon being so appointed.

“(5) If a person who holds, or holds an appointment to act in, an office of Secretary is appointed under sub-section (1), (3) or (4) to hold, or to act in, another office of Secretary and does not cease to hold, or to hold the appointment to act in, the first-mentioned office, he shall be paid remuneration, whether by way of salary, annual allowance or otherwise, in respect of his holding, or holding the appointment to act in, only one of those offices.

“(6) Where sub-section (5) applies in relation to a person in respect of 2 or more offices and the remuneration payable in respect of one or more of those offices is higher than the remuneration payable in respect of the other office or other offices, the person shall be paid remuneration in respect of his holding, or holding an appointment to act in, the office or one of the offices in respect of which that higher remuneration is payable.

“(7) This section has effect notwithstanding anything contained in any other section of this Act or in the *Remuneration Tribunals Act 1973*.

“(8) Nothing in this section shall be construed as excluding the application of sub-section 19B (3) of the *Acts Interpretation Act 1901* in relation to any provision of this section.

**Certain provisions not to apply to appointments under this Subdivision**

“41. Sections 18, 33 and 34 do not apply in relation to an appointment (including an appointment to act in an office) under this Subdivision.

***“Subdivision C—Appointment of officers other than Secretaries of Departments***

**Appointment of officers other than Secretaries of Departments**

“42. (1) Subject to this Part, the Board may appoint a person to a particular office in the Service (not being an office of Secretary) or as an unattached officer in the Service.

“(2) An unattached officer appointed under sub-section (1) shall have such classification as the Board determines to be appropriate to his duties.

“(3) A person shall not be appointed as an unattached officer unless he is qualified for appointment to an office having a classification corresponding to his classification as an unattached officer.

**Special appointments**

“43. (1) Subject to this section, if in a special case it appears to the Board to be desirable in the public interest to do so, the Board may, under this section, appoint to an office in the Service (other than an office of Secretary) a person who is not ineligible for appointment by reason of section 34 but does not have the academic or other qualifications required for appointment to the office by virtue of a notification under sub-section 33A (1).

“(2) An appointment of a person under this section to an office shall not be made unless the Board certifies, after obtaining a report from the Secretary of the Department concerned, that it is satisfied that there is no officer available in the Service who is as capable as that person of filling the office.

“(3) Where the Board makes an appointment under this section, it shall cause a statement containing particulars of the appointment, together with a copy of the report and certificate referred to in sub-section (2), to be laid before each House of the Parliament within 15 sitting days of that House after the making of the appointment.”.

**28.** After section 43 of the Principal Act the following sections are inserted:

**Fixed-term appointments to Senior Executive Service**

“44. (1) Where a person is appointed under section 42 as a Senior Executive Service officer, the Board may determine, in writing, that the person is appointed to the Service to hold office as a Senior Executive Service officer for such period (not exceeding 5 years and not extending beyond the date on which the person will attain the age of 65 years) as is specified in the determination and, where such a determination is made in relation to an appointment, the appointment is a fixed-term appointment for the purpose of this section.

“(2) The Board may, at the time when a person is given a fixed-term appointment as a Senior Executive Service officer, determine, in writing, that, subject to the conditions (if any) specified in the determination, if the person is retired from the Service under sub-section (3) before the expiration of the period for which the appointment is made, the person shall be entitled to such compensation as is specified in, or ascertained in accordance with, the determination.

“(3) Where a person is a Senior Executive Service officer by virtue of a fixed-term appointment, the appointment of the person to the Service terminates and the person is deemed to be retired from the Service if—

- (a) the period for which the appointment was made expires; or
- (b) the Board, before the expiration of the period for which the appointment was made, directs, in writing, that the appointment of the person to the Service is terminated on a day specified in the instrument of direction, being a day not earlier than the day on which the direction is given.

“(4) The Board shall not direct under sub-section (3) that the appointment of a person to the Service be terminated by reason only of the fact that the person has done, or omitted to do, an act or thing in respect of which a charge could be laid against the person under Division 6, or on the ground that a court has convicted the person of a criminal offence within the meaning of that Division or found, without recording a conviction, that the person has committed such an offence.

“(5) A person who is retired from the Service under sub-section (3) is eligible for re-appointment to the Service (whether by way of fixed-term appointment or otherwise).

“(6) Division 8B does not apply to or in relation to a person who is a Senior Executive Service officer by virtue of a fixed-term appointment.

#### **Superannuation benefits for fixed-term Senior Executive Service officers**

“45. (1) In this section—

‘pensioner’ means—

- (a) a person to whom an invalidity pension within the meaning of the *Superannuation Act 1976* is payable; or
- (b) a person to whom a pension under the *Superannuation Act 1922* is payable, being a person who was retired on the ground of invalidity or of physical or mental incapacity to perform the person’s duties;

‘relevant person’ means a person other than—

- (a) an eligible employee within the meaning of the *Superannuation Act 1976*; or
- (b) a pensioner.

“(2) For the purposes of the *Superannuation Act 1976*, a person who is a Senior Executive Service officer by virtue of a fixed-term appointment, within



the meaning of section 44, and was a relevant person immediately before being given the appointment is not, by reason only of his holding that appointment, an eligible employee within the meaning of that Act.

“(3) The Board may, at the time when a relevant person is given a fixed-term appointment, within the meaning of section 44, as a Senior Executive Service officer, make a determination in writing in relation to the provision to the person of superannuation benefits or benefits in the nature of superannuation benefits.

“(4) Without limiting the generality of sub-section (3), a determination under that sub-section in relation to a relevant person may provide that the *Superannuation Act 1976* applies in relation to the person as if the person were a temporary employee, within the meaning of that Act, employed under a contract for a term of not less than 1 year and, where a determination so provides, the *Superannuation Act 1976* applies in relation to the person in accordance with the determination.

“(5) Notwithstanding anything in the *Superannuation Act 1976* or any other Act, the *Superannuation Act 1976*—

- (a) does not apply in relation to a person who is a Senior Executive Service officer by virtue of a fixed-term appointment, within the meaning of section 44, and was a relevant person immediately before being given the appointment unless the application of that Act is expressly provided for, in accordance with sub-section (4), in a determination under sub-section (3) in relation to the person; and
- (b) does not apply in relation to the person except as provided by sub-section (4).

“(6) The Board is not empowered to make a determination for the purposes of sub-section (3) except in accordance with arrangements approved by the Minister for Finance.”.

#### **Appointments to be on probation**

**29. (1)** Section 47 of the Principal Act is amended—

- (a) by omitting paragraph (7) (c) and substituting the following paragraph:

“(c) direct, subject to sub-sections (7A) and (7B), that he continue on probation for such further period as the Board thinks fit.”;

- (b) by inserting after sub-section (7) the following sub-sections:

“(7A) Subject to sub-section (7B), the Board shall not direct that a probationer continue on probation for a further period if the total period of his probation would exceed 1 year.

“(7B) Where a probationer holds a training office, the Board may direct that the probationer continue on probation until he is promoted or transferred to an office that is not a training office.”;

- (c) by inserting in sub-section (8) “, subject to sub-section (8AA),” after “confirm or”;

(d) by inserting after sub-section (8) the following sub-sections:

“(8AA) Where, in accordance with sub-section (7B), the Board directs that a probationer continue on probation until he is promoted or transferred to an office that is not a training office, the Board shall not, after the period of 1 year commencing on the day on which the probationer commences duties in pursuance of his appointment, annul his appointment except on the ground that his performance in the course of training required of the occupant of the training office has not been satisfactory.

“(8AB) Where—

- (a) in accordance with sub-section (7B), the Board directs that a probationer continue on probation until he is promoted or transferred to an office that is not a training office; and
- (b) the probationer is, after the period of 1 year commencing on the day on which he commenced duties in pursuance of his appointment, promoted or transferred to an office that is not a training office,

the appointment of the probationer shall be taken to have been confirmed on the day on which the promotion or transfer takes effect.

“(8AC) Where—

- (a) paragraph (8AB) (a) applies in relation to a probationer; and
- (b) the probationer is, before the expiration of the period referred to in paragraph (8AB) (b), promoted or transferred to an office that is not a training office,

the probationer shall continue on probation as if the Board had not made a direction under sub-section (7B) in relation to the probationer.”; and

(e) by adding at the end thereof the following sub-section:

“(16) In this section, ‘training office’ means an office that is specified in a determination made by the Board under sub-section 53B (1) as an office the occupant of which is required to undergo a course of training for the purpose of enabling him to perform duties that require professional, technical or other knowledge.”.

(2) Section 47 of the Principal Act is amended by omitting from sub-section (16) “53B (1)” and substituting “53A (1)”.

(3) The amendments made by sub-section (1) apply to and in relation to appointments on probation made after the commencement of that sub-section.

### **Repeal of section 48A**

30. Section 48A of the Principal Act is repealed.

31. After Division 4 of Part III of the Principal Act the following Division is inserted:

**“Division 4A—Transfers and promotions of Senior Executive Service officers**

**Interpretation**

“48B. (1) In this Division, unless the contrary intention appears—  
‘prescribed day’ means—

- (a) in relation to a promotion of an officer under section 49B—the latter of—
  - (i) a day ascertained in accordance with the regulations, being a day occurring not earlier than the day on which the promotion is notified in the *Gazette*; and
  - (ii) the day on which the office to which the officer is promoted becomes vacant; and
- (b) in relation to a transfer of an officer under section 49—the latter of—
  - (i) the day ascertained in accordance with the regulations, being a day occurring not earlier than the day on which the officer is given notice of the transfer under sub-section 49 (4); and
  - (ii) the day on which the office to which the officer is transferred becomes vacant;

‘promotion’, in relation to an officer, means a movement of the officer within the Service for the purpose of his holding an office in respect of which a rate of salary is payable, or a maximum rate of salary is applicable, that is higher than the rate of salary that was payable, or the maximum rate of salary that was applicable, as the case may be, in respect of the office held by him, or, in the case of an unattached officer, to or in respect of him, immediately before the movement took place.

“(2) In this Division, unless the contrary intention appears, a reference to a vacant office includes a reference to an office that is expected to become vacant and a reference to a vacancy includes a reference to a vacancy that is expected to occur.

**Transfers of Senior Executive Service officers**

“49. (1) For the purposes of sub-section 26AA (2), a Senior Executive Service officer in a Department may—

- (a) be transferred by the relevant Secretary to any vacant Senior Executive Service office in the Department; and
- (b) be transferred by the Board to any vacant Senior Executive Service office in another Department.

“(2) Where it is proposed that an officer be transferred under sub-section (1), the relevant Secretary or the Board, as the case requires, shall have regard to—

- (a) the effect that the proposed transfer would have on—
  - (i) the efficiency of the Service; and
  - (ii) the career development of the officer; and
- (b) the views of the officer in relation to the proposed transfer.

“(3) The Board shall not transfer an officer in a Department under sub-section (1) to an office in another Department unless the Board has consulted with each of the relevant Secretaries in relation to the proposed transfer.

“(4) An officer who is transferred under sub-section (1) shall be given notice in writing of the transfer.

“(5) Where 2 or more officers hold Senior Executive Service offices and it is proposed to transfer each of those officers to the office held by the other or to an office held by another of those officers, the relevant Secretary or the Board, as the case requires, may, in writing, declare the offices to be offices to which this sub-section applies and, upon the making of such a declaration, each office to which the declaration relates shall, for the purposes of sub-section (1) in giving effect to the proposed transfers, be deemed to be vacant.

#### **Duties to be performed by Senior Executive Service officers**

“49A. (1) For the purposes of sub-section 26AA (2), a Senior Executive Service officer of a particular classification in a Department may—

- (a) be directed by the relevant Secretary—
  - (i) to perform the duties of any Senior Executive Service office of the same or equal classification in the Department; or
  - (ii) to perform specified duties in the Department, being duties that would be appropriate for a Senior Executive Service office of the same or equal classification; and
- (b) be directed by the Board—
  - (i) to perform the duties of any Senior Executive Service office of the same or equal classification in another Department; or
  - (ii) to perform specified duties in another Department, being duties that would be appropriate for a Senior Executive Service office of the same or equal classification.

“(2) Where it is proposed to give a direction to an officer under sub-section (1), the relevant Secretary or the Board, as the case requires, shall have regard to—

- (a) the effect that the proposed direction would have on—
  - (i) the efficiency of the Service; and
  - (ii) the career development of the officer; and
- (b) the views of the officer in relation to the proposed direction.

“(3) Where a Senior Executive Service officer in a Department is directed by the Board under sub-section (1) to perform the duties of an office in another Department or to perform specified duties in another Department—

- (a) the Secretary of the first-mentioned Department ceases to have power to give a direction to the officer under sub-section (1) until the officer resumes performing duties in that Department; and
- (b) the Secretary of the second-mentioned Department may give a direction to the officer under sub-section (1) as if the officer were a Senior Executive Service officer in that Department until the officer ceases to perform duties in that Department.

“(4) The Board shall not direct a Senior Executive Service officer in a Department to perform the duties of an office in another Department or to perform specified duties in another Department unless the Board has consulted each of the relevant Secretaries in relation to the proposed direction.

“(5) Nothing in this section shall be taken to limit, by implication, the regulations that may be made for the purposes of section 51A.

“(6) This section applies to and in relation to an employee—

- (a) who is employed in a Department; and
- (b) the agreement for whose employment specifies that he is employed to perform duties appropriate to an office having a specified Senior Executive Service classification,

as if the employee were a Senior Executive Service officer of that classification in the Department.

### **Promotions to Senior Executive Service offices**

“49B. (1) The Board may, in writing, promote an officer to a vacant Senior Executive Service office.

“(2) The Board shall not exercise its powers under sub-section (1) in relation to an office in a Department except in accordance with a recommendation in writing made by the relevant Secretary.

“(3) Where the relevant Secretary recommends in writing that an officer be promoted to a Senior Executive Service office of a particular classification, the Board shall promote the officer to the office unless it is satisfied that—

- (a) the procedures followed by the Secretary in relation to notification of the vacancy in the office, or in relation to the examination of applications for promotion, transfer or appointment to the office, were not adequate;
- (b) it is desirable, in the interests of the Service, that the vacancy be further notified or advertised;
- (c) the officer is not suitable for the performance of the duties of that office or is not suitable for the performance of the duties of Senior Executive Service offices of the same or equal classification; or

- (d) the transfer of another officer to the office is required for the purposes of section 76F or 76L or would otherwise better promote the efficiency of the Service.

“(4) A promotion of an officer under sub-section (1) shall be notified in the *Gazette*.

**Selection of officers for promotion to Senior Executive Service offices**

“49C. (1) In the selection of an officer for promotion to a vacant Senior Executive Service office consideration shall be given only to the relative efficiency of the officers available for promotion.

“(2) For the purposes of sub-section (1), ‘efficiency’, in relation to an officer, means the suitability of the officer for the discharge of—

- (a) the duties of Senior Executive Service offices having classifications the same as or equal to the classification of the vacant office; and

- (b) the duties of the vacant office,

having regard to the following matters:

- (c) the purposes specified in sub-section 26AA (2) as the purposes for which the Senior Executive Service is established and the need to ensure that the experience, training, qualifications and relevant personal qualities of Senior Executive Service officers in the Department in which the vacancy exists are such as to enable the Department, in both the short term and the long term, efficiently and economically to perform its functions;
- (d) the capability of the officer to discharge the duties referred to in paragraphs (a) and (b) of this sub-section;
- (e) the standard of work performed by the officer in other offices;
- (f) any experience possessed by the officer relevant to the discharge of those duties;
- (g) the training and educational qualifications of the officer;
- (h) any personal qualities of the officer relevant to the discharge of those duties;
- (j) the potential for further career development of the officer in the Senior Executive Service.

**Day on which transfer or promotion takes effect**

“49D. (1) The transfer or promotion of an officer under sub-section 49 (1) or 49B (1) takes effect—

- (a) if the officer does not apply to the Board under section 52 for permission to decline the transfer or promotion or the officer applies to the Board for such permission and the Board, not later than the prescribed day in relation to the transfer or promotion, notifies the officer of its refusal to grant such permission—on the prescribed day in relation to the transfer or promotion; or
- (b) if the officer applies to the Board under section 52 for permission to decline the transfer or promotion and the Board, on a day that is later

than the prescribed day in relation to the transfer or promotion, notifies the officer of its refusal to grant such permission—on the day on which the Board notifies the officer of its refusal to grant such permission.

“(2) Where a promotion under sub-section 49 B (1) of an officer takes effect, salary at the rate applicable to that office is payable to the officer on and from the prescribed day in respect of the promotion.

**Division 5 not to apply**

“49E. The provisions of Division 5 (other than sections 51AA, 51A and 52) do not apply in relation to a promotion or transfer to a Senior Executive Service office.”.

**32.** The heading to Division 4A of Part III of the Principal Act is repealed and the following Subdivision heading is substituted:

***“Subdivision CA—Transfers and promotions of Senior Executive Service officers”.***

**Interpretation**

**33.** Section 48B of the Principal Act is repealed.

**Selection of officers for promotion to Senior Executive Service offices**

**34.** Section 49C of the Principal Act is amended—

(a) by omitting from paragraph (2) (j) “Service.” and substituting “Service;”; and

(b) by adding at the end of sub-section (2) the following paragraphs:

“(k) in the case where the vacant office concerned is a part-time office—the willingness of the officer to undertake the duties of the office on the basis that the hours of attendance applicable to him will be those specified in the declaration under sub-section 29B (1) in relation to the office;

“(m) in a case where the vacant office concerned is a full-time office—the willingness of the officer to undertake the duties of the office on a full-time basis.”.

