



Industrial Relations Legislation Amendment Act 1991

No. 122 of 1991

TABLE OF PROVISIONS

PART 1—PRELIMINARY

Section

1. Short title
2. Commencement

PART 2—AMENDMENTS OF THE COMMONWEALTH EMPLOYEES' REHABILITATION AND COMPENSATION ACT 1988

3. Principal Act
4. Interpretation
5. Normal weekly earnings
6. Insertion of new section:
 - 41A. Delegation by rehabilitation authority
7. Compensation not payable where damages recovered
8. Costs of proceedings before Administrative Appeals Tribunal
9. Appointment of members
10. Contracts
11. Repeal of sections 96, 97 and 98
12. Insertion of new Division:

Division 4A—Premiums

96. Estimates of premiums
- 96A. Amount of premium
- 96B. Estimate of premium for certain Commonwealth authorities
- 96C. Information to be given to Commission
- 96D. Review by Commission
- 96E. Estimates to be submitted to Minister for approval

TABLE OF PROVISIONS—*continued*

Section

- 96F. Review by Minister
- 96G. Approval and payment
- 96H. Variation of estimate
- 96J. Discounts and surcharges
- 96K. Commission to specify proposed surcharge
- 97. Penalty for late payment
- 98. Limitation of Minister's power to give certain directions
- 13. Administering authorities
- 14. Disallowable instruments
- 15. Insertion of new section:
 - 123A. Injuries suffered before the commencing day
- 16. Application of Act to pre-existing injuries
- 17. Notices, claims etc. under previous Acts
- 18. Insertion of new section:
 - 128A. Commission's liability to be discharged by prescribed Commonwealth authorities in some cases
- 19. Application for review and other proceedings under previous Acts
- 20. Insertion of new section:
 - 129A. Reconsideration and review of certain determinations under 1971 Act
- 21. Validation

PART 3—AMENDMENTS OF THE REMUNERATION TRIBUNAL ACT
1973

- 22. Principal Act
- 23. Title
- 24. Interpretation
- 25. Establishment of Remuneration Tribunal
- 26. Insertion of new section:
 - 4B. Disclosure of interest by Tribunal members
- 27. Inquiries and reports by Tribunal
- 28. Inquiries and determinations by Tribunal
- 29. Time of making reports and determinations
- 30. Insertion of new section:
 - 8A. Time of making recreation leave determinations

PART 4—AMENDMENTS OF OTHER ACTS

- 31. Consequential amendments

SCHEDULE

CONSEQUENTIAL AMENDMENTS OF OTHER ACTS



Industrial Relations Legislation Amendment Act 1991

No. 122 of 1991

An Act to amend the *Commonwealth Employees' Rehabilitation and Compensation Act 1988* and the *Remuneration Tribunal Act 1973*, and for other purposes

[Assented to 27 June 1991]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Industrial Relations Legislation Amendment Act 1991*.

Commencement

2. (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Subsection 4 (1), paragraph 10 (b) and sections 15, 16, 17, 18, 19 and 20 are taken to have commenced on 1 December 1988.

(3) Subject to subsection (4), paragraphs 28 (b), (c), (d) and (e) and sections 30 and 31 commence on a day or days to be fixed by Proclamation.

(4) If a provision referred to in subsection (3) does not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences at the end of that period.

**PART 2—AMENDMENTS OF THE COMMONWEALTH
EMPLOYEES' REHABILITATION AND COMPENSATION ACT
1988**

Principal Act

3. In this Part, "**Principal Act**" means the *Commonwealth Employees' Rehabilitation and Compensation Act 1988*¹.

Interpretation

4. (1) Section 4 of the Principal Act is amended:

(a) by omitting paragraph (b) of the definition of "injury" in subsection (1) and substituting the following paragraphs:

"(b) an injury (other than a disease) suffered by an employee, being a physical or mental injury arising out of, or in the course of, the employee's employment; or

(c) an aggravation of a physical or mental injury (other than a disease) suffered by an employee (whether or not that injury arose out of, or in the course of, the employee's employment), being an aggravation that arose out of, or in the course of, that employment;"

(b) by omitting "or injury" from the definition of "injury" in subsection (1) and substituting ", injury or aggravation".

(2) Section 4 of the Principal Act is amended:

(a) by omitting "or" from paragraph (b) of the definition of "Commonwealth authority" in subsection (1);

(b) by inserting "a Territory (other than the Northern Territory)," after "Commonwealth," in subparagraph (c) (ii) of the definition of "Commonwealth authority" in subsection (1);

(c) by adding at the end of the definition of "Commonwealth authority" in subsection (1) the following word and paragraph:
"; or (d) a body corporate:

(i) in which a body corporate declared under paragraph (c) has a controlling interest; and

(ii) that is declared by the Minister, by notice in writing, to be a body corporate to which this Act applies;"

(d) by inserting "osteopath," after "physiotherapist," and "osteopaths," after "physiotherapists," in paragraph (d) of the definition of "medical treatment" in subsection (1);

(e) by inserting in subsection (1) the following definition:

“‘**premium**’ means an amount approved by the Minister in respect of a Department or Commonwealth authority for a financial year under Division 4A of Part VII;”.

(3) Section 4 of the Principal Act is amended by adding at the end of the definition of “employee” the following:

“, and also applies to persons 65 years of age or older”.

Normal weekly earnings

5. Section 8 of the Principal Act is amended by omitting from subsection (3) “, temporary employment”.

6. After section 41 of the Principal Act the following section is inserted in Part III:

Delegation by rehabilitation authority

“41A. A rehabilitation authority who is the Secretary to a Department or the principal officer of a Commonwealth authority may, in writing, delegate to an officer of, or a person employed by, that Department or Commonwealth authority all or any of the powers and functions of the rehabilitation authority under this Part.”.

Compensation not payable where damages recovered

7. Section 48 of the Principal Act is amended by inserting after subsection (4) the following subsection:

“(4A) Subsection (3) does not apply where the damages were recovered in proceedings instituted by the employee as a result of an election by the employee under section 45, or by way of a settlement of such proceedings.”.

Costs of proceedings before Administrative Appeals Tribunal

8. (1) Section 67 of the Principal Act is amended:

(a) by inserting in subsection (8) “instituted by the claimant” after “proceedings”;

(b) by inserting after subsection (8) the following subsection:

“(8A) Subject to this section, the Administrative Appeals Tribunal may order that the costs incurred by the claimant of any proceedings instituted by the Commonwealth be paid by:

(a) if the Tribunal varies the relevant reviewable decision in a manner less favourable to the claimant, or sets aside the relevant reviewable decision and substitutes a decision that is less favourable to the claimant—the determining authority; or

(b) in any other case—the Commonwealth.”;

(c) by inserting in subsection (10) “, (8A)” after “(8)”.

(2) Where, before the commencement of this section, the Administrative Appeals Tribunal made an order for payment of costs

Industrial Relations Legislation Amendment No. 122, 1991

in proceedings under the Principal Act instituted by the Commonwealth, being an order of the kind mentioned in subsection 67 (8A) of the Principal Act as amended by this Act:

- (a) the order is, for all purposes, taken to have been validly made; and
 - (b) an amount paid before that commencement under any such order is taken to have been payable when it was so paid.
- (3) Where, before the commencement of this section:
- (a) the Commonwealth, or a determining authority within the meaning of Part VI of the Principal Act, paid all or part of the costs incurred by a claimant within the meaning of that Part of any proceedings under that Part; and
 - (b) the payment was not made under section 67 of the Principal Act or under an order made by the Administrative Appeals Tribunal under that section;

the payment is taken to have been validly made.

