

EXPLANATORY STATEMENT

Maternity Leave (Commonwealth Employees) Regulations 2017

Issued under the Authority of the Minister Assisting the Prime Minister for the Public Service in compliance with section 26 of the *Legislative Instruments Act 2003*

Legislative Authority

Section 15 of the *Maternity Leave (Commonwealth Employees) Act 1973* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to the Act.

Background

The purpose of the Maternity Leave (Commonwealth Employees) Regulations 2017 (the Regulations) is to repeal and replace the Maternity Leave (Commonwealth Employees) Regulations 1982 (the 1982 Regulations) which sunset on 1 April 2018. The proposed Regulations would largely replicate the 1982 Regulations with minor amendments to remove redundant organisations and persons to whom the Act applies.

Purpose and operation

Specific provisions in the Act provide that regulations may be made to support the provision of maternity leave entitlements. These include section 3(1); section 3(2); and section 15.

Consultation

The Department of the Prime Minister and Cabinet consulted interested parties within the Commonwealth including the Australian Public Service Commission and the Department of Finance. The Office of Best Practice Regulation has advised that a regulatory impact statement is not required (OBPR ID 22791).

Statement of Compatibility with Human rights

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

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This Disallowable Legislative Instrument engages with Article 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 7 is as follows:

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

The Regulations would maintain provision of Commonwealth employees' entitlement to maternity leave, which supports the realisation of Article 7 for relevant employees.