**Subdivision D not to apply**

**35.** Section 49E of the Principal Act is amended by omitting “Division 5” and substituting “Subdivision D”.

**36.** The heading to Division 5 of Part III of the Principal Act is repealed and the following heading is substituted:

***“Division 5—Transfers and promotions of officers other than Senior Executive Service officers”.***

### Transfers and promotions

37. (1) Section 50 of the Principal Act is amended—

- (a) by inserting in sub-section (1) “or a Senior Executive Service office” after “Secretary” (first occurring);
- (b) by omitting from sub-section (2) “referred to in sub-section (1)” and substituting “to which sub-section (1) applies”;
- (c) by omitting from sub-section (3) “referred to in sub-section (1)” and substituting “to which sub-section (1) applies”;
- (d) by omitting from sub-section (4) “referred to in sub-section (1)” and substituting “to which sub-section (1) applies”;
- (e) by inserting in sub-section (4) “or section 50DA” after “sub-section (3)”; and
- (f) by inserting after sub-section (5) the following sub-sections:

“(5A) An officer who is transferred under sub-section (3) shall be given notice in writing of the transfer.

“(5B) Where—

- (a) a promotion of an officer purports to be notified in the *Gazette*;
- (b) the notification in the *Gazette* is inaccurate in a material respect; and
- (c) the Board approves, in writing, the taking of action under this sub-section in relation to the promotion,

the promotion may, within 21 days after the notification referred to in paragraph (a), be notified again in the *Gazette* and, where a promotion is so notified, the notification has effect for all purposes as if it had been made on the day on which the notification referred to in paragraph (a) occurred.”

(2) Section 50 of the Principal Act is amended by inserting after sub-section (4) the following sub-section:

“(4AA) In determining, for the purposes of this Act, the aptitude of an officer for the discharge of the duties of an office, regard shall be had to—

- (a) in a case where the office is a part-time office—the willingness of the officer to undertake the duties of the office on the basis that the hours of attendance applicable to him will be those specified in the declaration under sub-section 29B (1) in relation to the office; and
- (b) in a case where the office is a full-time office—the willingness of the officer to undertake the duties of the office on a full-time basis.”

### Selection of officers for promotion

38. (1) Section 50A of the Principal Act is amended by omitting from sub-section (2) “a Committee or the Board” and substituting “Promotion Appeal Committee or Joint Selection Committee”.



(2) Section 50A of the Principal Act is amended—

(a) by omitting paragraph (2) (e) and substituting the following paragraphs:

“(e) in a case where the vacant office concerned is a part-time office—the willingness of the officer to undertake the duties of the office on the basis that the hours of attendance applicable to him will be those specified in the declaration under sub-section 29B (1) in relation to the office;

“(f) in a case where the vacant office concerned is a full-time office—the willingness of the officer to undertake the duties of the office on a full-time basis;

“(g) any personal qualities of the officer relevant to the discharge of those duties,”; and

(b) by omitting from sub-section (3) “(e)” and substituting “(g)”.

### **Appeals**

**39.** Section 50B of the Principal Act is amended by omitting sub-section (4) and substituting the following sub-section:

“(4) Where the Board considers it appropriate to do so, the Board may, before the expiration of the period prescribed under sub-section (3), extend that period.”.

### **Promotion Appeal Committees**

**40.** Section 50C of the Principal Act is amended—

(a) by omitting from sub-section (1) “Promotions” and substituting “Promotion”; and

(b) by omitting from sub-section (2) “section 53C” and substituting “section 50CA”.

**41.** After section 50C of the Principal Act the following section is inserted:

### **Constitution of Promotion Appeal Committees**

“50CA. (1) A Promotion Appeal Committee shall be constituted as prescribed.

“(2) The members of a Promotion Appeal Committee shall hold office on such terms and conditions (including tenure of office) as are prescribed.

“(3) Where a Committee has been constituted for the purposes of an appeal but, before the appeal has been finally determined by the Committee, a member or members of the Committee ceases or cease to be such a member or members or, for any other reason, ceases or cease to take part in consideration of the claims of the respective parties to the appeal proceedings or in the determination of the appeal, the Committee shall be reconstituted by the remaining member or members (if any) and another member or other members selected or nominated in accordance with regulations under sub-section (1).

“(4) Where a Committee is reconstituted pursuant to sub-section (3), the Committee as reconstituted may, subject to sub-section (5), have regard to the evidence given, the argument adduced and the reasons for any decision given during the proceedings before the Committee as previously constituted.

“(5) Sub-section (4) does not apply in relation to a Committee that is reconstituted pursuant to sub-section (3) unless—

- (a) 2 of the members of the Committee as reconstituted were members of the Committee as previously constituted; or
- (b) the parties to the appeal proceedings agree that the sub-section is to apply.

“(6) For the purposes of the determination of an appeal or of any matter arising in the course of an appeal, where the members of the Committee do not concur in a decision relating to the determination of that appeal or of that matter—

- (a) if a majority of the members concur in a decision—the decision of the majority shall be deemed to be the decision of the Committee; and
- (b) in any other case—the decision of the Chairman of the Committee shall be deemed to be the decision of the Committee.

“(7) Sittings of a Committee may be held from time to time as required at such places in Australia as are approved by the Board.”

#### **Repeal of sections 50C and 50CA**

**42.** Sections 50C and 50CA of the Principal Act are repealed.

#### **Determination of appeals**

**43. (1)** Section 50D of the Principal Act is amended—

- (a) by omitting from sub-section (3) “the promotion in respect of which an appeal is or appeals are made under section 50B is a promotion to a vacant office other than a vacant office referred to in sub-section (4)” and substituting “an appeal is or appeals are made under section 50B in respect of a promotion”;
- (b) by omitting sub-sections (4), (5) and (6);
- (c) by omitting from sub-section (7) “or (6)”; and
- (d) by omitting from sub-section (8) “or the Board”.

(2) Section 50D of the Principal Act is amended by omitting sub-sections (1) and (2).

**44.** After section 50D of the Principal Act the following section is inserted:

#### **Transfer or promotion on advice of Joint Selection Committee**

“50DA. (1) Subject to sub-section (3) and to sub-section 50 (4) and section 50J, the Secretary of a Department in which an office (other than an office of Secretary or a Senior Executive Service office) is vacant may, instead

of transferring or promoting an officer to fill the vacancy under section 50, transfer or promote an officer to fill the vacancy under this section.

“(2) A transfer or promotion of an officer under this section shall be a transfer or promotion made in accordance with the advice of a Joint Selection Committee.

“(3) Where a Secretary proposes that a vacancy be filled by a transfer or promotion under this section, the Secretary shall—

- (a) give notice in writing of the proposal to the organization that is, in accordance with the regulations, the principal relevant staff organization in relation to the office; and
- (b) if there is another relevant staff organization or there are other relevant staff organizations—give notice in writing of the proposal to the other relevant staff organization or organizations, such notice to include a statement to the effect that a relevant staff organization may, by notice in writing to the Secretary before the expiration of the period prescribed by the regulations for the purposes of this paragraph, object to the proposal.

“(4) Where the principal relevant staff organization consents to the proposal and—

- (a) there is no other relevant staff organization; or
- (b) in a case to which paragraph (a) does not apply—no other relevant staff organization objects to the proposal before the expiration of the period referred to in paragraph (3) (b),

the Secretary shall—

- (c) cause notification of the vacancy, being a notification indicating that the Secretary proposes that the vacancy be filled by a transfer or promotion under this section, to be given in the *Gazette*; and
- (d) arrange for the establishment of a Joint Selection Committee for the purposes of giving advice to the Secretary with respect to the filling of the vacancy.

“(5) A Joint Selection Committee shall be constituted by—

- (a) a Chairman nominated by the Board;
- (b) a person nominated by the Secretary of the Department in which the vacancy exists; and
- (c) an officer nominated by the organization that is, in accordance with the regulations, the principal relevant staff organization in relation to the office.

“(6) If, for any reason, a Secretary—

- (a) is unable to arrange for the establishment of a Joint Selection Committee for the purpose of giving advice to the Secretary with respect to the filling of the vacancy; or

- (b) having arranged for the establishment of a Joint Selection Committee for such a purpose, is unwilling to transfer or promote an officer in accordance with the advice of the Committee,

the Secretary may transfer or promote an officer to fill the vacancy under section 50.

“(7) A promotion of an officer under this section in accordance with the advice of a Joint Selection Committee—

- (a) shall be notified in the *Gazette* as a promotion made in accordance with the advice of a Joint Selection Committee; and
- (b) is not subject to appeal under section 50B.

“(8) An officer who is transferred under sub-section (1) shall be given notice in writing of the transfer.

“(9) Where a Joint Selection Committee has been constituted for the purposes of giving advice to a Secretary with respect to the filling of a vacancy under this section but, before the Committee gives advice with respect to the filling of that vacancy, a member of the Committee ceases to take part in the deliberations of the Committee, the Committee shall be reconstituted by the remaining 2 members and another member appointed or nominated in accordance with sub-section (5).

“(10) Where a Committee is reconstituted pursuant to sub-section (9), the Committee as reconstituted may have regard to the evidence given, the argument adduced and the reasons for any decision given during the proceedings before the Committee as previously constituted.

“(11) For the purposes of giving advice to a Secretary with respect to the filling of a vacancy under this section, where the members of the Committee do not concur in advice—

- (a) if a majority of the members concur in the advice—the advice of the majority shall be deemed to be the advice of the Committee; and
- (b) in any other case—the advice of the Chairman of the Committee shall be deemed to be the advice of the Committee.

“(12) Advice of a Joint Selection Committee shall not be called in question by reason of a defect or an irregularity in connection with the nomination of a member of the Committee.”.

#### **Transfer or promotion on advice of Joint Selection Committee**

**45.** Section 50DA of the Principal Act is amended by omitting from paragraph (5) (a) “Board” and substituting “Merit Protection and Review Agency”.

#### **Day on which promotion takes effect, &c.**

**46.** Section 50E of the Principal Act is amended—

- (a) by omitting sub-sections (1) and (2) and substituting the following sub-sections:

“(1) Where an officer is promoted under section 50, the following provisions have effect:

(a) if—

(i) no appeal is made under section 50B against the promotion of the officer or an appeal is, or appeals are, made under section 50B against the promotion, but the appeal, or each of the appeals, is disallowed or becomes inoperative not later than the prescribed day in respect of the appeal; and

(ii) the officer does not apply under section 52 for permission to decline the promotion or the officer applies for such permission but the Board notifies the officer, not later than the prescribed day in respect of the promotion, of its refusal to grant such permission,

the promotion takes effect on the prescribed day in respect of the promotion;

(b) if—

(i) an appeal is, or appeals are, made under section 50B against the promotion and the appeal, or each of the appeals, is disallowed or becomes inoperative but the day on which the appeal or one of the appeals is disallowed or becomes inoperative is later than the prescribed day in respect of the promotion; or

(ii) the officer applies under section 52 for permission to decline the promotion and the Board notifies the officer, on a day that is later than the prescribed day in respect of the promotion, of its refusal to grant such permission,

the promotion takes effect—

(iii) in a case to which sub-paragraph (i) applies but sub-paragraph (ii) does not apply—on the day on which the appeal is disallowed or becomes inoperative, or the latest day on which any of the appeals is disallowed or becomes inoperative, as the case may be;

(iv) in a case to which sub-paragraph (ii) applies but sub-paragraph (i) does not apply—on the day on which the Board notifies the officer of its refusal to grant the officer permission to decline the promotion; or

(v) in a case to which both sub-paragraph (i) and sub-paragraph (ii) apply—on the day on which—

(A) the appeal is disallowed or becomes inoperative, or the latest day on which any of the appeals is disallowed or becomes inoperative, as the case may be; or

(B) the Board notifies the officer of its refusal to grant the officer permission to decline the promotion, whichever is the later.

“(2) Where an officer is promoted under section 50DA, the following provisions have effect:

- (a) if the officer does not apply under section 52 for permission to decline the promotion or the officer applies for such permission but the Board notifies the officer, not later than the prescribed day in respect of the promotion, of its refusal to grant such permission—the promotion takes effect on the prescribed day in respect of the promotion;
- (b) if the officer applies under section 52 for permission to decline the promotion and the Board notifies the officer, on a day that is later than the prescribed day in respect of the promotion, of its refusal to grant such permission—on the day on which the Board notifies the officer of its refusal to grant the officer permission to decline the promotion.”;
- (b) by inserting in sub-section (4) “or 50DA” after “section 50”;
- (c) by omitting from sub-section (6) “Notwithstanding” and substituting “Subject to sub-section (7) but notwithstanding”;
- (d) by omitting from sub-section (6) “or 50D” and substituting “, 50D or 50DA”;
- (e) by adding at the end thereof the following sub-section:

“(7) Where an officer is promoted to more than one office of equal classification and but for this sub-section the promotions would, in accordance with the preceding provisions of this section, take effect on the same day, the promotions do not take effect until the day on which the officer makes an election under section 50EA to accept one of the promotions and to decline the other promotion or promotions, as the case may be.”.

47. After section 50E of the Principal Act the following sections are inserted:

### **Multiple promotions**

“50EA. Where an officer is promoted to more than one office and but for this section the promotions would, in accordance with sub-sections 50E (1), (2), (3) and (6) take effect on the same day, the following provisions have effect:

- (a) if one office is of higher classification than the other office, or all the other offices, as the case requires—the promotion to the other office or the promotions to the other offices shall be deemed to have ceased to have effect on that day;
- (b) if both or all the offices are of equal classification—the officer shall elect, in writing, to accept promotion to one of those offices and to decline promotion to the other office or other offices;
- (c) if 2 or more of the offices are of higher classification than the other office or all the other offices—the officer shall elect, in writing, to

accept promotion to one of the offices of that higher classification and to decline promotion to the other office or other offices of that classification or lower classification.

**Day on which transfer takes effect, &c.**

“50EB. A transfer of an officer under sub-section 50 (3) or section 50DA takes effect—

- (a) if the officer does not apply to the Board under section 52 for permission to decline the transfer or the officer applies to the Board for such permission but the Board notifies the officer, not later than the prescribed day in relation to the transfer, of its refusal to grant such permission—on the prescribed day in relation to the transfer; or
- (b) if the officer applies to the Board under section 52 for permission to decline the transfer and the Board notifies the officer, on a day that is later than the prescribed day in relation to the transfer, of its refusal to grant such permission—on the day on which the Board notifies the officer of its refusal to grant such permission.”.

**Cancellation of promotion**

**48.** Section 50G of the Principal Act is amended—

- (a) by inserting in sub-section (1) “or 50DA” after “section 50”; and
- (b) by inserting in sub-section (2) “or 50DA” after “section 50”.

**Transfer of officers by Secretary from one Department to another**

**49.** Section 50J of the Principal Act is amended by inserting in paragraph (1) (a) “or 50DA” after “section 50”.

**Simultaneous transfers within a Department**

**50.** Section 50K of the Principal Act is amended—

- (a) by omitting “this sub-section” and substituting “this section”;
- (b) by omitting “section 50” and substituting “sections 50 and 50DA”; and
- (c) by omitting “that section in effectuating” and substituting “those sections in giving effect to”.

**Abolition of Department or changed administrative arrangements**

**51.** Section 51AA of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-section:

“(1) Where, under sub-section 29 (1) or (2), an office (in this section referred to as the ‘substituted office’) is declared to be in substitution for another office (in this section referred to as the ‘former office’), the following provisions of this section have effect in relation to the filling of the vacancy in the substituted office.”;

- (b) by omitting from paragraph (4) (a) “29 (1A)” and substituting “29 (1)”; and

- (c) by omitting from paragraph (4) (b) “29 (1B)” and substituting “29 (2)”.

**Temporary performance of duties**

**52. (1)** Section 51A of the Principal Act is amended by omitting from sub-section (2) all the words after “classification” and substituting “corresponding to his classification as an unattached officer.”.

(2) Section 51A of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) Sub-section (1) applies in relation to the temporary performance of the whole or a part of the duties of a Senior Executive Service office as if paragraph (1) (b) were omitted.”.

**Officer may decline promotion or transfer, &c.**

**53. (1)** Section 52 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “The Board” and substituting “Subject to sub-section (2), the Board”;
- (b) by omitting from sub-section (1) “an offer of promotion” and substituting “a promotion”; and
- (c) by omitting sub-section (2) and substituting the following sub-sections:

“(2) The Board shall not permit an officer—

- (a) to decline a promotion unless the officer applies in writing to the Board, before the day that is, in accordance with the regulations, the prescribed day for the purposes of this paragraph in relation to the promotion, for permission to decline the promotion; or
- (b) to decline a transfer unless the officer applies in writing to the Board, before the day that is, in accordance with the regulations, the prescribed day for the purposes of this paragraph in relation to the transfer, for permission to decline the transfer.

“(3) Where the Board permits an officer to decline a promotion or transfer, the promotion or transfer shall be deemed not to have been made.

“(4) Except as expressly provided by Divisions 6, 8A and 8B and the *Commonwealth Employees (Redeployment and Retirement) Act 1979*, an officer of a particular classification shall not be transferred to an office of lower classification unless the officer consents in writing to the transfer.”.



(2) Section 52 of the Principal Act is amended by adding at the end thereof the following sub-sections:

“(5) An officer who holds a full-time office shall not be transferred or promoted to a part-time office unless the officer consents in writing to the transfer or promotion.

“(6) An officer who holds a part-time office shall not be transferred or promoted to a full-time office unless the officer consents in writing to the transfer or promotion.”.