Appointment of members

9. Section 76 of the Principal Act is amended by omitting subsection (3).

Contracts

10. Section 94 of the Principal Act is amended:

- (a) by omitting "\$100,000" and substituting "\$500,000";
- (b) by adding at the end the following subsection:

"(2) This section does not apply in relation to an investment of money of the Commission under subsection 91 (4)."

Repeal of sections 96, 97 and 98

11. (1) Sections 96, 97 and 98 of the Principal Act are repealed.

(2) In spite of the repeal of sections 96, 97 and 98 of the Principal Act by this Act, those sections continue to apply on and after the commencing day in relation to the financial year that started on 1 July 1990.

(3) Where, immediately before the commencing day, the contribution of a Department or Commonwealth authority was being paid or transferred by instalments, the Commission may, within 21 days after that day, by notice in writing:

- (a) notify the Secretary to the Department, or the principal officer of the authority, that if the outstanding amount of the contribution is paid or transferred within 21 days after the date of the notice, no surcharge will be payable on the outstanding amount; and
- (b) specify the amount of the surcharge that will be payable, or the rate at which it will be payable, if the outstanding amount, or any part of it, is not so paid or transferred.

Industrial Relations Legislation Amendment No. 122, 1991

(4) A surcharge is not payable if the outstanding amount of contribution of a Department or Commonwealth authority is paid or transferred in accordance with a notice under subsection (3).

(5) If the outstanding amount of contribution of a Department or Commonwealth authority, or any part of it, is not paid or transferred in accordance with a notice under subsection (3), surcharge is payable on that amount, or any part of it that has not been so paid or transferred.

(6) A surcharge is payable as a single amount, or at a rate, determined by the Commission.

(7) The Commission must not determine an amount that is more than the amount specified in the notice under subsection (3) or a rate that is more than the rate so specified.

(8) An amount or amounts of surcharge payable by a Department or Commonwealth authority under this section must be paid into, or transferred within, the Consolidated Revenue Fund in accordance with the directions of the Commission.

(9) Where, immediately before the commencing day, an amount of contribution had not been paid or transferred in accordance with paragraph 98 (b) of the Principal Act, interest is payable on the amount at the prescribed rate applicable from time to time in respect of each day after the commencing day on which the amount is not so paid or transferred.

(10) In this section:

“commencing day” means the day on which this section commences;

“prescribed rate” means the rate that at any particular time is 2 percentage points higher than the yield applicable at that time in respect of 3-year non-rebate Commonwealth Treasury bonds.

12. After Division 4 of Part VII of the Principal Act the following Division is inserted:

“Division 4A—Premiums

Estimates of premiums

“96. The Commission must prepare an estimate, in such form as the Minister directs, of the amount of premium of each Department or Commonwealth authority (other than an administering authority) for the financial year starting on 1 July 1991 and for each later financial year.

Amount of premium

“96A. (1) Subject to section 96B, in estimating the amount of the premium of a Department or Commonwealth authority for a financial year, the Commission must have regard to:

Industrial Relations Legislation Amendment No. 122, 1991

- (a) the prescribed amount; and
 - (b) any penalty amount or bonus amount;
- in relation to the Department or authority for that year.

“(2) In this section:

‘bonus amount’, in relation to a Department or Commonwealth authority for a financial year, means the amount (if any) determined by the Commission to be an appropriate amount to be deducted from the prescribed amount in relation to the Department or authority for that year, having regard to:

- (a) the number of claims made by, or in relation to, employees of the Department or authority in each previous financial year; and
- (b) the amount of compensation paid to, or in relation to, such employees under this Act; and
- (c) the nature and extent of any rehabilitation programs provided by the Department or authority to such employees under Part III; and
- (d) the nature and extent of any occupational health and safety programs provided by the Department or authority for its employees;

‘penalty amount’, in relation to a Department or Commonwealth authority for a financial year, means the amount (if any), determined by the Commission to be an appropriate amount to be added to the prescribed amount in relation to the Department or authority for that year, having regard to:

- (a) the number of claims made by, or in relation to, employees of the Department or authority in each previous financial year; and
- (b) the amount of compensation paid to, or in relation to, such employees under this Act; and
- (c) the nature and extent of any rehabilitation programs provided by the Department or authority to such employees under Part III; and
- (d) the nature and extent of any occupational health and safety programs provided by the Department or authority for its employees;

‘prescribed amount’, in relation to a Department or Commonwealth authority for a financial year, means an amount worked out using the formula:

$$\text{Estimated liability} + \text{Estimated administrative costs}$$

where:

‘Estimated liability’ means the estimated amount of the Commission’s liability under this Act in respect of the number of injuries that the Commission estimates will be sustained by employees of the Department

or authority during that financial year, being an amount estimated by the Commission using such methods and having regard to such matters (if any) as the Minister directs;

'Estimated administrative costs' means the estimated administrative costs of the Commission during that year that are reasonably attributable to the Department or authority, having regard to the estimated number of claims made in respect of those injuries.

Estimate of premium for certain Commonwealth authorities

"96B. When a Commonwealth authority is liable under section 128A to pay an amount in respect of an injury, loss or damage suffered by one of its employees, the Commission, in estimating the amount of the premium of the authority for a financial year, must disregard:

- (a) any claim relating to that injury, loss or damage; and
- (b) any amount paid by the authority under section 128A in respect of that injury, loss or damage.

Information to be given to Commission

"96C. (1) The Secretary to each Department, and the principal officer of each Commonwealth authority (other than an administering authority), must give the Commission, within 14 days after this section commences, a written estimate of the amount to be paid to employees of the Department or authority, as the case may be, by way of salary, wages or pay during the financial year starting on 1 July 1991.

"(2) The Secretary to each Department, and the principal officer of each Commonwealth authority (other than an administering authority), must give the Commission, not later than the prescribed day in 1992 and in each later year, a written estimate of the amount to be paid to employees of the Department or authority, as the case may be, by way of salary, wages or pay during the next financial year.

"(3) The Secretary to a Department, or the principal officer of a Commonwealth authority, must, on written request by the Commission, give the Commission the information specified in the request, being information needed by the Commission to enable it to prepare an estimate under section 96 in relation to the Department or authority.

"(4) Where, before this section commences, the Secretary to a Department, or the principal officer of a Commonwealth authority, has given the Commission a written estimate of the amount mentioned in subsection (1), the Secretary or principal officer is, on and after that commencement, taken to have complied with that subsection.

"(5) In this section:

'prescribed day', in relation to a year, means 30 April in that year, or if the regulations specify another day for the purposes of this definition, the day so specified in that year.

Review by Commission

“96D. (1) Where the Commission prepares an estimate under section 96, the Commission must give a copy of the estimate to the Secretary to the Department, or the principal officer of the Commonwealth authority, to which the estimate relates.

“(2) If the Secretary or principal officer objects to the estimate, the Secretary or principal officer may, by written notice of objection given to the Commission within 14 days after receipt of the copy of the estimate, ask the Commission to review the estimate.

“(3) A notice of objection must set out the grounds of the objection.

“(4) The Commission must, as soon as practicable after receiving a notice of objection:

- (a) review the estimate to which the notice relates; and
- (b) notify in writing the Secretary to the Department, or the principal officer of the Commonwealth authority, concerned of the result of the review.

“(5) The Commission may, having reviewed an estimate, confirm it, or vary it in such manner as the Commission thinks fit.

