



Industrial Relations Legislation Amendment Act (No. 3) 1991

No. 7 of 1992

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(COMMONWEALTH EMPLOYMENT) ACT 1991



Industrial Relations Legislation Amendment Act (No. 3) 1991

No. 7 of 1992

An Act to amend the *Commonwealth Employees' Rehabilitation and Compensation Act 1988*, the *Industrial Chemicals (Notification and Assessment) Act 1989*, the *Long Service Leave (Commonwealth Employees) Act 1976*, the *Navigation Act 1912*, the *Occupational Health and Safety (Commonwealth Employment) Act 1991* and the *Pipeline Authority Act 1973*, and for related purposes

[Assented to 15 January 1992]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Industrial Relations Legislation Amendment Act (No. 3) 1991*.

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Commencement

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

(2) Subject to subsection (3), Part 2 commences on a day to be fixed by Proclamation. 5

(3) If Part 2 does not commence under subsection (2) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of the period.

(4) Subject to subsection (5), Part 5 commences on a day to be fixed by Proclamation. 10

(5) If the commencement of Part 5 is not fixed by Proclamation under subsection (4) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, Part 5 is repealed on the first day after the end of that period. 15

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

Division 1—Introductory

Principal Act 20

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

Definitions

4. In this Part:

“**commencing day**” means the day on which this Part commences; 25

“**new Commission**” means the Commission for the Safety, Rehabilitation and Compensation of Commonwealth Employees established under section 89A of the Principal Act as amended by this Act;

“**OHS Act**” means the *Occupational Health and Safety (Commonwealth Employment) Act 1991*, as in force immediately before the commencing day; 30

“**previous Commission**” means the Commission for the Safety, Rehabilitation and Compensation of Commonwealth Employees established under section 68 of the Principal Act.

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Division 2—Amendments of the Principal Act

Power to require medical examination

5 5. Section 57 of the Principal Act is amended by omitting from subsection (1) “by a legally qualified” and substituting “by one legally qualified”.

6. Section 68 of the Principal Act is repealed and the following section is substituted:

Establishment

“68. This section establishes a body called Comcare.”.

10 **Functions**

7. Section 69 of the Principal Act is amended:

(a) by omitting “the Commission has” and substituting “Comcare has”;

15 (b) by omitting from paragraph (a) “the Commission” and substituting “Comcare”;

(c) by inserting after paragraph (d) the following paragraph:

“*(da)* to promote the adoption in Australia and elsewhere of effective strategies and procedures for the rehabilitation of injured workers;”;

20 (d) by omitting paragraph (f) and substituting the following paragraphs:

“*(f)* to maintain contact with each rehabilitation authority to the extent necessary to ensure that, in performing or exercising its functions or powers under Part III, the authority is complying with any guidelines issued under section 41;

25 “*(fa)* to advise the Minister about anything relating to Comcare’s functions and powers;”;

30 (e) by omitting from paragraph (g) “the Commission” and substituting “Comcare”.

8. After section 72 of the Principal Act the following section is inserted:

Duty to assist Commission

35 “72A. Comcare must give the Commission such secretarial and other assistance, and make available to it the services of such members of Comcare’s staff and such other resources, as the Commission reasonably requires from time to time for the proper performance of its functions or exercise of its powers.”.

40 9. After section 73 of the Principal Act the following sections are inserted:

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Guidelines by Commission

“73A.(1) The Commission may prepare and issue to the Chief Executive Officer written general policy guidelines in relation to the operation of this Act or any other Act to the extent that the Act confers functions or powers on Comcare. 5

“(2) The Commission may prepare and issue to the principal officer of an administering authority written general policy guidelines in relation to the operation of this Act to the extent that the Act confers functions or powers on the administering authority.

“(3) The Commission must not issue guidelines that are inconsistent with any directions under section 73 of this Act or section 12A of the *Occupational Health and Safety (Commonwealth Employment) Act 1991*. 10

“(4) Any guidelines that are inconsistent with a direction of the kind referred to in subsection (3) have no effect to the extent of the inconsistency. 15

“(5) Comcare must comply with any guidelines issued and in force under subsection (1).

“(6) An administering authority must comply with any guidelines issued to its principal officer and in force under subsection (2).

Delegation by Comcare 20

“73B. Comcare may, in writing, delegate to an officer of, or a person employed by, the Commonwealth or a Commonwealth authority all or any of Comcare’s functions and powers.”.

Constitution of Comcare

10. Section 74 of the Principal Act is amended: 25

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

“(1A) Comcare is constituted by a Chief Executive Officer appointed by the Governor-General.”;

(b) by omitting subsection (2) and substituting the following subsection: 30

“(2) Comcare’s common seal must be kept in such custody as the Chief Executive Officer directs and must not be used except as authorised by the Chief Executive Officer.”.

11. Section 76 of the Principal Act is repealed and the following section is substituted: 35

The Chief Executive Officer

“76.(1) The Chief Executive Officer holds office for the term (not longer than 5 years) specified in the instrument of appointment, but is eligible for re-appointment on 2 occasions after his or her first appointment. 40

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“(2) The Chief Executive Officer holds office on a full-time basis and must not engage in paid employment outside the duties of the office without the Minister’s approval.

