



Social and Community Services Pay Equity Special Account Act 2012

No. 150, 2012

**An Act to establish the Social and Community
Services Pay Equity Special Account, and for
related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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**An Act to establish the Social and Community
Services Pay Equity Special Account, and for
related purposes**

[Assented to 8 November 2012]

The Parliament of Australia enacts:

Social and Community Services Pay Equity Special Account Act 2012 No. 150, 2012 1

Part 1—Preliminary

1 Short title

This Act may be cited as the *Social and Community Services Pay Equity Special Account Act 2012*.

2 Commencement

This Act commences on the day this Act receives the Royal Assent.

3 Simplified outline

The following is a simplified outline of this Act:

- This Act establishes the Social and Community Services Pay Equity Special Account.
- Section 6 provides for annual credits of money to the Account for the 2012-13 financial year through to the 2020-21 financial year.
- Section 7 provides that a purpose of the Account is to assist certain employers in the Social, Community and Disability Services Industry to meet the costs of payments required to be made as a result of certain pay equity orders. That section sets out the other purpose of the Account.
- Section 8 provides that amounts may be debited from the Account and credited to the COAG Reform Fund for the purpose of making grants to the States or Territories in relation to the same kind of assistance.
- This Act ceases to have effect on 30 June 2021.

4 Definitions

- (1) In this Act:

Account means the Social and Community Services Pay Equity Special Account established by section 5.

COAG Reform Fund means the COAG Reform Fund established by section 5 of the *COAG Reform Fund Act 2008*.

pay equity order means:

- (a) the Social, Community and Disability Services Industry Equal Remuneration Order; or
- (b) a transitional pay equity order (Queensland).

Social, Community and Disability Services Industry Equal Remuneration Order means the order:

- (a) made by Fair Work Australia under section 302 of the *Fair Work Act 2009* on 22 June 2012; and
- (b) titled “Social, Community and Disability Services Industry Equal Remuneration Order 2012”.

transitional pay equity order (Queensland) means:

- (a) the order that, under subitem 43(1) of Schedule 3 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, is taken to have been made by Fair Work Australia under item 43 of that Schedule on 27 March 2011; or
 - (b) the order that, under subitem 30A(1) of Schedule 3A to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, is taken to have been made by Fair Work Australia under item 30A of that Schedule on 1 January 2010.
- (2) For the purposes of this Act, the order referred to in paragraph (b) of the definition of **transitional pay equity order (Queensland)** in subsection (1) covers, or applies to, an employer only if the Division 2B State award referred to in paragraph 30A(2)(a) of Schedule 3A to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* was derived from the

Part 1 Preliminary

Section 4

*Queensland Community Services and Crisis Assistance Award—
State 2008.*

Part 2—Social and Community Services Pay Equity Special Account

5 Social and Community Services Pay Equity Special Account

- (1) The Social and Community Services Pay Equity Special Account is established by this section.
- (2) The Account is a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

6 Credits to the Account

On the day mentioned in column 1 of an item in the following table, there is to be credited to the Account the amount mentioned in column 2 of that item:

Credits to the Account		
Item	Column 1 Day	Column 2 Amount to be credited
1	The day this section commences	\$69.4 million
2	1 July 2013	\$145.2 million
3	1 July 2014	\$198.5 million
4	1 July 2015	\$253.4 million
5	1 July 2016	\$309.4 million
6	1 July 2017	\$368.7 million
7	1 July 2018	\$431.4 million
8	1 July 2019	\$491.1 million
9	1 July 2020	\$554.5 million

7 Purposes of the Account

- (1) This section sets out the 2 purposes of the Account.

Section 7

Note: See section 21 of the *Financial Management and Accountability Act 1997* (debits from Special Accounts).

- (2) A purpose of the Account is to assist employers:
- (a) who are covered by a pay equity order or to whom a pay equity order applies; and
 - (b) who are receiving funding, directly or indirectly, from the Commonwealth for the purposes of a program specified in an item in Part 1 or 2 of Schedule 1 (including that Schedule as modified by an instrument under subsection (4));
- to meet the costs of payments required to be made by the employers as a result of the order.
- (3) If:
- (a) employers are receiving, from the Commonwealth, fees for services; and
 - (b) the services are provided for the purposes of a program specified in an item in Part 1 or 2 of Schedule 2 (including that Schedule as modified by an instrument under subsection (4));
- then a purpose of the Account is to pay some or all of any increase in those fees paid to those employers, to the extent that the increase relates to one or more pay equity orders.

Instrument modifying Schedule 1 or 2

- (4) The Minister may, by written instrument, modify Schedule 1 or 2 in one or more of the following ways:
- (a) adding an item that specifies a program;
 - (b) omitting an item that specifies a program;
 - (c) omitting and substituting an item that specifies a program;
 - (d) varying an item that specifies a program.
- (5) An instrument made under subsection (4) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the instrument.

Note: See section 9 for disallowance of an instrument made under subsection (4).