**Transfers and promotions to specified offices to be made in accordance with order of passing examinations**

54. Section 53 of the Principal Act is amended by inserting after sub-section (1) the following sub-section:

“(1A) For the purposes of sub-section (1)—

- (a) an officer who holds a part-time office shall be taken not to be eligible for transfer or promotion to a full-time office; and
- (b) an officer who holds a full-time office shall be taken not to be eligible for transfer or promotion to a part-time office.”.

**Transfers and promotions to specified offices to be made in accordance with the order of passing of examinations**

55. Section 53A of the Principal Act is amended—

- (a) by omitting from sub-section (3) “An officer” and substituting “Subject to sub-section (3A), an officer”; and
- (b) by inserting after sub-section (3) the following sub-section:

“(3A) Sub-section (3) does not entitle—

- (a) an officer who holds a part-time office to be transferred or promoted to a full-time office; or
- (b) an officer who holds a full-time office to be transferred or promoted to a part-time office.”.

**Promotion of officers who complete courses of training for special positions**

56. (1) Section 53A of the Principal Act is amended—

- (a) by omitting from paragraph (1) (b) “designation and”; and
- (b) by omitting from paragraph (7) (b) “designation” and substituting “classification”.

(2) Section 53A of the Principal Act is amended—

- (a) by omitting from sub-section (4) “Where” and substituting “Subject to sub-section (4A), where”; and
- (b) by inserting after sub-section (4) the following sub-section:

“(4A) Sub-section (4) does not entitle—

- (a) an officer who holds a part-time office to be transferred or promoted to a full-time office; or

- (b) an officer who holds a full-time office to be transferred or promoted to a part-time office.”.

**Promotions of officers who complete courses of training for special positions**

**57.** (1) Section 53B of the Principal Act is amended by omitting from paragraph (4) (a) “designation” and substituting “classification”.

(2) Section 53B of the Principal Act is amended—

- (a) by omitting from sub-section (2) “An officer” and substituting “Subject to sub-section (2A), an officer”; and
- (b) by inserting after sub-section (2) the following sub-section:

“(2A) Sub-section (2) does not entitle—

- (a) an officer who holds a part-time office to be promoted to a full-time office; or
- (b) an officer who holds a full-time office to be promoted to a part-time office.”.

**Promotion of junior officers after attaining the age of 21 years**

**58.** Section 53C of the Principal Act is amended by omitting from paragraph (4) (a) “designation” and substituting “classification”.

**Repeal of Subdivision**

**59.** Subdivision E of Division 4 of Part III of the Principal Act is repealed.

**Repeal of sections 54, 54A and 54B**

**60.** (1) Sections 54, 54A and 54B of the Principal Act are repealed.

(2) Notwithstanding the repeal of section 54 of the Principal Act effected by sub-section (1) of this section, a person who, immediately before the commencement of this section held office as Permanent Head of a Department by virtue of an appointment under that section continues, after the commencement of this section, to hold office as Secretary of the Department as if the person had been appointed to that office under section 36 of the *Public Service Act 1922* as amended by section 27 of this Act.

(3) Notwithstanding the repeal of section 54B of the Principal Act effected by sub-section (1), where an officer was, immediately before the commencement of this section, acting in an office in accordance with that section by reason of the absence or unavailability of the holder of that office or by reason of a vacancy in that office, that section continues, after the commencement of this section, to apply to and in relation to him in respect of his acting in that office during that absence, unavailability or vacancy, as the case may be.

**Interpretation**

**61.** Section 55 of the Principal Act is amended—

- (a) by omitting “63A or 63D” from paragraph (a) of the definition of “Chief Officer” in sub-section (1) and substituting “62 or 63”;

- (b) by inserting after the definition of “Chief Officer” in sub-section (1) the following definition:
  - “ ‘Disciplinary Appeal Committee’ means a Disciplinary Appeal Committee established in accordance with Subdivision C of Division 2 of Part II of the *Merit Protection (Australian Government Employees) Act 1984*;”;
- (c) by omitting “63A or 63D” from paragraph (a) of the definition of “original office” in sub-section (1) and substituting “62 or 63”;
- (d) by omitting “63N” from paragraph (b) of the definition of “original office” in sub-section (1) and substituting “63M”; and
- (e) by omitting “, 63A” from paragraph (d) of the definition of “original office” in sub-section (1).

### **Interpretation**

**62.** Section 56A of the Principal Act is amended by omitting the definition of “officer” and substituting the following definition:

“ ‘officer’ means a Secretary or unattached Secretary;”.

### **Inquiries into misconduct in relation to officers other than Secretaries of Departments**

**63.** Section 62 of the Principal Act is amended—

- (a) by omitting paragraph (6) (b) and substituting the following paragraph:
  - “(b) may direct that the officer be dismissed from the Service.”;
- (b) by omitting sub-section (8);
- (c) by omitting from sub-section (9) all the words after “paragraph (6) (a)” and substituting “or (b) in respect of the officer charged, he shall furnish to the officer particulars of his reasons for giving that direction.”; and
- (d) by omitting from sub-section (10) “Board” (wherever occurring) and substituting “Committee”.

### **Convictions by courts of officers other than Secretaries of Departments**

**64.** Section 63 of the Principal Act is amended—

- (a) by omitting paragraph (1) (d) and substituting the following paragraph:
  - “(d) direct that the officer be dismissed from the Service.”;
- (b) by omitting sub-section (3);
- (c) by omitting from sub-section (4) all the words after “paragraph (1) (c)” and substituting “or (d) in respect of an officer, he shall furnish to the officer particulars of his reasons for giving that direction.”; and
- (d) by omitting from sub-section (5) “Board” (wherever occurring) and substituting “Committee”.

**Recommendation for dismissal**

**65.** Section 63A of the Principal Act is repealed.

**Removal and variation of suspension relating to officers other than Secretaries of Departments**

**66.** Section 63C of the Principal Act is amended—

- (a) by omitting from paragraph (3) (a) “Board” and substituting “Committee”;
- (b) by adding at the end of paragraph (13) (a) “or”;
- (c) by omitting paragraph (13) (b);
- (d) by omitting from paragraph (13) (c) “Board” and substituting “Committee”;
- (e) by omitting from paragraph (13) (c) “, or a recommendation made,”;
- (f) by omitting from sub-section (13)”, the taking of the action referred to in paragraph (b)”; and
- (g) by omitting from sub-section (13) “or recommendation”.

**Appeals**

**67.** Section 63D of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-section:

“(1) A reference in this section to a decision in respect of an officer shall be read as a reference to a direction given in respect of the officer under sub-section 62 (6) or 63 (1).”;
- (b) by omitting from sub-section (2) “Board” and substituting “Committee”;
- (c) by omitting from sub-paragraph (2) (a) (ii) “or recommended”;
- (d) by omitting from paragraph (2) (b) “or recommended”;
- (e) by omitting from sub-section (3) “Board” and substituting “Committee”;
- (f) by omitting from sub-section (4) “Board” and substituting “Committee”;
- (g) by omitting sub-section (5);
- (h) by omitting from sub-section (6) “Board” (wherever occurring) and substituting “Committee”;
- (j) by omitting sub-section (6) “or recommended”; and
- (k) by omitting from sub-section (7) “Board” and substituting “Committee”.

**Disciplinary Appeal Boards**

**68.** Section 63E of the Principal Act is repealed.

**Nullification of conviction**

**69.** Section 63F of the Principal Act is amended—

- (a) by omitting from sub-section (2) “section 63A, sub-section 63D (5) or section 63N” and substituting “section 63 or 63M”;
- (b) by omitting from sub-section (3) “, section 63A or sub-section 63D (4) or (5)” and substituting “or 63D (4)”;
- (c) by omitting “Board” from paragraph (7) (b) and substituting “Committee”;
- (d) by omitting from sub-section (8) “Board” (first occurring) and substituting “Committee”;
- (e) by omitting from sub-section (9) “Board” (first occurring) and substituting “Committee”;
- (f) by omitting from sub-paragraph (9) (a) (i) “63A or sub-section 63D (5)” and substituting “63”;
- (g) by omitting from sub-paragraph (9) (a) (ii) “63N” and substituting “63M”;
- (h) by omitting from sub-paragraph (9) (a) (iii) “63N” and substituting “63M”; and
- (j) by omitting from sub-section (10) “Board” (first occurring) and substituting “Committee”.

**Review of findings**

**70.** Section 63G of the Principal Act is amended—

- (a) by omitting from sub-section (1) “Board” (first occurring) and substituting “Committee”;
- (b) by omitting from sub-section (1) “the Board” and substituting “the Merit Protection and Review Agency”;
- (c) by omitting from sub-section (3) “Board” (first occurring) and substituting “Merit Protection and Review Agency”;
- (d) by omitting from sub-section (3) “Board” (second occurring) and substituting “Agency”;
- (e) by omitting from sub-section (3) “Board” (last occurring) and substituting “Committee”;
- (f) by omitting from sub-section (4) “Board” (first and second occurring) and substituting “Committee”;
- (g) by omitting from sub-paragraph (4) (b) (i) “recommend to the Public Service Board that it”;
- (h) by omitting from sub-paragraph (4) (b) (ii) “recommend to the Public Service Board that it”;
- (j) by inserting in sub-paragraph (4) (b) (ii) “recommend to the Public Service Board that it” after “quash the finding and”;
- (k) by omitting from paragraph (4) (c) “recommendation” and substituting “decision”;

- (m) by omitting from sub-section (5) “Board” (first and second occurring) and substituting “Committee”;
- (n) by omitting from sub-paragraph (5) (b) (i) “recommend to the Public Service Board that it”;
- (o) by inserting in paragraph (5) (c) “decision or” after “reasons for making its”;
- (p) by omitting from sub-section (6) “Board” (second occurring) and substituting “Committee”;
- (q) by omitting from paragraph (6) (a) all the words after “a finding under” and substituting “sub-section (4)—take such action by way of recompensing the person to whom the finding relates as is, in the opinion of the Board, reasonable and practicable in all the circumstances; or”;
- (r) by omitting from paragraph (6) (b) all the words after “a charge under” and substituting “sub-section (5)—take such action to mitigate the severity of the action as is, in the opinion of the Board, reasonable and practicable in all the circumstances.”; and
- (s) by omitting from sub-paragraph (10) (a) (i) “Board” (wherever occurring) and substituting “Committee”.

### **Interpretation**

71. Section 63J of the Principal Act is amended by omitting paragraph (b) of the definition of “unattached officer” in sub-section (1).

### **Misconduct committed before becoming unattached officer**

72. Section 63K of the Principal Act is amended—

- (a) by omitting from sub-section (3) all the words after “he would” and substituting “direct that the officer be dismissed from the Service, he may direct that the officer be dismissed from the Service”;
- (b) by omitting from sub-section (4) “and to the Board” (first occurring);
- (c) by omitting from sub-section (4) all the words after “satisfied, and if he” and substituting “gives a direction under sub-section (3) in respect of the misconduct, he shall also furnish to the officer particulars of his reasons for giving the direction”; and
- (d) by omitting from sub-section (6) “Board” and substituting “Committee”.

### **Misconduct while unattached officer**

73. Section 63L of the Principal Act is amended—

- (a) by omitting from sub-section (3) “recommend that the Board take action by way of dismissing the officer” and substituting “direct that the officer be dismissed”;
- (b) by omitting from sub-section (4) “and to the Board” (first occurring);
- (c) by omitting from sub-section (4) all the words after “satisfied, and if he” and substituting “gives a direction under sub-section (3) in respect

of the misconduct, he shall also furnish to the officer particulars of his reasons for giving the direction”; and

- (d) by omitting from sub-section (6) “Board” and substituting “Committee”.

### **Criminal offences**

**74.** Section 63M of the Principal Act is amended—

- (a) by omitting from sub-section (1) “recommend to the Board that action be taken by way of dismissing the officer” and substituting “direct that the officer be dismissed”; and
- (b) by omitting sub-section (2) and substituting the following sub-section:

“(2) Where a person gives a direction under sub-section (1) in relation to an officer, he shall furnish to the officer particulars of his reasons for giving the direction.”.

**75.** Section 63N of the Principal Act is repealed and the following section is substituted:

#### **When directions for dismissal take effect**

“63N. A direction under sub-section 63K (3), 63L (3) or 63M (1) that an officer be dismissed from the Service takes effect—

- (a) if the officer appeals against the direction—upon the lapsing of the appeal or upon a Disciplinary Appeal Committee confirming the direction; or
- (b) in any other case—upon the expiration of the period within which the officer may appeal to a Disciplinary Appeal Committee against the direction,

but not otherwise.”.

### **Appeals**

**76.** Section 63P of the Principal Act is amended—

- (a) by omitting from sub-section (1) “Board” (first occurring) and substituting “Committee”;
- (b) by omitting paragraph (1) (b) and substituting the following paragraph:

“(b) against a direction under sub-section 63K (3), 63L (3) or 63M (1) that the officer be dismissed from the Service—on the ground that the giving of the direction is, in relation to the finding or conviction in relation to which the direction was given, unduly severe;”;
- (c) by omitting from sub-section (2) “recommendation” (wherever occurring) and substituting “direction”;
- (d) by omitting from sub-section (2) “made to the Board” and substituting “given”;

- (e) by omitting from sub-section (3) "Board" and substituting "Committee";
- (f) by omitting from sub-section (3) "recommendation" and substituting "direction";
- (g) by omitting from sub-section (4) "Board" (first occurring) and substituting "Committee";
- (h) by omitting from sub-section (4) "recommendation" (wherever occurring) and substituting "direction"; and
- (j) by omitting from sub-section (4) "made to the Board" and substituting "given".

77. Section 63Q of the Principal Act is repealed and the following section is substituted:

**Reasons to be given for making finding or giving direction, &c.**

"63Q. Where a person makes a finding under section 63K or 63L, or gives a direction under sub-section 63K (3), 63L (3) or 63M (1), or a Disciplinary Appeal Committee confirms a finding so made or a direction so given, the person or the Committee shall give reasons, in writing, for making the finding or giving the direction or for confirming the finding or direction, as the case requires."

**Application to unattached officers performing duty in Department**

78. Section 63S of the Principal Act is amended by omitting from paragraph (3) (c) all the words after "classification" and substituting "corresponding to his classification as an unattached officer".

**Re-appointment of officers deemed to have retired under section 66A**

79. Section 66B of the Principal Act is amended—

- (a) by omitting from paragraph (4) (b) "Board established under section 63E" and substituting "Committee";
- (b) by omitting from sub-section (5) "Board" (first occurring) and substituting "Committee";
- (c) by omitting from sub-section (6) "Board" (first occurring) and substituting "Committee"; and
- (d) by omitting from sub-section (6) "may, after considering the recommendation or decision and the reasons for the making of the recommendation or decision," and substituting "shall".

**Leave of absence for recreation**

80. (1) Section 68 of the Principal Act is amended by omitting from paragraph (12) (a) "employed under this Act in a temporary capacity" and substituting "an employee".

(2) Section 68 of the Principal Act is amended—

- (a) by inserting after sub-section (4) the following sub-section:



“(4A) Where the ordinary hours of duty of an officer during 2 or more periods in the year last preceding 1 January in a particular year have been different, the recreation leave credit, or the addition to the recreation leave credit, that accrues to the officer on that date shall not be ascertained in accordance with sub-section (4) but there accrues to the officer in respect of each of those periods a recreation leave credit, or an addition to his recreation leave credit, of a number of hours ascertained in accordance with the following formula:

$$\frac{A \times B \times 4}{365}$$

365

where—

A is the number of days in the period; and

B is the number of ordinary hours of duty per week that were applicable to the officer during the period.”;

(b) by inserting after sub-section (8) the following sub-sections:

“(8A) Where—

(a) an officer is, for a particular period (in this sub-section referred to as the ‘actual period of absence’), absent from the Service on leave of absence for recreation granted, or deemed to have been granted, to him in accordance with this section or the regulations;

(b) the absence is attributable to a leave credit that accrued to the officer in respect of a particular period (in this sub-section referred to as the ‘accrual period’); and

(c) the number of ordinary hours of duty per week (in this sub-section referred to as the ‘current hours of duty’) that are applicable to the officer immediately before the absence is different from the number of ordinary hours of duty per week (in this sub-section referred to as the ‘former hours of duty’) that were applicable to the officer during the accrual period,

the following provisions have effect:

(b) the officer shall be deemed, for the purposes of sub-section (8) not to have been absent from the Service for the actual period of absence but for a number of hours (in this sub-section referred to as the ‘adjusted number of hours’) calculated in accordance with the following formula:

$$\frac{C \times D}{E}$$

E

where—

C is the number of hours in the actual period of absence;

D is the number of former hours of duty;

E is the number of current hours of duty;

- (e) the officer shall be entitled to be paid in respect of the actual period of absence, in lieu of the amount that would otherwise be payable to him, an amount equal to the amount that would be payable to him if he were absent from the Service, on leave of absence for recreation granted to him in accordance with this section, for the adjusted number of hours.

“(8B) For the purposes of sub-section (8A), absences from the Service shall be taken to be attributable to leave credits that accrue in respect of particular periods in the same order as the order of occurrence of the periods in respect of which the leave credits accrue.”; and

- (c) by adding at the end thereof the following sub-section:

“(13) The regulations may provide that where the ordinary hours of duty of an officer during 2 or more periods in the year last preceding 1 January in a particular year have been different, the ordinary hours of duty of the officer shall, in the circumstances prescribed in the regulations, be deemed for the purposes of sub-sections (4), (4A) and (8A), to have been, during the whole of the year last preceding that date, the ordinary hours of duty that were applicable to the officer during such one of those periods as is prescribed by or ascertained in accordance with the regulations.”.