5 “(3) The Minister must not give an approval unless satisfied that the paid employment will not interfere with the Chief Executive Officer’s performance of his or her duties.”.

12. Section 84 of the Principal Act is repealed and the following section is substituted:

Termination of appointment

10 “84.(1) The Governor-General may terminate the Chief Executive Officer’s appointment for misbehaviour or physical or mental incapacity.

 “(2) If the Chief Executive Officer:

15 (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or

 (b) contravenes section 89M without reasonable excuse; or

20 (c) is absent from 3 consecutive meetings of the Commission, or is absent from duty for 14 consecutive days, or for 28 days in any period of 12 months, except on leave of absence; or

 (d) engages in paid employment outside the duties of his or her office without the Minister’s approval;

the Governor-General is to terminate the Chief Executive Officer’s appointment by notice in the *Gazette*.”.

25 13. After section 89 of the Principal Act the following Division is inserted:

“Division 3—The Commission

Establishment

30 “89A. This section establishes a commission called the Commission for the Safety, Rehabilitation and Compensation of Commonwealth Employees.

Functions

 “89B. The Commission has the following functions, in addition to its other functions under this Act:

35 (a) to ensure that, as far as practicable, there is no inconsistency in administrative practices and procedures used by Comcare and the administering authority in the performance of their respective functions;

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- (b) to advise the Minister about anything relating to the operation of this Act or to the Commission's functions and powers;
- (c) such other functions as are conferred on the Commission by any other Act.

Powers 5

“89C. The Commission has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

Directions by Minister

“89D.(1) The Minister may, by notice in writing given to the Chairperson, give a direction to the Commission with respect to the performance of its functions or the exercise of its powers under this Act. 10

“(2) The Commission must comply with a direction given under subsection (1). 15

Constitution

“89E.(1) The Commission comprises the following:

- (a) a Chairperson;
- (b) the Chief Executive Officer;
- (c) 2 members nominated by the Australian Council of Trade Unions; 20
- (d) a member who, in the Minister's opinion, represents the administering authorities;
- (e) a member who, in the Minister's opinion, represents the Commonwealth, and Commonwealth authorities other than administering authorities; 25
- (f) the Chief Executive Officer of the National Occupational Health and Safety Commission or, if he or she notifies the Minister in writing that he or she does not want to be a member, a prescribed staff member nominated by that Chief Executive Officer; 30
- (g) 2 members with qualifications or experience relevant to the Commission's functions, or the exercise of its powers.

“(2) The performance of the Commission's functions, or the exercise of its powers, is not affected merely because of a vacancy in its membership. 35

“(3) In this section:

‘prescribed staff member’ means a member of the staff of the National Occupational Health and Safety Commission referred to in subsection 53(1) of the *National Occupational Health and Safety Commission Act 1985*. 40

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Appointment

“89F.(1) The members must be appointed by the Governor-General.

“(2) The member mentioned in paragraph 89E(d) is to be nominated by the Minister after consulting the administering authorities.

5 Term of office

“89G. A member holds office on a part-time basis for the term (not longer than 3 years) specified in the instrument of appointment, but is eligible for re-appointment.

Deputies of members

10 “89H.(1) A member (other than the Chairperson) may, with the Minister’s approval, appoint a person to be the member’s deputy.

“(2) A person must not be appointed to be the deputy of the member referred to in paragraph 89E(1)(f) unless the person is a prescribed staff member within the meaning of section 89E.

15 “(3) A member may revoke the appointment of his or her deputy, but the revocation is not effective until the member has given written notice of the revocation to the Minister.

“(4) If a member who has appointed a deputy is absent from a meeting of the Commission, the deputy is entitled to attend that meeting and, when so attending, is taken to be a member.

20 “(5) A deputy may resign by delivering to the member who appointed him or her a signed notice of resignation.

“(6) Anything done by or in relation to a deputy purporting to act under this section is not invalid merely because:

- 25**
- (a) there is a defect or irregularity in connection with the appointment; or
 - (b) the appointment had ceased to have effect; or
 - (c) the occasion for the deputy to act had not arisen or had ceased.

Acting Chairperson

30 “89J.(1) The Minister may appoint a person to act in the office of Chairperson:

- (a) during a vacancy in that office, whether or not an appointment has previously been made to the office; or
- 35** (b) during any period, or during all periods, when the Chairperson is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office.

“(2) Anything done by or in relation to a person purporting to act under an appointment under subsection (1) is not invalid merely because:

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- (a) the occasion for the appointment had not arisen; or
- (b) there was a defect or irregularity in connection with the appointment; or
- (c) the appointment had ceased to have effect; or
- (d) the occasion to act had not arisen or had ceased. 5

Remuneration and allowances

“89K.(1) A member is to be paid such remuneration as is determined by the Remuneration Tribunal, but, if no such determination is in operation, the member is to be paid such remuneration as is prescribed. 10

“(2) A deputy of a member is to be paid, in respect of the deputy’s attendance at a meeting of the Commission, such fee as is determined by the Remuneration Tribunal, but, if no such determination is in operation, the deputy is to be paid such fee as is prescribed.