8 COAG Reform Fund

- (1) The Minister may, by writing, direct that a specified amount is to be:
 - (a) debited from the Account; and
 - (b) credited to the COAG Reform Fund;on a specified day.
- (2) The direction must be expressed to be given in order to enable the specified amount to be debited from the COAG Reform Fund for the purpose of making a specified grant of financial assistance to a State or Territory.
- (3) A grant specified under subsection (2) must be a grant of financial assistance in relation to assisting employers:
 - (a) who are covered by a pay equity order or to whom a pay equity order applies; and
 - (b) who are receiving funding from a State or Territory because of another grant of financial assistance:
 - (i) that is to the State or Territory and that is made under an agreement specified in an item in Part 1 of Schedule 3 (including that Schedule as modified by an instrument under subsection (7)); or
 - (ii) that is to the State or Territory under Part 3 of the *Federal Financial Relations Act 2009* and that is a payment specified in an item in Part 2 of Schedule 3 (including that Schedule as modified by an instrument under subsection (7));to meet the costs of payments required to be made by the employers as a result of the order.
- (4) Two or more directions under subsection (1) may be set out in the same document.

Debit from the COAG Reform Fund

- (5) The Treasurer must ensure that, as soon as practicable after an amount is credited to the COAG Reform Fund under subsection (1), in relation to making a grant of financial assistance

Section 8

specified under subsection (2) to a State or Territory, the COAG Reform Fund is debited for the purposes of making that grant.

Direction is not a legislative instrument

- (6) A direction under subsection (1) is not a legislative instrument.

Instrument modifying Schedule 3

- (7) The Minister may, by written instrument, modify Schedule 3 in one or more of the following ways:
- (a) adding an item that specifies an agreement or payment;
 - (b) omitting an item that specifies an agreement or payment;
 - (c) omitting and substituting an item that specifies an agreement or payment;
 - (d) varying an item that specifies an agreement or payment.
- (8) An instrument made under subsection (7) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the instrument.

Note: See section 9 for disallowance of an instrument made under subsection (7).

Part 3—Other matters

9 Disallowance of instruments

Scope

- (1) This section applies to an instrument under subsection 7(4) or 8(7).

Disallowance

- (2) Either House of Parliament may, following a motion on notice, pass a resolution disallowing the instrument. To be effective, the resolution must be passed within 5 sitting days of the House after the copy of the instrument was tabled in the House under section 38 of the *Legislative Instruments Act 2003*.
- (3) If neither House passes such a resolution, the instrument takes effect on the day immediately after the last day on which such a resolution could have been passed.
- (4) If a House of Parliament passes a resolution under subsection (2) disallowing an instrument made under subsection 7(4) or 8(7), this Act does not prevent the Minister from making another instrument under subsection 7(4) or 8(7).

10 Sunset provision

This Act ceases to have effect on 30 June 2021.

Schedule 1—Programs

Note: See subsection 7(2).

Part 1—Programs in the Financial Management and Accountability Regulations

Attorney-General's Department

- 402.001 Justice Services
- 402.005 Payments for the provision of community legal services
- 402.008 Family Relationships Services Program
- 402.009 Payments under the Indigenous Justice Program
- 402.010 Payments for the provision of Family Violence Prevention Legal Services for Indigenous Australia

Department of Education, Employment and Workplace Relations

- 407.034 Youth Attainment and Transitions National Partnership

Department of Families, Housing, Community Services and Indigenous Affairs

- 410.001 Family Support
- 410.002 Housing Assistance and Homelessness Prevention
- 410.004 Financial Management
- 410.005 Community Investment
- 410.009 Targeted Community Care
- 410.011 Services and Support for People with Disability
- 410.012 Support for Carers
- 410.015 Gender Equality for Women

Department of Health and Ageing

- 415.003 Drug strategy
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415.017 Home support

415.034 Mental health

Department of Immigration and Citizenship

417.002 Grants for community settlement services

Department of the Prime Minister and Cabinet

420.001 Domestic Policy

Part 2—Other programs

***Department of Families, Housing, Community Services and
Indigenous Affairs***

- 1 Programs referred to in paragraph 142A(1)(b) of the *Aboriginal and Torres Strait Islander Act 2005*

Schedule 2—Programs

Note: See subsection 7(3).

Part 1—Programs in the Financial Management and Accountability Regulations

Department of Immigration and Citizenship

- 417.003 Humanitarian settlement services
- 417.005 Supervision and welfare for unaccompanied humanitarian minors
- 417.012 Payments to the Australian Red Cross Society for the Asylum Seeker Assistance Scheme
- 417.016 Compliance Resolution, Community Care and Assistance
- 417.017 Onshore Detention Network—Community and Detention Services

Department of Veterans' Affairs

- 430.007 Joint Venture Day Clubs

Part 2—Other programs

Department of Veterans' Affairs

- 1 Medical and Other Treatment Services provided under Part V of the *Veterans' Entitlements Act 1986*
- 2 Treatment and Other Services provided under Chapter 6 of the *Military Rehabilitation and Compensation Act 2004*
- 3 Treatment and Other Services provided under Part 2 of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006*

Schedule 3—Grants of financial assistance

Note: See subsection 8(3).

Part 1—Agreements

- 1 National Partnership Agreement Supporting National Mental Health Reform
- 2 National Partnership Agreement on Transitioning Responsibilities for Aged Care and Disability Services
- 3 National Partnership Agreement on Homelessness
- 4 National Partnership Agreement on Health Services, Implementation Plan for the National Perinatal Depression Initiative
- 5 Review Agreement in relation to the provision of financial assistance by the Commonwealth of Australia to Victoria for The Home and Community Care Program
- 6 Review Agreement in relation to the provision of financial assistance by the Commonwealth of Australia to Western Australia for The Home and Community Care Program

Part 2—Payments

- 1 National Affordable Housing Specific Purpose Payment
- 2 National Disability Specific Purpose Payment

*[Minister's second reading speech made in—
House of Representatives on 10 October 2012
Senate on 11 October 2012]*

(186/12)

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