



# Public Service Legislation Amendment Act 1995

No. 153 of 1995

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### AMENDMENTS OF ACTS

*Merit Protection (Australian Government Employees) Act 1984*  
*Public Service Act 1922*



# Public Service Legislation Amendment Act 1995

No. 153 of 1995

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**An Act to amend the *Merit Protection (Australian Government Employees) Act 1984* and the *Public Service Act 1922*, and for related purposes**

[Assented to 16 December 1995]

The Parliament of Australia enacts:

**Short title**

**1.** This Act may be cited as the *Public Service Legislation Amendment Act 1995*.

*Public Service Legislation Amendment No. 153, 1995*

**Commencement**

**2.** This Act commences on the day on which it receives the Royal Assent.

**Schedule**

**3.** The Acts specified in the Schedule to this Act are amended in accordance with the Schedule, and the other items in the Schedule have effect according to their terms.

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SCHEDULE

Section 3

AMENDMENTS OF ACTS

*Merit Protection (Australian Government Employees) Act 1984*

- 1. Subsection 3(1) (definition of *member*):**  
Omit “Director”, substitute “Merit Protection Commissioner”.
- 2. Subsection 3(1) (definitions of *Commissioner*, *Director*, *full-time member* and *part-time member*):**  
Omit the definitions.
- 3. Subsection 17(5):**  
Omit “Commissioner”, substitute “Public Service Commissioner”.
- 4. Subparagraph 23(1)(b)(i):**  
Omit “Commissioner” (wherever occurring), substitute “Public Service Commissioner”.
- 5. Paragraph 28(1)(b):**  
Omit “Commissioner”, substitute “Public Service Commissioner”.
- 6. Subsection 28(2):**  
Omit “Commissioner”, substitute “Public Service Commissioner”.
- 7. Paragraph 33(b):**  
Omit “Commissioner”, substitute “Public Service Commissioner”.
- 8. Paragraph 39(7)(e):**  
Omit “Director” (wherever occurring), substitute “Merit Protection Commissioner”.
- 9. Section 44:**  
Omit “Commissioner” (wherever occurring), substitute “Public Service Commissioner”.
- 10. Section 56:**  
Omit “Commissioner” (wherever occurring), substitute “Public Service Commissioner”.
- 11. Section 59:**  
Omit “Director” (wherever occurring), substitute “Merit Protection Commissioner”.

**SCHEDULE—continued**

**12. Section 60:**

Omit “Director”, substitute “Merit Protection Commissioner”.

**13. Subsection 61(3):**

Omit “Director”, substitute “Merit Protection Commissioner”.

**14. Subsection 61(6):**

Omit “Director”, substitute “Merit Protection Commissioner”.

**15. Section 62:**

Omit “Director”, substitute “Merit Protection Commissioner”.

**16. Paragraph 63(1)(a):**

Omit “Director”, substitute “Merit Protection Commissioner”.

**17. Subsection 63(2):**

Omit “Director”, substitute “Merit Protection Commissioner”.

**18. Subsections 63(3), (4), (5) and (6):**

Omit the subsections, substitute:

“(3) The Merit Protection Commissioner must only be appointed after consultations, by the Minister or his or her representative, with the Australian Council of Trade Unions and the Public Service Commissioner.

“(4) Any other member must only be appointed after consultations by the Minister or his or her representative, with the Australian Council of Trade Unions, the Public Service Commissioner and the Merit Protection Commissioner.

“(5) The Merit Protection Commissioner must be appointed on a full-time basis. Any other member must be appointed on a part-time basis.”.

**19. Subsection 63(7):**

Omit “Director”, substitute “Merit Protection Commissioner”.

**20. Subsection 63(9):**

Omit “subsection (6)”, substitute “subsection (3) or (4)”.

**21. Subsection 64(1):**

Omit “Director” (wherever occurring), substitute “Merit Protection Commissioner”.

**22. Subsection 66(1):**

Omit “a full-time member”, substitute “the Merit Protection Commissioner”.