“(3) A member and the deputy of a member are to be paid such allowances as are prescribed. 15

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

Leave of absence

“89L. The Minister may grant a member leave to be absent from one or more meetings of the Commission on such conditions as the Minister thinks fit. 20

Disclosure of interests

“89M.(1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Commission must, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of the interest at a meeting of the Commission. 25

“(2) A disclosure must be recorded in the minutes of the meeting of the Commission and the member must not, unless the Minister or the Commission otherwise determines: 30

- (a) be present during any deliberation of the Commission with respect to that matter; or
- (b) take part in any decision of the Commission with respect to that matter. 35

“(3) For the purpose of the making of a determination by the Commission under subsection (2) in relation to a member who has made a disclosure, a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates must not:

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- (a) be present during any deliberation of the Commission for the purpose of making the determination; or
- (b) take part in the making by the Commission of the determination.

“(4) In this section:

5 **‘member’** includes:

- (a) a person who is acting in the office of a member or is taken to be a member; and
- (b) the Chief Executive Officer.

Resignation

10 “89N. A member may resign by delivering to the Governor-General a signed notice of resignation.

Termination of appointment

“89P.(1) The Governor-General may terminate a member’s appointment for misbehaviour or physical or mental incapacity.

15 “(2) If a member:

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- 20 (b) contravenes section 89M without reasonable excuse; or
- (c) is absent, except on leave granted under section 89L, from 3 consecutive meetings of the Commission;

the Governor-General is to terminate the member’s appointment by notice in the *Gazette*.

25 “(3) If the organisation on whose nomination a member referred to in paragraph 89E(c) was appointed asks (by written notice to the Minister) that the member’s appointment be terminated, the Governor-General is to terminate the member’s appointment by notice in the *Gazette*.

30 **Meetings**

“89Q.(1) Subject to this section, meetings of the Commission are to be held at such times and places as it determines from time to time.

“(2) The Chairperson:

- (a) may convene a meeting of the Commission; and
- 35 (b) must convene a meeting of the Commission on receipt of a written request signed by at least 4 members.

“(3) The Commission must hold at least 3 meetings each calendar year.

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“(4) At a meeting of the Commission, 5 members constitute a quorum if:

- (a) at least one of them is a member referred to in paragraph 89E(1)(c); and
- (b) one of them is the member referred to in paragraph 89E(1)(d); and
- (c) one of them is the member referred to in paragraph 89E(1)(e).

5

“(5) Questions arising at a meeting of the Commission must be determined by the majority of the votes of the members present and voting at the meeting.

10

“(6) If the Commission so determines, a resolution is taken to have been passed at a meeting of the Commission if, without meeting, a majority of the members who would, if present at a meeting and entitled to vote on the resolution at that meeting, have constituted a quorum indicate agreement with the resolution in accordance with a method determined by the Commission.

15

“(7) The Chairperson is to preside at all meetings of the Commission at which he or she is present.

“(8) If the Chairperson is not present at a meeting of the Commission, the members present at the meeting must elect one of their number to preside at the meeting.

20

“(9) The member presiding at a meeting of the Commission has a deliberative vote and, if there is an equality of votes, also has a casting vote.

“(10) Subject to this section, the Commission may determine the procedure to be followed at its meetings.

25

“(11) In this section:

‘member’ includes the Chief Executive Officer.

Delegation by Commission

“89R. The Commission may, in writing, delegate to the Chief Executive Officer or any of its members all or any of its functions and powers.

30

Annual reports

“89S.(1) As soon as possible after each 30 June, the Chairperson must give the Minister, for presentation to the Parliament, a report of the Commission’s activities during the financial year that ended on that day.

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“(2) A report under this section must include particulars of:

- (a) any directions given by the Minister under section 89D; and

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- (b) any guidelines issued by the Commission under section 73A; and
- (c) the operations of each administering authority under this Act; during the financial year to which the report relates.”.

5 Review by Commission

14. Section 96D of the Principal Act is amended by omitting subsection (5) and substituting the following subsection:

“(5) The Commission must, having reviewed an estimate:

- (a) confirm the estimate; or
- 10 (b) vary the estimate in such manner as it thinks fit and confirm the estimate as so varied.”.

Review by Minister

15. Section 96F of the Principal Act is amended:

- 15 (a) by omitting from subsection (1) “96E(2)(b)” and substituting “96D(4)(b)”;
- (b) by omitting from subsection (3) “, and may confirm it, or vary it in such manner as the Minister thinks fit”;
- (c) by adding at the end the following subsection:

20 “(4) The Minister must, having completed a review:
(a) confirm the estimate that is the subject of the review; or
(b) vary that estimate in such manner as the Minister thinks fit and confirm it as so varied.”.

16. After section 96F of the Principal Act the following section is inserted:

25 Confirmation of estimates

“96FA.(1) If the Commission is not required to review an estimate under section 96D, the estimate is taken to have been confirmed, and the confirmation is taken to have taken effect immediately after the end of the period of 14 days mentioned in subsection 96D(2).

30 “(2) If the Commission confirms an estimate (or an estimate as varied by it) under subsection 96D(5), the confirmation does not take effect if the Minister is required under section 96F to review the estimate (or the estimate as so varied).

35 “(3) If the Minister is not required under section 96F to review an estimate (or an estimate as varied by the Commission) the Commission’s confirmation of the estimate (or the estimate as so varied) takes effect immediately after the end of the period of 14 days mentioned in paragraph 96D(4)(b).

