



Remuneration and Allowances Legislation Amendment Act 1992

No. 52 of 1992

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Remuneration and Allowances Legislation Amendment Act 1992

No. 52 of 1992

**An Act relating to the remuneration and allowances of the
holders of certain offices**

[Assented to 22 June 1992]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Remuneration and Allowances
5 Legislation Amendment Act 1992*.

Commencement

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

(2) Part 3 is taken to have commenced on 27 June 1991.

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(3) Section 16 and subsection 17(1) are taken to have commenced on 20 June 1990.

(4) Subsection 17(2) is taken to have commenced on 1 July 1990.

(5) Subsection 19(1) is taken to have commenced on 1 January 1990.

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**PART 2—AMENDMENT OF THE INDUSTRIAL RELATIONS
ACT 1988**

Principal Act

3. In this Part, “Principal Act” means the *Industrial Relations Act 1988*¹.

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Performance of duties on part-time basis

4. Section 12 of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:

“(2) If the President consents to a member performing his or her duties on a part-time basis, the President and the member are to enter into an agreement specifying the proportion of full-time duties to be worked by the member from and including a specified date.

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“(2A) The proportion may be varied by an agreement entered into between the President and the member.

“(2B) The proportion in force in relation to a particular period is in this section called the ‘agreed proportion’.

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“(2C) If the President consents to a member performing his or her duties on a part-time basis, the member is to be paid:

(a) salary at an annual rate equal to the agreed proportion of the annual rate of salary that would be payable to the member if the member were performing his or her duties on a full-time basis instead of on a part-time basis; and

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(b) such allowances as are prescribed.

“(2D) If the annual rate of salary of a member mentioned in subsection (2C) is not an amount of whole dollars, it is to be rounded to the nearest dollar (with 50 cents being rounded up).

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“(2E) If, assuming that a member or former member mentioned in subsection (2C) had performed his or her duties on a full-time basis instead of on a part-time basis, the member or former member would be entitled to a payment under subsection 21(2E), (2F) or (2G) or 23(3), the member or former member is to be paid an amount equal to the agreed proportion of that payment.

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“(2F) If there are different agreed proportions applicable to different periods, paragraph (2C)(a) and subsection (2E) apply separately to each of those periods.”.

Remuneration and allowances of Presidential Members etc.

5 **5. Section 21 of the Principal Act is amended:**

(a) by omitting subsections (1), (2) and (2A) and substituting the following subsections:

 “(1) The President is to be paid:

10 (a) salary at an annual rate equal to the annual rate of salary payable to the Chief Justice of the Court; and

 (b) such allowances as are prescribed.

 “(2) The Vice President is to be paid:

15 (a) salary at an annual rate equal to 103% of the annual rate of salary payable to a Judge of the Court; and

 (b) such allowances as are prescribed.

 “(2A) A Senior Deputy President is to be paid:

 (a) salary at an annual rate equal to the annual rate of salary payable to a Judge of the Court; and

 (b) such allowances as are prescribed.

20 “(2B) A Deputy President is to be paid:

 (a) salary at an annual rate equal to 95% of the annual rate of salary payable to a Judge of the Court; and

 (b) such allowances as are prescribed.

25 “(2C) If the annual rate of salary of a Presidential Member is not an amount of whole dollars, it is to be rounded to the nearest dollar (with 50 cents being rounded up).

30 “(2D) If, assuming that the President or a former President had held the office of Chief Justice of the Court instead of the office of President, the President or former President would be entitled to a payment under subsection 7(5E) of the *Remuneration Tribunal Act 1973*, the President or former President is to be paid an amount equal to that payment.

35 “(2E) If, assuming that the Vice President or a former Vice President had held an office of Judge of the Court instead of the office of Vice President, the Vice President or former Vice President would be entitled to a payment under subsection 7(5E) of the *Remuneration Tribunal Act 1973*, the Vice President or former Vice President is to be paid an amount equal to 103% of that payment.

40 “(2F) If, assuming that a Senior Deputy President or former

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Senior Deputy President had held an office of Judge of the Court instead of the office of Senior Deputy President, the Senior Deputy President or former Senior Deputy President would be entitled to a payment under subsection 7(5E) of the *Remuneration Tribunal Act 1973*, the Senior Deputy President or former Senior Deputy President is to be paid an amount equal to that payment. 5

“(2G) If, assuming that a Deputy President or former Deputy President had held an office of Judge of the Court instead of the office of Deputy President, the Deputy President or former Deputy President would be entitled to a payment under subsection 7(5E) of the *Remuneration Tribunal Act 1973*, the Deputy President or former Deputy President is to be paid an amount equal to 95% of that payment.”; 10

(b) by adding at the end the following subsection: 15

“(7) In this section:

‘**Judge**’ does not include the Chief Justice of the Court.”.