81. After Division 8 of Part III of the Principal Act the following Division is inserted:

***“Division 8A—Retirement and Redeployment of Secretaries of Departments***

**Interpretation**

“76A. In this Division, unless the contrary intention appears—

‘office of Secretary’ means an office referred to in paragraph (a) of the definition of ‘office of Secretary’ in sub-section 7 (1);

‘Secretary’ means a person holding an office of Secretary and includes an unattached Secretary.

**Retirement upon or after attaining minimum retiring age**

“76B. (1) A Secretary who has attained his minimum retiring age is entitled to retire from the Service at any time at which he desires to do so.

“(2) In sub-section (1), ‘minimum retiring age’, in relation to a Secretary, means—

- (a) if the Secretary is included in a class of Secretaries in respect of whom a minimum retiring age is fixed by the regulations—the age so fixed; or  
(b) in the case of any other Secretary—the age of 55 years.

**Retirement on ground of age**

“76C. (1) Subject to sub-section (2), a Secretary shall, by force of this sub-section, be retired from the Service upon attaining his maximum retiring age.

“(2) Where the relevant authority is of the opinion that it is desirable, in the interests of the Commonwealth, that a Secretary who has not attained his maximum retiring age should continue, after he has attained that age, in his employment, and the Secretary is able and willing so to continue, the relevant authority may determine, in writing, that sub-section (1) does not apply to the Secretary.

“(3) A relevant authority may, at the time when it makes, or at any time after it has made, a determination under sub-section (2) in respect of a Secretary, determine that the Secretary shall retire from the Service upon attaining a specified age or upon the expiration of a specified period, and, where such a determination is made, the relevant authority may, at any time before the Secretary attains that age or before the expiration of the period so determined, vary such a determination.

“(4) In this section—

‘maximum retiring age’, in relation to a Secretary, means—

- (a) if the Secretary is included in a class of Secretaries in respect of whom a maximum retiring age, being an age less than 65 years, is fixed by the regulations—the age so fixed; or
- (b) in the case of any other Secretary—the age of 65 years;

‘relevant authority’ means—

- (a) in relation to a Secretary who holds an office of Secretary—the Governor-General; and
- (b) in relation to an unattached Secretary—the Board.

**Retirement of Secretaries of Departments on grounds of inefficiency or incapacity**

“76D. (1) If the Board, after investigation into the circumstances, reports to the Governor-General that a Secretary is inefficient or incompetent, or is, because of physical or mental incapacity, incapable of performing his duties, the Governor-General may retire the Secretary from the Service with effect on and from a day to be specified by the Governor-General.

“(2) In the case of a retirement of a Secretary under sub-section (1) by reason of a report that he is, because of physical or mental incapacity, incapable of performing his duties, the day on and from which he is retired may, with the consent of the Secretary, be a day that is earlier than the date on which the decision by the Governor-General to retire him was made.

**Termination of appointment**

“76E. (1) The Governor-General may, by instrument signed by him, terminate the appointment of a person to an office of Secretary.

“(2) The power of the Governor-General to terminate an appointment under sub-section (1) shall be exercised only in accordance with advice that is consistent with a recommendation by the Prime Minister.

“(3) The Prime Minister shall not recommend, for the purposes of sub-section (2), that an appointment be terminated unless he has received a report in writing from the Chairman in relation to the termination.

“(4) Where the appointment of a person to an office is terminated under sub-section (1), the office becomes vacant and, unless the person continues to hold another office of Secretary, the person becomes an unattached officer.

“(5) In sub-section (1), ‘office of Secretary’ does not include an office to or in relation to which section 9 applies.

### **Redeployment of unattached Secretaries of Departments**

“76F. (1) Where an unattached Secretary does not hold an office or employment outside the Service having a salary that is, in the opinion of the Board, comparable with that of the office of Secretary last held by the unattached Secretary, the Board shall—

- (a) take all reasonable steps to—
  - (i) identify relevant offices that are vacant or about to become vacant; and
  - (ii) bring to the attention of the person or body having the power of appointment in relation to each office referred to in sub-paragraph (i) the availability of the unattached Secretary for appointment, and the qualifications of the unattached Secretary that make him suitable for appointment, to the office; and
- (b) take all reasonable steps to ensure that appropriate duties are assigned to the unattached Secretary while he remains an unattached Secretary.

“(2) In this section, unless the contrary intention appears—

‘relevant office’, in relation to an unattached Secretary, means—

- (a) an office of Secretary (including an office referred to in paragraph (b) of the definition of ‘office of Secretary’ in sub-section 7 (1) ); or
- (b) an office or employment outside the Service for which the unattached Secretary is qualified, being an office or employment having a salary that is, in the opinion of the Board, comparable with that of an office of Secretary of equal classification to the office of Secretary last held by the unattached Secretary;

‘unattached Secretary’ does not include an unattached Secretary who, immediately before he became an unattached Secretary, held an office of Secretary to or in relation to which section 9 applied.

**Secretaries of Parliamentary Departments recommended for retirement on medical grounds may be declared unattached**

“76G. (1) Where a medical practitioner employed in the Department of Health has, whether before or after the commencement of this section, recommended in writing that a Secretary who holds an office of Secretary to or in relation to which section 9 applied be retired on the ground that he is, by reason of physical or mental incapacity, incapable of performing his duties, the Governor-General may, upon report by the relevant Presiding Officer or relevant Presiding Officers, within the meaning of section 9B, declare, in writing, that the Secretary shall, on a day specified in the instrument, become an unattached officer and, if the Governor-General does so, the office held by the Secretary becomes vacant on the day so specified.

“(2) As soon as practicable after a declaration is made under sub-section (1) in respect of a Secretary—

- (a) a copy of the declaration shall be furnished to the Secretary; and
- (b) a copy of the declaration shall be published in the *Gazette*.”.

**Retirement upon or after attaining minimum retiring age**

82. Section 76B of the Principal Act is amended by omitting from sub-section (1) “A Secretary” and substituting “Subject to sub-section 76F (1B), a Secretary”.

**Redeployment of unattached Secretaries of Departments**

83. Section 76F of the Principal Act is amended by inserting after sub-section (1) the following sub-sections:

“(1A) Where the Board is satisfied that it is likely that an unattached Secretary referred to in sub-section (1) will not be appointed, within a reasonable time, to a relevant office, the Board may—

- (a) give notice in writing to the unattached Secretary that it intends to redeploy him into the Senior Executive Service as soon as practicable after the expiration of the period of 28 days commencing on the day on which the notice is given to the unattached Secretary; and
- (b) after the expiration of that period—
  - (i) transfer the unattached Secretary to an office having a classification that is the highest Senior Executive Service classification; or
  - (ii) direct that the unattached Secretary’s classification as an unattached officer be reduced to the classification that is the highest Senior Executive Service classification.

“(1B) If an unattached Secretary who is given notice under sub-section (1A) elects, by notice in writing given to the Board within the period referred to in paragraph (1A) (a), to retire from the Service, the unattached Secretary shall not be redeployed into the Senior Executive Service but shall be deemed for all purposes to have been compulsorily retired from the Service at the expiration of the period referred to in paragraph (1A) (a) or on such earlier

day (not being earlier than the day next following the day of the election) as is specified in the notice of election.”.

84. After Division 8A of Part III of the Principal Act the following Division is inserted:

***“Division 8B—Retirement and redeployment of Senior Executive Service officers***

**Interpretation**

“76H. In this Division, unless the contrary intention appears—

‘Appeal Tribunal’ means a Commonwealth Employees Redeployment and Retirement Appeals Tribunal constituted under section 16 of the *Commonwealth Employees (Redeployment and Retirement) Act 1979*;

‘declared officer’ means an officer in relation to whom a declaration under sub-section 76K (1) is in force.

**Retirement of Senior Executive Service officers upon or after attaining minimum retiring age**

“76I. (1) A Senior Executive Service officer who has attained his minimum retiring age is entitled to retire from the Service at any time at which he desires to do so.

“(2) In sub-section (1), ‘minimum retiring age’, in relation to a Senior Executive Service officer, means—

- (a) if the Senior Executive Service officer is included in a class of Senior Executive Service officers in respect of whom a minimum retiring age is fixed by the regulations—the age so fixed; or
- (b) in the case of any other Senior Executive Service officer—the age of 55 years.

**Retirement on ground of age**

“76J. (1) Subject to sub-section (2), a Senior Executive Service officer shall, by force of this sub-section, be retired from the Service upon attaining his maximum retiring age.

“(2) Where the Board is of the opinion that it is desirable, in the interests of the Commonwealth, that a Senior Executive Service officer who has not attained his maximum retiring age should continue, after he has attained that age, in his employment, and the officer is able and willing so to continue, the Board may determine, in writing, that sub-section (1) does not apply to the officer.

“(3) The Board may, at the time when it makes, or at any time after it has made, a determination under sub-section (2) in respect of an officer, determine that the officer shall retire from the Service upon attaining a specified age or upon the expiration of a specified period, and, where such a determination is made, the Board may, at any time before the officer attains that age or before the expiration of the period so determined, vary such a determination.

“(4) In this section ‘maximum retiring age’, in relation to a Senior Executive Service officer, means—

- (a) if the officer is included in a class of Senior Executive Service officers in respect of whom a maximum retiring age, being an age less than 65 years, is fixed by the regulations—the age so fixed; or
- (b) in the case of any other Senior Executive Service officer—the age of 65 years.

**Declaration on grounds of invalidity**

“76K. (1) Where the Board, in accordance with procedures set out in a notice in force under sub-section (4), is satisfied that the services of a Senior Executive Service officer of a particular classification in a Department cannot reasonably be used in that Department in the performance of the duties appropriate to that classification by reason that the officer is, in consequence of physical or mental incapacity, incapable of performing duties of that kind, the Board may declare, in writing, that the officer is eligible for redeployment for that reason.

“(2) Where the Board makes a declaration under sub-section (1) in relation to an officer in a Department, the Board shall give notice in writing of the making of the declaration to the officer and to the relevant Secretary.

“(3) Notice under sub-section (2) to an officer shall state that—

- (a) the officer may appeal against the declaration to an Appeal Tribunal under section 76M within the period prescribed for the purposes of this paragraph; and
- (b) after the expiration of the period referred to in paragraph (a), the Board may redeploy or retire the officer in accordance with sub-section 76L (3).

“(4) The Board may, from time to time, publish in the *Gazette* a notice setting out administrative procedures to be followed in the making of declarations under sub-section (1).

**Redeployment and retirement of Senior Executive Service officers**

“76L. (1) Where, in relation to a Senior Executive Service officer of a particular classification—

- (a) the Board, after having taken reasonable steps to identify Senior Executive Service offices—
  - (i) that are of the same or equal classification;
  - (ii) to which the officer could be transferred or the duties of which the officer could be directed to perform; and
  - (iii) the duties of which the officer, in the opinion of the Board, can or could, within a reasonable time, perform efficiently,

is satisfied that the services of the officer cannot reasonably be, and will not within a reasonable time be able reasonably to be, used in the Service in the performance of the duties of, or duties appropriate to, a Senior Executive Service office of the same or equal classification; and

- (b) in a case where the officer is a declared officer—
  - (i) the officer has waived his right to appeal against the declaration made in relation to him under sub-section 76K (1) or the time within which the officer may appeal against the declaration has expired and no such appeal has been instituted; or
  - (ii) if such an appeal has been instituted—
    - (A) the appeal has been determined and the declaration has been confirmed; or
    - (B) the appeal has been withdrawn,

the Board may give notice in relation to the officer under sub-section (3).

“(2) In determining for the purposes of sub-section (1) whether an officer can or could, within a reasonable time, perform the duties of an office in a Department efficiently, the Board shall have regard to—

- (a) the standard of work performed by the officer as a Senior Executive Service officer (including any relevant appraisal of the performance of the officer);
- (b) the experience possessed by the officer relevant to the performance of those duties;
- (c) the training and educational qualifications of the officer;
- (d) any personal qualities of the officer relevant to the performance of those duties;
- (e) any physical or mental incapacity of the officer relevant to the performance of those duties;
- (f) the views of the officer and of the relevant Secretary in relation to the proposed transfer or direction; and
- (g) any other matter that the Board considers relevant.

“(3) Where sub-section (1) applies in relation to an officer, the Board may give notice in writing to the officer that—

- (a) the officer is to be transferred to a specified office of lower classification; or
- (b) the officer is to be retired from the Service.

“(4) In determining whether to give an officer notice under sub-section (3), the Board shall have regard to—

- (a) the need to ensure the efficiency of the Service;
- (b) the period within which the officer may reasonably be expected to retire under section 76I, 76J or 76N;
- (c) the views of the officer in relation to the proposed notice; and
- (d) any other matter that the Board considers relevant.

“(5) A notice to an officer under sub-section (3) shall state that—

- (a) the officer has a right to appeal, within the period prescribed for the purposes of this paragraph, to an Appeal Tribunal under section 76M against the giving of the notice; and



- (b) the notice will, subject to any appeal under section 76M, take effect on a specified day, being a day not earlier than the expiration of the period referred to in paragraph (a).

“(6) For the purpose of giving effect to a notice given under sub-section (3), the Board may—

- (a) by notice in writing given to the Secretary of a Department in which a specified office exists, or in which any offices included in a specified class of offices exist, direct that, until the notice is revoked, a transfer or promotion of an officer to fill a vacancy in the office, or in an office included in the class of offices, shall not be made under section 50 unless the Board has approved the filling of the vacancy;
- (b) by notice in writing given to the Secretary of a Department, direct that the Secretary shall not confirm a specified provisional promotion, or a provisional promotion included in a specified class of provisional promotions, unless the Board has approved the confirmation of the promotion; and
- (c) cancel a provisional promotion at any time before the promotion has been confirmed, whether or not an appeal has, or appeals have, been made against the promotion or, if an appeal has, or appeals have, been made, whether or not the appeal or each appeal has been determined or has become inoperative.

“(7) Where notice under sub-section (3) is given to an officer and the officer—

- (a) does not institute an appeal against the giving of the notice before the expiration of the period within which the officer may appeal against the giving of the notice; or
- (b) institutes such an appeal but withdraws it before the expiration of that period,

the following provisions have effect:

- (c) in the case of a notice to which paragraph (3) (a) applies—the officer shall, on the day specified in the notice, be deemed to be transferred to the office specified in the notice;
- (d) in the case of a notice to which paragraph (3) (b) applies—the officer shall, on the day specified in the notice, be deemed to be retired from the Service.

“(8) Where notice under sub-section (3) is given to an officer and the officer, within the period referred to in paragraph (7) (a), institutes an appeal against the giving of the notice and does not withdraw the appeal before the expiration of that period, the following provisions have effect:

- (a) where the appeal is heard and determined and the notice is revoked—the notice ceases to have effect;
- (b) where the notice is one to which paragraph (3) (a) applies and—
  - (i) the appeal is heard and determined and the giving of the notice is confirmed; or

(ii) the appeal is withdrawn after the expiration of that period, the officer shall be deemed to be transferred to the office specified in the notice on—

(iii) the day on which the appeal is determined or the appeal is withdrawn, as the case may be; or

(iv) the day specified in the notice, whichever is the later;

(c) where the notice is one to which paragraph (3) (b) applies and—

(i) the appeal is heard and determined and the giving of the notice is confirmed; or

(ii) the appeal is withdrawn after the expiration of that period, the officer shall be deemed to be retired from the Service on—

(iii) the day on which the appeal is determined or the appeal is withdrawn, as the case may be; or

(iv) the day specified in the notice, whichever is the later.

“(9) The power conferred on the Board by paragraph (6) (a) is in addition to, and not in substitution for, the power conferred on the Board by sub-section 50 (11).

“(10) This section applies in relation to a person who becomes a Senior Executive Service officer under sub-section 76F (1A) as if paragraph (3) (a), sub-section (6) and paragraphs (7) (c) and (8) (b) were omitted and as if ‘, in consequence of physical or mental incapacity of the officer,’ were inserted in paragraph (1) (a) after ‘is satisfied that’.

### **Appeal to Appeal Tribunal**

“76M. (1) A Senior Executive Service officer who is declared under sub-section 76K (1) to be eligible for redeployment may appeal, within the period prescribed by the regulations for the purposes of this sub-section, to an Appeal Tribunal against the making of the declaration.

“(2) Where an officer appeals to an Appeal Tribunal under sub-section (1) against the making of a declaration under sub-section 76K (1), an Appeal Tribunal shall hear and determine the appeal and may—

(a) confirm the declaration; or

(b) revoke the declaration.

“(3) A Senior Executive Service officer to whom notice under sub-section 76L (3) has been given may appeal, within the period prescribed by the regulations for the purposes of this sub-section, to an Appeal Tribunal against the giving of the notice.

“(4) Where an officer appeals to an Appeal Tribunal under sub-section (3) against the giving of a notice under sub-section 76L (3), an Appeal Tribunal shall hear and determine the appeal and may—

(a) confirm the notice; or

(b) revoke the notice.

**Retirement with consent of officer on grounds of invalidity**

“76N. (1) Where the Board is satisfied that a declared officer should, in consequence of physical or mental incapacity, be retired from the Service, the Board may, with the consent of the officer, retire the officer from the Service on a day to be specified by the Board.

“(2) Where an officer is retired under sub-section (1), the day as from which he is retired may, with the consent of the officer, be a day that is earlier than the day on which the action to retire him was taken.

**Senior Executive Service officers recommended for retirement on medical grounds may be declared unattached**

“76P. (1) At any time after a medical practitioner employed in the Department of Health has recommended, in writing, that a declared officer be retired on the ground that he is, by reason of physical or mental incapacity, incapable of performing his duties, the Board may, by instrument in writing, declare that the officer shall, on a specified day, become an unattached officer and, if the Board does so, the office so held by the officer becomes vacant on that day.