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“(4) The Minister’s confirmation of an estimate (or an estimate as varied under section 96D or 96F) takes effect on the date of the confirmation.”.

Payment of premium

17. Section 96G of the Principal Act is amended: 5
- (a) by omitting subsection (1);
 - (b) by omitting from subsection (2) “the Minister approves” and substituting “the confirmation of”;
 - (c) by inserting in subsection (2) “takes effect” after “a financial year”; 10
 - (d) by omitting from paragraph (2)(b) “approved amount” and substituting “confirmed amount”.

Variation of estimate

18. Section 96H of the Principal Act is amended:
- (a) by omitting from subsection (1) “an estimate approved by the Minister under this Division” and substituting “a confirmed estimate”; 15
 - (b) by omitting from subsection (3) “and sections 96E and 96F” and substituting “and sections 96F and 96FA”;
 - (c) by omitting subsection (4); 20
 - (d) by omitting from subsection (5) “the Minister approves” and substituting “the confirmation of”;
 - (e) by inserting in subsection (5) “takes effect” after “or the Minister”;
 - (f) by omitting from paragraph (5)(a) “of the approval” and substituting “of the confirmation”; 25
 - (g) by omitting from paragraph (5)(b) “approved by the Minister” and substituting “confirmed”;
 - (h) by omitting from subsection (6) “approved by the Minister under this section” and substituting “confirmed”; 30
 - (i) by adding at the end the following subsection:

“(9) In this section:

‘**confirmed estimate**’ means an estimate whose confirmation under this Division has taken effect.”.

Other amendments

- 19.(1) The Principal Act is further amended as set out in Schedule 1. 35
- (2) The OHS Act 1991 is amended as set out in Schedule 2.

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Division 3—Transitional provisions

Transitional provisions—assets, rights and liabilities

5 20.(1) On the commencing day, the money of the previous Commission and any other real or personal property held by it immediately before that day are vested in Comcare by force or this subsection.

10 (2) All money and investments held immediately before the commencing day by the previous Commission for the benefit of any person, and vested in Comcare on that day by force of subsection (1), must be held by Comcare for the benefit of that person.

15 (3) All rights and entitlements of the previous Commission (including any right or entitlement to recover any amount from a person, or to start or become a party to legal or other proceedings, or to do anything else) are vested in Comcare by force of this section on the commencing day to the extent that they had not been exercised, or had not expired or been extinguished, before that day.

20 (4) Subject to this Division, all liabilities or obligations incurred by the previous Commission under the Principal Act or any other Act are, on and after the commencing day, taken to have been incurred by Comcare to the extent that they had not been discharged before that day.

25 (5) Anything done by the previous Commission in respect of its liability to pay compensation, or to make any other payment, under the Principal Act is, on and after the commencing day, taken to have been done by Comcare in respect of its liability, under that Act as amended by this Act, to pay that compensation, or make that payment.

30 (6) A payment made under the Principal Act before the commencing day, being a payment made by the previous Commission in respect of its liability for any injury or loss suffered by an employee, is, on and after that day, taken to have been made by Comcare in respect of its liability to make such a payment for that injury or loss under the Principal Act as amended by this Act.

35 (7) A payment referred to in subsection (6) that had effect as a redemption of a liability of the previous Commission under the Principal Act has effect on and after the commencing day as a redemption of the corresponding liability of Comcare under that Act as amended by this Act.

Transitional provisions—documents etc.

40 21 (1) Subject to this Division, a document, notice, request or claim given or made to the previous Commission under the Principal Act, and in force immediately before the commencing day, continues to

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have effect on and after that day as if it had been given or made to Comcare under the Principal Act as amended by this Act.

(2) Subject to this Division, a document, notice or approval issued or given by the previous Commission under the Principal Act, and in force immediately before the commencing day, continues to have effect on and after that day as if it had been issued or given by Comcare under that Act as amended by this Act. 5

(3) The approved Guide, as in force immediately before the commencing day, continues to have effect on and after that day as if it had been prepared by Comcare under the Principal Act as amended by this Act. 10

(4) Any guidelines issued under section 41 of the Principal Act, and in force immediately before the commencing day, continue to have effect on and after that day as if they had been issued by Comcare under that section as amended by this Act. 15

Transitional provisions—determinations etc.

22.(1) Subject to this Division, any determination, requirement or direction made or given by the previous Commission under the Principal Act, and in force immediately before the commencing day, continues to have effect on and after that day as if it had been made or given by Comcare under that Act as amended by this Act. 20

(2) Subject to this Division, a determination made by the previous Commission under the Principal Act may be reconsidered or reviewed by Comcare as if it had been made by Comcare under that Act as amended by this Act. 25

Transitional provisions—proceedings, agreements etc.

23.(1) Any proceedings (including proceedings under Part VI of the Principal Act) to which the previous Commission was a party, being proceedings that had been started but not completed before the commencing day, may be continued on and after that day and, where the proceedings are so continued, Comcare replaces the previous Commission as a party to the proceedings. 30

(2) Subject to this Division, a reference to the previous Commission in:

- (a) any instrument, award, determination, contract, agreement, judgment or order (whether executive, judicial or otherwise); or 35
- (b) any pleading in, or process issued in connection with, any legal or other proceedings;

is taken, on and after the commencing day, to be a reference to Comcare, except in relation to matters that occurred before that day. 40

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Transitional provisions—premiums

5 **24.(1)** Any estimates prepared under Division 4A of Part VII of the Principal Act, continue to have effect on and after the commencing day as if they had been prepared under that Division as amended by this Act.

