

1996-97

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 125

THURSDAY, 30 OCTOBER 1997

1 The House met, at 9.30 a.m., pursuant to adjournment. The Speaker (the Honourable Bob Halverson) took the Chair, and read Prayers.

2 NATIONAL TRANSMISSION NETWORK SALE BILL 1997

Mr W. L. Smith (Minister representing the Minister for Communications, the Information Economy and the Arts), pursuant to notice, presented a Bill for an Act relating to the sale of the National Transmission Network.

Bill read a first time.

Mr W. L. Smith moved—That the Bill be now read a second time.

Paper

Mr W. L. Smith presented an explanatory memorandum to the following Bills:

National Transmission Network Sale 1997; and

National Transmission Network Sale (Consequential Amendments) 1997.

Debate adjourned (Mr O'Connor), and the resumption of the debate made an order of the day for the next sitting.

3 NATIONAL TRANSMISSION NETWORK SALE (CONSEQUENTIAL AMENDMENTS) BILL 1997

Mr W. L. Smith (Minister representing the Minister for Communications, the Information Economy and the Arts), pursuant to notice, presented a Bill for an Act to make consequential amendments relating to the sale of the National Transmission Network, and for related purposes.

Bill read a first time.

Mr W. L. Smith moved—That the Bill be now read a second time.

Debate adjourned (Mr O'Connor), and the resumption of the debate made an order of the day for the next sitting.

4 PUBLIC SERVICE BILL 1997

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed.

Debate adjourned (Mrs Johnston), and the resumption of the debate made an order of the day for a later hour this day.

5 POSTPONEMENT OF BUSINESS

Ordered—That business intervening before order of the day No. 3, government business, be postponed until a later hour this day.

6 EXCISE TARIFF AMENDMENT BILL (NO. 1) 1997—SENATE'S AMENDMENTS

The order of the day having been read for the consideration of the amendments made by the Senate, viz.:

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

- (1) Clause 2, page 2 (after line 4), at the end of the clause, add:
 - (5) Items 1A, 4A and 4B of Schedule 1 commence on the day on which this Act receives the Royal Assent.
- (2) Schedule 1, page 3 (after line 5), after item 1, insert:

1A Schedule

Insert:

Standard P5 means Food Standard P5 in the Australian Food Standards Code, 1992.

- (3) Schedule 1, page 6 (before line 1), after item 4, insert:

4A Item 2 of the Schedule

Repeal the item, substitute:

2. Spirits; Beverages containing distilled alcohol

(A) Brandy	\$31.59 per litre of distilled alcohol
(C) Fruit Brandy	\$36.99 per litre of distilled alcohol
(D) Whisky	\$36.99 per litre of distilled alcohol
(F) Rum	\$36.99 per litre of distilled alcohol
(G) Liqueurs	\$36.99 per litre of distilled alcohol

- | | | |
|-----|--|--|
| (H) | Beverages (other than beverages comprised solely of fortified wine and other than beverages which are covered by Standard P5) containing distilled alcohol, n.e.i. | To the extent that the distilled alcohol in the beverage is attributable to the presence of brandy—\$31.59 per litre of that distilled alcohol |
| | | To the extent that the distilled alcohol in the beverage is attributable to the presence of anything other than brandy—\$36.99 per litre of that distilled alcohol |
| (J) | Spirits for fortifying Australian wine or for fortifying Australian grape must, subject to regulations | Free |
| (M) | Spirits for industrial and scientific purposes, n.e.i., subject to regulations | Free |
| (N) | Methylated spirits, subject to regulations | Free |
| (O) | Non-potable spirits, n.e.i. | \$37.97 per litre of distilled alcohol |
| (P) | Spirits for scientific or educational purposes, subject to regulations: | |
| | (1) For use in universities | Free |
| | (2) For use in approved technological colleges or other educational institutions prescribed by by-law | Free |
| (Q) | Spirits for use in public hospitals, or for use in the manufacture of medicinal preparations for use in public hospitals and universities, subject to regulations | Free |
| (R) | Denatured ethanol for use as a fuel in internal combustion engines, as prescribed by by-law | Free |

4B After item 2 of the Schedule

Insert:

- | | | |
|--------------------------------------|---|-----------------------------------|
| 2A. Beverages covered by Standard P5 | | |
| (A) | Beverages which are covered by Standard P5 and which do not contain more than 5% by volume of alcohol | \$15.89 per litre of that alcohol |

- | | |
|--|---|
| (B) Beverages which are covered by Standard P5 and which contain more than 5% by volume of alcohol | To the extent that the beverage contains distilled alcohol which is attributable to the presence of brandy—\$31.59 per litre of that distilled alcohol |
| | To the extent that the beverage contains any alcohol which is attributable to the presence of anything other than brandy—\$36.99 per litre of that alcohol— |

On the motion of Mr Truss (Minister for Customs and Consumer Affairs), the amendments were disagreed to, after debate.

Mr Truss moved—That Mr Brough, Mrs Johnston and the mover be appointed a committee to draw up reasons for the House of Representatives disagreeing to the amendments of the Senate.

Question—put and passed.

Mr Truss, on behalf of the committee, brought up reasons, which were circulated, and are as follows:

Reasons of the House of Representatives for disagreeing to the amendments of the Senate

The Senate amendments seek to impose the beer rate of excise to any product in the National Food Authority Standard P 5. The House of Representatives considers that the effect of this amendment will be twofold on alcoholic beverages in the P5 category with an alcoholic content of less than 5 per cent:

- (1) the rate of excise on spirit based pre-mixed drinks in the P5 category will fall from \$36.99 per litre of alcohol to \$ 15.89 per litre of alcohol; and
- (2) for the first time, excise will be imposed on other alcoholic products in the P5 category not currently subject to excise.

The House of Representatives considers that it is the intention of the Senate amendment to reduce the disparity in the taxation of alcoholic products by reducing the excise payable on highly taxed spirit based products and impose for the first time excise on currently excise free beverages.

The House of Representatives remains of the view that the Bill as originally introduced is necessary as a result of a decision by the Administrative Appeals Tribunal, which may have had the effect of removing excise from previously excisable products.

The intention of the original Bill was to maintain the status quo in relation to the excise status of alcoholic beverages, by ensuring they continue to be taxed according to their alcoholic base.

On the motion of Mr Truss, the committee's reasons were adopted.

7 PUBLIC SERVICE BILL 1997

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed.

Dr Kemp (Minister Assisting the Prime Minister for the Public Service), by leave, again addressed the House.

Question—put and passed—Bill read a second time.

Consideration in detail

Bill, by leave, taken as a whole.

Mr McMullan, by leave, moved the following amendments together:

Amendments

Clause 3, page 2 (after line 17), after paragraph (b), insert:

- (ba) to define the powers and responsibilities of Agency Heads and the Public Service Commissioner; and

Clause 6, page 3 (lines 5 to 8), omit subclause (2), substitute:

- (2) Subsection (1) does not apply to persons engaged on an honorary basis.

Clause 7—

Page 5 (after line 10), after the definition of **Department**, insert:

designated group means any of the following classes of persons:

- (a) members of the Aboriginal race of Australia or persons who are descendants of indigenous inhabitants of the Torres Strait Islands;
- (b) persons who have migrated to Australia and whose first language is a language other than English, and the children of such persons;
- (c) persons who are physically or mentally disabled; and
- (d) any other class of persons declared by the regulations to be a designated group for the purposes of this definition.

Page 5 (after line 22), after the definition of **locally engaged employee**, insert:

merit, in relation to the engagement and promotion of employees, means assessment of the relative suitability of applicants for employment or promotion using a competitive selection process, where the assessment is:

- (a) based on the relationship between an applicant's work-related qualities and the work-related qualities identified by the Agency as required for the job; and
- (b) the sole consideration in a decision to engage or promote an employee.

Clause 10—

Page 7 (lines 14 and 15), omit “recognises the diverse backgrounds of APS employees”, substitute “that reflects the diverse nature of the community it serves”.

Page 7 (line 17), at the end of paragraph (e), add “, within the framework of ministerial responsibility, to the Government, the Parliament and the Australian public”.

Page 7 (line 18), after “providing”, insert “frank, honest, comprehensive, accurate and”.

Page 7 (line 22), at the end of paragraph (g), add “using procedures which are transparent”.

Page 7 (lines 24 and 25), omit paragraph (i), substitute:

- (i) the APS establishes co-operative and participative workplace relations based on consultation, communication and negotiation;

Page 7 (lines 26 and 27), omit “a fair, flexible, safe and rewarding workplace”, substitute:

its employees with:

- (i) a fair, flexible, safe, healthy and rewarding workplace free from harassment; and
- (ii) remuneration rates and conditions of employment commensurate with their responsibilities; and
- (iii) fair and consistent treatment, free of arbitrary or capricious administrative acts or decisions; and
- (iv) the right to be represented by unions; and
- (v) opportunities for appropriate training and development; and
- (vi) opportunities for appropriate participation in the decision-making processes of the Agency in which they are employed.

Page 7 (line 29), at the end of the clause, add:

- ; (l) the APS promotes equity in employment;
- (m) the APS provides a reasonable opportunity to all eligible members of the community to apply for APS employment;
- (n) the APS is a career-based service to enhance the effectiveness and cohesion of Australia’s democratic system of government;
- (o) the APS provides a fair system of review of decisions taken in respect of members of the Australian public and APS employees.

Clause 11, page 8 (lines 2 to 6), omit subclause (1), substitute:

The Commissioner must issue directions in writing in relation to each of the APS Values for the purpose of:

- (a) ensuring that the APS incorporates and upholds the APS Values; and
- (b) determining where necessary the scope or application of the APS Values.

Clause 14, page 9 (line 28), at the end of the clause, add “and are subject to sanctions for breaches of the Code, to be determined by the Prime Minister on the recommendation of the Commissioner”.

Clause 15—

Page 10 (lines 6 and 7), omit “include the following”, substitute “are”.

Page 10 (line 12), at the end of subclause (2), add:

- ; (f) admonishment.