Estimates to be submitted to Minister for approval

“96E. (1) Where the Commission is not required to review an estimate under section 96D, the Commission must submit the estimate to the Minister for approval as soon as practicable after the end of the period of 14 days mentioned in subsection 96D (2).

“(2) Where the Commission reviews an estimate under section 96D, the Commission must:

- (a) submit the estimate (or the estimate as varied as a result of the review) to the Minister for approval as soon as practicable after completing the review; and
- (b) notify the Secretary to the Department, or the principal officer of the Commonwealth, to which the estimate relates that the estimate has been submitted to the Minister.

Review by Minister

“96F. (1) Where:

- (a) an estimate in relation to a Department or a Commonwealth authority has been reviewed under section 96D; and
- (b) the Secretary to the Department, or the principal officer of the authority, objects to the estimate (or the estimate as varied as a result of the review);

the Secretary or principal officer may, by written notice of objection given to the Minister within 14 days after the date of the notice mentioned in paragraph 96E (2) (b), ask the Minister to review the estimate, or the estimate as so varied, as the case may be.

“(2) A notice of objection must set out the grounds of the objection.

“(3) On receipt of a notice of objection, the Minister must review the estimate, or the estimate as varied under section 96D, and may confirm it, or vary it in such manner as the Minister thinks fit.

Approval and payment

“96G. (1) Where an estimate that has been reviewed under section 96D is submitted to the Minister for approval, the Minister must not approve the estimate before the end of the period of 14 days after the day on which the Minister receives the estimate.

“(2) Where the Minister approves an estimate (or an estimate as varied under section 96D or 96F) in relation to a Department or Commonwealth authority for a financial year:

- (a) the Commission must notify the Secretary to the Department, or the principal officer of the authority, accordingly; and
- (b) the approved amount is the premium of the Department or authority for that financial year; and
- (c) the Secretary or principal officer must comply with the Minister’s direction with respect to the payment into or transfer within the Consolidated Revenue Fund, as the case requires, of an amount equal to, or amounts that together add up to, the premium.

“(3) Subject to this section but without otherwise limiting the power of the Minister to give directions to a Secretary or principal officer under subsection (2), the Minister may direct that:

- (a) the whole, or a specified part or parts, of the premium be paid or transferred before the beginning of the financial year to which the premium relates; or
- (b) the premium be paid or transferred in specified instalments and at specified times, or during specified financial years, including a financial year occurring after the financial year to which the premium relates.

“(4) The Minister may, on a written request of a Secretary to a Department, or the principal officer of a Commonwealth authority, vary a direction given to the Secretary or principal officer under this section.

Variation of estimate

“96H. (1) The Commission may, in writing, vary an estimate approved by the Minister under this Division by altering the estimated amount of the premium of the Department or Commonwealth authority to which the estimate relates if, but only if:

- (a) there is an error in information given to the Commission under section 96C, being an error that affected the determination of the estimated amount; or

- (b) the Commission has made an error in determining the estimated amount; or
- (c) there is a significant change in the number of persons employed by the Department or authority during the financial year to which the estimate relates; or
- (d) there is a significant change in the estimated amount of salary, wages or pay payable to those persons during that year.

“(2) Where the Commission varies an estimate, it must send a copy of the variation to the Secretary to the Department, or the principal officer of the Commonwealth authority, to which the estimate relates, together with a statement of the reasons for the variation.

“(3) Subsections 96D (2), (3), (4) and (5) and sections 96E and 96F apply to a variation of an estimate in the same way they apply to an estimate.

“(4) Where a variation of an estimate, being a variation that has been reviewed by the Commission, is submitted to the Minister for approval, the Minister must not approve the variation before the end of the period of 14 days after the day on which the Minister receives the variation.

“(5) Where the Minister approves a variation of an estimate (or such a variation as varied as a result of a review by the Commission or the Minister):

- (a) the Commission must notify the Secretary to the Department, or the principal officer of the Commonwealth authority, to which the variation relates of the approval; and
- (b) the premium of the Department or authority is taken to be the varied amount as so approved by the Minister; and
- (c) the Minister may vary any direction given under paragraph 96G (2) (c) in relation to the premium in such a manner as the Minister thinks necessary.

“(6) A variation of an estimate has no effect unless and until it is approved by the Minister under this section.

“(7) Where:

- (a) an amount equal to the premium of a Department or Commonwealth authority for a financial year has been paid into, or transferred within, the Consolidated Revenue Fund in accordance with a direction of the Minister; and
- (b) the amount of the premium is later reduced as a result of a variation under this section;

the Department or authority is entitled to an amount equal to the difference between the amount so paid or transferred and the reduced amount.

Industrial Relations Legislation Amendment No. 122, 1991

“(8) An amount to which a Department or authority is entitled under subsection (7) must, as the case requires, be:

- (a) paid out of the Consolidated Revenue Fund, which is appropriated accordingly; or
- (b) transferred within that Fund in accordance with the directions of the Minister.

Discounts and surcharges

“96J. (1) A premium may be discounted by such amount as the Commission thinks appropriate where the whole or part of the premium (less the amount of the discount) is paid or transferred before the day on which that payment or transfer must be made under a direction by the Minister, or such a direction as varied.

“(2) Subject to this section, the Commission may, by notice in writing, require a Department or a Commonwealth authority to pay a surcharge in relation to a financial year where:

- (a) the premium of the Department or authority for that financial year is paid or transferred after 30 September in that year; or
- (b) the premium is paid or transferred by instalments.

“(3) Subsection (2) does not apply where:

- (a) the payment or transfer of a premium was made in accordance with the manner, and at the time or times, described in a notice given to the Commission under subsection 96K (1); and
- (b) the Commission had notified the Secretary to the relevant Department, or the principal officer of the relevant Commonwealth authority, under subsection 96K (2) that no surcharge would be payable if the premium were so paid or transferred.

“(4) The Commission may require a surcharge to be paid as a single amount, or at a rate, determined by the Commission.

“(5) Where the Commission has specified an amount or rate in a notice relating to a Department or Commonwealth authority under subsection 96K (2), the Commission must not require the Department or authority:

- (a) if a lump sum was so specified—to pay a larger amount by way of surcharge or to pay surcharge at a particular rate; and
- (b) if a rate was so specified—to pay surcharge at a higher rate or as a single amount.

“(6) Any amount or amounts of surcharge payable by a Department or Commonwealth authority in relation to a financial year must be paid into, or transferred within, the Consolidated Revenue Fund in accordance with the directions of the Commission.

Commission to specify proposed surcharge

“96K. (1) The Secretary to a Department, or the principal officer of a Commonwealth authority, may, before making a request under paragraph 98 (1) (b) or subsection 98 (2), by written notice:

- (a) notify the Commission of the manner in which, and the time or times when, it is proposed to pay or transfer the premium of the Department or authority for a particular financial year; and
- (b) require the Commission to specify the amount of surcharge (if any) that would be payable, or the rate (if any) at which surcharge would be payable, under section 96J if the premium were so paid or transferred.

“(2) On receipt of a notice, the Commission must, in writing:

- (a) specify an amount or rate accordingly; or
- (b) notify the Secretary or principal officer that no surcharge would be payable if the premium were paid or transferred in accordance with the manner, and at the time or times, described in the notice.

Penalty for late payment

“97. (1) If an amount of premium is not paid or transferred in accordance with a direction of the Minister, or such a direction as varied, interest is payable on the amount, at such rate as is from time to time specified by the Minister by notice in the *Gazette*, in respect of each day on which the amount is not so paid or transferred.

“(2) An amount of interest is not payable under this section if it is less than \$100.