10 **(2)** An estimate approved by the Minister under Division 4A of Part VII of the Principal Act continues to have effect, and may be varied, on and after the commencing day as if it had been confirmed, and its confirmation had taken effect, under that Division as amended by this Act.

15 **(3)** A direction given by the Minister under Division 4A of Part VII of the Principal Act continues to have effect on and after the commencing day as if it had been given under that Division as amended by this Act.

20 **(4)** A notice of objection given to the previous Commission under Division 4A of the Principal Act continues to have effect on and after the commencing day as if it had been given to the new Commission under that Division as amended by this Act.

25 **(5)** Any request made to the Minister under section 96G or 98 of the Principal Act continues to have effect on and after the commencing day as if it had been made to Comcare under that section as amended by this Act.

30 **(6)** A notice given by the previous Commission under subsection 96D(4) (including a notice given under that subsection as applied by subsection 96D(3)) or 96G(2) of the Principal Act continues to have effect on and after the commencing day as if it had been given by the new Commission under the Principal Act as amended by this Act.

35 **(7)** Any determination, requirement or notice made or given by or to the previous Commission under section 96J or 96K of the Principal Act continues to have effect on and after the commencing day as if it had been made or given by or to Comcare under that section as amended by this Act.

Other transitional provisions relating to amendments of Principal Act

40 **25.(1)** A person who, immediately before the commencing day, was a member of the staff of the previous Commission, being a person appointed or employed under the *Public Service Act 1922* for the purposes of that Commission, is taken to be a member of the staff of Comcare on and after that day as if the person had been so appointed or employed for the purposes of Comcare.

45 **(2)** The first report prepared by Comcare under section 63M of the *Audit Act 1901*, as it applies under section 90 of the Principal Act as amended by this Act, must include a report of the previous

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Commission's operations under the Principal Act during the period starting on 1 July 1991 and ending on the commencing day.

Other transitional provisions relating to amendments of the OHS Act

- 26.(1)** Any document, notice or request given or made to the previous Commission under the OHS Act (other than a request under section 77 of that Act), and in force immediately before the commencing day, continues to have effect on and after that day, as if it had been given or made to the new Commission under that Act as amended by this Act. 5
10
- (2)** A request made under section 77 of the OHS Act, and in force immediately before the commencing day, continues to have effect on and after that day as if it had been made to Comcare under that section as amended by this Act.
- (3)** Subject to this section, any document, notice or request given, prepared or made by the previous Commission under the OHS Act, and in force immediately before the commencing day, continues to have effect on and after that day as if it had been given, prepared or made by the new Commission under that Act as amended by this Act. 15
- (4)** The appointment of a person as an investigator under the OHS Act, being an appointment in force immediately before the commencing day, continues to have effect on and after that day as if it had been made by Comcare under that Act as amended by this Act. 20
- (5)** An inquiry started by the previous Commission under Division 3 of Part 4 of the OHS Act but not completed before the commencing day may be continued and completed on and after that day as if it had been started by the new Commission under that Act as amended by this Act. 25
- (6)** Proceedings started by the previous Commission under section 77 of the OHS Act and pending immediately before the commencement day may be continued and completed on and after that day as if they had been started by Comcare under that section as amended by this Act. 30
- (7)** For the purposes of any proceedings continued under subsection (6), a reference to the previous Commission in any document, instrument, judgment or order issued, given or made in connection with those proceedings is taken, on and after the commencing day, to be a reference to Comcare, except in relation to matters that occurred before that day. 35
- (8)** The first annual report of the new Commission under the OHS Act as amended by this Act must include a report of the previous 40

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Commission's operations under the OHS Act during the period starting on 1 July 1991 and ending on the commencing day.

Regulations

5 27.(1) The Governor-General may make regulations making such other transitional or savings provisions as are necessary or convenient as a result of the amendment of the Principal Act and the OHS Act by this Act.

10 (2) Regulations made under subsection (1) may exclude or alter the operation of any other provision of this Division in relation to specified matters.

**PART 3—AMENDMENTS OF THE INDUSTRIAL CHEMICALS
(NOTIFICATION AND ASSESSMENT) ACT 1989**

Principal Act

15 28. In this Part, “Principal Act” means the *Industrial Chemicals (Notification and Assessment) Act 1989*².

Interpretation

29. Section 5 of the Principal Act is amended by inserting “each representing at least 2% by weight,” after “components,” in paragraph (a) of the definition of “new synthetic polymer”.

20 **Application of assessment certificate**

30. Section 23 of the Principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) 2 or more persons, each of whom is a manufacturer or importer of a new industrial chemical, may make a joint application.”.

25 **Permits allowing introduction before assessment**

31. Section 30 of the Principal Act is amended by inserting after subsection (1) the following subsection:

30 “(1A) If the application for an assessment certificate is a joint application, the Minister may grant a permit to any one or more of the applicants.”.

Giving of assessment certificates

32. Section 39 of the Principal Act is amended by adding at the end the following subsection:

35 “(2) If the application is a joint application, each applicant must be given a separate certificate.”.