Page 10 (lines 15 and 16), omit “The procedures must have due regard to procedural fairness.”, substitute “The procedures must be based on minimum standards, determined by the Commissioner, and must have due regard to procedural fairness.”.

Clause 17, page 11 (after line 5), after subclause (1), insert:

- (1A) A breach of subsection (1) is to be treated as a breach of the Code of Conduct.

Clause 18, page 11 (lines 8 to 10), omit the clause, substitute:

- (1) An Agency Head must establish and implement a workplace diversity program.
- (2) Without limiting the generality of subsection (1), the program of the Agency must provide for action to be taken:
 - (a) to inform employees of the contents of the program conducted and of the results of any monitoring and evaluation of the program under paragraph (h); and
 - (b) to confer responsibility for the development and implementation of the program (including a continuous review of the program), on a person or persons having sufficient authority and status within the relevant Agency to enable the person or persons properly to develop and implement the program; and
 - (c) to consult with each trade union having members affected by the proposal for the development and implementation of the program in accordance with this Act; and
 - (d) to consult with employees of the relevant Agency, particularly employees who are women or persons in designated groups; and

- (e) for the collection and recording of statistics and related information concerning employment by the Agency, including the number of, and the types of, jobs undertaken by, or job classifications of:
 - (i) employees of either sex; and
 - (ii) persons in designated groups; and
- (f) to consider policies, and examine practices, of the relevant Agency, in relation to employment matters to identify:
 - (i) any policies or practices that discriminate against women or persons in designated groups; and
 - (ii) any patterns (whether ascertained statistically or otherwise) of lack of equality of opportunity in respect of women or persons in designated groups; and
- (g) to set:
 - (i) the particular objectives to be achieved by the program; and
 - (ii) the quantitative and other indicators against which the effectiveness of the program is to be assessed; and
- (h) to monitor and evaluate the implementation of the program and:
 - (i) to assess the achievement of those objectives; and
 - (ii) to assess the effectiveness of the program by comparing statistics and information collected and recorded under paragraph (e) with the indicators against which the effectiveness of the program is to be assessed.

Clause 19, page 11 (line 14), omit “particular individuals”, substitute “individual staffing decisions”.

Clause 21, page 12 (after line 14), at the end of the clause, add:

- (2) A direction under subsection (1) is to be published in the *Gazette* within 14 days of its issue.

Clause 22—

Page 12 (after line 17), after subclause (1), insert:

- (1A) The Commissioner, in consultation with Agency Heads, is to operate a merit-based selection process for entry-level recruitment of APS employees.

Page 13 (after line 5), at the end of the clause, add:

- (5) Subject to this Act and to relevant awards and certified agreements, an Agency Head must engage a person as an APS employee on a permanent basis unless subsections (6) or (7) apply.
- (6) An Agency Head may engage a person as an APS employee on a fixed term of less than 6 months if, in the Agency Head’s opinion,

the need for temporary assistance will not adversely affect the maintenance of a career service or a stable workforce.

- (7) An Agency Head may engage a person as an APS employee on a fixed term of more than 6 months if, in the Agency Head's opinion, the employee is required to perform duties in relation to a project or task that has a fixed duration and:
- (a) the Agency Head determines that the duties require skills or ability that is not, or cannot be made, available within the Agency; or
 - (b) in the case of a vacancy caused by a permanent officer being placed temporarily in another position or being on long term leave, there is no suitable permanent employee to fill the temporary vacancy.

Proposed new clause

Page 13 (after line 5), after clause 22, insert:

22A Engagement and promotion based on merit

The engagement or promotion of an APS employee for any period in excess of 3 months must be on the basis of merit.

Amendments

Clause 23, page 13 (line 11), after "time to time", insert "but may not diminish any such provisions".

Clause 24—

Page 13 (lines 24 to 26), omit ". For this purpose, *award* and *certified agreement* have the same meanings as in the *Workplace Relations Act 1996*.", substitute ", but may not diminish any such provisions."

Page 14 (lines 1 and 2), omit "because of special circumstances", substitute ", provided any such determination does not diminish any provision of an award or certified agreement as in force at a particular time or as in force from time to time".

Page 14 (after line 4), at the end of the clause, add:

- (5) For the purposes of this section, *award* and *certified agreement* have the same meanings as in the *Workplace Relations Act 1996*.

Clause 25—

Page 14 (line 7), after "Agency", insert "consistent with any provision in an award or certified agreement,".

Page 14 (after line 8), at the end of the clause, add:

- (2) An employee may apply to the Agency Head to decline a proposed transfer within 7 days after the employee receives notice of the transfer. The transfer is not to take effect unless the Agency Head rejects the application.

Clause 28, page 14 (after line 24), at the end of the clause, add:

- (2) The regulations must not provide for more than 30 days' suspension without remuneration unless exceptional circumstances apply.

Clause 29, page 15 (lines 1 to 5), omit the clause, substitute:

29 Termination of employment

An Agency Head may at any time following due process, by notice in writing, terminate the employment of an APS employee in the Agency if, in the opinion of the Agency Head, termination is justified on any of the following grounds:

- (a) unsatisfactory work performance;
- (b) physical or mental incapacity;
- (c) loss of essential qualifications;
- (d) a serious breach of the Code of Conduct;
- (e) being excess to the requirements of the Agency.

Note: The *Workplace Relations Act 1996* has rules and entitlements that apply to termination of employment.

Clause 30, page 15 (lines 10 and 11), omit “, or such higher or lower age as is prescribed by the regulations”.

Clause 31, page 15 (after line 21), after subclause (2), insert:

- (2A) If an Agency Head or the Commissioner receives any non-Commonwealth remuneration for performing duties as an Agency Head or Commissioner, as the case may be, then the Agency Minister may give a notice in writing to the Agency Head or Commissioner in relation to the whole, or a specified part, of the remuneration.
- (2B) The amount notified by the Agency Minister:
 - (a) is taken to have been received by the Agency Head or Commissioner, as the case may be, on behalf of the Commonwealth; and
 - (b) may be recovered by the Commonwealth from the Agency Head or Commissioner as a debt in a court of competent jurisdiction.

Clause 33, page 16 (after line 17) after subclause (2), insert:

- (2A) The review processes must include an external, independent and binding appeal mechanism.
- (2B) An application for review of an APS action (other than action which involves or has resulted in termination of employment) in respect of selection, promotion, redeployment, re-appointment, re-integration, inefficiency or misconduct is to be determined by a Review Committee consisting of:
 - (a) an independent convenor nominated by the Commissioner;

- (b) a nominee of the relevant Agency Head; and
- (c) an employee representative nominated in accordance with the regulations or in accordance with the provisions of an award or a certified agreement.

Note: The *Workplace Relations Act 1996* has rules and entitlements that apply to the termination of employment.

- (2C) For the purposes of paragraph (2B)(c), the provisions of an award or certified agreement prevail over the provisions of the regulations to the extent of any inconsistency.

Clause 35, page 17 (lines 8 to 16), omit subclause (2), substitute:

- (2) The function of the SES is to provide a group of APS employees who collectively provide a mobile leadership resource for the APS as a whole and who, as individuals, within their Agencies:
 - (a) provide one or more of the following at a high level:
 - (i) professional expertise;
 - (ii) policy advice;
 - (iii) management; and
 - (b) promote co-operation with other Agencies; and
 - (c) by personal example and other appropriate means, promote the APS Values and compliance with the Code of Conduct.

Clause 36, page 17 (line 19), at the end of the clause, add “, including engagement, promotion, redeployment, mobility and termination”.

Clause 38, page 18 (lines 3 to 5), omit the clause, substitute:

38 Termination of employment

In the case of termination of the employment of an SES employee, the Commissioner must certify that the termination meets the minimum requirements specified in a direction issued under section 36 and that the termination is in the best interests of the APS.

Clause 41—

Page 20 (line 14), after “incorporate”, insert “and uphold”.

Page 20 (lines 25 and 26), omit paragraph (f), substitute:

- (f) to inquire into, report to the Prime Minister on and, where appropriate, make recommendations on sanctions regarding alleged breaches of the Code of Conduct by Agency Heads;

Page 21 (lines 3 and 4), omit paragraph (i), substitute:

- (i) to coordinate and support APS-wide career development opportunities, recruitment and training in the APS;

Clause 44, page 22 (after line 16), at the end of the clause, add:

- (4) The report must be prepared in accordance with guidelines approved by the Joint Committee of Public Accounts and Audit on behalf of the Parliament.

Clause 46, page 23 (line 10), at the end of the clause, add “on the advice of the Remuneration Tribunal and are to be published in the *Gazette*”.

Clause 50, page 25 (lines 13 to 15), omit the clause, substitute:

50 Responsibilities of secretaries

- (1) The Secretary of a Department, under the Agency Minister, is responsible for the general working, and for all the business, of the Department and is to advise the Agency Minister in all matters relating to the Department.
- (2) The Secretary of a Department has a duty to assist the Agency Minister to fulfil his or her accountability obligations to the Parliament by providing full and accurate information to the Parliament about the factual and technical background to policies and their administration.

Clause 51, page 26 (line 4), at the end of subclause (5), add “but shall be paid remuneration in respect of one office only”.

Clause 52—

Page 26 (line 12), at the end of subclause (2), add “and another Secretary who may be nominated by the Commissioner”.

Page 26 (line 15), omit “the Secretary of the Prime Minister’s Department”, substitute “the Commissioner and the Secretary of the Prime Minister’s Department”.

Page 26 (lines 16 and 17), omit subclause (4).

Clause 54, page 26 (line 26), at the end of the clause, add “on the advice of the Remuneration Tribunal and are to be published in the *Gazette*”.

Clause 56, page 27 (after line 19), at the end of the clause, add:

- (2) The report is to be prepared in accordance with guidelines approved by the Joint Committee of Public Accounts and Audit on behalf of the Parliament.