6. Section 23 of the Principal Act is repealed and the following section is substituted:

Remuneration and allowances of Commissioners 20

“23.(1) A Commissioner is to be paid:

(a) salary at an annual rate equal to 70% of the annual rate of salary payable to a Deputy President; and

(b) such allowances as are prescribed.

“(2) If the annual rate of salary of a Commissioner is not an amount of whole dollars, it is to be rounded to the nearest dollar (with 50 cents being rounded up). 25

“(3) If, assuming that a Commissioner or former Commissioner had held an office of Deputy President instead of the office of Commissioner, the Commissioner or former Commissioner would be entitled to a payment under subsection 21(2G), the Commissioner or former Commissioner is to be paid an amount equal to 70% of that payment. 30

“(4) This section has effect subject to section 12.”.

Appropriation for payment of certain salaries and allowances 35

7. Section 358 of the Principal Act is amended by omitting “and allowances under section 21” and substituting “, allowances and other amounts under section 12, 21 or 23”.

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Transitional—salaries for Presidential Members

[Special payment where retrospectivity to 1 January 1991 would have worked to the financial advantage of a Presidential Member]

5 8.(1) If the notional salary payable to a Presidential Member or former Presidential Member in respect of the interim period (worked out under subsection (2)) exceeds the actual salary payable to the Presidential Member or former Presidential Member in respect of the interim period (worked out under subsection (4)), the Presidential Member or former Presidential Member is to be paid an amount equal
10 to the excess.

[Notional salary payable in respect of the interim period]

(2) For the purposes of this section, the notional salary payable to a Presidential Member or former Presidential Member in respect of the interim period is the sum of:

- 15 (a) the salary that would have been payable to the Presidential Member or former Presidential Member in that capacity in respect of the interim period if the retrospectivity assumption set out in subsection (3) was made; and
- 20 (b) amounts that would have been payable to the Presidential Member or former Presidential Member in that capacity under subsection 7(5E) of the *Remuneration Tribunal Act 1973* (whether before or after the commencement of this section) if:
- 25 (i) the period of deferral mentioned in that subsection did not include any day outside the interim period; and
- (ii) the retrospectivity assumption set out in subsection (3) was made; and
- (iii) section 21 of this Act had not been enacted.

[Retrospectivity assumption]

30 (3) The retrospectivity assumption referred to in subsection (2) is that each determination of the Remuneration Tribunal which had effect for the purposes of paragraph 12(2)(a) or subsection 21(1) of the Principal Act in relation to the interim period were modified so that:

- 35 (a) the full-time annual salary of the President were equal to the annual rate of salary that was payable from time to time to the Chief Justice of the Court; and
- (b) the full-time annual salary of a Deputy President were equal to 95% of the annual rate of salary that was payable from time to time to a Judge of the Court (other than the Chief Justice of the Court).

40 **[Actual salary payable in respect of the interim period]**

(4) For the purposes of this section, the actual salary payable to a Presidential Member or former Presidential Member in respect of the interim period is the sum of:

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- (a) the salary payable to the Presidential Member or former Presidential Member in that capacity in respect of the interim period; and
- (b) amounts that would have been payable to the Presidential Member or former Presidential Member in that capacity under subsection 7(5E) of the *Remuneration Tribunal Act 1973* if the period of deferral mentioned in that subsection did not include any day outside the interim period.

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[Meaning of “interim period”]

(5) In this section:

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“interim period” means the period:

- (a) commencing on 1 January 1991; and
- (b) ending immediately before the commencement of this section.

Transitional—allowances for members of Commission

9.(1) This section applies to allowances payable to a member of the Commission in respect of the period:

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- (a) commencing on the date of commencement of this section; and
- (b) ending immediately before the first relevant regulations made for the purposes of paragraph 12(2C)(b) or 21(1)(b), (2)(b), (2A)(b) or (2B)(b) or 23(1)(b) of the Principal Act as amended by this Act take effect.

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(2) A member of the Commission is to receive allowances at the same rates, and subject to the same conditions, as would have been applicable if the amendments made by this Part had not been enacted.

**Transitional—payments attributable to subsection 7(5E) of the
*Remuneration Tribunal Act 1973***

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10. Subsection 12(2E) or 21(2D), (2E), (2F) or (2G) or 23(3) of the Principal Act as amended by this Act applies to a payment to a member or former member of the Commission:

- (a) only if the determination of the Remuneration Tribunal to which the payment is attributable took effect after the commencement of this section; and
- (b) only to the extent to which the period of deferral mentioned in subsection 7(5E) of the *Remuneration Tribunal Act 1973* does not include any day before the date of commencement of this section.