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Applications for assessment of priority existing chemicals

33. Section 55 of the Principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) 2 or more persons may make a joint application.”.

Introducer to notify Director of certain matters 5

34. Section 64 of the Principal Act is amended by adding at the end the following subsection:

“(4) 2 or more persons on whom are imposed obligations under this section in relation to an industrial chemical may comply with those obligations by jointly notifying the Director under this section.”. 10

Exempt information about chemicals subject to secondary notification

35. Section 66 of the Principal Act is amended by adding at the end the following subsection:

“(2) 2 or more persons may make a joint application.”.

**PART 4—AMENDMENTS OF THE LONG SERVICE LEAVE
(COMMONWEALTH EMPLOYEES) ACT 1976** 15

Principal Act

36. In this Part, “**Principal Act**” means the *Long Service Leave (Commonwealth Employees) Act 1976*³.

37. The Principal Act is amended by inserting after section 8: 20

Certain payments not included in salary

“8A. The regulations may:

- (a) provide that payments of a specified kind are not included in salary; or
- (b) specify the extent to which payments of a specified kind are not included in salary; or 25
- (c) prescribe the circumstances in which payments of a specified kind are not included in salary;

for the purposes of this Act or of a provision of this Act.”.

PART 5—AMENDMENTS OF THE NAVIGATION ACT 1912 30

Principal Act

38. In this Part, “**Principal Act**” means the *Navigation Act 1912*⁴.

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Regulations relating to accommodation

39. Section 136 of the Principal Act is amended by adding at the end the following subsections:

5 “(2) The regulations may make provision in relation to giving effect to:

 (a) the Accommodation of Crews Convention (Revised) 1949 adopted by the General Conference of the International Labour Organisation on 18 June 1949; and

10 (b) the Accommodation of Crews (Supplementary Provisions) Convention 1970 adopted by the General Conference of the Industrial Labour Organisation on 30 October 1970.

15 “(3) If a provision of either Convention applies only in relation to a particular class of ships or in relation to ships engaged on a particular class of voyages, a regulation that gives effect to that provision may be applied to ships of any other class or to ships engaged in any other class of voyages.

 “(4) Section 2 does not have effect in relation to a regulation made for the purposes of this section.

20 “(5) Regulations and orders giving effect to the Conventions do not apply in relation to a ship referred to in paragraph 2(1)(a), (b), (c) or (d) to the extent that a law of a State or of the Northern Territory gives effect to the Conventions in relation to that ship.”.

**PART 6—AMENDMENTS OF THE PIPELINE AUTHORITY ACT
1973**

25 **Principal Act**

 40. In this Part, “Principal Act” means the *Pipeline Authority Act 1973*.

Leave of absence

30 41. Section 8 of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:

 “(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.

35 “(3) The Authority may grant a part-time member leave to be absent from a meeting or meetings of the Authority.”.

Termination of appointment

42. Section 9 of the Principal Act is amended by omitting from paragraph (3)(b) “granted by the Authority”, and substituting “of absence”.

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SCHEDULE 1

Subsection 19(1)

**FURTHER AMENDMENTS OF THE COMMONWEALTH
EMPLOYEES' REHABILITATION AND COMPENSATION ACT
1988**

PART 1

**AMENDMENTS SUBSTITUTING "COMCARE"
FOR "THE COMMISSION"**

Each of the following provisions is amended by omitting "the Commission" and "The Commission" (wherever occurring in the provision) and substituting "Comcare":

4(1)(paragraph	24(7)	48(7)	91(2)
(a) of definition	25(1)	48(8)(a)	91(3)
of "approved	25(2)	48(8)(b)	91(4)
Guide")	25(3)	49(2)	92(1)
4(1)(paragraph	25(4)	49(3)	92(2)
(a) of definition	26(4)	49(5)(a)(i)	92(3)
of	27(1)	49(5)(b)	93
"rehabilitation	27(2)	50(1)	94(1)
authority")	28(1)	50(2)	94(2)
4(1)(paragraph	28(2)	50(3)	95(1)
(b) of definition	28(3)	50(4)	95(3)
of "relevant	28(4)	50(5)	95(4)
authority")	28(6)	50(7)	95(5)
4(10)	28(7)	50(7)(b)	96A(2)
5(5)	28(8)	50(8)	(definition of
5(9)	29(1)	51(1)	"Estimated
8(5)	29(2)	51(2)	administrative
8(8)	29(3)	51(4)	costs")
14(1)	29(4)	51(5)	96J(1)
15(1)	29(5)	54(2)(a)	96J(2)
16(1)	29(6)	54(2)(b)	96J(3)(a)
16(4)	29(7)	54(4)	96J(3)(b)
16(6)	30(1)(a)	60(1)	96J(4)
16(7)	30(1)(c)	60(1)(definition	96J(5)
16(8)	30(1)	of	96J(6)
16(9)	31(1)	"determination")	96K(1)(a)
17(3)	32(1)(a)	60(1)(definition	96K(1)(b)
17(4)(a)	32(2)	of "determining	96K(2)
17(4)(b)	34(1)	authority")	101(2)(a)
17(5)	34(3)	60(2)	101(2)(b)
17(8)	34(4)	67(11)(a)	101(2)(c)
17(10)	37(2)	70	101(2)(d)
18(1)	38(1)(c)	71(1)	101(2)(e)
18(2)	38(2)	72	101(3)(a)
19(2)	38(3)(b)	73(1)	101(3)(b)