Limitation of Minister’s power to give certain directions

“98. (1) The Minister must not give a direction under subsection 96G (2), or vary such a direction, if compliance with the direction, or the direction as so varied, would involve the possible payment of a surcharge under paragraph 96J (2) (a), unless:

- (a) when the direction was given, or the variation was made, it would not have been possible to give a direction, or make a variation, involving payment or transfer of the amount of the premium concerned on or before 30 September in the financial year to which the premium relates; or
- (b) where paragraph (a) does not apply—the direction or variation was requested in writing by the Secretary to the Department, or the principal officer of the Commonwealth authority, concerned.

“(2) The Minister must not give a direction under subsection 96G (2), or vary such a direction, if compliance with the direction, or the direction as so varied, would involve the possible payment of a

surcharge under paragraph 96J (2) (b), unless the direction or variation was requested in writing by the Secretary to the Department, or the principal officer of the Commonwealth authority, concerned.”.

Administering authorities

13. Section 101 of the Principal Act is amended by omitting from paragraph (2) (e) “the contribution of the authority under section 98” and substituting “premium paid or transferred in relation to the authority in accordance with a direction of the Minister under section 96G, or such a direction as varied under section 96H,”.

Disallowable instruments

14. (1) Section 121 of the Principal Act is amended by inserting “97 (1),” after “57 (b),”.

(2) Section 121 of the Principal Act is amended by omitting “or (c)” and substituting “, (c) or (d)”.

15. After section 123 of the Principal Act the following section is inserted in Division 1 of Part X:

Injuries suffered before the commencing day

“123A. A reference in this Part to an injury suffered before the commencing day is a reference to an injury within the meaning of whichever of the 1912 Act, the 1930 Act or the 1971 Act was in force when the injury was suffered, as that Act was then in force.”.

Application of Act to pre-existing injuries

16. Section 124 of the Principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) Subject to this Part, a person is entitled to compensation under this Act in respect of an injury, loss or damage suffered before the commencing day if compensation was, or would have been, payable to the person in respect of that injury, loss or damage under the 1912 Act, the 1930 Act or the 1971 Act.”.

Notices, claims etc. under previous Acts

17. Section 126 of the Principal Act is amended by omitting from subsection (4) “subsection” and substituting “section”.

18. After section 128 of the Principal Act the following section is inserted:

Commission’s liability to be discharged by prescribed Commonwealth authorities in some cases

“128A. (1) In spite of anything in this Act, an amount that the Commission is liable to pay under this Act in respect of any injury, loss or damage suffered before 1 July 1989 (whether or not suffered

before the commencing day) by an employee of a prescribed Commonwealth authority must be paid by the authority and any such payment operates, to the extent of the payment, as a discharge of the Commission's liability.

“(2) An action or proceeding does not lie against the Commission for recovery of an amount mentioned in subsection (1), but such an action or proceeding may be brought against the prescribed Commonwealth authority concerned.

“(3) Nothing in this Act requires the Commission to prepare an estimate in relation to a prescribed Commonwealth authority for any period before the financial year starting on 1 July 1989.

“(4) In this section:

‘prescribed Commonwealth authority’ means any of the following authorities, however subsequently named, constituted or established, or any person or body that becomes liable to discharge the liabilities of such an authority:

- (a) Aboriginal Hostels Limited;
- (b) A.C.T. Electricity and Water;
- (c) Army and Airforce Canteen Service;
- (d) Australian Airlines Limited;
- (e) Australian Dairy Corporation;
- (f) Australian Dried Fruits Corporation;
- (g) Australian Honey Board;
- (h) Australian Horticultural Corporation;
- (i) Australian Meat and Livestock Corporation;
- (j) Australian National Railways Commission;
- (k) Australian National University;
- (m) Australian Pork Corporation;
- (n) Australian Shipping Commission;
- (p) Australian Tobacco Board;
- (q) Australian Wheat Board;
- (r) Australian Wine and Brandy Corporation;
- (s) Australian Wool Corporation;
- (t) Central Land Council;
- (u) Civil Aviation Authority;
- (v) Commonwealth Banking Corporation;
- (w) Commonwealth Serum Laboratories Commission;
- (x) Coselco Insurance Pty Ltd;
- (y) Coselco Mimotopes Pty Ltd;
- (z) Federal Airports Corporation;
- (za) Horticultural Research and Development Corporation;
- (zb) Housing Loans Insurance Corporation;

- (zc) National Exhibition Centre Trust;
- (zd) Northern Land Council;
- (ze) Snowy Mountains Engineering Corporation;
- (zf) Snowy Mountains Hydro-electric Authority;
- (zg) Superannuation Fund Investment Trust;
- (zh) Overseas Telecommunications Commission (Australia);
- (zi) The Pipeline Authority;
- (zj) Reserve Bank of Australia;
- (zk) Telecom Australia (International) Limited.”.

Application for review and other proceedings under previous Acts

19. Section 129 of the Principal Act is amended:

(a) by inserting after paragraph (1) (a) the following paragraph:

“(aa) the determination were a determination by the Commission within the meaning of Part VI of this Act; and”;

(b) by adding at the end the following subsection:

“(3) Where proceedings under Part V of the 1971 Act in relation to a determination are continued under subsection (2), Part VI of this Act applies to the proceedings as if the determination were a reviewable decision by the Commission within the meaning of Part VI of this Act.”.

20. After section 129 of the Principal Act the following section is inserted:

Reconsideration and review of certain determinations under 1971 Act

“129A. (1) The Commission may, on its own motion, reconsider under section 62 of this Act a determination under the 1971 Act having effect immediately before the commencing day but not covered by subsection 129 (1) and, for that purpose, section 62 of this Act applies as if:

- (a) the person in respect of whom the determination was made were a claimant under this Act; and
- (b) the determination were a determination by the Commission within the meaning of Part VI of this Act.

“(2) Part VI of this Act applies to a decision of the Commission on a reconsideration of a determination mentioned in subsection (1) as if the decision were a reviewable decision by the Commission within the meaning of that Part.”.

Validation

21. In spite of anything in the *Acts Interpretation Act 1901*, the notice of the Minister of State for Industrial Relations relating, among other things, to the definition of “Commonwealth authority” in

subsection 4 (1) of the Principal Act, being the notice dated 7 August 1989 and published in the *Gazette* on 23 August 1989, is taken to be valid for all purposes.

PART 3—AMENDMENTS OF THE REMUNERATION TRIBUNAL ACT 1973

Principal Act

22. In this Part, “Principal Act” means the *Remuneration Tribunal Act 1973*².

Title

23. The title of the Principal Act is amended by inserting “, and recreation leave entitlements,” after “allowances”.

Interpretation

24. Section 3 of the Principal Act is amended:

- (a) by omitting paragraph (4) (fb);
- (b) by omitting from paragraph (4) (q) “(other than an executive education officer)”;
- (c) by omitting paragraph (4) (r) and substituting the following paragraph:
 - “(r) an office or appointment in the Defence Force other than an appointment as:
 - (i) Chief of the Defence Force; or
 - (ii) Vice Chief of the Defence Force; or
 - (iii) Chief of Naval Staff; or
 - (iv) Chief of the General Staff; or
 - (v) Chief of the Air Staff;”.

Establishment of Remuneration Tribunal

25. Section 4 of the Principal Act is amended by omitting from subsection (4) “7 years” and substituting “12 months”.

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

Disclosure of interest by Tribunal members

“4B. (1) Where the Chairman is taking part, or is to take part, in the consideration of a matter by the Tribunal and the Chairman has or acquires any interest, pecuniary or otherwise, that could conflict with the proper performance of his or her functions in relation to the matter:

- (a) the Chairman must, in writing, disclose the interest to the Minister; and
- (b) the Chairman must not take part, or continue to take part, in

Industrial Relations Legislation Amendment No. 122, 1991

the consideration of the matter, unless the Minister consents in writing.