Heading to Part 7, page 28 (line 2), omit the heading, substitute:

**Part 7—Management Advisory Committee and
Consultative Council**

Proposed new clause

Page 28 (after line 14), after clause 57, insert:

57A Consultative Council

- (1) There is to be an APS Consultative Council with the function of making reports and recommendations on matters of general interest in relation to the APS.
- (2) The Council consists of the following persons:
 - (a) the Commissioner;
 - (b) Secretaries of Agencies, as nominated by the Commissioner;

- (c) representatives of employees, including nominees of the Australian Council of Trade Unions.

Amendments

Clause 58—

Page 29 (line 12), at the end of the clause, add “, and the reasons why those functions could not be more appropriately performed by a Department or a Statutory Authority”.

Page 29 (after line 21), at the end of the clause, add:

- (5) Executive agencies are accountable to the Government, the Parliament and the Australian public in the same way as Departments.

Clause 59, page 29 (lines 22 to 24), omit the clause, substitute:

59 Responsibilities of Heads of Executive Agencies

- (1) The Head of an Executive Agency, under the Agency Minister, is responsible for the general working, and for all the business, of the Agency.
- (2) The Head of an Executive Agency has a duty to assist the Agency Minister to fulfil his or her accountability obligations to the Parliament by providing full and accurate information to the Parliament about the factual and technical background to policies and their administration.

Clause 60, page 30 (lines 3 to 5), omit subclause (3), substitute:

- (3) Before terminating the appointment of the Head of an Executive Agency, the Agency Minister must receive a report about the proposed termination from the Commissioner and the Secretary of the Prime Minister’s Department.

Clause 61, page 30 (line 9), at the end of the clause, add “on the advice of the Remuneration Tribunal and are to be published in the *Gazette*”.

Clause 63, page 30 (after line 28), at the end of the clause; add:

- (2) The report is to be prepared in accordance with guidelines approved by the Joint Committee of Public Accounts and Audit on behalf of the Parliament.

Clause 65, page 32 (lines 3 and 4), omit subclause (3), substitute:

- (3) Determinations under this section are to provide that the provisions of any relevant awards or certified agreements continue to apply to affected APS employees until new provisions are agreed to by those employees.

Clause 67, page 34 (line 9), omit “particular individuals”, substitute “individual staffing decisions”.

Clause 69, page 34 (line 28), at the end of the clause, add:

- ; and (c) must ensure that the principles reflected in the *Freedom of Information Act 1982* and the *Privacy Act 1988* are observed in relation to personal information.

Clause 71, page 36 (after line 3), after subclause (6), insert:

- (6A) An Agency Head may not delegate a power or function under subsection (6) to a person who is not an APS employee or a person appointed to an office under a law of the Commonwealth, by the Governor-General or a Minister, unless the Commissioner approves in writing the proposed delegation.

Debate continued.

Amendments negatived.

Dr Kemp, by leave, moved the following amendments together:

Amendments

Clause 7, page 5 (after line 22), after the definition of *locally engaged employee*, insert:

Merit Protection Commissioner means the Merit Protection Commissioner appointed under this Act.

Clause 10—

Page 7 (line 17), omit paragraph (e), substitute:

- (e) the APS is accountable for its actions, within the framework of Ministerial responsibility to the Government, the Parliament and the Australian public;

Page 7 (lines 18 and 19), omit “timely advice”, substitute “frank, honest, comprehensive, accurate and timely advice”.

Page 7 (after line 29), at the end of the clause, add:

- (2) For the purposes of paragraph (1)(b), a decision relating to engagement or promotion is based on merit if:
- (a) an assessment is made of the relative suitability of the candidates for the duties, using a competitive selection process; and
 - (b) the assessment is based on the relationship between the candidates’ work-related qualities and the work-related qualities genuinely required for the duties; and
 - (c) the assessment focuses on the relative capacity of the candidates to achieve outcomes related to the duties; and
 - (d) the assessment is the primary consideration in making the decision.

Clause 13—

Page 8 (lines 17 to 19), omit subclause (3), substitute:

- (3) An APS employee, when acting in the course of APS employment, must treat everyone with respect and courtesy, and without harassment.

Page 9 (lines 12 to 14), omit subclause (9), substitute:

- (9) An APS employee must not provide false or misleading information in response to a request for information that is made for official purposes in connection with the employee's APS employment.

Clause 19, page 11 (line 11)

Note: The heading to the clause is replaced by the heading "**Limitation on Ministerial directions to Agency Head**".

Clause 29, page 15 (after line 5), at the end of the clause, add:

- (2) The notice must include a statement of the reasons for the termination.
- (3) Non-compliance with subsection (2) does not affect the termination.

Clause 33, page 16 (line 20), omit "Commissioner", substitute "Merit Protection Commissioner".

Clause 41, page 20 (line 20), omit "subsection 16(1)", substitute "section 16".

Clause 42, page 21 (after line 15), after subclause (2), insert:

- (2A) Commissioner's Directions may be made by applying, adopting or incorporating any matter in Classification Rules as in force from time to time, or at a particular time.

New Part

Page 24 (after line 13), after Part 5, insert:

Part 5A—The Merit Protection Commissioner

Division 1—Merit Protection Commissioner's functions etc.

48A Merit Protection Commissioner

- (1) There is to be a Merit Protection Commissioner.
- (2) The staff necessary to assist the Merit Protection Commissioner must be persons engaged under this Act and made available by the Public Service Commissioner.

48B Merit Protection Commissioner's functions

The Merit Protection Commissioner has such functions as are prescribed by regulations made for the purposes of section 33.

Note: Section 33 deals with review of actions.

48C Annual report

- (1) After the end of each financial year, the Merit Protection Commissioner must give a report to the Public Service Commissioner on the activities of the Merit Protection Commissioner during the year.

- (2) The Merit Protection Commissioner's report is to be included in the Public Service Commissioner's report under subsection 44(2).

Division 2—Merit Protection Commissioner's appointment, conditions etc.

48D Appointment of Merit Protection Commissioner

The Merit Protection Commissioner is to be appointed by the Governor-General for a period of up to 5 years specified in the instrument of appointment.

48E Remuneration etc.

The remuneration and other conditions of appointment of the Merit Protection Commissioner are as determined in writing by the Public Service Minister.

48F Removal from office

- (1) The Governor-General may remove the Merit Protection Commissioner from office if each House of the Parliament, in the same session of the Parliament, presents an address to the Governor-General praying for the removal of the Merit Protection Commissioner on the ground of misbehaviour or physical or mental incapacity.
- (2) The Governor-General must remove the Merit Protection Commissioner from office if the Merit Protection Commissioner does any of the following:
 - (a) becomes bankrupt;
 - (b) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors;
 - (c) compounds with his or her creditors;
 - (d) assigns his or her remuneration for the benefit of his or her creditors.

48G Acting Merit Protection Commissioner

- (1) The Public Service Minister may appoint a person to act as Merit Protection Commissioner:
 - (a) if there is a vacancy in the office of Merit Protection Commissioner, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Merit Protection Commissioner is absent from duty or from Australia or is, for any reason, unable to perform the duties of the office.
- (2) Anything done by or in relation to a person purporting to act under this section is not invalid merely because:

- (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.

Amendments

Clause 60—

Page 29 (after line 28), after subclause (1), insert:

- (1A) Before making the appointment, the Agency Minister must have received a report about the vacancy from a relevant Secretary.

Page 30 (after line 2), after subclause (2), insert:

- (2A) Before terminating the appointment, the Agency Minister must have received a report about the proposed termination from a relevant Secretary.

Page 30 (after line 5), at the end of the clause, add:

- (4) In this section:

relevant Secretary means the Secretary of any Department that is administered by the same Minister who is the Agency Minister of the Executive Agency.

Clause 71, page 36 (after line 10), after subclause (7), insert:

- (7A) A power or function that is exercised or performed by a person under a delegation under subsection (7) is taken, for the purposes of this Act, to have been exercised or performed by the person who originally delegated the corresponding power or function under subsection (5) or (6).

Paper

Dr Kemp presented a supplementary explanatory memorandum to the Bill.

Debate continued.

Amendments agreed to.

Bill, as amended, agreed to.

Consideration in detail concluded.

On the motion of Dr Kemp, by leave, the Bill was read a third time.

8 PUBLIC EMPLOYMENT (CONSEQUENTIAL AND TRANSITIONAL) AMENDMENT BILL 1997

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Question—put and passed—Bill read a second time.

Message from the Governor-General

Message No. 209, dated 28 July 1997, from His Excellency the Governor-General was announced recommending an appropriation for the purposes of the Bill.

Consideration in detail

Bill, by leave, taken as a whole.

Mr McMullan, by leave, moved the following amendments together:

Clauses 6 and 7, page 9 (line 21) to page 10 (line 23), omit the clauses, substitute:

6 Rights of first- and second-tier persons

First- and second-tier persons retain all the rights conferred on them by the old Act, except for rights to reassessment for reintegration or reappointment.

Clause 9, page 11 (lines 6 to 12), omit subclauses (2) and (3), substitute:

- (2) A continued determination may be amended or revoked by the Agency Head in the same way as if it had actually been made under section 24 of the new Act, provided that no provision of the determination is diminished or revoked unless that provision is incorporated in an award or certified agreement.
- (3) Unless it is sooner revoked, a continued determination (including any amendments made by an Agency Head under section 24 of the new Act) ceases to be in force on the third anniversary of the commencing time.

Debate continued.

Amendments negatived.

On the motion of Dr Kemp (Minister Assisting the Prime Minister for the Public Service), by leave, the following amendments were made together, after debate:

Clause 2—

Page 2 (lines 6 to 22), omit subclauses (3), (4) and (5), substitute:

- (3) If:
 - (a) an item (the *amending item*) of a Schedule to this Act is expressed to amend another Act (the *amended Act*); and
 - (b) the whole of the amended Act is expressed to commence at one time; and
 - (c) at the time when the *Public Service Act 1997* commences, the amended Act has not yet commenced;
 then the amending item commences immediately after the commencement of the amended Act.

- (4) If:

- (a) an item (the *amending item*) of a Schedule to this Act is expressed to amend, or to amend a part of, a section (the *amended section*) of another Act; and
- (b) at the time when the *Public Service Act 1997* commences, none of the amended section has yet commenced;

then the amending item commences immediately after the commencement of the amended section.