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SCHEDULE 1—continued

19(3)	38(4)	73(2)	101(3)(c)
19(4)	41(1)	74(1)	101(3)(d)
19(4)(f)	43(1)	74(3)	128A(1)
19(4)(g)	43(2)	74(4)	128A(2)
20(2)	43(3)	86(2)	128A(3)
21(2)	43(4)(a)	88(1)	129(1)(aa)
22(1)	43(5)	88(1)(a)	129(3)
24(1)	47	88(1)(b)	129A(1)
24(2)	48(2)	90(1)	129A(1)(b)
24(3)	48(3)	90(2)	129A(2)
24(4)	48(5)(a)	90(3)	132A(4)
24(5)	48(5)(b)	91(1)	

PART 2

OTHER AMENDMENTS

Subsection 4(1) (definition of “Chief Executive Officer”):

Omit “of the Commission”, substitute “appointed under section 74.”.

Subsection 4(1) (definition of “Commission”):

Omit “68”, substitute “89A”.

Subsection 4(1) (definition of “Deputy Chief Executive Officer”):

Omit “of the Commission”, substitute “under section 86”.

Subsection 4(1) (definition of “member”):

Omit the definition, substitute:

“‘member’ means a member of the Commission, including the Chairperson but not including the Chief Executive Officer;”.

Subsection 4(1):

Insert:

“‘Chairperson’ means the Chairperson of the Commission;
‘Comcare’ means the body corporate established by section 68;”.

Part VII (heading):

Omit the heading, substitute:

“PART VII—ADMINISTRATION AND FINANCE”.

Division 1 of Part VII (heading):

Omit the heading, substitute:

“Division 1—Comcare”.

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SCHEDULE 1—continued

Subsection 73(1):

After “powers”, insert “under this Act”.

Division 2 of Part VII (heading):

Omit the heading.

Sections 75, 77 and 78:

Repeal the sections.

Subsection 80(1):

- (a) Omit “A member shall”, substitute “The Chief Executive Officer is to”.
- (b) Omit “the member shall”, substitute “the Chief Executive Officer is to”.

Subsection 80(2):

Omit the subsection.

Subsection 80(3):

Omit the subsection, substitute:

“(3) The Chief Executive Officer is to be paid such allowances as are prescribed.”

Subsection 81(3):

Omit the subsection.

Section 82:

Repeal the section.

Section 83:

Omit “A member”, substitute “The Chief Executive Officer”.

Section 85:

Repeal the section.

Division 3 of Part VII (heading):

Omit “*Division 3*”, substitute “*Division 2*”.

Subsection 88(4):

Omit “the Commission”, substitute “the Chief Executive Officer”.

Subsection 89(1):

- (a) Omit “The Commission”, substitute “The Chief Executive Officer”.
- (b) Omit “the Commission”, substitute “Comcare”.

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SCHEDULE 1—continued

Subsection 89(2):

Omit “the Commission”, substitute “the Chief Executive Officer”.

Paragraph 90(2)(a):

Omit “1989”, substitute “1992”.

Paragraph 90(2)(b):

Omit the paragraph, substitute:

“(b) it required that the report to be prepared and submitted as soon as practicable after 30 June 1992 be a report of Comcare’s operations during the period starting on the commencement of Part 2 of the *Industrial Relations Legislation Amendment Act (No. 3) 1991* and ending on the expiration of 30 June 1992.”.

Subsection 90(3):

Omit all the words from and including “particulars of”, substitute “particulars of each direction given by the Minister under section 73 or 105 during the period to which the report relates”.

Section 96:

Omit “1991”, substitute “1992”.

Subsection 96A(2) (definition of “Estimated liability”):

Omit “the Commission’s”, substitute “Comcare’s”.

Subsections 96C(1) and 96C(4):

Omit the subsections.

Section 96E:

Repeal the section.

Subsection 96J(1):

Omit “the Minister”, substitute “Comcare”.

Division 5 of Part VII:

Repeal the Division.

Subsection 107(1):

(a) Omit “90(3)(b)”, substitute “89S(2)(c)”.

(b) Omit “Chief Executive Officer” (wherever occurring), substitute “Commission”.

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SCHEDULE 2

Subsection 19(2)

**AMENDMENTS OF THE OCCUPATIONAL HEALTH AND
SAFETY (COMMONWEALTH EMPLOYMENT) ACT 1991**

Subsection 5(1) (definition of “annual report of the Commission”):

Omit the definition.

Subsection 5(1) (definition of “Commission”):

Omit “68”, substitute “89A”.

Subsection 5(1):

Insert:

“ ‘**annual report of Comcare**’ means the annual report of Comcare under section 63M of the *Audit Act 1901* as applied by section 90 of the *Commonwealth Employees Rehabilitation and Compensation Act 1988*; ‘**annual report of the Commission**’ means the annual report of the Commission under section 89S of the *Commonwealth Employees’ Rehabilitation and Compensation Act 1988*;

‘**Comcare**’ means the body corporate established by section 68 of the *Commonwealth Employees’ Rehabilitation and Compensation Act 1988*; ‘**member**’, in relation to the Commission, has the additional meaning given in subsection (3A);”.