“(2) Where a member other than the Chairman is taking part, or is to take part, in the consideration of a matter by the Tribunal and the member has or acquires an interest, pecuniary or otherwise, that could conflict with the proper performance of the member’s functions in relation to the matter:

- (a) the member must, in writing, disclose the interest to the Chairman; and
- (b) the member must not take part, or continue to take part, in the consideration of the matter, if the Chairman gives a direction under subsection (3).

“(3) Where the Chairman becomes aware:

- (a) that a member is taking part, or is to take part, in the consideration of a matter by the Tribunal; and
- (b) that the member has, in relation to the consideration of the matter, an interest referred to in subsection (2);

then, if the Chairman considers that the member should not take part, or continue to take part, in the consideration of the matter, the Chairman is to give a direction in writing to the member accordingly.”.

Inquiries and reports by Tribunal

27. Section 6 of the Principal Act is amended by omitting subsection (2A) and substituting the following subsection:

“(2A) The Tribunal, from time to time as provided by this Part, is to inquire into, and report to the Minister on, the rates of salaries in relation to:

- (a) Vice-Chancellors, Principals and other chief executive officers of higher education institutions (other than Commonwealth higher education institutions); and
- (b) deputies (however described) of officers referred to in paragraph (a);

that should be used as a basis for making grants in relation to recurrent expenditure in connection with those institutions, and the dates as from which those rates of salary should be so used.”.

Inquiries and determinations by Tribunal

28. Section 7 of the Principal Act is amended:

- (a) by inserting after subsection (2) the following subsection:

“(2A) The Tribunal, from time to time as provided by this Part, is to inquire into, and determine, the rate of salary payable to a person holding an executive education office.”;

- (b) by inserting after subsection (3) the following subsections:

Industrial Relations Legislation Amendment No. 122, 1991

“(3AA) The Tribunal, as provided by this Part, is to inquire into, and determine, the recreation leave entitlements of the full-time holders of relevant offices other than holders of those offices who are members of, or candidates for election to, either House of the Parliament.

“(3AB) For the purposes of subsection (3AA), a relevant office is a public office in relation to which a law of the Commonwealth provides that the holder of the office has such recreation leave entitlements as are determined by the Tribunal.

“(3AC) The holder of a public office that is a relevant office within the meaning of subsection (3AA) may take recreation leave only with the approval of the person, authority or body, or a delegate of the person, authority or body, who may, under a law of the Commonwealth, grant leave of absence other than recreation leave to the holder of that office.

“(3AD) Where a law of the Commonwealth does not specify a person, authority or body who may grant leave of absence other than recreation leave to the holder of such an office, the Tribunal may specify a person, authority or body whose approval is required in relation to the taking of recreation leave by the holder of that office.”;

- (c) by inserting in subsection (3A) “or (3AA)” after “subsection (3)”;
- (d) by omitting subsection (3B) and substituting the following subsections:

“(3B) The Tribunal may determine that the remuneration to be paid to the holder of an office is the same as that of the holder of another office referred to in the determination, including another office the remuneration payable to the holder of which is determined by some other Commonwealth tribunal or authority.

“(3C) The Tribunal may determine that the recreation leave entitlements of the full-time holder of a public office are the same as those of the holder of another office referred to in the determination, including another office the entitlements of the holder of which are determined by some other Commonwealth tribunal or authority.

“(3D) The Tribunal may determine that the rate of salary to be paid to the holder of an executive education office is the same as that of the holder of another office referred to in the determination, including another office the rate of salary payable to the holder of which is determined by some other Commonwealth tribunal or authority.”;

- (e) by omitting from subsection (4) “or (3)” and substituting “(2A), (3) or (3AA)”;
- (f) by omitting from subsection (9) “Remuneration or allowances to which” and substituting “Remuneration (including salary) or allowances to which”;
- (g) by inserting after paragraph (9) (acb) the following paragraph:
 - “(acc) in the case of salary or allowances payable to a person who holds an executive education office in a Commonwealth higher education institution, where the institution has funds under its control that are lawfully available to pay the salary or allowances—be paid in accordance with the determination out of those funds;”;
- (h) by omitting the paragraph numbered (9) (ad) inserted by the *Industrial Relations (Consequential Provisions) Act 1988*.

Time of making reports and determinations

29. Section 8 of the Principal Act is amended by inserting in paragraph (1) (b) “, (2A)” after “(2)”.

30. After section 8 of the Principal Act insert the following section:

Time of making recreation leave determinations

“8A. (1) Subject to this section, the Tribunal may, from time to time, make determinations in respect of the matters referred to in subsection 7 (3AA).

“(2) Where:

- (a) a public office becomes a relevant office within the meaning of subsection 7 (3AA) and is held by a person on a full-time basis; or
- (b) a public office, being such a relevant office, comes into existence and is held by a person on a full-time basis; or
- (c) a substantial change in the functions or duties to be performed by the holder of a public office has occurred since the Tribunal last determined the recreation leave entitlement of a full-time holder of that office;

the Tribunal must, as soon as practicable but without prejudice to its obligations under subsection (1), inquire into and determine the recreation leave entitlements of a full-time holder of that office.

“(3) Subsection (2) does not apply in relation to the holder of a public office who is a member of, or a candidate for election to, either House of the Parliament.

“(4) Where the Tribunal inquires into, and determines, the recreation leave entitlements of a full-time holder of a public office in accordance with subsection (2), the Tribunal may also inquire into, and

either determine or report on, any matter that is, or is considered by it to be, significantly related to those entitlements.”.

PART 4—AMENDMENTS OF OTHER ACTS

Consequential amendments

31. (1) The Acts specified in the Schedule are amended as set out in that Schedule.

(2) A person who:

(a) immediately before the commencement of this section, was the holder of a public office within the meaning of the *Remuneration Tribunal Act 1973*; and

(b) upon that commencement, has in respect of that office such recreation leave entitlements as are determined by the Remuneration Tribunal;

retains, in respect of that office, such rights (if any) in relation to leave of absence for recreation as had accrued to the person immediately before that commencement.

SCHEDULE

Section 31

CONSEQUENTIAL AMENDMENTS OF OTHER ACTS

Aboriginal and Torres Strait Islander Commission Act 1989

Subsection 35 (1):

Omit the subsection, substitute the following subsections:

“(1) Subject to section 87E of the *Public Service Act 1922*, a full-time Commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(1A) The Minister may, subject to subsection (2):

- (a) grant a full-time Commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines in writing; and
- (b) grant a part-time Commissioner leave to be absent from a meeting or meetings of the Commission.”.

Paragraph 40 (7) (c):

Omit “granted under section 35”, substitute “of absence”.

Section 49:

Repeal the section, substitute the following section:

Leave of absence

“49. (1) Subject to section 87E of the *Public Service Act 1922*, the Chief Executive Officer is to have such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may, with the agreement of the Commission, grant the Chief Executive Officer leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister, with the agreement of the Commission, determines in writing.”.

Administrative Appeals Tribunal Act 1975

Section 12:

Repeal the section, substitute the following section:

Leave of absence

“12. (1) Subject to section 87E of the *Public Service Act 1922*, a full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

SCHEDULE—continued

“(2) The Minister may grant a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Section 24G:

Repeal the section, substitute the following section:

Leave of absence

“24G. (1) Subject to section 87E of the *Public Service Act 1922*, the Registrar has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The President may grant the Registrar leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the President, with the approval of the Minister, determines.”.