Page 2 (lines 23 to 32), omit subclauses (6), (7) and (8), substitute:

- (6) If the *Employment, Education and Training Amendment Act 1997* commences before the commencing time, then items 386 and 387 of Schedule 1 to this Act never commence.
- (7) If item 66 of Schedule 7 to the *Financial Laws Amendment Act 1997* commences before the commencing time, then items 524, 525, 526, 527 and 528 of Schedule 1 to this Act never commence.
- (8) If Schedule 8 to the *Financial Laws Amendment Act 1997* commences before the commencing time, then items 519, 520, 521, 522, 523, 532, 533, 534, 535 and 536 of Schedule 1 to this Act never commence.

Clause 12, page 12 (line 11), after “Act” insert “(other than the *Privacy Act 1988*)”.

Clause 13, page 12 (line 25), after “statutory instrument” insert “(other than the *Acts Interpretation Act 1901*)”.

Schedule 1, page 16 (line 1) to page 149 (line 16), omit the Schedule, substitute:

Schedule 1—Repeals and amendments

Aboriginal and Torres Strait Islander Commission Act 1989

1 Subsection 35(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

2 Subsection 49(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

3 Subsection 55(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

4 Subsection 55(2)

Repeal the subsection, substitute:

- (2) For the purposes of the *Public Service Act 1997*:

- (a) the Chief Executive Officer and the APS employees assisting the Chief Executive Officer together constitute a Statutory Agency; and

- (b) the Chief Executive Officer is the Head of that Statutory Agency.

5 Subsection 77C(1)

Omit "Subject to section 87E of the *Public Service Act 1922*, the", substitute "The".

6 Subsection 77E(1)

Omit "officers of the Australian Public Service who are members of the Senior Executive Service", substitute "SES employees".

7 Subsection 124C(1)

Omit "officers of the Australian Public Service who are members of the Senior Executive Service", substitute "SES employees".

8 Subsection 124E(1)

Omit "Subject to section 87E of the *Public Service Act 1922*, an", substitute "An".

9 Subsection 127D(1)

Omit "Subject to section 87E of the *Public Service Act 1922*, the", substitute "The".

10 Subsection 143P(1)

Omit "officers of the Australian Public Service who are members of the Senior Executive Service", substitute "SES employees".

11 Subsection 143Z(1)

Omit "Subject to section 87E of the *Public Service Act 1922*, the", substitute "The".

12 Subsection 144K(1)

Omit "Subject to section 87E of the *Public Service Act 1922*, the", substitute "The".

13 Subsection 144R(1)

Omit "appointed or employed under the *Public Service Act 1922*", substitute "engaged under the *Public Service Act 1997*".

14 Subsection 144R(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the TSRA General Manager and the APS employees assisting the TSRA General Manager together constitute a Statutory Agency; and
- (b) the TSRA General Manager is the Head of that Statutory Agency.

15 Subsection 144ZK(1)

Omit "Subject to section 87E of the *Public Service Act 1922*, a", substitute "A".

16 Subsection 144ZM(1)

Omit “officers of the Australian Public Service who are members of the Senior Executive Service”, substitute “SES employees”.

17 Subsection 192D(2)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

18 Subsection 200(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

19 Subsection 200(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the General Manager of Aboriginal Hostels Limited, and the APS employees assisting Aboriginal Hostels Limited, together constitute a Statutory Agency; and
- (b) the General Manager of Aboriginal Hostels Limited is the Head of that Statutory Agency.

Aboriginal and Torres Strait Islander Heritage Protection Act 1984**20 Subsection 30(2)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997* (the *public servant*)”.

21 Subsection 30(2)

Omit “officer” (second and third occurring), substitute “public servant”.

Aboriginal Councils and Associations Act 1976**22 Subsection 4(4)**

Omit “officers of the Australian Public Service”, substitute “persons engaged under the *Public Service Act 1997*”.

Aboriginal Land Rights (Northern Territory) Act 1976**23 Paragraph 23E(3)(b)**

Omit “Permanent Head” (wherever occurring), substitute “Secretary”.

24 Paragraph 54C(2)(b)

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997* (the *public servant*)”.

25 Subsection 54C(2)

Omit “the officer” (wherever occurring), substitute “the public servant”.

26 Section 59

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Acts Interpretation Act 1901**27 After section 17**

Insert:

17AA Definitions relating to the Australian Public Service

In any Act, unless the contrary intention appears:

acting SES employee has the same meaning as in the *Public Service Act 1997*.

APS employee has the same meaning as in the *Public Service Act 1997*.

SES employee has the same meaning as in the *Public Service Act 1997*.

28 Paragraph 19B(3)(a)

Omit “the holder of which was, by virtue of section 25 of the *Public Service Act 1922*, the Secretary of a Department”, substitute “of Secretary of a Department within the meaning of the *Public Service Act 1997*”.

29 Paragraph 19BA(3)(a)

Omit “the holder of which is, by virtue of section 25 of the *Public Service Act 1922*, the Secretary of a Department”, substitute “of Secretary of a Department within the meaning of the *Public Service Act 1997*”.

30 At the end of section 19C

Add:

(2) In this section:

officer includes an APS employee.

31 At the end of section 21

Add:

(2) In this section:

office includes a position occupied by an APS employee.

officer includes an APS employee.

32 At the end of section 25B

Add:

(3) In this section:

office includes a position occupied by an APS employee.

33 After subsection 33(2)

Insert:

(2AA) In subsection (2), *office* includes a position occupied by an APS employee.

34 At the end of section 33A

Add:

(2) In this section:

office includes a position occupied by an APS employee.

Administrative Appeals Tribunal Act 1975

35 Subsection 12(1)

Omit "Subject to section 87E of the *Public Service Act 1922*, a", substitute "A".

36 Subsection 24G(1)

Omit "Subject to section 87E of the *Public Service Act 1922*, the", substitute "The".

37 Subsection 24N(3)

Omit "appointed or employed under the *Public Service Act 1922*", substitute "engaged under the *Public Service Act 1997*".

38 Subsection 24N(4)

Omit "the Secretary of a Department of the Australian Public Service", substitute "an Agency Head within the meaning of the *Public Service Act 1997*".

39 Subsection 24N(4)

Omit "the Department", substitute "the Agency".

40 Section 24P

Repeal the section, substitute:

24P Statutory Agency etc. for purposes of Public Service Act

For the purposes of the *Public Service Act 1997*:

- (a) the Registrar and the APS employees assisting the Registrar together constitute a Statutory Agency; and
- (b) the Registrar is the Head of that Statutory Agency.

41 Section 57

Omit "appointed or employed under the *Public Service Act 1922-1975*", substitute "engaged under the *Public Service Act 1997*".

Administrative Arrangements Act 1987

42 Subsection 19(1)

Omit all the words after "include, references", substitute "to an SES employee, or acting SES employee, in the Department who is specified in the notice".

43 Subsection 19(2)

Omit all the words after “the specified”, substitute “SES employee or acting SES employee”.

Administrative Decisions (Judicial Review) Act 1977**44 Paragraph (r) of Schedule 2**

Omit “officers of the Australian Public Service”, substitute “APS employees”.

45 Paragraph (s) of Schedule 2

Repeal the paragraph.

46 Subparagraph (t)(ii) of Schedule 2

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

47 Paragraph (w) of Schedule 2

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

Affirmative Action (Equal Employment Opportunity for Women) Act 1986**48 Subsection 29(1)**

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

49 Subsection 29(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Director and the APS employees assisting the Director together constitute a Statutory Agency; and
- (b) the Director is the Head of that Statutory Agency.

Aged Care Act 1997**50 Clause 1 of Schedule 1 (definition of *officer*)**

Repeal the definition.

Aged Care Income Testing Act 1997**51 Section 3 (definition of *officer*)**

Repeal the definition.

Agricultural and Veterinary Chemicals (Administration) Act 1992**52 Paragraph 11(1)(e)**

Repeal the paragraph, substitute:

- (e) a person appointed or engaged under the *Public Service Act 1997*;

53 Section 39

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

54 Paragraph 46(1)(a)

Omit “Departments of the Australian Public Service”, substitute “Agencies (within the meaning of the *Public Service Act 1997*)”.

55 Subsection 69F(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Agricultural and Veterinary Chemical Products (Collection of Interim Levy) Act 1994**56 Subsection 18(1)**

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Aircraft Noise Levy Collection Act 1995**57 Paragraph 10(3)(a)**

Repeal the paragraph, substitute:

- (a) an SES employee, or acting SES employee, in the Department; or

58 Subsection 14(3)

Omit “the holder of a Senior Executive Service office”, substitute “an SES employee or acting SES employee”.

59 Subsection 17(2)

Omit “the holder of a Senior Executive Service office”, substitute “an SES employee or acting SES employee”.

60 Paragraph 18(3)(a)

Repeal the paragraph, substitute:

- (a) an SES employee, or acting SES employee, in the Department; or

Airline Equipment (Loan Guarantee) Act 1972**61 Subparagraph 4(d)(i)**

Omit “officers employed in the Commonwealth Service”, substitute “APS employees”.

62 Subparagraph 4(d)(ii)

Omit “officers”, substitute “APS employees”.

Airline Equipment (Loan Guarantee) Act 1976**63 Subparagraph 5(d)(i)**

Omit “officers of the Australian Public Service”, substitute “APS employees”.

64 Subparagraph 5(d)(ii)

Omit “officers”, substitute “APS employees”.

Airline Equipment (Loan Guarantee) Act 1977**65 Subparagraph 5(d)(i)**

Omit “officers of the Australian Public Service”, substitute “APS employees”.

66 Subparagraph 5(d)(ii)

Omit “officers”, substitute “APS employees”.

Airline Equipment (Loan Guarantee) Act 1978**67 Subparagraph 5(d)(i)**

Omit “officers of the Australian Public Service”, substitute “APS employees”.

68 Subparagraph 5(d)(ii)

Omit “officers”, substitute “APS employees”.