After subsection 5(3):

Insert:

“(3A) A reference in this Act to a member of the Commission includes a reference to the Chief Executive Officer appointed under section 74 of the *Commonwealth Employees’ Rehabilitation and Compensation Act 1988*.”.

Subsection 12(1):

Omit “69(g)”, substitute “89B(c)”.

After section 12:

Insert:

Functions conferred on Comcare

“12A.(1) The additional functions conferred on the Commission under paragraph 12(1)(a) do not include the specific functions conferred on Comcare under this Act.

“(2) The Minister may, in writing, give a direction to Comcare with respect to the performance of its functions and the exercise of its powers under this Act.

“(3) Comcare must comply with a direction given under this section.”.

SCHEDULE 2—continued

Section 39:

Omit “its staff”, substitute “the Commission”.

Subsection 40(2):

Omit “The Commission”, substitute “Comcare”.

Paragraph 40(2)(a):

Omit “the Commission”, substitute “Comcare”.

Paragraph 40(3)(a):

Omit “the Commission”, substitute “Comcare”.

Paragraph 40(3)(b):

Omit “the Commission”, substitute “Comcare”.

Subsection 40(5):

Omit “the Commission”, substitute “Comcare”.

Subsection 40(6):

Omit “the Commission”, substitute “Comcare”.

Subsection 41(1):

Omit “the Commission”, substitute “Comcare”.

Subsection 41(2):

Omit “staff of the Commission”, substitute “staff of Comcare”.

Subsection 41(3):

Omit “staff of the Commission”, substitute “staff of Comcare”.

Paragraph 75(b):

Omit the paragraph.

After section 75:

Insert:

Annual report of Comcare

“75A. The annual report of Comcare in respect of a financial year must include:

- (a) details of all prosecutions instituted under this Act and the regulations during the year; and
- (b) particulars of any directions given by the Minister to Comcare under subsection 12A(2) during the year; and
- (c) such other matters as are prescribed.”.

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SCHEDULE 2—continued

Subsection 77(1):

Omit “the Commission”, substitute “Comcare”.

Subsection 77(2):

Omit “the Commission”, substitute “Comcare”.

Subsection 77(3):

Omit “the Commission”, substitute “Comcare”.

NOTES

1. No. 75, 1988, as amended. For previous amendments, see Nos. 109 and 135, 1988; No. 68, 1990; and Nos. 70 and 122, 1991.
2. No. 8, 1990, as amended. For previous amendments, see Nos. 62 and 122, 1991.
3. No. 192, 1976, as amended. For previous amendments, see No. 9, 1978; Nos. 52 and 155, 1979; Nos. 6 and 61, 1981; No. 141, 1983; No. 63, 1984; No. 166, 1985; Nos. 6, 87, 109 and 123, 1988; and No. 108, 1990.
4. No. 4, 1913, as amended. For previous amendments, see No. 32, 1919; No. 1, 1921; No. 8, 1925; No. 8, 1926; No. 49, 1934; No. 30, 1935; No. 1, 1943; No. 80, 1950; No. 109, 1952; No. 96, 1953; No. 46, 1956; No. 36, 1958 (as amended by No. 96, 1961; No. 1, 1965 and No. 98, 1979); No. 96, 1961; No. 1, 1965; No. 93, 1966; No. 60, 1967; No. 62, 1968; Nos. 1 and 117, 1970; No. 28, 1972; No. 216, 1973 (as amended by No. 20, 1974 and No. 91, 1976); No. 157, 1976; Nos. 98 (as amended by No. 39, 1983) and 155, 1979; Nos. 70 and 87 (as amended by Nos. 10 and 74, 1981; No. 84, 1983; No. 57, 1988 and No. 23, 1990), 1980; Nos. 10 (as amended by No. 74, 1981 and No. 57, 1988), and 36 (as amended by No. 40, 1983), 61 and 74, 1981; No. 80, 1982 (as amended by No. 39, 1983); Nos. 40 (as amended by Nos. 84 and 91, 1983), 72 (as amended by No. 165, 1984), 1984; Nos. 65 and 193, 1985; Nos. 76, 132, 163, and 167, 1986; No. 141, 1987; Nos. 34, 57, 87, 99 and 127, 1988; Nos. 6, 63, 129 and 151, 1989; Nos. 23 and 78, 1990; and No. 11, 1991.
5. No. 42, 1973, as amended. For previous amendments, see No. 216, 1973; Nos. 37 and 91, 1976; No. 36, 1978; No. 109, 1980; Nos. 65, 159 and 166, 1985; No. 76, 1986; Nos. 21 and 129, 1989; and No. 122, 1991.

NOTES ABOUT SECTION HEADINGS

1. On the day on which sections 38, 51, 91 and 96K of the *Commonwealth Employees' Rehabilitation and Compensation Act 1988* are amended by this Act, the heading to each of those sections is altered by omitting “Commission” and substituting “Comcare”.
2. On the day on which section 128A of the *Commonwealth Employees' Rehabilitation and Compensation Act 1988* is amended by this Act, the heading to that section is altered by omitting “Commission’s” and substituting “Comcare’s”.

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*[Minister's second reading speech made in—
Senate on 14 November 1991
House of Representatives on 19 December 1991]*