Anti-Dumping Authority Act 1988

Section 18:

Repeal the section, substitute the following section:

Leave of absence

“18. (1) Subject to section 87E of the *Public Service Act 1922*, a full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may:

- (a) grant a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines; and
- (b) grant a part-time member leave to be absent from a meeting or meetings of the Authority.”.

Audit Act 1901

Section 4A:

Repeal the section, substitute the following section:

Leave of absence

“4A. (1) Subject to section 87E of the *Public Service Act 1922*, the Auditor-General has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Auditor-General leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

SCHEDULE—continued

Australian Centre for International Agricultural Research Act 1982

Section 26:

Repeal the section, substitute the following section:

Leave of absence

“26. (1) Subject to section 87E of the *Public Service Act 1922*, the Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant to the Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 27 (2) (b):

Omit “granted by the Minister”.

Australian Federal Police Act 1979

Subsection 21 (1):

Omit the subsection, substitute the following subsections:

“(1) Subject to section 87E of the *Public Service Act 1922*, the Commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(1A) The Minister may grant the Commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 22 (2) (b):

Omit “granted by the Minister”, substitute “of absence”.

***Australian Institute of Aboriginal and Torres Strait
Islander Studies Act 1989***

After section 26:

Insert the following section:

Recreation leave

“26A. The Principal is entitled to recreation leave in accordance with section 45A.”.

After section 45:

Insert the following section:

SCHEDULE—continued

Recreation leave

“45A. Subject to section 87E of the *Public Service Act 1922*, the holder of an office who is, by a provision of this Act, entitled to recreation leave in accordance with this section is entitled to such recreation leave as is determined by the Remuneration Tribunal.”.

Australian Institute of Health Act 1987

Section 11:

Repeal the section, substitute the following section:

Leave of absence

“11. (1) Subject to section 87E of the *Public Service Act 1922*, a full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may:

- (a) grant a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines; and
- (b) grant a part-time member leave of absence on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Subparagraph 13 (2) (c) (ii):

Omit “by the Minister”, substitute “of absence”.

Australian Institute of Marine Science Act 1972

Section 25:

Repeal the section, substitute the following section:

Leave of absence

“25. (1) Subject to section 87E of the *Public Service Act 1922*, the Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Council may grant the Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 28 (c):

Omit “granted by the Council”, substitute “of absence”.

Australian Nuclear Science and Technology Organisation Act 1987

After section 21:

Insert the following section:

SCHEDULE—continued

Leave of absence

“21A. (1) Subject to section 87E of the *Public Service Act 1922*, the Executive Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Board may grant the Executive Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Australian Science and Technology Council Act 1978

Section 13:

Repeal the section, substitute the following section:

Leave of absence

“13. (1) Subject to section 87E of the *Public Service Act 1922*, a full-time Chairman and a full-time Deputy Chairman have such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may:

- (a) grant a full-time Chairman or a full-time Deputy Chairman leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines; and
- (b) grant a part-time member leave to be absent from a meeting or meetings of the Council.”.

Paragraph 16 (2) (b):

Omit “granted by the Minister”, substitute “of absence”.

Australian Securities Commission Act 1989

Paragraph 111 (1) (c):

Omit “granted in accordance with subsection 113 (1)”, substitute “of absence”.

Section 113:

Repeal the section, substitute the following section:

Leave of absence

“113. (1) Subject to section 87E of the *Public Service Act 1922*, a full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may:

- (a) grant a full-time member leave of absence, other than recreation

SCHEDULE—continued

leave, on such terms and conditions as to remuneration or otherwise as the Minister determines; and

- (b) grant a part-time member leave of absence from a meeting of the Commission.”.

Section 180:

Repeal the section, substitute the following section:

Leave of absence

“180. (1) Subject to section 87E of the *Public Service Act 1922*, a full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Australian Security Intelligence Organization Act 1979

Section 11:

Repeal the section, substitute the following section:

Leave of absence

“11. (1) Subject to section 87E of the *Public Service Act 1922*, the Director-General has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Director-General leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 13 (2) (a):

Omit “the leave of the Minister”, substitute “leave of absence”.

Australian Trade Commission Act 1985

Section 57:

Repeal the section, substitute the following section:

Leave of absence

“57. (1) Subject to section 87E of the *Public Service Act 1922*, the Managing Director and Deputy Managing Director have such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Board may grant the Managing Director or the Deputy Managing Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Board determines.”.

SCHEDULE—continued

Subparagraph 59 (5) (a) (iii):

Omit “granted by the Board”.

Australian War Memorial Act 1980

Section 23:

Repeal the section, substitute the following section:

Leave of absence

“23. (1) Subject to section 87E of the *Public Service Act 1922*, the Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 24 (2) (b):

Omit “granted by the Minister”.

Automotive Industry Authority Act 1984

Section 18:

Repeal the section, substitute the following section:

Leave of absence

“18. (1) Subject to section 87E of the *Public Service Act 1922*, a member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may:

- (a) grant a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines; and
- (b) grant a part-time member leave from attending a meeting or meetings of the Authority.”.

Cash Transaction Reports Act 1988

Section 36:

Add at the end the following subsection:

“(2) The Director holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Minister.”.

SCHEDULE—continued

After section 36:

Insert the following sections:

Remuneration of Director

“36A. (1) The Director is to be paid such remuneration as is determined by the Remuneration Tribunal.

“(2) The Director is to be paid such allowances as are prescribed.

“(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

Leave of absence of Director

“36B. (1) Subject to section 87E of the *Public Service Act 1922*, the Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines in writing.”.

Commonwealth Electoral Act 1918

Section 23:

Repeal the section, substitute the following section:

Leave of absence

“23. (1) Subject to section 87E of the *Public Service Act 1922*, an electoral officer has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Commission may grant an electoral officer leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Commission determines.”.

Paragraph 25 (2) (b):

Omit “granted by the Commission”, substitute “of absence”.

Commonwealth Employees' Rehabilitation and Compensation Act 1988

Section 81:

Repeal the section, substitute the following section:

Leave of absence

“81. (1) Subject to section 87E of the *Public Service Act 1922*, the Chief Executive Officer has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Chief Executive Officer leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

SCHEDULE—continued

“(3) The Chief Executive Officer may grant another member leave to be absent from a meeting or meetings of the Commission.”.

Paragraph 84 (2) (c):

Omit “granted under section 81”.

Commonwealth Grants Commission Act 1973

Section 10:

Repeal the section, substitute the following section:

Leave of absence

“10. (1) Subject to section 87E of the *Public Service Act 1922*, a full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Criminology Research Act 1971

Section 19:

Repeal the section, substitute the following section:

Leave of absence of Director

“19. (1) Subject to section 87E of the *Public Service Act 1922*, the Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Attorney-General may grant the Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 21 (b):

Omit “granted by the Attorney-General”, substitute “of absence”.

Customs Administration Act 1985

Section 9:

Repeal the section, substitute the following section:

Leave of absence

“9. (1) Subject to section 87E of the *Public Service Act 1922*, the Comptroller-General has such recreation leave entitlements as are determined by the Remuneration Tribunal.

SCHEDULE—continued

“(2) The Minister may grant the Comptroller-General leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 12 (6) (d):

Omit “granted by the Minister”.