Airline Equipment (Loan Guarantee) Act (No. 2) 1978**69 Subparagraph 6(e)(i)**

Omit “officers of the Australian Public Service”, substitute “APS employees”.

70 Subparagraph 6(e)(ii)

Omit “officers”, substitute “APS employees”.

Airline Equipment (Loan Guarantee) Act 1980**71 Subparagraph 5(e)(i)**

Omit “officers of the Australian Public Service”, substitute “APS employees”.

72 Subparagraph 5(e)(ii)

Omit “officers”, substitute “APS employees”.

Airline Equipment (Loan Guarantee) Act 1981**73 Subparagraph 5(e)(i)**

Omit “officers of the Australian Public Service”, substitute “APS employees”.

74 Subparagraph 5(e)(ii)

Omit “officers”, substitute “APS employees”.

Airports Act 1996**75 Paragraph 244(1)(b)**

Repeal the paragraph, substitute:

- (b) an SES employee or acting SES employee whether or not in the Department;

76 Subsection 244(2)

Repeal the subsection.

77 Subsection 249(3)

Omit “a person holding or performing the duties of a Senior Executive Service office”, substitute “an SES employee or acting SES employee”.

78 Subsection 249(7) (definition of *Senior Executive Service office*)

Repeal the definition.

Air Services Act 1995**79 Subsection 30(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

Albury-Wodonga Development Act 1973**80 Subsection 3(1) (definition of *Australian Public Service*)**

Omit “service established under the *Public Service Act 1922-1973*”, substitute “APS within the meaning of the *Public Service Act 1997*”.

81 Paragraph 8(1)(e)

Omit “for Departments”, substitute “for Agencies (within the meaning of the *Public Service Act 1997*)”.

82 Paragraph 8(1)(e)

Omit “those Departments”, substitute “those Agencies”.

83 Subsection 21(3)

Omit “the Secretary of any Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

84 Subsection 21(3)

Omit “the Department”, substitute “the Agency”.

85 Section 22

Repeal the section.

ANL Guarantee Act 1994**86 Subsection 5(1)**

Omit “an officer in the Senior Executive Service”, substitute “a person who is an SES employee or acting SES employee”.

87 Subsection 5(2)

Omit “officer”, substitute “person”.

Anti-Dumping Authority Act 1988**88 Subsection 18(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

Archives Act 1983

89 Subsection 3(1) (definition of *Director-General*)

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

90 Subsection 7(1)

Omit “hold office under the *Public Service Act 1922*”, substitute “be a person appointed or engaged under the *Public Service Act 1997*”.

91 Section 9

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

92 Paragraph 34(8)(a)

Repeal the paragraph, substitute:

- (a) the Secretary of a Department (within the meaning of the *Public Service Act 1997*); or

Auditor-General Act 1997**93 Subsection 40(1)**

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

94 After subsection 40(1)

Insert:

(1A) For the purposes of the *Public Service Act 1997*:

- (a) the Auditor-General and the APS employees assisting the Auditor-General together constitute a Statutory Agency; and
- (b) the Auditor-General is the Head of that Statutory Agency.

95 Subclause 4(1) of Schedule 1

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

Australia Council Act 1975**96 Subsection 12(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

97 Subsection 16(5)

Omit “employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

98 Subsection 19C(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

Australia-Japan Foundation Act 1976**99 Section 20**

Omit “appointed or employed under the *Public Service Act 1922-1975*”, substitute “engaged under the *Public Service Act 1997*”.

Australian Bicentennial Road Development Trust Fund Act 1982**100 Subsection 26(1)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Australian Broadcasting Corporation Act 1983**101 Subsection 14A(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

Australian Bureau of Statistics Act 1975**102 Subparagraph 6(5)(b)(i)**

Repeal the subparagraph, substitute:

- (i) an Agency within the meaning of the *Public Service Act 1997*; or

103 Subsection 16(1)

Omit “appointed or employed under, or whose services are made available in accordance with arrangements made under, the *Public Service Act 1922*”, substitute “engaged under, or whose services are made available in accordance with arrangements made under, the *Public Service Act 1997*”.

104 Subsection 16(3)

Omit “, with the approval of the Public Service Board,”.

105 Subsections 16(4) and (5)

Repeal the subsections, substitute:

(4) For the purposes of the *Public Service Act 1997*:

- (a) the Statistician and the APS employees assisting the Statistician together constitute a Statutory Agency; and
- (b) the Statistician is the Head of that Statutory Agency.

Australian Capital Territory Government Service (Consequential Provisions) Act 1994**106 Subsection 3(1) (definition of *unattached officer*)**

Repeal the definition.

107 Sections 6 and 7

Repeal the sections.

108 Subsection 8(1)

After “where”, insert “before the commencement of the *Public Service Act 1997*”.

109 Subsection 8(2)

After “Secretary” (first occurring), insert “or Agency Head (within the meaning of the *Public Service Act 1997*)”.

110 Subsection 8(2)

After “Secretary” (last occurring), insert “or Agency Head”.

111 Subsection 8(3)

After “Secretary”, insert “or Agency Head (within the meaning of the *Public Service Act 1997*)”.

112 Subsection 8(5)

After “Secretary”, insert “or Agency Head”.

113 Section 10

Omit “The Secretary of a Department of the Australian Public Service”, substitute “An Agency Head (within the meaning of the *Public Service Act 1997*)”.

114 Paragraph 10(a)

Omit “Department”, substitute “Agency (within the meaning of that Act)”.

115 Paragraph 10(b)

Omit “Secretary”, substitute “Agency Head”.

116 Part 3

Repeal the Part.

117 Section 24

Repeal the section.

118 Subsection 25(1)

Repeal the subsection, substitute:

(1) This section applies to a person who is engaged under section 22 of the *Public Service Act 1997*.

119 Subsection 25(2)

Repeal the subsection.

120 Subsection 25(3)

Omit “appointment to an office or as an unattached officer”, substitute “engagement as an APS employee”.

121 Subsections 25(3) and (4)

Omit “Public Service Act”, substitute “*Public Service Act 1997*”.

122 Subsection 25(4)

Omit “appointment of a person to an office or as an unattached officer”, substitute “engagement of a person as an APS employee”.

123 Subsection 25(4)

Omit “an officer of the Australian Public Service”, substitute “an APS employee”.

124 Subsection 25(5)

Omit “appointment of a person to an office or as an unattached officer”, substitute “engagement of a person as an APS employee”.

125 Subsection 25(5)

Omit “clause 6 of the Australian Government Employment (Recreation Leave—Additional Payment) Award 1986”, substitute “the APS General Employment Conditions Award 1995”.

126 Subsection 25(6)

Omit “clause 6 of the Australian Government Employment (Recreation Leave—Additional Payment) Award 1986”, substitute “the APS General Employment Conditions Award 1995”.

Note: The heading to section 25 is replaced by the heading “Leave entitlements”.

127 Subparagraph 26(2)(a)(i)

Omit “Public Service Act”, substitute “*Public Service Act 1997*”.

128 Paragraph 26(2)(b)

Omit “under a provision corresponding to section 6 of this Act”.

129 Paragraph 26(3)(b)

After “*Public Service Act 1922*”, insert “or the *Public Service Act 1997*”.

Australian Capital Territory (Planning and Land Management) Act 1988**130 Subsection 38(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

131 Subsection 47(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

132 Subsection 47(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Chief Executive and the APS employees assisting the Chief Executive together constitute a Statutory Agency; and
- (b) the Chief Executive is the Head of that Statutory Agency.

Australian Centre for International Agricultural Research Act 1982**133 Paragraph 19(1)(c)**

Omit “office”, substitute “position”.

134 Subsection 26(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

135 Subsection 30(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

136 Subsections 30(2) and (3)

Repeal the subsections, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Director and the APS employees assisting the Director together constitute a Statutory Agency; and
- (b) the Director is the Head of that Statutory Agency.

137 Subsection 31(1)

Omit “the Secretary of a Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

138 Subsection 31(1)

Omit “the Department”, substitute “the Agency”.

Australian Communications Authority Act 1997**139 Subsection 35(1)**

Omit “This subsection has effect subject to section 87E of the *Public Service Act 1922*.”

140 Subsection 40(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

141 Subsection 40(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Chairman and the APS employees assisting the Chairman together constitute a Statutory Agency; and
- (b) the Chairman is the Head of that Statutory Agency.

Australia New Zealand Food Authority Act 1991**142 Paragraph 38(a)**

Omit “the Secretary of a Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

143 Paragraphs 38(d) and (e)

After “in those”, insert “Agencies,”.

144 Paragraph 39(7)(a)

Omit “the Secretary of a Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

145 Paragraph 39(7)(a)

Omit “the Department”, substitute “the Agency”.

146 Subsection 53(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

147 Subsection 53(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Chairperson and the APS employees assisting the Chairperson together constitute a Statutory Agency; and
- (b) the Chairperson is the Head of that Statutory Agency.

Australian Federal Police Act 1979**148 Subsection 21(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

149 After subsection 31(3)

Insert:

- (3A) If subsection (1) or (3) would have caused the termination of a person’s return rights at a particular time after the commencement of this subsection if the *Public Service Act 1922* had not been repealed, then section 6 or 7 of the *Public Employment (Consequential and Transitional) Amendment Act 1997* does not apply to the person after that time.
- (3B) The reference in subsection (3A) to the termination of person’s return rights is a reference to any of the following ceasing to apply to the person:
 - (a) Part IV of the *Public Service Act 1922*;
 - (b) Division 3 of Part IV of the *Public Service Act 1922*;
 - (c) the *Officers’ Rights Declaration Act 1928*.

Australian Film Commission Act 1975**150 Subsection 18(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

Australian Film, Television and Radio School Act 1973**151 Subsection 17(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

Australian Hearing Services Act 1991

152 Subsection 8(10) (paragraph (a) of the definition of *referred Commonwealth employee*)

Omit “an officer or employee, within the meaning of the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

153 Subsection 8(10) (paragraph (a) of the definition of *referred Commonwealth employee*)

Omit “within the meaning of that Act”.