“(2) As soon as practicable after a declaration is made under sub-section (1) in respect of an officer, a copy of the instrument of declaration shall be given to the officer.

**Benefits**

“76Q. (1) The regulations may make provision for and in relation to—

- (a) the payment, in such circumstances as are prescribed, of a benefit, by way of a lump sum, calculated in such manner as is provided for in the regulations, to or in respect of a person who is retired under section 76L (otherwise than for the reason referred to in sub-section 76K (1)); or
- (b) the reimbursement, in such circumstances as are prescribed, of expenses of a prescribed kind incurred by a declared officer.

“(2) The regulations—

(a) may make provision for the purpose of—

- (i) enabling a person entitled to the payment of a lump sum under regulations made in pursuance of sub-section (1) to elect to have paid, in lieu of that sum, benefits, calculated in such manner as is provided for in the regulations, being pension benefits similar to pension benefits payable under the *Superannuation Act 1976*; and
- (ii) enabling the payment of such a pension benefit to the person entitled to it in association with any benefit payable to the person under the *Superannuation Act 1976* and as if it were a benefit payable under that Act;

- (b) may apply the provisions of the *Superannuation Act 1976*, other than the provisions of Part X of that Act, subject to such modifications and adaptations as are prescribed by the regulations, to and in relation to such a benefit; and
- (c) may make such other provision, not inconsistent with this Act, as is necessary or convenient to be made for carrying out or giving effect to the purpose specified in paragraph (a).

“(3) The provision that may be made by regulations in pursuance of sub-section (2)—

- (a) shall not enable an election referred to in that sub-section to be made by a person—
  - (i) who did not become, upon retirement under section 76L, entitled to a pension under the *Superannuation Act 1976*; or
  - (ii) who has made an election under that Act by virtue of which he has become entitled to receive, as a lump sum benefit, all the benefits which, but for the election, he would be entitled to under that Act in consequence of his retirement under section 76L; and
- (b) shall include provision for an election referred to in sub-section (2) to become void if the person who made the election subsequently makes an election under the *Superannuation Act 1976* by virtue of which he becomes entitled to receive, as a lump sum benefit, all the benefits which, but for that last-mentioned election, he would be entitled to under that Act in consequence of his retirement under section 76L.

“(4) A payment of benefit, or by way of reimbursement of expenses, under regulations made in pursuance of this section is payable—

- (a) in the case of a payment of a pension benefit that is payable as if it were a pension benefit payable under the *Superannuation Act 1976*—out of the Consolidated Revenue Fund, in accordance with the appropriation of that Fund made by that Act for the payments of benefits under that Act, as if it were a payment of a pension benefit under that Act; or
- (b) in the case of a payment other than a payment to which paragraph (a) applies—out of moneys lawfully available for the purpose.

“(5) In sub-section (2), ‘modification’ includes the addition or omission of a provision or the substitution of a provision for another provision.

### **Special benefits available to retiring officers**

“76R. (1) The Board may give notice in writing to a Senior Executive Service officer that if the officer retires from the Service within the period specified in the notice the officer will be entitled to a specified benefit in accordance with a determination under section 82D.

- “(2) Where notice is given to an officer under sub-section (1)—
- (a) the officer may retire from the Service within the period specified in the notice notwithstanding that he is not entitled to retire from the Service under section 76I; and
  - (b) if the officer retires from the Service within the period specified in the notice—
    - (i) the officer becomes entitled to the benefit specified in the notice; and
    - (ii) the officer shall be deemed for all purposes to have been compulsorily retired from the Service.”.

### **Interpretation**

**85.** Section 76H of the Principal Act is amended by omitting the definition of “Appeal Tribunal” and substituting the following definition:

“‘Appeal Committee’ means a Redeployment and Retirement Appeal Committee constituted under Subdivision D of Division 2 of Part II of the *Merit Protection (Australian Government Employees) Act 1984*.”.

### **Declaration on grounds of invalidity**

**86.** Section 76K of the Principal Act is amended by omitting from paragraph (3) (a) “Tribunal” and substituting “Committee”.

### **Redeployment and retirement of Senior Executive Service officers**

**87. (1)** Section 76L of the Principal Act is amended—

- (a) by inserting in paragraph (6) (a) “or 50DA” after “50”;
- (b) by omitting paragraphs (6) (b) and (c) and substituting the following paragraphs:
  - “(b) determine, in writing, that a promotion that has been notified under section 50 or 50DA but has not taken effect shall not take effect while the determination is in force; and
  - “(c) cancel a promotion that has been notified under section 50 or 50DA but has not yet taken effect, whether or not, in the case of a promotion notified under section 50, an appeal has, or appeals have, been made against the promotion.”;
- (c) by omitting from sub-section (9) “sub-section 50 (11)” and substituting “section 50G”; and
- (d) by adding at the end thereof the following sub-sections:

“(11) Where, in pursuance of paragraph (6) (b), the Board determines that a promotion shall not take effect while the determination in relation to that promotion is in force, the Board may, at any time while the determination is in force, cancel the promotion in pursuance of paragraph (6) (c).

“(12) If the Board revokes a determination under paragraph (6) (b), the promotion to which the determination relates takes effect

on the day on which it would have taken effect if the determination had not been made, but the Board may, in the instrument of revocation, determine that salary at the rate applicable to the office to which the promotion was made is payable to the officer concerned on and from a day (not being a day after the day on which the instrument of revocation was made) after the prescribed day in respect of the promotion.

“(13) Where the Board, in a determination under sub-section (11), specifies a day on and from which salary at a particular rate is payable to an officer, salary at that rate is payable on and from that day notwithstanding section 50E.

“(14) In this section, ‘prescribed day’, in relation to a promotion has the same meaning as in Division 4.”.

(2) Section 76L of the Principal Act is amended by omitting from paragraph (5) (a) “Tribunal” and substituting “Committee”.

#### **Appeal to Appeal Committee**

88. Section 76M of the Principal Act is amended—

- (a) by omitting from sub-section (1) “Tribunal” and substituting “Committee”;
- (b) by omitting from sub-section (2) “Tribunal” (wherever occurring) and substituting “Committee”;
- (c) by omitting from sub-section (3) “Tribunal” and substituting “Committee”; and
- (d) by omitting from sub-section (4) “Tribunal” (wherever occurring) and substituting “Committee”.

89. The heading to Division 10 of Part III of the Principal Act is repealed and the following heading is substituted:

#### ***“Division 10—Employees”***

#### **Temporary employment**

90. Section 82 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “necessary” and substituting “required”; and
- (b) by omitting from sub-section (2) “If the Board is satisfied that such assistance is required” and substituting “Where the Board is satisfied that the assistance required by a Department is of a temporary nature”.

#### **Employment of persons who have resigned to become candidates at elections**

91. Section 82B of the Principal Act is amended—

- (a) by omitting from sub-section (1) “temporarily employed” and substituting “an employee”;

- (b) by omitting from sub-section (2) “in temporary employment in the Service” and substituting “to be an employee”; and
- (c) by omitting from sub-section (2) “temporary” (last occurring).

### **Determinations**

**92. Section 82D of the Principal Act is amended—**

- (a) by omitting from sub-section (2) “sub-section (3)” and substituting “sub-sections (3) and (3A)”;
- (b) by inserting after sub-section (3) the following sub-section:

“(3A) A determination that makes provision for or in relation to the matters referred to in sub-paragraph (4) (a) (xii), (xiii) or (xiv) shall not be taken to be inconsistent with a determination under sub-section 7 (3) of the *Remuneration Tribunals Act 1973*.”;

- (c) by omitting from sub-paragraph (4) (a) (x) “and”; and
- (d) by adding at the end of paragraph (4) (a) the following sub-paragraphs:

“(xii) the provision of benefits (including benefits by way of additional salary and allowances for such period as is specified in the determination) to officers whose salary would, but for the determination, be reduced by reason of action taken under section 76F or 76L;

“(xiii) the provision of benefits (including benefits by way of payment of a lump sum or by way of the making of periodic payments for such period as is specified in the determination) to persons who cease to be officers or cease to perform duties in the Service by reason of—

- (A) action taken under section 76F or 76L; or
- (B) retirement in accordance with section 76R; and

“(xiv) the provision of benefits (including benefits by way of additional salary and allowances for such period as is specified in the determination) to an officer who holds an office (in this sub-paragraph referred to as the ‘relevant office’) of the kind referred to in paragraph (a) of the definition of ‘office of Secretary’ in sub-section 7 (1) where—

- (A) at some time before being appointed to the relevant office, the officer held another office of the kind referred to in paragraph (a) of the definition of ‘office of Secretary’ in sub-section 7 (1), the salary in respect of which is higher than the salary in respect of the relevant office; or
- (B) the salary in respect of the relevant office would, but for the determination, be reduced during the period during which the officer holds the relevant office.”.

**Determination of matters by reference to other instruments**

**93. (1)** Section 82E of the Principal Act is amended—

- (a) by inserting in paragraph (1) (a) “industrial” before “award”; and
- (b) by omitting sub-section (2).

(2) Notwithstanding the amendment made by sub-section (1), regulations in force immediately before the commencement of this section prescribing a person, tribunal or body for the purposes of the definition of “award” in sub-section 82E (2) of the Principal Act continue in force, after the commencement of this section, as if they had been made for the purposes of the definition of “industrial award” in sub-section 7 (1) of the *Public Service Act 1922* as amended by sub-section 5 (1) of this Act.

**Promotion of transferred officers to offices in the Service**

**94.** Section 84C of the Principal Act is amended—

- (a) by omitting from sub-paragraph (1) (a) (i) “50” and substituting “49B, 50, 50D or 50DA”;
- (b) by inserting in sub-section (2) “49B,” before “50”; and
- (c) by omitting from sub-section (3) “50 or 50D” and substituting “49B, 50, 50D or 50DA”.

**Interpretation**

**95. (1)** Section 87 of the Principal Act is amended—

- (a) by omitting “Stipendiary” from paragraph (m) of the definition of “Commonwealth office” in sub-section (1); and
- (b) by omitting from paragraph (2) (k) “Stipendiary”.

(2) Section 87 of the Principal Act is amended by omitting from sub-section (1) the definition of “employment” and substituting the following definition:

“ ‘employment’ means—

- (a) employment in a full-time capacity; or
- (b) employment in a part-time capacity where—
  - (i) the person employed does not also perform duties in the Service;
  - (ii) the number of ordinary hours of duty per week applicable to the person in respect of the employment is greater than the number of hours prescribed by the regulations for the purposes of this sub-paragraph; and
  - (iii) the employment is not employment of a kind that the Board has declared, in writing, to be non-qualifying part-time employment for the purposes of this sub-paragraph;”.



- (3) Section 87 of the Principal Act is amended—
- (a) by inserting “section 49B or” before “sub-section 50 (9)” (wherever occurring) in the definition of “promote” in sub-section (1); and
  - (b) by inserting “section 49 or” before “sub-section 50 (1)” (wherever occurring) in the definition of “transfer” in sub-section (1).

**Office to become vacant in certain circumstances**

96. (1) Section 87G of the Principal Act is amended—

- (a) by omitting paragraph (1) (b) and substituting the following paragraph:

“(b) is promoted or transferred to an office in the Service, but does not commence to perform the duties of that office within the period of 30 days after the promotion or transfer takes effect.”;

- (b) by omitting sub-section (2) and substituting the following sub-section:

“(2) Where an officer to whom this Division applies is promoted or transferred to an office in the Service, the Board may, on application made by the officer before the expiration of the period of 30 days after the promotion or transfer takes effect, determine that sub-section (1) shall have effect in relation to the promotion or transfer as if the reference in that sub-section to a period of 30 days were a reference to such longer period as is specified in the determination.”; and

- (c) by omitting sub-section (4) and substituting the following sub-section:

“(4) Where an officer to whom this Division applies is promoted or transferred to an office in the Service and, at the time when the promotion or transfer takes effect, the officer is absent from his eligible public employment for a period of leave of absence granted before that time, the reference in sub-section (1) to the period of 30 days after the promotion or transfer takes effect shall be read as a reference to the period of 30 days after the expiration of the first-mentioned period.”.

(2) Section 87G of the Principal Act is amended—

- (a) by inserting in paragraph (1) (b) “or transfer” after “promotion” (wherever occurring);
- (b) by omitting from paragraph (1) (b) “, or the officer is transferred to such an office under section 50, 53, 63F or 63G.”;
- (c) by omitting from paragraph (1) (b) “or notice of the transfer is published in the *Gazette*”;
- (d) by inserting in sub-section (2) “or transfer” after “promotion” (first and second occurring);
- (e) by omitting from sub-section (2) “or the officer is transferred under section 50, 53, 63F or 63G”;
- (f) by omitting from sub-section (2) “or notice of the transfer is published in the *Gazette*”; and

(g) by omitting sub-section (4) and substituting the following sub-section—

“(4) Where—

(a) an officer to whom this Division applies is promoted or transferred to an office in the Service; and

(b) at the time when the promotion or transfer takes effect, the officer is absent from his eligible public employment for a period on leave of absence granted before that time,

the reference in sub-section (1) to the period of 30 days after the day on which the promotion or transfer takes effect shall be read as a reference to the period of 30 days after the expiration of the first-mentioned period.”.

#### **Application of sections 50 and 53 to certain unattached officers**

97. (1) Section 87H of the Principal Act is amended by omitting “in the Division in which he was included immediately before he became or last became such an officer, being an office”.

(2) Section 87H of the Principal Act is amended by omitting from paragraph (b) “having such classification as the Board considers appropriate having regard to the designation and salary, or limits of salary, applicable to him” and substituting “the classification of which corresponds, or corresponds as nearly as possible, to his classification as an unattached officer”.

(3) Section 87H is amended by inserting “49B,” before “50”.

(4) Section 87H of the Principal Act is amended by inserting “, 50DA or 53” after “50”.

98. Before section 87K of the Principal Act the following section is inserted in Division 3 of Part IV:

#### **Interpretation**

“87KAA. In this Division, ‘Re-appointment Review Committee’ means a Re-appointment Review Committee established in accordance with Subdivision E of Division 2 of Part II of the *Merit Protection (Australian Government Employees) Act 1984*.”.

#### **Right to re-enter Service by way of transfer or promotion**

99. (1) Section 87M of the Principal Act is amended—

(a) by omitting from sub-paragraph (1) (b) (ii) “having such classification as the Board considers appropriate having regard to the designation and salary, or limits of salary, applicable to him” and substituting “the classification of which corresponds, or corresponds as nearly as possible, to his classification as an unattached officer”;

(b) by omitting from paragraph (3) (a) “notice of the transfer or promotion is published in the *Gazette*” and substituting “the transfer or promotion takes effect”;

- (c) by omitting from sub-section (4) “notice of the transfer or promotion is published in the *Gazette*” and substituting “the transfer or promotion takes effect”; and
  - (d) by omitting from sub-section (6) “is published in the *Gazette*” (wherever occurring) and substituting “takes effect”.
- (2) Section 87M of the Principal Act is amended by inserting in sub-section (1) “49, 49B,” before “50”.
- (3) Section 87M of the Principal Act is amended—
- (a) by inserting in sub-section (1) “49, 49B,” before “50”;
  - (b) by omitting from paragraph (1) (b) “having such classification as the Board considers appropriate having regard to the designation and salary, or limits of salary, applicable to him” and substituting “the classification of which corresponds, or corresponds as nearly as possible, to his classification as an unattached officer”;
  - (c) by omitting from paragraph (3) (a) “notice of the transfer is published in the *Gazette* or the” and substituting “the transfer or”;
  - (d) by omitting from sub-section (6) “notice of the transfer is published in the *Gazette* or the” (wherever occurring) and substituting “the transfer or”; and
  - (e) by omitting from sub-paragraph (7) (a) (i) “under section 50”.
- (4) Section 87M of the Principal Act is amended by omitting from paragraph (1) (b) “in the Division in which he was included immediately before he ceased, or last ceased, to be an officer, being an office”.

#### **Application for re-appointment to Service**

**100. (1)** Section 87N of the Principal Act is amended—

- (a) by omitting from sub-paragraph (7) (a) (i) all the words after “Service” and substituting “with a specified classification”;
- (b) by omitting paragraphs (10) (a), (b) and (c) and substituting the following paragraphs:
  - “(a) the classification of the office occupied by the officer; or
  - “(b) in a case where the officer was an unattached officer—the classification of the officer as an unattached officer,”; and
- (c) by omitting paragraph (11) (b) and substituting the following paragraph:
  - “(b) determine that the applicant is eligible for re-appointment with a specified classification whether or not he has the academic or other qualifications (if any) applicable, in accordance with a notification in force under paragraph 33A (1) (d), to an office having that classification.”.

(2) Section 87N of the Principal Act is amended by omitting paragraph (5) (e) and substituting the following paragraph:

“(e) shall, in a case where, by virtue of the operation of sub-section 87M (1)—

- (i) he had been promoted under section 50 to fill a vacant office in the Service, or had appealed under section 50B against the promotion of another person to fill such an office, before the day on which his employment is terminated; and
- (ii) the promotion had not taken effect or had not been cancelled before that day,

set out particulars of the promotion or of the appeal, as the case may be.”.

### **Re-appointment to Service**

**101.** Section 87Q of the Principal Act is amended—

- (a) by omitting from sub-section (1) “designation and at the salary, or at the salary within the limits of salary,” and substituting “classification”;
- (b) by omitting from paragraph (4) (d) “designation and at the salary, or at the salary within the limits of salary,” and substituting “classification”; and
- (c) by omitting from sub-section (6) “(5)” and substituting “(4)”.