Defence Housing Authority Act 1987

Section 51:

Repeal the section, substitute the following section:

Leave of absence

“51. (1) Subject to section 87E of the *Public Service Act 1922*, the Managing Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Chairperson may grant the Managing Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Authority determines.”.

Director of Public Prosecutions Act 1983

Section 20:

Repeal the section, substitute the following section:

Leave of absence

“20. (1) Subject to section 87E of the *Public Service Act 1922*, the Director and Associate Director have such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Attorney-General may grant the Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Attorney-General determines.

“(3) The Director may grant the Associate Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Director determines.”.

Paragraph 23 (2) (b):

Omit “granted under section 20”.

Employment, Education and Training Act 1988

Section 17:

Repeal the section, substitute the following section:

SCHEDULE—continued

Leave of absence

“17. (1) Subject to section 87E of the *Public Service Act 1922*, a full-time member of the Board has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may:

- (a) grant a full-time member of the Board leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines; and
- (b) grant a part-time member leave to be absent from a meeting or meetings of the Board.”.

Subparagraph 20 (2) (c) (ii):

Omit “granted under section 17”.

Family Law Act 1975

After section 26J:

Insert the following section:

Leave of absence

“26JA. (1) Subject to section 87E of the *Public Service Act 1922*, a person appointed as a full-time Judicial Registrar has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Chief Judge may grant a person appointed as a full-time Judicial Registrar leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Chief Judge, with the approval of the Attorney-General, determines.”.

Section 38G:

Repeal the section, substitute the following section:

Leave of absence

“38G. (1) Subject to section 87E of the *Public Service Act 1922*, the Chief Executive Officer has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Chief Judge may grant the Chief Executive Officer leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Chief Judge, with the approval of the Attorney-General, determines.”.

Paragraph 38K (2) (b):

Omit “granted by the Chief Judge”.

SCHEDULE—continued

Federal Court of Australia Act 1976

Section 18G:

Repeal the section, substitute the following section:

Leave of absence

“18G. (1) Subject to section 87E of the *Public Service Act 1922*, the Registrar has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Chief Judge may grant the Registrar leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Chief Judge, with the approval of the Attorney-General, determines.”.

Paragraph 18K (2) (b):

Omit “granted by the Chief Judge”.

Health Insurance Commission Act 1973

Section 23:

Repeal the section, substitute the following section:

Leave of absence

“23. (1) Subject to section 87E of the *Public Service Act 1922*, the General Manager has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the General Manager leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 26 (2) (c):

Omit “granted by the Minister”.

High Court of Australia Act 1979

Section 22:

Repeal the section, substitute the following section:

Leave of absence

“22. (1) Subject to section 87E of the *Public Service Act 1922*, the Clerk has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The High Court may grant the Clerk leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Court determines.”.

SCHEDULE—continued

Paragraph 24 (2) (b):

Omit “the leave of the Court”, substitute “leave of absence”.

Human Rights and Equal Opportunity Commission Act 1986

Subsection 39 (1):

Omit the subsection, substitute the following subsections:

“(1) Subject to section 87E of the *Public Service Act 1922*, a person appointed as a full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(1A) The Minister may grant a person appointed as a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 41 (2) (c):

Omit “granted by the Minister in accordance with sub-section 39 (1)”, substitute “of absence”.

Industrial Chemicals (Notification and Assessment) Act 1989

Section 94:

Repeal the section, substitute the following section:

Leave of absence of Director

“94. (1) Subject to section 87E of the *Public Service Act 1922*, the Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 96 (2) (c):

Omit “granted by the Minister”, substitute “of absence”.

Industrial Relations Act 1988

Section 26:

Repeal the section, substitute the following section:

Leave of absence of Commissioner

“26. (1) Subject to section 87E of the *Public Service Act 1922*, a Commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.

SCHEDULE—continued

“(2) The President may grant a Commissioner leave of absence, other than recreation leave, on such terms and conditions as to Remuneration or otherwise as the President determines.

“(3) In determining the recreation leave entitlements of a Commissioner under the *Remuneration Tribunal Act 1973*, the Remuneration Tribunal must have regard to:

- (a) any past employment of the Commissioner in the service of a State or an authority of a State; or
- (b) any past service of the Commissioner as a member of an authority of a State.

“(4) In determining the terms and conditions on which leave of absence is granted to a Commissioner under subsection (2), the President must have regard to:

- (a) any past employment of the Commissioner in the service of a State or an authority of a State; or
- (b) any past service of the Commissioner as a member of an authority of a State.”.

Paragraph 74 (2) (b):

Omit “granted by the Minister”.

Paragraph 28 (2) (b):

Omit “granted by the President”.

Section 72:

Repeal the section, substitute the following section:

Leave of absence of Industrial Registrar

“72. (1) Subject to section 87E of the *Public Service Act 1922*, the Industrial Registrar has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Industrial Registrar leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Industry Commission Act 1989

Section 34:

Repeal the section, substitute the following section:

Leave of absence

“34. (1) Subject to section 87E of the *Public Service Act 1922*, a Commissioner and a full-time Associate Commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.

SCHEDULE—continued

“(2) The Minister may grant a Commissioner and a full-time Associate Commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

“(3) The Minister may, by written instrument, delegate to the Chairperson the Minister’s powers under subsection (2) (other than powers in relation to the Chairperson).”.

Subparagraph 38 (5) (b) (ii):

Omit “granted under this Part”.

Inspector-General of Intelligence and Security Act 1986

Section 28:

Repeal the section, substitute the following section:

Leave of absence

“28. (1) Subject to section 87E of the *Public Service Act 1922*, a person appointed as Inspector-General has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Prime Minister may grant to a person appointed as Inspector-General leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Subparagraph 30 (2) (b) (ii):

Omit “granted by the Prime Minister in accordance with section 28”.

Insurance and Superannuation Commissioner Act 1987

Section 9:

Repeal the section, substitute the following section:

Leave of absence

“9. (1) Subject to section 87E of the *Public Service Act 1922*, a Commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 11 (2) (b):

Omit “granted by the Minister”.

SCHEDULE—continued

Law Reform Commission Act 1973

Section 19:

Repeal the section, substitute the following section:

Leave of absence for full-time members

“19. (1) Subject to section 87E of the *Public Service Act 1922*, a full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Attorney-General may grant a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Attorney-General determines.”.

Merit Protection (Australian Government Employees) Act 1984

Section 66:

Repeal the section, substitute the following section:

Leave of absence

“66. (1) Subject to section 87E of the *Public Service Act 1922*, a full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may:

- (a) grant a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines; and
- (b) grant a part-time member leave of absence from a meeting or meetings of the Agency.”.

Subparagraph 75 (7) (b) (ii):

Omit “granted by the Minister”.

National Crime Authority Act 1984

Section 40:

Repeal the section, substitute the following section:

Leave of absence

“40. (1) Subject to section 87E of the *Public Service Act 1922*, a member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant a member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

SCHEDULE—continued

National Health Act 1953

After section 82PE:

Insert the following section:

Leave of absence

“82PEA. (1) Subject to section 87E of the *Public Service Act 1922*, a full-time Commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant a full-time Commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

“(3) The Commissioner may grant another member leave to be absent from a meeting or meetings of the Council.”.

At the end of Part VIAA:

Add the following section:

Leave of absence of Director

“82PN. (1) Subject to section 87E of the *Public Service Act 1922*, the Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Council may grant the Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

National Occupational Health and Safety Commission Act 1985

Section 32:

Repeal the section, substitute the following section:

Leave of absence

“32. (1) Subject to section 87E of the *Public Service Act 1922*, the Director of the Institute has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Director of the Institute leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 34 (2) (c):

Omit “granted by the Minister”, substitute “of absence”.