154 Paragraph 67(7)(a)

Omit “the Secretary of a Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

155 Paragraph 67(7)(a)

Omit “the Department”, substitute “the Agency”.

156 Paragraph 68(a)

Omit “the Secretary of a Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

157 Paragraphs 68(d) and (e)

After “in those”, insert “Agencies,”.

158 Paragraph 69(b)

Omit “a person holding or performing the duties of a Senior Executive Service office”, substitute “an SES employee or acting SES employee”.

Australian Heritage Commission Act 1975

159 Subsection 3(1) (definition of *Department*)

Omit “a department of the Australian Public Service”, substitute “an Agency (within the meaning of the *Public Service Act 1997*)”.

160 Subsection 12(3)

Omit “full-time officers or employees of the Australian Public Service”, substitute “persons appointed or engaged on a full-time basis under the *Public Service Act 1997*”.

161 Subsection 32(1)

Omit “appointed or employed under the *Public Service Act 1922-1975*”, substitute “engaged under the *Public Service Act 1997*”.

162 Section 33

Omit “Department of the Commonwealth Government”, substitute “Agency (within the meaning of the *Public Service Act 1997*)”.

163 Section 33

Omit “the Department”, substitute “the Agency”.

Australian Industry Development Corporation Act 1970

164 Section 29W

Repeal the section.

165 Subsection 34E(6) (paragraph (c) of the definition of *associated person*)

Repeal the paragraph, substitute:

- (c) a person appointed or engaged under the *Public Service Act 1997*; or

166 Paragraph 34X(1)(c)

Repeal the paragraph, substitute:

- (c) an SES employee or acting SES employee, whether or not in the Department of Finance;

167 Subsection 34X(2)

Repeal the subsection.

168 Paragraph 37A(1)(c)

Repeal the paragraph, substitute:

- (c) an SES employee or acting SES employee, whether or not in the Department;

169 Subsection 37A(2)

Repeal the subsection.

Australian Institute of Aboriginal and Torres Strait Islander Studies Act 1989**170 Subsection 29(1)**

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

171 Subsection 29(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Principal and the APS employees assisting the Principal together constitute a Statutory Agency; and
- (b) the Principal is the Head of that Statutory Agency.

172 Section 45A

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

Australian Institute of Health and Welfare Act 1987**173 Subsection 11(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

174 Paragraph 19(1)(a)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

175 Subsection 19(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Director and the APS employees assisting the Director together constitute a Statutory Agency; and
- (b) the Director is the Head of that Statutory Agency.

Australian Institute of Marine Science Act 1972**176 Subsection 25(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

177 Section 34

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

Australian Land Transport Development Act 1988**178 Section 39**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Australian Land Transport (Financial Assistance) Act 1985**179 Subsection 36(1)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Australian Law Reform Commission Act 1996**180 Subsection 19(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

Australian Maritime Safety Authority Act 1990**181 Subsection 17(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

182 Subsection 51A(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

183 Paragraph 57(a)

Omit “, or Associate Secretary,”.

184 Paragraph 57(b)

Repeal the paragraph, substitute:

- (b) an SES employee, or acting SES employee, in the Department.

Australian National Maritime Museum Act 1990

185 Subsection 34(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

186 Subsection 40(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

187 Subsection 40(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Director and the APS employees assisting the Director together constitute a Statutory Agency; and
- (b) the Director is the Head of that Statutory Agency.

188 Subsection 41(1)

Omit “the Secretary of a Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

189 Subsection 41(1)

Omit “Department” (last occurring), substitute “Agency”.

Australian National Railways Commission Act 1983

190 Subsection 67AZB(5) (paragraph (c) of the definition of *associated person*)

Repeal the paragraph, substitute:

- (c) a person appointed or engaged under the *Public Service Act 1997*; or

191 Paragraph 67AZV(1)(c)

Repeal the paragraph, substitute:

- (c) an SES employee or acting SES employee, whether or not in the Department of Finance;

192 Subsection 67AZV(2)

Repeal the subsection.

Australian National Training Authority Act 1992

193 Subsection 30(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

194 Paragraph 40A(1)(a)

Omit “of a Department of the Australian Public Service or”.

195 After paragraph 40A(1)(a)

Insert:

- (aa) a person appointed or engaged under the *Public Service Act 1997* who is made available to the Authority to perform the duties of Chief Executive Officer; or

196 Subsection 43(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

197 Subsection 45(4)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

198 Subsections 45(5), (6) and (7)

Repeal the subsections, substitute:

(5) For the purposes of the *Public Service Act 1997*:

- (a) the Chief Executive Officer and the APS employees assisting the Chief Executive Officer together constitute a Statutory Agency; and
- (b) the Chief Executive Officer is the Head of that Statutory Agency.

199 Paragraph 46(1)(a)

Omit “of Departments of the Australian Public Service, and”.

200 After paragraph 46(1)(a)

Insert:

- (aa) persons appointed or engaged under the *Public Service Act 1997* whose services are made available to the Authority in connection with the performance or exercise of any of its functions or powers; and

Australian Nuclear Science and Technology Organisation Act 1987**201 Subsection 21A(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

202 Subsection 24(2)

Omit “the Secretary of any Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

203 Subsection 24(2)

Omit “that Department”, substitute “that Agency”.

204 Subsection 37J(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

205 Subsection 37P(2)

Omit “the Secretary of any Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

206 Subsection 37P(2)

Omit “that Department”, substitute “that Agency”.

Australian Protective Service Act 1987**207 Subsection 9(1)**

Omit “an officer or employee within the meaning of the *Public Service Act 1922*”, substitute “appointed or engaged under the *Public Service Act 1997*”.

208 Subsection 9(2)

Omit “Secretary within the meaning of the *Public Service Act 1922*”, substitute “Agency Head within the meaning of the *Public Service Act 1997*”.

209 Paragraph 12(3)(c)

Repeal the paragraph, substitute:

- (c) a determination made under section 24 of the *Public Service Act 1997*;

Australian Science, Technology and Engineering Council Act 1978**210 Section 3 (definition of *Commonwealth Department*)**

Omit “a Department of the Australian Public Service or”, substitute “an Agency (within the meaning of the *Public Service Act 1997*) or a Department”.

211 Subsection 13(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

212 Subsection 19(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Australian Securities Commission Act 1989**213 Subsection 113(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

214 Subsection 120(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

215 Subsection 120(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Commission and the APS employees assisting the Commission together constitute a Statutory Agency; and
- (b) the Chairperson of the Commission is the Head of that Statutory Agency.

216 Subsection 120(3)

Omit “Commission” (wherever occurring), substitute “Chairperson”.

217 Subsection 120(4)

Omit “Commission”, substitute “Chairperson”.

218 Subsection 121(1)

Omit “The Commission may”, substitute “The Chairperson may”.

219 Subsection 121(2)

Omit “Commission”, substitute “Chairperson”.

220 Paragraph 122(a)

Omit “Departments of the Australian Public Service”, substitute “Agencies (within the meaning of the *Public Service Act 1997*)”.

221 Paragraph 125(1)(a)

Omit “employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

222 Subsection 156(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

223 Subsection 156(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Convenor and the APS employees assisting the Convenor together constitute a Statutory Agency; and
- (b) the Convenor is the Head of that Statutory Agency.

224 Paragraph 158(a)

Omit “Departments of the Australian Public Service”, substitute “Agencies (within the meaning of the *Public Service Act 1997*)”.

225 Subsection 180(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

Australian Security Intelligence Organization Act 1979**226 Section 4 (paragraph (a) of the definition of *authority of the Commonwealth*)**

Omit “a Department of the Public Service”, substitute “an Agency within the meaning of the *Public Service Act 1997*”.

227 Subsection 11(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

228 Subsection 24(3) (definition of *Senior Executive Service office*)

Repeal the definition.

229 Subsection 24(3) (paragraph (a) of the definition of *senior officer of the Organization*)

Repeal the paragraph, substitute:

(a) equivalent to a position occupied by an SES employee; or

230 Section 86

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

231 Subsection 90(5)

Repeal the subsection.

232 Section 90A

Repeal the section.

Australian Space Council Act 1994**233 Section 27**

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Australian Sports Commission Act 1989**234 Subsection 14(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

235 Subsection 35(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

236 Subsection 41(3)

Omit “the Secretary of any Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

237 Subsection 41(3)

Omit “that Department”, substitute “that Agency”.

Australian Sports Drug Agency Act 1990

238 Subsection 33(3)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

239 Subsection 56(3)

Omit “the Secretary of any Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

240 Subsection 56(3)

Omit “Department” (second occurring), substitute “Agency”.

Australian Tourist Commission Act 1987**241 Subsection 13(4)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

242 Subsection 18(3)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

243 Subsection 36(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

Australian Trade Commission Act 1985**244 Subsection 3(1) (definition of *Australian authority*)**

Omit “a Department of the Australian Public Service”, substitute “an Agency (within the meaning of the *Public Service Act 1997*)”.

245 Subsection 57(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

246 Section 63

Repeal the section.

Australian War Memorial Act 1980**247 Subsection 23(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

248 Subsection 27(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

249 Subsections 27(2), (3) and (4)

Repeal the subsections, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Director and the APS employees assisting the Director together constitute a Statutory Agency; and
- (b) the Director is the Head of that Statutory Agency.

250 Subsection 28(1)

Omit “the Secretary of a Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

Australian Wine and Brandy Corporation Act 1980**251 Subsection 39ZL(1)**

Omit “a Department of the Commonwealth”, substitute “an Agency (within the meaning of the *Public Service Act 1997*)”.

Australian Wool Research and Promotion Organisation Act 1993**252 Subsection 4(1) (definition of *designated group*)**

Repeal the definition, substitute:

designated group means any of the following classes of persons:

- (a) members of the Aboriginal race of Australia or persons who are descendants of indigenous inhabitants of the Torres Strait Islands;
- (b) persons who have migrated to Australia and whose first language is not English, and the children of such persons;
- (c) persons with a physical or mental disability.