### **Re-appointment in special circumstances**

**102.** Section 87R of the Principal Act is amended—

- (a) by omitting from paragraph (2) (c) “designation” (wherever occurring) and substituting “classification”; and
- (b) by omitting from paragraph (2) (d) “designation” and substituting “classification”.

### **Constitution of, and inquiries by, Committees**

**103.** Section 87T of the Principal Act is repealed.

### **Effect of repealed Officers' Rights Declaration Act ceasing to apply to officer**

**104. (1)** Section 87V of the Principal Act is amended by inserting in paragraph (1) (c) “49 or” before “50”.

(2) Section 87V of the Principal Act is amended by omitting from sub-paragraph (1) (c) (ii) “50” and substituting “49, 50, 50DA”.

### **Provisions relating to former officers who resigned to join certain commissions**

**105. (1)** Section 87ZA of the Principal Act is amended by omitting from paragraph (2) (a) “of the Division of which he was last an officer”.

(2) Section 87ZA of the Principal Act is amended—

- (a) by adding at the end of paragraph (2) (a) “and”;

- (b) by omitting from paragraph (2) (b) “determines; and” and substituting “determines.”; and
- (c) by omitting paragraph (2) (c).

**Promotion of certain former officers**

**106.** Section 87ZD of the Principal Act is amended—

- (a) by inserting in paragraph (1) (a) “or” after “87ZC (2),”;
- (b) by omitting from sub-paragraph (1) (a) (i) “50” and substituting “49B, 50 or 50DA”; and
- (c) by inserting in sub-section (2) “49B,” before “50”.

**Dismissal of officer of enemy origin**

**107.** Section 94 of the Principal Act is repealed.

**Personation, &c., at examinations**

**108.** Section 96 of the Principal Act is amended—

- (a) by omitting “\$200” and substituting “\$2,000”;
- (b) by omitting “6” and substituting “12”; and
- (c) by adding at the end thereof the following sub-section:

“(2) In sub-section (1), ‘examination’ includes a test.”

**Regulations**

**109. (1)** Section 97 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “of the Second, Third and Fourth Divisions”; and
- (b) by omitting paragraph (1) (c) and substituting the following paragraphs:
  - “(c) for regulating the appointment of persons to the Service;
  - “(d) for regulating transfers and promotions of officers;
  - “(e) for regulating the holding and conduct of tests or examinations referred to in section 33B;
  - “(ea) for determining the allowances in respect of travelling expenses that are to be paid to members of the Joint Council who are not officers or employees;”

**(2)** Section 97 of the Principal Act is amended—

- (a) by omitting paragraph (1) (h) and substituting the following paragraph:
  - “(h) for regulating the procedure and duties of Promotion Appeal Committees and for making provision in relation to any other matter related to the determining of appeals;”
- (b) by omitting from paragraph (1) (s) “provisional promotion” and substituting “promotions”.

(3) Section 97 of the Principal Act is amended by omitting from paragraph (1) (n) “temporary”.

(4) Section 97 of the Principal Act is amended—

(a) by omitting from paragraph (1) (ga) “and of Disciplinary Appeal Boards”;

(b) by omitting paragraph (1) (gb);

(c) by omitting from paragraph (1) (gc) “appeals made to Disciplinary Appeal Boards or”; and

(d) by omitting paragraph (1) (w).

(5) Section 97 of the Principal Act is amended by omitting paragraph (h) and substituting the following paragraph:

“(h) for making provision in relation to the determining of appeals against promotions;”.

#### **Amendment of certain provisions of Principal Act**

110. (1) The Principal Act is amended as set out in Schedule 1.

(2) The Principal Act is amended as set out in Schedule 2.

(3) The Principal Act is amended as set out in Schedule 3.

### **PART III—AMENDMENT OF THE PUBLIC SERVICE AND STATUTORY AUTHORITIES AMENDMENT ACT 1980**

#### **Principal Act**

111. The *Public Service and Statutory Authorities Amendment Act 1980*<sup>2</sup> is in this Part referred to as the Principal Act.

#### **Regulations**

112. Section 45 of the Principal Act is amended by omitting sub-section (9).

### **PART IV—AMENDMENTS OF THE PUBLIC SERVICE ACTS AMENDMENT ACT 1982**

#### **Principal Act**

113. The *Public Service Acts Amendment Act 1982*<sup>3</sup> is in this Part referred to as the Principal Act.

#### **Division Heading**

114. Section 14 of the Principal Act is repealed.

#### **Repeal of sections 21 and 22**

115. Sections 21 and 22 of the Principal Act are repealed.

**Application of section 30**

116. Upon the commencement of section 30 of the Principal Act, that section has effect as if—

- (a) sub-section (1) were amended by omitting “54B” and substituting “53C”; and
- (b) sub-sections (3) and (4) were omitted.

**Application of sections 50 and 53 to certain unattached officers**

117. Section 56 of the Principal Act is repealed.

**Application for re-appointment to Service**

118. Section 59 of the Principal Act is repealed.

**Provisions relating to former officers who resigned to join certain commissions**

119. Section 69 of the Principal Act is repealed.

**Regulations**

120. Section 74 of the Principal Act is amended by omitting sub-section (1).

**Dual appointments of Permanent Heads**

121. Section 77 of the Principal Act is repealed.

**Repeal of sections 80 and 81**

122. Sections 80 and 81 of the Principal Act are repealed.

**Repeal of sections 83 and 84**

123. Sections 83 and 84 of the Principal Act are repealed.

**Retirement on ground of age**

124. Section 86 of the Principal Act is repealed.

**PART V—AMENDMENTS OF THE COMMONWEALTH EMPLOYEES (REDEPLOYMENT AND RETIREMENT) ACT 1979**

**Principal Act**

125. The *Commonwealth Employees (Redeployment and Retirement) Act 1979*<sup>a</sup> is in this Part referred to as the Principal Act.

**Interpretation**

126. (1) Section 3 of the Principal Act is amended by inserting after the definition of “Secretary” in sub-section (1) the following definition:

“ ‘Senior Executive Service officer’ has the same meaning as in the *Public Service Act 1922*;”.

- (2) Section 3 of the Principal Act is amended—
- (a) by inserting before the definition of “declared employee” in sub-section (1) the following definition:
- “‘Committee’ means a Redeployment and Retirement Appeal Committee established under Subdivision D of Division 2 of Part II of the *Merit Protection (Australian Government Employees) Act 1984*;” and
- (b) by omitting from sub-section (1) the definition of “Tribunal”.

### **Persons in relation to whom this Act applies**

127. (1) Section 5 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) This Act does not apply to or in relation to an officer, within the meaning of the *Public Service Act 1922*, who is a Secretary or an unattached Secretary, within the meaning of that Act.”.

(2) Section 5 of the Principal Act is amended by omitting sub-section (3) and substituting the following sub-section:

“(3) This Act does not apply to or in relation to an officer, within the meaning of the *Public Service Act 1922*, who is—

- (a) a Secretary or an unattached Secretary, within the meaning of that Act; or
- (b) a Senior Executive Service officer.”.

(3) Section 5 of the Principal Act is amended by omitting from paragraph (2) (e) “in a temporary capacity”.

### **Approved criteria and procedures**

128. Section 8 of the Principal Act is amended by omitting sub-section (6).

### **Notification of declaration**

129. Section 10 of the Principal Act is amended by omitting from sub-section (3) “Tribunal” (wherever occurring) and substituting “Committee”.

### **Redeployment in Public Service**

130. (1) Section 12 of the Principal Act is amended by omitting from paragraphs (1) (b) and (c) “designation (being a designation corresponding to that of an office in the Division in which he is included)” and substituting “classification”.

- (2) Section 12 of the Principal Act is amended—
- (a) by omitting from paragraph (1) (e) “paragraphs 34 (a) and (c)” and substituting “paragraphs 34 (1) (a) and (c)”;
- (b) by inserting in paragraph (1) (g) “or 50DA” after “section 50”;
- (c) by omitting paragraphs (1) (h) and (j) and substituting the following paragraphs:



- “(h) determine, in writing, that a promotion that has been notified under section 50 or 50DA of the *Public Service Act 1922* but has not taken effect under that Act shall not take effect while the determination is in force; and
  - “(j) cancel a promotion that has been notified under section 50 or 50DA of the *Public Service Act 1922* but has not taken effect under that Act, whether or not, in the case of a promotion under section 50, an appeal has, or appeals have, been made under that Act against the promotion.”;
- (d) by omitting from sub-section (5) “sub-section 50 (11)” and substituting “section 50G”; and
- (e) by adding at the end thereof the following sub-sections:

“(6) Where, in pursuance of paragraph (1) (h), the Public Service Board determines that a promotion shall not take effect while the determination in relation to that promotion is in force, the Board may, at any time while the determination is in force, cancel the promotion in pursuance of paragraph (1) (j).

“(7) If the Public Service Board revokes a determination under paragraph (1) (h), the promotion to which the determination relates takes effect on the day on which it would have taken effect if the determination had not been made, but the Board may, in the instrument of revocation, determine that salary at the rate applicable to the office to which the promotion was made is payable to the officer concerned on and from a day (not being a day after the day on which the instrument of revocation was made) after the prescribed day in respect of the promotion.

“(8) Where the Public Service Board, in a determination under sub-section (7), specifies a day on and from which salary at a particular rate is payable to an officer, salary at that rate is payable on and from that day notwithstanding section 50E of the *Public Service Act 1922*.

“(9) In this section, ‘prescribed day’, in relation to a promotion, has the same meaning as it has in Division 4 of Part III of the *Public Service Act 1922*.”.

- (3) Section 12 of the Principal Act is amended—
- (a) by omitting paragraph (1) (f); and
  - (b) by omitting sub-section (4).

### **Appeals**

**131.** Section 15 of the Principal Act is amended by omitting “Tribunal” (wherever occurring) and substituting “Committee”.

**Commonwealth Employees Redeployment and Retirement Appeals Tribunals**

**132.** Section 16 of the Principal Act is amended—

- (a) by inserting before sub-section (1) the following sub-section:
  - “(1AA) In this section, ‘relevant appeal’ means—
  - (a) an appeal under section 15; and
  - (b) an appeal under Division 8B of Part III of the *Public Service Act 1922*.”;
- (b) by omitting from sub-section (1) “this Act” and substituting “hearing and determining relevant appeals”;
- (c) by inserting after sub-section (2) the following sub-section:
  - “(2A) A Tribunal established for the purposes of an appeal under Division 8B of Part III of the *Public Service Act 1922* shall be constituted by—
  - (a) a Chairman appointed as provided for in paragraph (2) (a);
  - (b) one person nominated as provided in the regulations to represent the Public Service Board; and
  - (c) one person nominated as provided in the regulations to represent Senior Executive Service officers.”;
- (d) by omitting from sub-section (9) “an appeal under section 15” and substituting “a relevant appeal”;
- (e) by omitting from sub-section (10) “an appeal under section 15” and substituting “a relevant appeal”;
- (f) by inserting in sub-section (12) “or (2A), as the case requires,” after “sub-section (2)” (wherever occurring); and
- (g) by adding at the end thereof the following sub-section:
  - “(13) The references in sub-sections (6) and (8) to a person appointed as a Chairman of a Tribunal under sub-paragraph (2) (a) (ii) include references to a person appointed as Chairman of a Tribunal under that sub-paragraph as applied to appeals under Division 8B of Part III of the *Public Service Act 1922* by sub-section (2A) of this section.”.

**Commonwealth Employees Redeployment and Retirement Appeals Tribunals**

**133.** Section 16 of the Principal Act is repealed.

**Retirement of Permanent Heads on grounds of inefficiency or incapacity**

**134.** Section 18 of the Principal Act is repealed.

**Permanent Heads recommended for retirement on medical grounds may be declared unattached**

**135.** Section 20 of the Principal Act is repealed.

**Retirement on ground of age**

**136.** Section 22 of the Principal Act is amended—

- (a) by omitting sub-section (4);

- (b) by omitting paragraph (a) of the definition of “relevant authority” in sub-section (5); and
- (c) by omitting “a person included in the Second, Third or Fourth Division of the Australian Public Service” from paragraph (b) of the definition of “relevant authority” in sub-section (5) and substituting “an officer of the Australian Public Service”.

### **Regulations**

**137. (1)** Section 29 of the Principal Act is amended by inserting in paragraph (1) (c) “or Senior Executive Service officer” after “employee”.

**(2)** Section 29 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “Tribunal” and substituting “Committee”; and
- (b) by omitting paragraphs (1) (b) and (c).

## **PART VI—AMENDMENTS OF THE GOVERNOR-GENERAL ACT 1974**

### **Principal Act**

**138.** The *Governor-General Act 1974*<sup>5</sup> is in this Part referred to as the Principal Act.

### **Amendment of title**

**139.** The title of the Principal Act is amended by adding at the end thereof “, to establish the office of Official Secretary to the Governor-General, to provide for the employment of staff of the Governor-General, and for related purposes”.

**140.** After section 2 of the Principal Act the following section is inserted:

### **Interpretation**

“2A. References in sections 6, 7, 11, 12 and 18 to the Governor-General shall be construed as references to the Governor-General acting with the advice of the Executive Council.”.

**141.** The Principal Act is amended by adding at the end thereof the following sections:

### **Official Secretary**

“6. There shall be an Official Secretary, who shall be appointed by the Governor-General.

### **Terms and conditions of appointment**

“7. The Official Secretary holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor-General.

### **Remuneration of Official Secretary**

“8. (1) The Official Secretary shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Remuneration Tribunal is in operation, the Official Secretary shall be paid such remuneration as is prescribed.

“(2) The Official Secretary shall be paid such allowances as are prescribed.

“(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.

### **Operation of Superannuation Act**

“9. For the purposes of the *Superannuation Act 1976*, a person appointed as Official Secretary shall be deemed to have been so appointed for a term of not less than 1 year.

### **Resignation**

“10. The Official Secretary may resign from the office of Official Secretary by writing delivered to the Governor-General.

### **Termination of appointment**

“11. The Governor-General may at any time terminate the appointment of a person as Official Secretary.

### **Acting Official Secretary**

“12. (1) The Governor-General may appoint a person to act as Official Secretary—

- (a) during a vacancy in the office of Official Secretary, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Official Secretary is absent from duty or from Australia, or is, for any other reason, unable to perform the functions of the office of Official Secretary,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

“(2) An appointment of a person under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

“(3) The Governor-General may—

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as Official Secretary; and
- (b) terminate such an appointment at any time.

“(4) Where a person is acting as Official Secretary in circumstances referred to in paragraph (1) (b) and the office of Official Secretary becomes vacant while that person is so acting, then, subject to sub-section (2), that person may continue so to act until the Governor-General otherwise directs,

the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

“(5) The appointment of a person to act as Official Secretary ceases to have effect if the person resigns the appointment by writing signed by the person and delivered to the Governor-General.

“(6) While a person is acting as Official Secretary, the person has and may exercise all the powers and shall perform all the functions of the Official Secretary under this Act.

“(7) The validity of anything done by a person purporting to act pursuant to an appointment made under sub-section (1) shall not be called in question on the ground that the occasion for the person’s appointment had not arisen, that there is a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

#### **Official Secretary may employ staff**

“13. The Official Secretary may, on behalf of the Commonwealth, employ, under an agreement in writing, a person as a member of the Governor-General’s staff.

#### **Terms and conditions of employment**

“14. (1) Subject to sub-section (2) and to any applicable determination made under sub-section (3), the terms and conditions of employment of a person employed by the Official Secretary under section 13, other than terms and conditions in relation to which provision is made by section 15, are the same as the terms and conditions applicable in relation to an officer performing the duties of an office in the Australian Public Service having a classification specified in the agreement for the employment of the person.

“(2) Notwithstanding anything in sub-section (1) or in the *Commonwealth Employees (Redeployment and Retirement) Act 1979*, that Act does not apply in relation to the employment of a person under section 13.

“(3) The Official Secretary may, with the approval of the Public Service Board, by writing determine that the terms and conditions of the employment of a person under section 13, being the terms and conditions ascertained in accordance with sub-section (1) of this section, are varied as specified in the determination.

“(4) A determination under sub-section (3) may be expressed to apply in relation to all persons employed under section 13, in relation to all persons included in a class of persons so employed or in relation to a specified person so employed.

#### **Termination of employment**

“15. (1) The Official Secretary may at any time, by notice in writing given to a person employed under section 13, terminate the person’s employment.

“(2) A person employed by the Official Secretary under section 13 may at any time, by notice in writing given to the Official Secretary, terminate the person’s employment.

### **Rights of officers employed by Official Secretary**

“16. (1) For the purposes of the *Public Service Act 1922*, an officer who is employed under section 13 shall, while the employment continues, be deemed to be employed as the holder of a Commonwealth office within the meaning of Part IV of that Act.

“(2) In sub-section (1), ‘officer’ means a person who is an officer within the meaning of the *Public Service Act 1922*.

### **Rights of relevant public servants employed by Official Secretary**

“17. (1) For the purposes of the *Public Service Act 1922*, a relevant public servant who is employed under section 13 shall, subject to sub-section (2), while the employment continues, be deemed to be on leave without pay but the service of the relevant public servant in that employment, while the relevant public servant is so deemed to be on leave, shall be taken into account as if it were service as a relevant public servant.

“(2) A relevant public servant who was selected for employment under the *Public Service Act 1922*, or whose employment under the *Public Service Act 1922* was authorized, on the condition that the employment should not continue after the expiration of a specified period or on the condition that the employment should not continue after the completion of specified work shall, for the purposes of that Act, be deemed to cease to be a relevant public servant at the expiration of that period or the completion of that work, as the case may be.