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Transitional—part-time members of Commission

11. If:

- (a) before the commencement of this section, the President

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consented to a member of the Commission performing his or her duties on a part-time basis; and

5 (b) immediately before the commencement of this section, there was in force an agreement entered into between the President and the member specifying the proportion of full-time duties to be worked by the member;

the agreement continues in force as if it had been entered into under subsection 12(2) of the Principal Act as amended by this Act.

Appropriation for payment of transitional amounts

10 12. The Consolidated Revenue Fund is appropriated to the extent necessary for payments under section 8 or 9.

**PART 3—AMENDMENT OF THE INDUSTRIAL RELATIONS
LEGISLATION AMENDMENT ACT 1991**

Principal Act

15 13. In this Part, “Principal Act” means the *Industrial Relations Legislation Amendment Act 1991*².

Interpretation

14. Section 24 of the Principal Act is amended by omitting from paragraph (b) “officer” and substituting “office”.

20 **PART 4—AMENDMENT OF THE REMUNERATION AND
ALLOWANCES ACT 1990**

Principal Act

15. In this Part, “Principal Act” means the *Remuneration and Allowances Act 1990*³.

25 **Operation of Part**

16. Section 3 of the Principal Act is amended by omitting from subsection (2) “expressed to override” and substituting “inconsistent with”.

Schedule 1

30 17.(1) Schedule 1 to the Principal Act is amended by inserting in clauses 2 to 5 (inclusive) “Australian” before “Industrial Relations Commission” (wherever occurring).

(2) Schedule 1 to the Principal Act is amended by adding at the end the following clause:

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“7. Annual Leave Loading

An annual leave loading is payable to:

(a) the holder of an office specified in Part 4 of clause 2;
and

(b) the holder of an office of Commissioner, Australian
Industrial Relations Commission;

on the same terms and conditions applying to officers of the
Australian Public Service.”.

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**PART 5—AMENDMENT OF THE REMUNERATION
TRIBUNAL ACT 1973**

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Principal Act

18. In this Part, “Principal Act” means the *Remuneration Tribunal Act 1973*⁴.

Interpretation

19.(1) Section 3 of the Principal Act is amended by inserting “, or
Deputy Vice-Chancellor,” after “Vice-Chancellor” in paragraph (b) of
the definition of “executive education office” in subsection (1).

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(2) Section 3 of the Principal Act is amended by inserting before
paragraph (4)(ja) the following paragraph:

“(j) an office of member of the Australian Industrial Relations
Commission;”.

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Establishment of Remuneration Tribunal

20. Section 4 of the Principal Act is amended by omitting subsection
(6).

**Transitional—pending determinations relating to Presidential Members
of the Australian Industrial Relations Commission**

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21. A determination of the Tribunal made before the commencement
of this section, to the extent that it directly determines the salary to be
paid to a Presidential Member of the Australian Industrial Relations
Commission, is invalid if it would, apart from this section, take effect
on or after the date of commencement of this section.

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**PART 6—SALARIES OF EXECUTIVE EDUCATION OFFICERS—
DEEMED DETERMINATION OF THE REMUNERATION
TRIBUNAL**

Salary to be paid to holders of executive education offices

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22.(1) The Remuneration Tribunal is taken to have determined the
rates of salary payable to a person holding an executive education office
in the Australian National University or the University of Canberra as

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set out in the following table with effect from the date of commencement of this section:

Office	Rate per annum of salary \$
<u>Australian National University</u> Vice-Chancellor Deputy Vice-Chancellor	107,625 86,100
<u>University of Canberra</u> Vice-Chancellor Deputy Vice-Chancellor	100,450 85,383

5 (2) Subsection (1) does not prevent the Remuneration Tribunal from making a subsequent determination of the rates of salary payable to a person holding an executive education office in the Australian National University or the University of Canberra.

Tabling and disallowance provisions do not apply to deemed determination

10 23. Subsections 7(7) and (8) of the *Remuneration Tribunal Act 1973* do not apply in relation to the determination which the Remuneration Tribunal is taken to have made because of this Part.

NOTES

1. No. 86, 1988, as amended. For previous amendments, see No. 109, 1988; No. 153, 1989; Nos. 37, 71 and 108, 1990; and Nos. 19, 62 and 122, 1991.
2. No. 122, 1991.
3. No. 71, 1990, as amended. For previous amendments, see Nos. 72 and 108, 1990.
4. 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; Nos. 95, 149, 152 and 179, 1989; No. 28, 1990; and No. 122, 1991.

[*Minister's second reading speech made in—
House of Representatives on 2 April 1992
Senate on 7 May 1992*]