Banking Act 1959**253 Subsection 69D(4) (paragraph (c) of the definition of *officer*)**

Repeal the paragraph, substitute:

- (c) a person appointed or engaged under the *Public Service Act 1997*.

Bank Integration Act 1991**254 Subsection 5(1) (subparagraph (b)(ii) of the definition of *authorised person*)**

Repeal the subparagraph, substitute:

- (ii) an SES employee or acting SES employee;

Bankruptcy Act 1966**255 Subsection 31A(5)**

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

Bounty (Books) Act 1986**256 Subsection 32(1)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Broadcasting Services Act 1992**257 Subsection 165(1)**

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

258 Subsection 165(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Chairperson and the APS employees assisting the Chairperson together constitute a Statutory Agency; and
- (b) the Chairperson is the Head of that Statutory Agency.

Chemical Weapons (Prohibition) Act 1994**259 Paragraph 99(c)**

Repeal the paragraph, substitute:

- (c) an SES employee, or acting SES employee, in the Department;

Child Support (Assessment) Act 1989**260 Subparagraph 149(1)(c)(i)**

Repeal the subparagraph, substitute:

- (i) the Agency (within the meaning of the *Public Service Act 1997*) of which the Commissioner is the Agency Head (within the meaning of that Act); or

261 Subsection 150(1) (subparagraph (c)(i) of the definition of person to whom this section applies)

Repeal the subparagraph, substitute:

- (i) the Agency (within the meaning of the *Public Service Act 1997*) of which the Commissioner is the Agency Head (within the meaning of that Act); or

Child Support (Registration and Collection) Act 1988**262 Subparagraph 15(1)(c)(i)**

Repeal the subparagraph, substitute:

- (i) the Agency (within the meaning of the *Public Service Act 1997*) of which the Commissioner is the Agency Head (within the meaning of that Act); or

263 Subsection 16(1) (subparagraph (c)(i) of the definition of person to whom this section applies)

Repeal the subparagraph, substitute:

- (i) the Agency (within the meaning of the *Public Service Act 1997*) of which the Commissioner is the Agency Head (within the meaning of that Act); or

Christmas Island Act 1958**264 Paragraph 8G(7)(h)**

Repeal the paragraph, substitute:

- (h) a person appointed or engaged under the *Public Service Act 1997*;

265 Subsection 17(1)

Omit "*Public Service Act 1922*", substitute "*Public Service Act 1997*".

266 Subsection 17(3)

Omit "*Public Service Act 1922*", substitute "*Public Service Act 1997*".

Civil Aviation Act 1988**267 Subsection 37(1)**

Omit "Subject to section 87E of the *Public Service Act 1922*, a", substitute "A".

Classification (Publications, Films and Computer Games) Act 1995**268 Subsection 54(1)**

Omit "appointed or employed under the *Public Service Act 1922*", substitute "engaged under the *Public Service Act 1997*".

269 Subsection 54(2)

Repeal the subsection, substitute:

- (2) For the purposes of the *Public Service Act 1997*:
 - (a) the Director and the APS employees assisting the Director together constitute a Statutory Agency; and
 - (b) the Director is the Head of that Statutory Agency.

270 Subsection 59(2)

Omit "an officer of the Australian Public Service", substitute "appointed or engaged under the *Public Service Act 1997*".

271 Subsection 61(1)

Omit "Subject to section 87E of the *Public Service Act 1922*, a", substitute "A".

Cocos (Keeling) Islands Act 1955**272 Paragraph 8G(7)(h)**

Repeal the paragraph, substitute:

- (h) a person appointed or engaged under the *Public Service Act 1997*;

273 Subsections 15A(1) and (3)

Omit "*Public Service Act 1922*", substitute "*Public Service Act 1997*".

Commonwealth Authorities and Companies Act 1997

274 Subsection 23(2)

Omit “an officer or employee within the meaning of the *Public Service Act 1997*”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Commonwealth Bank Sale Act 1995**275 Subsection 20(5) (subparagraph (c)(i) of the definition of *authorised person*)**

Repeal the subparagraph, substitute:

- (i) is an SES employee, or acting SES employee, in the Department; and

Commonwealth Electoral Act 1918**276 Paragraph 6(5)(a)**

Repeal the paragraph, substitute:

- (a) an office of Agency Head (within the meaning of the *Public Service Act 1997*); or

277 Subsection 23(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, an”, substitute “An”.

278 Paragraph 29(1)(a)

Repeal the paragraph, substitute:

- (a) persons engaged under the *Public Service Act 1997* (including such persons holding offices established by this Division); and

279 Subsection 29(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Electoral Commissioner and the APS employees assisting the Electoral Commissioner together constitute a Statutory Agency; and
- (b) the Electoral Commissioner is the Head of that Statutory Agency.

280 Subsection 35(3)

Omit all the words after “Commission”.

281 Subsection 35(5)

Repeal the subsection.

282 Paragraph 60(3)(b)

Omit “an officer”, substitute “a person”.

283 Paragraph 60(3)(b)

Omit “officer of the Australian Public Service”, substitute “person appointed or engaged under the *Public Service Act 1997*”.

284 Paragraph 60(3A)(d)

Omit “officer of the Australian Public Service”, substitute “person appointed or engaged under the *Public Service Act 1997*”.

285 Paragraph 60(4)(b)

Omit “an officer”, substitute “a person”.

286 Paragraph 60(4)(b)

Omit “officer of the Australian Public Service”, substitute “person appointed or engaged under the *Public Service Act 1997*”.

287 Paragraph 61(3)(d)

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

288 Paragraph 61(3)(d)

Omit “an officer” (second occurring), substitute “a person”.

289 Paragraph 61(3)(d)

Omit “officer” (last occurring), substitute “person”.

290 Paragraph 61(4)(b)

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

291 Paragraph 61(4)(b)

Omit “an officer” (second occurring), substitute “a person”.

292 Paragraph 61(4)(b)

Omit “officer” (last occurring), substitute “person”.

293 Subsection 91(1) (definition of *Secretary of a Department*)

Repeal the definition.

294 Paragraph 91(11)(a)

Omit “Secretary of a Department”, substitute “Agency Head of an Agency (within the meaning of the *Public Service Act 1997*)”.

295 Paragraph 193(2)(b)

Repeal the paragraph, substitute:

- (b) a person appointed or engaged under the *Public Service Act 1997*;

296 Subsection 279B(1)

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

297 Subsection 279B(7)

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

298 Subsection 311A(4) (paragraph (c) of the definition of *Commonwealth Department*)

Repeal the paragraph, substitute:

- (c) an Agency (within the meaning of the *Public Service Act 1997*).

299 Subsection 311A(4) (paragraph (b) of the definition of *principal officer*)

Repeal the paragraph, substitute:

- (b) in relation to an Agency—the Agency Head (within the meaning of the *Public Service Act 1997*) of the Agency.

Commonwealth Grants Commission Act 1973**300 Subsection 10(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

301 Subsection 15(2)

Omit “officers or employees employed under the *Public Service Act 1922*”, substitute “APS employees”.

Commonwealth Inscribed Stock Act 1911**302 Paragraph 51H(2)(b)**

After “office”, insert “or position”.

303 Paragraph 51K(1)(a)

After “office”, insert “or position”.

Commonwealth Legal Aid Act 1977**304 Part IV**

Repeal the Part.

Commonwealth Serum Laboratories Act 1961**305 Subsection 19X(1)**

Omit “a person who holds, or performs the duties of, a Senior Executive Service office”, substitute “an SES employee or acting SES employee”.

306 Subsection 19X(2)

Repeal the subsection.

Commonwealth Services Delivery Agency Act 1997**307 Section 3 (paragraph (a) of the definition of *principal officer*)**

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

308 Subsection 35(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

309 Subsection 35(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Chief Executive Officer and the APS employees assisting the Chief Executive Officer together constitute a Statutory Agency; and
- (b) the Chief Executive Officer is the Head of that Statutory Agency.

Commonwealth Vehicles (Registration and Exemption from Taxation) Act 1997

310 Section 7

Repeal the section, substitute:

7 Registrar

- (1) There is to be a position in the Department whose duties include the general control of the register.
- (2) The Registrar is the APS employee who is performing the duties of the position referred to in subsection (1).

Complaints (Australian Federal Police) Act 1981

311 Paragraph 41(1)(c)

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

312 Subsection 64(3)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Constitutional Convention (Election) Act 1997

313 Paragraph 102(6)(a)

Omit “officer of the Australian Public Service”, substitute “APS employee”.

314 Subsection 113(1)

Omit “officer of the Australian Public Service”, substitute “APS employee”.

315 Subsection 113(7)

Omit “officer of the Australian Public Service”, substitute “APS employee”.

Construction Industry Reform and Development Act 1992

316 Subsection 38(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

***Co-operative Farmers and Graziers Direct Meat Supply Limited
(Loan Guarantee) Act 1978***

317 Paragraph 5(c)

Omit “officers of the Australian Public Service”, substitute “persons appointed or engaged under the *Public Service Act 1997*”.

Copyright Act 1968**318 Subsection 170(2)**

Omit “*Public Service Act 1922-1968*”, substitute “*Public Service Act 1997*”.

Cotton Research Act 1982**319 Subsection 14(1)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Council for Aboriginal Reconciliation Act 1991**320 Subsection 20(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

321 Section 26

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

322 Paragraph 29(1)(c)

Repeal the paragraph, substitute:

- (c) an SES employee or acting SES employee.

Crimes Act 1914**323 Subsection 3(1) (paragraph (a) of the definition of *Commonwealth officer*)**

Repeal the paragraph, substitute:

- (a) a person appointed or engaged under the *Public Service Act 1997*;

324 Subsection 16(1) (paragraph (b) of the definition of *parole officer*)

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

325 Subsection 21F(3)

Omit “officers of the Australian Public Service”, substitute “persons appointed or engaged under the *Public Service Act 1997*”.

326 Subsection 56(2) (definition of *eligible person*)

Omit “a Senior Executive Service Officer in the Department of Foreign Affairs and Trade appointed or employed under the *Public Service Act 1922*”, substitute “an SES employee in the Department of Foreign Affairs and Trade”.