“(3) In this section, ‘relevant public servant’ means a person who is an employee within the meaning of the *Public Service Act 1922*.

### **Operation of Public Service Arbitration Act**

“18. (1) For the purposes of the *Public Service Arbitration Act 1920*, a person employed by the Official Secretary shall be deemed to be employed in the service of a public authority of the Commonwealth.

“(2) The *Public Service Arbitration Act 1920* applies in relation to persons employed by the Official Secretary as if—

- (a) references in sections 12, 12C, 12D, 13, 15A and 15C of that Act to the Board were references to a person prescribed for the purposes of this paragraph;
- (b) references (however qualified) in those sections to Ministers were omitted; and
- (c) the reference in section 16 to the Board included a reference to the Official Secretary.

**Annual Report-**

“19. (1) The Official Secretary shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report on the performance of the functions and duties of the Official Secretary during that year.

“(2) The Minister shall cause a copy of a report furnished to him under sub-section (1) to be laid before each House of the Parliament within 15 sitting days of that House after the day on which he receives the report.

**Regulations**

“20. The Governor-General may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.”.

**PART VII—AMENDMENTS OF THE LONG SERVICE LEAVE  
(COMMONWEALTH EMPLOYEES) ACT 1976**

**Principal Act**

**142.** The *Long Service Leave (Commonwealth Employees) Act 1976*<sup>6</sup> is in this Part referred to as the Principal Act.

**Long service leave benefits not to be granted under other laws**

**143.** Section 22 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “law of the Commonwealth or of an internal Territory” and substituting “relevant law”;
- (b) by omitting from sub-section (1) “such a law” and substituting “a relevant law”;
- (c) by omitting from sub-section (1) “that law” (wherever occurring) and substituting “a relevant law”; and
- (d) by omitting paragraph (2) (a) and substituting the following paragraph:

“(a) ‘relevant law’ means a law of the Commonwealth or of an internal Territory that is in force on the day on which this Act receives the Royal Assent or that comes into force on or after that day; and”.

**PART VIII—AMENDMENTS OF THE MEMBERS OF  
PARLIAMENT (STAFF) ACT 1984**

**Principal Act**

**144.** The *Members of Parliament (Staff) Act 1984*<sup>7</sup> is in this Part referred to as the Principal Act.

### **Interpretation**

**145.** Section 3 of the Principal Act is amended by inserting before the definition of “Board” in sub-section (1) the following definition:

“ ‘Agency’ means the Merit Protection and Review Agency;”.

### **Rights of officers employed by office-holders**

**146.** Section 17 of the Principal Act is amended—

- (a) by omitting from sub-section (2) “Board” (wherever occurring) and substituting “Agency”; and
- (b) by omitting from sub-section (3) “Board” and substituting “Agency”.

### **Rights of officers employed by Senators and Members**

**147.** Section 24 of the Principal Act is amended—

- (a) by omitting from sub-section (2) “Board” (wherever occurring) and substituting “Agency”; and
- (b) by omitting from sub-section (3) “Board” and substituting “Agency”.

### **Repeal of Part V**

**148.** Part V of the Principal Act is repealed.

## **PART IX—AMENDMENT OF THE REMUNERATION TRIBUNALS ACT 1973**

### **Principal Act**

**149.** The *Remuneration Tribunals Act 1973*<sup>8</sup> is in this Part referred to as the Principal Act.

### **Time of making reports and determinations**

**150.** Section 8 of the Principal Act is amended by omitting from sub-section (1) “at the one time”.

## **PART X—CONSEQUENTIAL AMENDMENTS**

### **Consequential amendments relating to Secretaries of Departments**

**151. (1)** The Acts set out in Schedule 4 are amended as set out in that Schedule.

**(2)** Section 7 of the *Customs Act 1901* is amended—

- (a) by omitting “There shall be a Comptroller-General of Customs who under the Minister shall be the permanent head of the Customs and” and substituting “The Comptroller-General of Customs”; and
- (b) by adding at the end thereof the following sub-section:



“(2) The Comptroller-General of Customs is the person who holds the office of Secretary of the Department.”.

(3) Section 21 of the *Commonwealth Employment Service Act 1978* is amended by omitting “Permanent Heads” and substituting “Secretaries”.

(4) Section 9 of the *National Labour Consultative Council Act 1977* is amended by omitting “Permanent Heads” and substituting “Secretaries”.

(5) Section 30AC of the *Student Assistance Act 1973* is amended by omitting “Permanent Head” (wherever occurring) and substituting “Secretary”.

(6) Section 16 of the *Bankruptcy Act 1966* is amended by omitting “Permanent Head” and substituting “Secretary”.

(7) Section 11 of the *Commonwealth Schools Commission Amendment Act 1984* is amended by omitting “Permanent Head” (wherever occurring) and substituting “Secretary”.

(8) Section 14B of the *Commonwealth Schools Commission Act 1973* is amended by omitting from paragraph (2) (f) “Permanent Head” and substituting “Secretary”.

(9) A reference in any Act, in any instrument under an Act or in any award or industrial determination or order to a Permanent Head shall, except in relation to matters that occurred before the commencement of sub-section (1), be construed as a reference to a Secretary.

### **Consequential amendments relating to temporary employment**

**152.** (1) The Acts set out in Schedule 5 are amended as set out in that Schedule.

(2) Section 17 of the *Governor-General Act 1974* is amended by omitting from sub-section (2) “selected for employment under the *Public Service Act 1922*, or whose employment under the *Public Service Act 1922* was authorized,” and substituting “employed under section 82 of the *Public Service Act 1922*”.

(3) Section 11 of the *Members of Parliament (Staff) Act 1984* is amended by omitting from sub-section (2) “selected for employment under the Public Service Act, or whose employment under that Act was authorized,” and substituting “employed under section 82 of the Public Service Act”.

(4) Section 18 of the *Members of Parliament (Staff) Act 1984* is amended by omitting from sub-section (2) “selected for employment under the Public Service Act, or whose employment under that Act was authorized,” and substituting “employed under section 82 of the Public Service Act”.

(5) Section 25 of the *Members of Parliament (Staff) Act 1984* is amended by omitting from sub-section (2) “selected for employment under the Public Service Act, or whose employment under that Act was authorized,” and substituting “employed under section 82 of the Public Service Act”.

**Consequential amendments relating to nationality requirements**

153. The Acts set out in Schedule 6 are amended as set out in that Schedule.

154. After section 6 of the *Freedom of Information Act 1982* the following section is inserted:

**Official Secretary to the Governor-General**

“ 6A. (1) This Act does not apply to any request for access to a document of the Official Secretary to the Governor-General unless the document relates to matters of an administrative nature.

“ (2) For the purposes of this Act, a document in the possession of a person employed under section 13 of the *Governor-General Act 1974* that is in his possession by reason of his employment under that section shall be taken to be in the possession of the Official Secretary to the Governor-General.”.

**PART XI—TRANSITIONAL PROVISIONS**

**Conversion of part-time employees into part-time officers**

155. Where—

- (a) immediately before the commencement of this section an employee was employed in a Department on a part-time basis;
- (b) an office in the Department is declared by the relevant Secretary under sub-section 29B (1) of the *Public Service Act 1922* to be a part-time office; and
- (c) the Board declares that this section is to apply to the person in relation to the office,

the following provisions have effect:

- (d) the employee shall, upon the making of the declaration by the Board, be deemed to be appointed to the Service and to be appointed to the office;
- (e) the provisions of sections 33 and 34 of the *Public Service Act 1922* shall be deemed to have been complied with in relation to the appointment.

**Redeployment proceedings in relation to Senior Executive Service officers**

156. Where a person—

- (a) was, immediately before the commencement of sub-section 127 (2), a declared employee within the meaning of the *Commonwealth Employees (Redeployment and Retirement) Act 1979*; and

- (b) becomes, after the commencement of that sub-section and while the declaration continues in force, a Senior Executive Service officer,
- the following provisions have effect:
- (c) the redeployment declaration in respect of the person shall continue in force after the commencement of that sub-section and shall not be revoked unless the person consents to the revocation;
- (d) that Act shall, unless the declaration is revoked, continue to apply in relation to the person in relation to the matter to which the declaration relates as if the person were an employee within the meaning of that Act;
- (e) sections 76K and 76L of the *Public Service Act 1922* shall not, unless the declaration is revoked, apply in relation to the person in relation to the matter to which the redeployment declaration relates.

### **Saving of certain regulations**

**157.** Notwithstanding the repeal of section 50 of the *Public Service Act 1922* effected by section 27 of the *Public Service Acts Amendment Act 1982*, regulations made under sub-sections 50 (5AB) and (5B) of the *Public Service Act 1922* and in force immediately before the commencement of this section continue in force, after the commencement of this section, as if those regulations had been made under sub-sections 50CA (1) and (2), respectively, of the *Public Service Act 1922* as amended by section 41 of this Act.

### **References to temporary employment**

**158.** A reference in any Act, in any instrument under an Act or in any award or other industrial determination or order to temporary employment of a person under the *Public Service Act 1922*, or the employment of a person in a temporary capacity under that Act, shall, except in relation to matters that occurred before the commencement of this section, be construed as a reference to the employment of a person under Division 10 of Part III of that Act.

### **Saving of certain proceedings**

**159. (1)** Notwithstanding the amendments of the *Public Service Act 1922* made by section 42 and sub-section 43 (1) of this Act, where a Promotion Appeal Committee had, before the commencement of this sub-section, commenced to hear an appeal, the *Public Service Act 1922* and the regulations made under that Act continue to apply to and in relation to the appeal as if those amendments had not been made.

**(2)** Notwithstanding the amendments of the *Public Service Act 1922* made by sections 61, 63 to 70 (inclusive), 72 to 78 (inclusive) and 79 and sub-section 109 (4) of this Act, where a direction, recommendation or finding was, before the commencement of this sub-section, made under section 62, 63, 63F, 63K, 63L, 63M or 66B, as the case requires, of the *Public Service Act 1922*, the *Public Service Act 1922* and the regulations made under that Act continue to apply to and in relation to the direction, recommendation or finding, and any

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appeal under section 63D of that Act in relation to the direction, recommendation or finding, as if those amendments had not been made.

(3) The reference in sub-section (2) to section 62, 63 or 63F of the *Public Service Act 1922* includes a reference to that section as applied by section 63S of that Act.

(4) Notwithstanding the amendments of the *Public Service Act 1922* made by sections 98 and 103 of this Act, where a Re-appointments Review Committee had, before the commencement of this sub-section, commenced to hear an application, the *Public Service Act 1922* and the regulations under that Act continue to apply to and in relation to the appeal as if those amendments had not been made.

(5) Notwithstanding the amendments of the *Commonwealth Employees (Redeployment and Retirement) Act 1979* made by sub-section 126 (2), sections 129, 130 and 133 and sub-section 137 (2) of this Act, where a Commonwealth Employees Redeployment and Retirement Appeals Tribunal had, before the commencement of this sub-section, commenced to hear an appeal, the *Commonwealth Employees (Redeployment and Retirement) Act 1979* and the regulations under that Act continue to apply to and in relation to the appeal as if those amendments had not been made.

(6) Notwithstanding the amendment of the *Members of Parliament (Staff) Act 1984* made by section 148 of this Act, where a Re-integration Assessment Committee had, before the commencement of this sub-section, commenced to hear an application, the *Members of Parliament (Staff) Act 1984* and the regulations under that Act continue to apply to and in relation to the application as if those amendments had not been made.

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**SCHEDULES**

**SCHEDULE 1**

Sub-section 110 (1)

**AMENDMENTS OF CERTAIN PROVISIONS OF THE PUBLIC SERVICE ACT 1922**

1. The following sections of the *Public Service Act 1922* are amended by omitting "Permanent Head" (wherever occurring) and substituting "Secretary":

Sub-section 7 (1) (definitions of "Department", "office of Permanent Head" and "relevant Permanent Head"), sub-section 9 (2AA), paragraph 9 (2A) (b), sub-sections 16 (3), 17 (2) and (3) and 25 (2) and (4), paragraph 25 (4B) (b), sub-section 25 (4C), paragraph 47 (9A) (b), sub-section 50 (1), paragraph 50 (1A) (b), sub-sections 50 (2A), (4), (4A) and (10), 50A (1) and 51 (2), paragraphs 51AA (4) (a) and (b), sub-sections 51A (1) and 58 (6), paragraph 62 (1) (b), sub-sections 63 (6), 63F (5), (6), (7), (9) and (10), 63K (5), 63L (5), 63M (3) and 66A (1), paragraph 66A (2) (b), sub-sections 66A (3), 66B (2), (3), (4) and (6), 76 (5) and 87ZC (3), paragraphs 87G (3) (b) and 87M (5) (b) and sub-sections 87ZC (3) and 92 (1).

2. The *Public Service Act 1922* is further amended as set out in the following table:

Provision	Amendment
Sub-section 25 (1) . . .	Omit "Permanent Heads", substitute "Secretaries".
Sub-section 50 (1) . . .	Omit "in any Division other than the First Division", substitute "(other than an office of Secretary or a Senior Executive Service office)".
Sub-section 50 (4C) . . .	Omit "Permanent Head", substitute "relevant Secretary".
Schedule 3 . . . . .	Omit "PERMANENT HEADS OF DEPARTMENTS", substitute "SECRETARIES OF DEPARTMENTS".

**SCHEDULE 2**

Sub-section 110 (2)

**AMENDMENTS OF CERTAIN PROVISIONS OF THE PUBLIC SERVICE ACT 1922**

1. The following provisions of the *Public Service Act 1922* are amended by omitting "Permanent Head" (wherever occurring) and substituting "Secretary":

Sub-sections 30 (1) and (4), 47 (1) and 51A (1) and paragraph 62 (1) (b).

2. The *Public Service Act 1922* is further amended as set out in the following table:

Provision	Amendment
Sub-section 30 (2)	Omit "Permanent Heads", substitute "Secretaries".
Sub-section 30 (3)	Omit "Permanent Heads", substitute "Secretaries".
Heading to Subdivision B of Division 6 of Part III	Omit " <i>Permanent Heads</i> ", substitute " <i>Secretaries of Departments</i> ".
Heading to Subdivision C of Division 6 of Part III	Omit " <i>Permanent Heads</i> ", substitute " <i>Secretaries of Departments</i> ".
Section 56A (definition of "Minister")	Omit "section 33D", substitute "sub-section 33C (2)".

## SCHEDULE 3

Sub-section 110 (3)

AMENDMENTS OF CERTAIN PROVISIONS OF THE PUBLIC SERVICE ACT  
1922

1. The following provisions of the *Public Service Act 1922* are amended by omitting "Permanent Head" (wherever occurring) and substituting "Secretary":

Sub-sections 50 (1), (2), (3) and (4), 50A (2) and 50G (2), paragraphs 50J (1) (b) and (2) (a), section 50K, sub-sections 53 (1) and 53A (4) and section 56A (definition of "Permanent Head").

2. The *Public Service Act 1922* is further amended as set out in the following table:

Provision	Amendment
Heading to Subdivision D of Division 4 of Part III	Omit " <i>Permanent Heads</i> ", substitute " <i>Secretaries of Departments and Senior Executive Service Officers</i> ".