**SCHEDULE—continued**

**23. Paragraph 66(2)(a):**

Omit “a full-time member”, substitute “the Merit Protection Commissioner”.

**24. Paragraph 66(2)(b):**

Omit “a part-time member”, substitute “any other member”.

**25. Section 67:**

Omit “a full-time member shall not”, substitute “the Merit Protection Commissioner must not”.

**26. Section 69:**

Omit “Director” (wherever occurring), substitute “Merit Protection Commissioner”.

Note: The heading to section 69 is altered by omitting “Director” and substituting “Merit Protection Commissioner”.

**27. Paragraph 70(1)(a):**

Omit “, on a full-time or part-time basis,”.

**28. Paragraphs 70(1)(b) and (c):**

Omit the paragraphs, substitute:

“or (c) to act as a member during any period, or during all periods, when the member is absent from Australia or is, for any reason, unable to perform the duties of his or her office.”.

**29. Subsection 70(9):**

Omit “Director”, substitute “Merit Protection Commissioner”.

**30. Subsections 71(2), (3), (4), (8) and (9):**

Omit “Director” (wherever occurring), substitute “Merit Protection Commissioner”.

**31. Paragraph 75(7)(b):**

Omit “a full-time member”, substitute “the Merit Protection Commissioner”.

**32. Paragraph 75(7)(c):**

Omit “a part-time member”, substitute “any other member”.

**33. Section 77:**

Repeal the section.

**SCHEDULE—continued**

**34. Section 79:**

Omit “Director” (wherever occurring), substitute “Merit Protection Commissioner”.

Note: The heading to section 79 is altered by omitting “Director” and substituting “Merit Protection Commissioner”.

**35. Subsection 79(1):**

Omit “Director’s”, substitute “Merit Protection Commissioner’s”.

**36. Paragraph 81(1)(a):**

Omit “Director”, substitute “Merit Protection Commissioner”.

**37. Paragraph 82(2)(b):**

Omit the paragraph, substitute:

“or (b) a person appointed or employed, under section 18B of the *Public Service Act 1922*, for the purposes of this Act; or”.

**38. Paragraph 82(2)(c):**

Omit “Director”, substitute “Merit Protection Commissioner”.

**39. Paragraph 84(1)(b):**

Omit the paragraph, substitute:

“or (b) a person appointed or employed, under section 18B of the *Public Service Act 1922*, for the purposes of this Act; or”.

**40. Paragraph 84(1)(c):**

Omit “Director”, substitute “Merit Protection Commissioner”.

**41. Subsections 84(6), (7) ‘and (8):**

Omit “Director” (wherever occurring), substitute “Merit Protection Commissioner”.

**42. Transitional—Director of the Agency**

(1) The appointment of the person who held office as the Director under the *Merit Protection (Australian Government Employees) Act 1984* immediately before the commencement of this Act continues in force, on the same terms and conditions, after that commencement as though it were an appointment as the Merit Protection Commissioner.

(2) Anything done by the Director under the *Merit Protection (Australian Government Employees) Act 1984* before the commencement of this Act is taken, after that commencement, to have been done by the Merit Protection Commissioner.

**SCHEDULE—continued**

**43. Transitional—staff of the Agency**

On the commencement of this Act, a person who immediately before that commencement was a member of the staff referred to in subsection 77(1) of the *Merit Protection (Australian Government Employees) Act 1984* is taken:

- (a) to be a person appointed or employed, on the same terms and conditions, under section 18B of the *Public Service Act 1922* (as amended by this Act); and
- (b) to have been so appointed or employed for the purposes of the *Merit Protection (Australian Government Employees) Act 1984*.

***Public Service Act 1922***

**44. Subsection 18B(1):**

After “the Commissioner’s functions,” insert “or required for the purposes of the Merit Protection Act,”.

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*[Minister’s second reading speech made in—  
House of Representatives on 28 September 1995  
Senate on 16 October 1995]*