SCHEDULE—continued

Nuclear Non-Proliferation (Safeguards) Act 1987

Section 46:

Repeal the section, substitute the following section:

Leave of absence

“46. (1) Subject to section 87E of the *Public Service Act 1922*, the Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 48 (2) (b):

Omit “granted by the Minister”.

Office of National Assessments Act 1977

Section 13:

Repeal the section, substitute the following section:

Leave of absence

“13. (1) Subject to section 87E of the *Public Service Act 1922*, the Director-General has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Director-General leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 15 (2) (a):

Omit “with the leave of the Minister”, substitute “on leave of absence”.

Ombudsman Act 1976

Section 25:

Repeal the section, substitute the following section:

Leave of absence

“25. (1) Subject to section 87E of the *Public Service Act 1922*, the Ombudsman has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Ombudsman leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

SCHEDULE—continued

Subsection 28 (7A):

Omit “granted by the Minister”, substitute “of absence”.

Parliamentary Counsel Act 1970

Section 7:

Repeal the section, substitute the following section:

Leave of absence

“7. (1) Subject to section 87E of the *Public Service Act 1922*, the First Parliamentary Counsel and a Second Parliamentary Counsel have such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the First Parliamentary Counsel and a Second Parliamentary Counsel leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 10 (2) (a):

Omit “granted by the Minister”, substitute “of absence”.

Pipeline Authority Act 1973

Section 8:

Repeal the section, substitute the following section:

Leave of absence

“8. (1) Subject to section 87E of the *Public Service Act 1922*, a full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may:

- (a) grant a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines; and
- (b) grant a part-time member leave to be absent from a meeting or meetings of the Authority.”.

Paragraph 9 (2) (c):

Omit “granted by the Minister”.

Prices Surveillance Act 1983

Section 9:

Repeal the section, substitute the following section:

SCHEDULE—continued

Leave of absence

“9. (1) Subject to section 87E of the *Public Service Act 1922*, a full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Subparagraph 15 (2) (c) (ii):

Omit “granted by the Minister”.

Privacy Act 1988

Section 22:

Repeal the section, substitute the following section:

Leave of absence

“22. (1) Subject to section 87E of the *Public Service Act 1922*, the Commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 25 (2) (b):

Omit “granted by the Minister”.

Public Service Act 1922

Section 13:

Repeal the section, substitute the following section:

Leave of absence

“13. (1) Subject to section 87E of the *Public Service Act 1922*, the Commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Prime Minister may grant the Commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Subsection 17 (8):

Omit “granted by the Prime Minister under section 13”, substitute “of absence”.

SCHEDULE—continued

Resource Assessment Commission Act 1989

Subparagraph 45 (5) (b) (ii):

Omit “granted by the Minister in accordance with section 49”, substitute “of absence”.

Subsection 49 (1):

Omit the subsection, substitute the following subsections:

“(1) Subject to arrangements under section 39 and to section 40 and section 87E of the *Public Service Act 1922*, a full-time Commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(1A) Subject to arrangements under section 39 and to section 40, the Minister may grant a full-time Commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Science and Industry Research Act 1949

Section 10C:

Repeal the section, substitute the following section:

Leave of absence

“10C. (1) Subject to section 87E of the *Public Service Act 1922*, the Chief Executive has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Chief Executive leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 10E (2) (c):

Omit “granted by the Minister”, substitute “of absence”.

Snowy Mountains Hydro-electric Power Act 1949

Section 11:

Repeal the section, substitute the following section:

Leave of absence

“11. (1) Subject to section 87E of the *Public Service Act 1922*, a full-time Commissioner and a full-time Associate Commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may:

SCHEDULE—continued

- (a) grant a full-time Commissioner and a full-time Associate Commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines; and
- (b) grant a part-time Commissioner and a part-time Associate Commissioner leave to be absent from a meeting or meetings of the Authority.”.

Paragraph 13 (d):

Omit “granted by the Minister”, substitute “of absence”.

Social Security Act 1947

Section 225:

Repeal the section, substitute the following section:

Leave of absence

“225. (1) Subject to section 87E of the *Public Service Act 1922*, a member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the National Convener leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

“(3) The National Convener may grant another full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

“(4) A determination under subsection (2) or (3) must be in writing.”.

Subparagraph 228 (8) (e) (ii):

Omit “granted under section 225”.

Superannuation Act 1976

Section 21:

Repeal the section, substitute the following section:

Leave of absence

“21. (1) Subject to section 87E of the *Public Service Act 1922*, the Commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

SCHEDULE—continued

Paragraph 23 (2) (c):

Omit “granted by the Minister”.

Taxation Administration Act 1953

Section 6:

Repeal the section, substitute the following section:

Leave of absence

“6. (1) Subject to section 87E of the *Public Service Act 1922*, the Commissioner and a Second Commissioner have such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Commissioner and a Second Commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 6C (6) (c):

Omit “granted by the Minister”.

Textiles, Clothing and Footwear Development Authority Act 1988

Section 18:

Repeal the section, substitute the following section:

Leave of absence

“18. (1) Subject to section 87E of the *Public Service Act 1922*, a full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may:

- (a) grant a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines; and
- (b) grant a part-time member leave to be absent from a meeting or meetings of the Authority.”.

Paragraph 21 (2) (c):

Omit the paragraph, substitute the following paragraphs:

- “(c) being a full-time member, is absent, except on leave of absence;
- (ca) being a part-time member, is absent, except on leave of absence granted under paragraph (2) (b), from 3 consecutive meetings of the Authority;”.

SCHEDULE—continued

Trade Practices Act 1974

Section 12:

Repeal the section, substitute the following section:

Leave of absence

“12. (1) Subject to section 87E of the *Public Service Act 1922*, a member of the Commission has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant a member of the Commission leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 13 (1) (d):

Omit “granted by the Minister”.

Trade Union Training Authority Act 1975

Section 8F:

Repeal the section, substitute the following section:

Leave of absence

“8F. (1) Subject to section 87E of the *Public Service Act 1922*, the National Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the National Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 8H (2) (b):

Omit “granted by the Minister”, substitute “of absence”.

Veterans' Entitlements Act 1986

Section 162:

Repeal the section, substitute the following section:

Leave of absence

“162. (1) Subject to section 87E of the *Public Service Act 1922*, a full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

SCHEDULE—continued

Subparagraph 164 (5) (b) (ii):

Omit “granted by the Minister”.

Section 186:

Repeal the section, substitute the following section:

Leave of absence

“186. (1) Subject to section 87E of the *Public Service Act 1922*, a commissioner or an acting commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant a commissioner or an acting commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

War Graves Act 1980

Section 7:

Repeal the section, substitute the following section:

Leave of absence of Director

“7. (1) Subject to section 87E of the *Public Service Act 1922*, the Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

Paragraph 9 (2) (b):

Omit “granted by the Minister”, substitute “of absence”.

NOTES

1. No. 75, 1988, as amended. For previous amendments, see Nos. 109 and 135, 1988; and No. 68, 1990.
2. No. 215, 1973, as amended. For previous amendments, see No. 80, 1974; No. 96, 1975; 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; Nos. 39 and 128, 1983; Nos. 63, 73 and 164, 1984; Nos. 65 and 187, 1985; Nos. 87, 109 and 123, 1988; No. 95, 1989; No. 108, 1990; and No. 19, 1991.

[*Minister's second reading speech made in—
House of Representatives on 20 February 1991
Senate on 16 May 1991*]