## SCHEDULE 4

Sub-section 151 (1)

CONSEQUENTIAL AMENDMENTS RELATING TO SECRETARIES OF  
DEPARTMENTS

1. Each of the Acts referred to in column 1 of the following table is amended by omitting from the provisions referred to in column 2 opposite to the reference to that Act "Permanent Head" (wherever occurring) and substituting "Secretary":

Column 1 Act	Column 2 Provision
<i>Aboriginal Land Rights (Northern Territory) Act 1978</i>	sub-section 23E (4)
<i>Acts Interpretation Act 1909</i> . . . . .	sub-sections 19B (3) and 19BA (3)
<i>Administrative Appeals Tribunal Act 1975</i> . .	section 67A
<i>Advisory Council for Inter-Government Relations Act 1976</i>	sub-section 16C (1)
<i>Albury-Wodonga Development Act 1973</i> . . .	sub-section 21 (3)
<i>Aliens Act 1947</i> . . . . .	section 18
<i>Atomic Energy Act 1953</i> . . . . .	sub-section 21 (3)
<i>Audit Act 1901</i> . . . . .	sub-sections 2AB (1) and (2), 50 (3) and 50 (6)
<i>Australian Bureau of Statistics Act 1975</i> . . .	sub-sections 16 (4) and (5)
<i>Australian Capital Territory Electricity Supply Act 1962</i>	sub-section 20 (3)
<i>Australian Centre for International Agricultural Research Act 1982</i>	sub-sections 30 (2) and (3) and 31 (1)
<i>Australian Heritage Commission Act 1975</i> . .	sub-sections 12 (1A) and 17 (1)
<i>Australian Institute of Multicultural Affairs Act 1979</i>	sub-section 36 (1)
<i>Australian Science and Technology Council Act 1978</i>	sub-sections 19 (2) and (3)

SCHEDULE 4—continued

Column 1 Act	Column 2 Provision
<i>Australian War Memorial Act 1980</i> . . . . .	sub-sections 27 (2) and (3) and 28 (1)
<i>Bankruptcy Act 1966</i> . . . . .	sub-sections 20C (1)
<i>Broadcasting and Television Act 1942</i> . . . . .	sub-sections 79Y (4) and (5)
<i>Child Care Act 1972</i> . . . . .	sub-sections 21 (1), (2) and (4)
<i>Commonwealth Employees (Redeployment and Retirement) Act 1979</i>	sub-section 3 (1) (definitions of "Department" and "office of Permanent Head"), sub-sections 9 (1) and 10 (1) and (3), paragraphs 11 (6) (b) and 12 (1) (g) and (h) and sub-sections 12 (2), 14 (1), 19 (1), 21 (1) and 25 (2)
<i>Commonwealth Tertiary Education Commission Act 1977</i>	sub-sections 38 (2) and (3)
<i>Curriculum Development Centre Act 1975</i> . . . . .	sub-sections 29 (2) and (3)
<i>Economic Planning Advisory Council Act 1983</i> . . . . .	sub-section 23 (1)
<i>Environment Protection (Alligator Rivers Region) Act 1978</i>	sub-sections 26 (2) and (3)
<i>Export Finance and Insurance Corporation Act 1974</i>	sub-section 84 (1)
<i>Freedom of Information Act 1982</i> . . . . .	sub-section 4 (1) (definition of "principal officer")
<i>Great Barrier Reef Marine Park Act 1975</i> . . . . .	sub-sections 40 (2) and (3) and 42 (2)
<i>Health Insurance Act 1973</i> . . . . .	sub-sections 3B (5), (6), (7), (8), (9) and (10), 130 (3), (6) and (7), section 130H and sub-sections 131 (1), (2) and (3)
<i>Health Insurance Commission Act 1973</i> . . . . .	section 29
<i>High Court of Australia Act 1979</i> . . . . .	sub-section 26 (6)
<i>Human Rights Commission Act 1981</i> . . . . .	sub-section 27 (2) and (3)
<i>Income Tax Assessment Act 1936</i> . . . . .	sub-section 265 (1)
<i>Industries Assistance Commission Act 1957</i>	sub-sections 43 (3) and (4)
<i>Inter-State Commission Act 1975</i> . . . . .	sub-sections 27 (2) and (3)
<i>Museum of Australia Act 1980</i> . . . . .	sub-sections 30 (2) and (3) and 31 (1)
<i>National Capital Development Commission Act 1979</i>	sub-section 15 (3) and paragraph 26 (b)
<i>National Companies and Securities Commission Act 1979</i>	sub-section 24 (1)
<i>National Health Act 1953</i> . . . . .	sub-section 4 (1) (definitions of "Director" and "restricted membership organization"), sub-sections 6 (1), (5), (6), (7) and

**SCHEDULE 4—continued**

Column 1 Act	Column 2 Provision
	<p>(8), sub-section 12 (1) (definition of “approved patient”), sub-sections 13 (1), (1A), (1B), (1C) and (3) and 14 (4) and (5), sections 15 and 16, sub-sections 18 (2A), 18A (1), 20 (2), (3) and (3A), 40AA (3A) and (3B), 40AD (1B), (1D) and (1E), 40AE (2), (3) and (5), 40AF (1), (3), (4) and (4A), sub-section 46 (1) (definition of “authorized”), sub-sections 48 (1) and (2), 50 (1) and (2), 51 (1), 58E (1), (3) and (8), 58F (1), (2) and (3) and 58GA (3) and (7), section 58H, sub-sections 58J (1) and (1A), sections 60A and 60B, sub-section 61 (2), paragraph 62 (1) (c), sub-paragraph 68 (2) (c) (iv), sub-section 69 (2), paragraph 70 (1) (b), section 71, sub-section 73 (5), paragraphs 73A (1) (b) and 73BB (7) (c), paragraph 73F (1) (b), sub-sections 73G (3), (4), (5), (6), (7), (8), (9) and (10) and 74 (1) and (7), section 74D, sub-sections 75 (1), (3) and (4), 76 (1) and (2), 76A (1), 77 (1), 78 (1), (3), (3A) and (3B), 81 (1), 84A (1), (2) and (3), 90 (1), (3), (4) and (5) and 92 (1) and (1A), paragraph 92A (1) (e), sub-sections 95 (4), (5) and (6) and 98 (1), (2), (3) and (4), paragraph 101 (1) (a), section 102, paragraph 103 (5) (a), sub-sections 104 (1), 104A (1), 105AAA (1) and (2), 105AB (7) and (7A), 105AC (1), 107 (1) and 108 (1) and (2), sections 109 and 111, paragraph 112AA (2) (a), sections 112AB, 112AD and 112B, sub-sections 113 (1) and (2), sections 114 and 116, sub-sections 125 (2) and 133 (1), paragraph 133 (2) (a), sub-sections 134 (3), 134A (1) and (3) and 135A (3), (6) and (7), section 138, sub-sections 139 (1) and 139A (1) and (1A) and paragraph (n) of the Schedule</p>



**SCHEDULE 4—continued**

Column 1 Act	Column 2 Provision
<i>National Library Act 1960</i> . . . . .	sub-section 17 (4)
<i>National Parks and Wildlife Conservation Act 1975</i>	paragraph 17E (3) (a) and sub-sections 17E (4), 34 (2) and (3) and 36 (2)
<i>Nursing Homes Assistance Act 1974</i> . . . . .	sub-sections 4 (3A) and (3B), section 7, sub-sections 12 (2) and (4), paragraphs 13 (1) (c) and (2) (b) and 14 (1) (a) and (b), sub-sections 15 (1), 32 (1) and 33 (1) and (1A), section 34 and sub-sections 35 (1), (5), (6), (7) and (8)
<i>Office of National Assessments Act 1977</i> . . . . .	section 3 (definition of “prescribed Commonwealth officer”) and sub-sections 17 (2), (3) and (4)
<i>Ombudsman Act 1976</i> . . . . .	sub-section 3 (1) (definition of “principal officer”), paragraph 3 (4) (a) and sub-sections 31 (2) and (3)
<i>Parliamentary Counsel Act 1970</i> . . . . .	sub-sections 16 (2) and (3)
<i>Petroleum Retail Marketing Sites Act 1980</i>	sub-section 3 (1) (definition of “authorized officer”)
<i>Port Statistics Act 1977</i> . . . . .	section 3 (definition of “Secretary”)
<i>Remuneration Tribunals Act 1973</i> . . . . .	sub-sections 7 (3) and 8 (4)
<i>Shipping Registration Act 1981</i> . . . . .	sub-section 48 (1)
<i>Superannuation Act 1976</i> . . . . .	sub-section 16 (13)
<i>Trade Practices Act 1974</i> . . . . .	sub-sections 27 (2) and (3)
<i>Tradesmen’s Rights Regulation Act 1946</i> . . . . .	sub-section 49 (1)

2. Each of the Acts referred to in column 1 of the following table is amended by omitting from the provision referred to in column 2 opposite to the reference to that Act “sub-sections 25 (5) and (6)” and substituting “section 26”:

Column 1 Act	Column 2 Provision
<i>Australian Bureau of Statistics Act 1975</i>	sub-section 16 (5)
<i>Australian Centre for International Agricultural Research Act 1982</i>	sub-section 30 (3)
<i>Australian Science and Technology Council Act 1978</i>	sub-section 19 (3)
<i>Australian War Memorial Act 1980</i> . . . . .	sub-section 27 (3)
<i>Commonwealth Tertiary Education Commission Act 1977</i> . . . . .	sub-section 38 (3)
<i>Curriculum Development Centre Act 1975</i> . . . . .	sub-section 29 (3)

## SCHEDULE 4—continued

Column 1 Act	Column 2 Provision
<i>Environment Protection (Alligator Rivers Region) Act 1978</i>	sub-section 26 (3)
<i>Great Barrier Reef Marine Park Act 1975</i> . . . . .	sub-section 40 (3)
<i>Human Rights Commission Act 1981</i> . . . . .	sub-section 27 (3)
<i>Industries Assistance Commission Act 1973</i> . . . . .	sub-section 43 (4)
<i>Inter-State Commission Act 1975</i> . . . . .	sub-section 27 (3)
<i>Museum of Australia Act 1980</i> . . . . .	sub-section 30 (3)
<i>National Parks and Wildlife Conservation Act 1975</i>	sub-section 34 (3)
<i>Office of National Assessments Act 1977</i> . . . . .	sub-section 17 (3)
<i>Ombudsman Act 1976</i> . . . . .	sub-section 31 (3)
<i>Parliamentary Counsel Act 1970</i> . . . . .	sub-section 16 (3)
<i>Trade Practices Act 1974</i> . . . . .	sub-section 27 (3)

3. Each of the Acts referred to in column 1 of the following table is amended as set out in column 2 opposite to the reference to that Act:

Column 1 Act	Column 2 Amendment
<i>Audit Act 1901</i> . . . . .	Omit from paragraph 50 (4) (c) "Permanent Heads", substitute "Secretaries".
<i>Commonwealth Employees (Redeployment and Retirement) Act 1979</i>	(1) Omit from sub-section 3 (1) the definition of "Permanent Head". (2) Insert after the definition of "redeployment declaration" in sub-section 3 (1) the following definition: " 'Secretary' means a person for the time being holding, or performing the duties of, an office of Secretary;".
<i>Health Insurance Act 1973</i> . . . . .	(1) Omit from sub-section 3 (1) the definition of "Permanent Head". (2) Insert after the definition of "registered person" in sub-section 3 (1) the following definition: " 'Secretary' means the Secretary of the Department;".
<i>National Health Act 1953</i> . . . . .	(1) Omit from sub-section 4 (1) the definition of "Permanent Head". (2) Insert after the definition of "restricted membership organization" in sub-section 4 (1) the following definition: " 'Secretary' means the Secretary of the Department;".
<i>Nursing Homes Assistance Act 1974</i>	(1) Omit from sub-section 4 (1) the definition of "Permanent Head".

**SCHEDULE 4—continued**

Column 1 Act	Column 2 Amendment
	(2) Insert after the definition of “registered nurse” in sub-section 3 (1) the following definition: “‘Secretary’ means the Secretary of the Department;”.
<i>Office of National Assessments Act 1977</i>	Omit from sub-section 12 (4) “Permanent Heads”, substitute “Secretaries”.
<i>Public Service Arbitration Act 1920</i>	Omit from section 16 “Permanent Heads”, substitute “Secretaries”.

**SCHEDULE 5**

Sub-section 152 (1)

**CONSEQUENTIAL AMENDMENTS RELATING TO TEMPORARY EMPLOYMENT**

***Atomic Energy Act 1953***

**Sub-section 5 (1) (paragraph (a) of the definition of “Commonwealth officer”)—**

Omit the paragraph and substitute the following paragraphs:

- “(a) an officer or employee within the meaning of the *Public Service Act 1922*;
- “(aa) a person permanently or temporarily employed in the Public Service of a Territory or in, or in connection with, the Defence Force, or by or as a member of the Commission or of another authority or body constituted by or under an Act; and”.

***Crimes Act 1914***

**Section 3 (paragraph (a) of the definition of “Commonwealth officer”)—**

Omit the paragraph and substitute the following paragraphs:

- “(a) an officer or employee within the meaning of the *Public Service Act 1922*;
- “(aa) a person permanently or temporarily employed in the Public Service of a Territory or in, or in connection with, the Defence Force, or in the Service of a public authority under the Commonwealth;”.

***Defence (Special Undertakings) Act 1952***

**Section 4 (definition of “Commonwealth officer”)—**

Omit the definition, substitute the following definition:

- “‘Commonwealth officer’ means a person holding office under, or employed by, the Commonwealth and includes—
- (a) an officer or employee within the meaning of the *Public Service Act 1922*;
- (b) a person permanently or temporarily employed or serving in the Public Service of a Territory, or in, or in connection with, the Defence Force, or in the service of an authority or body constituted by or under an Act;”.

**SCHEDULE 5—continued**

***Family Law Act 1975***

**Sub-section 4 (1) (paragraph (b) of the definition of “welfare officer”)**

Omit the paragraph, substitute the following paragraphs:

- “(b) an officer or employee, within the meaning of the *Public Service Act 1922*, performing duties in the Australian Public Service as a welfare officer;
- “(ba) a person who is permanently or temporarily employed as a welfare officer in the Public Service of a Territory;”.

***Financial Corporations Act 1974***

**Paragraph 27 (1) (d)—**

Omit “temporarily”.

***Norfolk Island Act 1979***

**Sub-section 13 (4)—**

Omit the sub-section, substitute the following sub-section:

- “(4) For the purposes of sub-section (3), a person who—
- (a) is an employee, within the meaning of the *Public Service Act 1922*;
- (b) is employed under a law relating to the Public Service of the Territory as a temporary employee; or
- (c) is employed under a law relating to the Public Service of a Territory or of the Commonwealth as an officer or employee to whom any provisions of that law do not apply,

shall be deemed to be employed in the Public Service of the Territory or of the Commonwealth, as the case requires.”.

***Remuneration Tribunals Act 1973***

**Paragraph 4 (4) (b)—**

Omit the paragraph, substitute the following paragraph:

- “(b) an officer or employee within the meaning of the *Public Service Act 1922*;”.

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**SCHEDULE 6**

Section 153

**CONSEQUENTIAL AMENDMENTS RELATING TO NATIONALITY  
REQUIREMENTS**

***Commonwealth Banks Act 1959***

**Paragraph 90 (1) (a)**

Omit “a British subject”, substitute “an Australian citizen”.

**Section 90**

After sub-section (1) insert the following sub-section:

“(1A) Where, in the opinion of the Corporation, it is desirable to do so for the more efficient operation of the Service or it is otherwise in the public interest to do so, the Corporation may, in writing, waive, for a specified period or otherwise, the requirements for appointment referred to in paragraphs (1) (a) and (b) in relation to—

- (a) the appointment of a specified person to any position in the Service; or
- (b) the appointment of any person to a specified position, or a position included in a specified class of positions, in the Service.”.

**SCHEDULE 6—continued**  
***Commonwealth Teaching Service Act 1972***

**Paragraph 20 (2) (a)**

Omit “a British subject”, substitute “an Australian citizen”.

**Section 20**

Omit sub-section (3), substitute the following sub-sections:

“(3) Where, in the opinion of the relevant authority, it is desirable to do so for the more efficient operation of the Service or it is otherwise in the public interest to do so, the relevant authority may, in writing, waive, for a specified period or otherwise, the requirements referred to in paragraphs (2) (a) and (e) in relation to—

- (a) the appointment of a specified person to any position in the Service; or
- (b) the appointment of any person to a specified position, or to a position included in a specified class of positions, in the Service.

“(3A) Notwithstanding sub-section (3), a waiver by the relevant authority under that sub-section is not effective unless and until the Minister has, in writing, approved the waiver.”.

**Section 23**

Omit sub-sections (2) and (3).

***Overseas Telecommunications Act 1946***

**Paragraph 18 (3) (a)**

Omit the paragraph.

**Paragraph 18 (3) (b)**

Add at the end of the paragraph “and”.

**Paragraph 18 (3) (c)**

Omit the paragraph.

***Reserve Bank Act 1959***

**Paragraph 68 (a)**

Omit “a British subject”, substitute “an Australian citizen”.

**Section 68**

Add at the end thereof the following sub-section:

“(2) Where, in the opinion of the Bank, it is desirable to do so for the more efficient operation of the Reserve Bank Service or it is otherwise in the public interest to do so, the Bank may, in writing, waive, for a specified period or otherwise, the requirements for appointment referred to in paragraphs (1) (a) and (b) in relation to—

- (a) the appointment of a specified person to any position in the Service; or
  - (b) the appointment of any person to a specified position, or a position included in a specified class of positions, in the Service.”.
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**NOTES**

1. No. 21, 1922, as amended. For previous amendments, see No. 46, 1924; No. 41, 1928; No. 19, 1930; No. 21, 1931; No. 72, 1932; No. 38, 1933; Nos. 45 and 46, 1934; No. 72, 1936; No. 41, 1937; No. 72, 1939; No. 88, 1940; No. 5, 1941; No. 19, 1943; Nos. 11, 29 and 43, 1945; No. 16, 1946; Nos. 1, 38, 52 and 84, 1947; Nos. 35 and 75, 1948; Nos. 51 and 80, 1950; Nos. 46 and 48, 1951; No. 22, 1953; No. 63, 1954; No. 18, 1955; Nos. 13 and 39, 1957; No. 11, 1958; Nos. 17 and 105, 1960; Nos. 2 and 75, 1964; Nos. 47 and 85, 1966; Nos. 2 and 115, 1967; Nos. 59, 114 and 120, 1968; No. 6, 1972; Nos. 21, 71, 73 and 209, 1973; No. 59, 1974; No. 40, 1975; Nos. 193 and 194, 1976; Nos. 6 and 80, 1977; Nos. 36 and 170, 1978; Nos. 52 and 155, 1979; No. 177, 1980; No. 61, 1981; Nos. 26 and 80, 1982; No. 111, 1982 (as amended by No. 39, 1983); and Nos. 39, 56 and 92, 1983.
2. No. 177, 1980.
3. No. 111, 1982.
4. No. 52, 1979, as amended. For previous amendments, see No. 155, 1979; Nos. 26, 61 and 92, 1981; No. 111, 1982; and Nos. 39 and 93, 1983.
5. No. 16, 1974, as amended. For previous amendments, see No. 118, 1977; No. 44, 1982; and No. 39, 1983.
6. No. 192, 1976, as amended. For previous amendments, see No. 9, 1978; Nos. 52 and 155, 1979; Nos. 6 and 61, 1981; and No. 141, 1983.
7. No. 00, 1984.
8. No. 215, 1973, as amended. For previous amendments, see No. 80, 1974; No. 96, 1975; No. 37, 1976; Nos. 60 and 178, 1978; Nos. 26, 108, 136 and 155, 1979; No. 160, 1980; Nos. 61, 74 and 176, 1981; Nos. 78 and 111, 1982; and Nos. 39 and 128, 1983.