327 Section 85ZL (definition of *Commonwealth Department*)

Omit “a Department within the meaning of the *Public Service Act 1922*”, substitute “an Agency within the meaning of the *Public Service Act 1997*”.

328 Section 85ZL

Insert:

Secretary, in relation to a Commonwealth Department, means the Agency Head within the meaning of the *Public Service Act 1997*.

Crimes (Aviation) Act 1991**329 Subsection 3(1) (paragraph (c) of the definition of *authorised person*)**

Omit “a Senior Executive Service officer employed under the *Public Service Act 1922*”, substitute “an SES employee or acting SES employee”.

330 Subsection 3(1) (paragraph (d) of the definition of *authorised person*)

Omit “employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

331 Subparagraph 23(2)(c)(i)

Omit “an officer of, or a person employed in, the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Criminology Research Act 1971**332 Subsection 19(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

CSL Sale Act 1993**333 Subsection 44(3) (paragraph (b) of the definition of *authorised person*)**

Repeal the paragraph, substitute:

- (b) an SES employee, or acting SES employee, in that Department.

334 Subsection 47(4) (paragraph (c) of the definition of *authorised person*)

Repeal the paragraph, substitute:

- (c) an SES employee, or acting SES employee, in the Department, authorised by the Secretary, in writing, for the purposes of this section.

Customs Act 1901

335 Subsection 208DA(1) (definition of *prescribed officer*)

Repeal the definition, substitute:

prescribed officer means an SES employee, or acting SES employee, in the Attorney-General's Department.

Customs Administration Act 1985

336 Subsection 9(1)

Omit "Subject to section 87E of the *Public Service Act 1922*, the", substitute "The".

337 Subsection 15(1)

Omit "appointed or employed under the *Public Service Act 1922*", substitute "engaged under the *Public Service Act 1997*".

338 Subsection 15(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the CEO and the APS employees assisting the CEO together constitute a Statutory Agency; and
- (b) the CEO is the Head of that Statutory Agency.

Dairy Produce Act 1986

339 Paragraph 109C(b)

Omit "an officer of the Australian Public Service", substitute "a person appointed or engaged under the *Public Service Act 1997*".

340 Clause 1 of the Schedule (definition of *designated group*)

Repeal the definition, substitute:

designated group means any of the following classes of persons:

- (a) members of the Aboriginal race of Australia or persons who are descendants of indigenous inhabitants of the Torres Strait Islands;
- (b) persons who have migrated to Australia and whose first language is not English, and the children of such persons;
- (c) persons with a physical or mental disability.

Debits Tax Administration Act 1982

341 Subsection 3(1) (definition of *officer*)

Omit "an officer of the Australian Public Service", substitute "a person appointed or engaged under the *Public Service Act 1997*".

Deer Velvet Export Charge Act 1992

342 Section 8

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Deer Velvet Levy Act 1992**343 Section 11**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Defence Act 1903**344 Paragraph 58B(1A)(a)**

Omit “section 82D of the *Public Service Act 1922*”, substitute “section 24 of the *Public Service Act 1997*”.

345 Subsection 73A(1)

Omit “or officer in the Australian Public Service who communicates to any person”, substitute “, or person appointed or engaged under the *Public Service Act 1997*, who communicates to any other person”.

346 Subsection 120B(16) (definition of *paying officer*)

Omit “an officer of the Australian Public Service”, substitute “a person engaged under the *Public Service Act 1997*”.

347 Subsection 123(2)

Omit “officer within the meaning of the *Public Service Act 1922*”, substitute “APS employee”.

348 Subparagraph 123(2)(a)(i)

Omit “officer or employee within the meaning of that Act”, substitute “APS employee”.

349 Subsection 124(1A)

Omit “section 82D of the *Public Service Act 1922*”, substitute “section 24 of the *Public Service Act 1997*”.

Defence Force Discipline Act 1982**350 Subsections 175(1) and (2)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Defence Force Discipline Appeals Act 1955**351 Subsection 19(4)**

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Defence Force Retirement and Death Benefits Act 1973**352 Subsection 131(4)**

Omit “section 82D of the *Public Service Act 1922*”, substitute “section 24 of the *Public Service Act 1997*”.

Defence Housing Authority Act 1987**353 Subsection 3(1) (definition of *designated office in the Department*)**

Repeal the definition.

354 Subsection 3(1)

Insert:

designated position in the Department means a position in the Department that:

- (a) is designated, in writing, by the Minister for the purposes of section 60; and
- (b) is occupied by an SES employee or acting SES employee.

355 Paragraph 12(1)(c)

Omit “an officer within the meaning of the *Public Service Act 1922*”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

356 Subparagraph 41(4)(e)(i)

Omit “officers of the Australian Public Service”, substitute “persons appointed or engaged under the *Public Service Act 1997* and”.

357 Subparagraph 41(4)(e)(ii)

Omit “officers of the Australian Public Service”, substitute “those persons”.

358 Subsection 51(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

359 Paragraph 57(1)(a)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

360 Subsections 57(2) and (3)

Repeal the subsections, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Managing Director and the APS employees assisting the Managing Director together constitute a Statutory Agency; and
- (b) the Managing Director is the Head of that Statutory Agency.

361 Subsections 60(1) and (2)

Omit “designated office”, substitute “designated position”.

362 Subsection 60(4)

Omit “designated office” (wherever occurring), substitute “designated position”.

Defence Service Homes Act 1918**363 Subsection 23J(2)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997* (the **public servant**)”.

364 Subsection 23J(2)

Omit “or officer” (wherever occurring), substitute “or public servant”

Defence (Special Undertakings) Act 1952**365 Section 4 (paragraph (a) of the definition of *Commonwealth officer*)**

Repeal the paragraph, substitute:

- (a) a person appointed or engaged under the *Public Service Act 1997*;

Designs Act 1906**366 Subsection 8A(1)**

Omit all the words after “any other Act”, substitute “to a prescribed person engaged under the *Public Service Act 1997* in the Designs Office”.

367 Subsection 8A(2)

Repeal the subsection.

Development Allowance Authority Act 1992**368 Subsection 103(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

369 Subparagraph 107(3)(c)(ii)

Omit “a person holding or performing the duties of a specified Senior Executive Service office”, substitute “an SES employee or acting SES employee occupying a specified position”.

370 Section 108

Omit “a person holding or performing the duties of a Senior Executive Service office”, substitute “an SES employee or acting SES employee”.

Director of Public Prosecutions Act 1983**371 Subsection 20(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

372 Subsection 27(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

373 Subsection 27(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Director and the APS employees assisting the Director together constitute a Statutory Agency; and
- (b) the Director is the Head of that Statutory Agency.

374 Paragraph 31(1A)(b)

Repeal the paragraph, substitute:

- (b) an SES employee.

Disability Discrimination Act 1992**375 Subsection 4(1) (paragraph (a) of the definition of Commonwealth employee)**

Repeal the paragraph, substitute:

- (a) is appointed or engaged under the *Public Service Act 1997*;

376 Subsection 4(1) (definition of Department)

Omit “has the same meaning as that expression has in the *Public Service Act 1922*”, substitute “means an Agency within the meaning of the *Public Service Act 1997*”.

377 Subsection 116(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

Disability Services Act 1986**378 Subsection 25(1A)**

Omit “the Secretary of another Department”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

379 Subsection 25(1B)

Repeal the subsection.

Economic Planning Advisory Commission Act 1983**380 Subsection 11(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

381 Subsection 16(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

382 Subsection 16(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Commissioner and the APS employees assisting the Commissioner together constitute a Statutory Agency; and

(b) the Commissioner is the Head of that Statutory Agency.

Education Legislation Amendment Act 1997

383 Item 31 of Schedule 1

Repeal the item.

Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991

384 Section 17

Omit “officer of the Senior Executive Service”, substitute “SES employee or acting SES employee”.

Employment, Education and Training Act 1988

385 Subsection 17(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

386 Paragraph 32(3)(a)

Omit “an officer or employee of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

387 Paragraphs 32(3)(b) and (c)

Omit “an officer or employee”, substitute “a person”.

388 Subsection 35C(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

389 Subsection 55(2)

Omit “an officer or employee of the Australian Public Service”, substitute “engaged under the *Public Service Act 1997*”.

390 Section 56

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

391 Subsection 69(2)

Omit “subsection 25(6) of the *Public Service Act 1922*”, substitute “section 56 of the *Public Service Act 1997*”.

Employment Services Act 1994

392 Subsection 83(2)

Omit “Subject to section 87E of the *Public Service Act 1922*, an”, substitute “An”.

393 Subsection 98(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

394 Section 110

Repeal the section, substitute:

110 Staff of ESRA

- (1) The staff required for the purposes of ESRA are to be persons engaged under the *Public Service Act 1997*.
- (2) For the purposes of the *Public Service Act 1997*:
 - (a) the ESRA Chief Executive Officer and the APS employees assisting the ESRA Chief Executive Officer together constitute a Statutory Agency; and
 - (b) the ESRA Chief Executive Officer is the Head of that Statutory Agency.

395 Subsection 111(2) (paragraph (a) of the definition of *authority of the Commonwealth*)

Repeal the paragraph, substitute:

- (a) an Agency within the meaning of the *Public Service Act 1997*; or

Endangered Species Protection Act 1992**396 Subsection 4(1) (definition of *Department*)**

Repeal the definition, substitute:

Department means an Agency (within the meaning of the *Public Service Act 1997*).

397 Subsection 4(1) (definition of *Secretary*)

Repeal the definition, substitute:

Secretary means an Agency Head (within the meaning of the *Public Service Act 1997*).

Environment Protection (Alligator Rivers Region) Act 1978**398 Section 8**

Omit “appointed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

399 Section 26

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

400 Paragraph 31(3)(a)

Omit “Permanent Head” (wherever occurring), substitute “Secretary”.

401 Subsection 31(4)

Omit “Permanent Head”, substitute “Secretary”.

Equal Employment Opportunity (Commonwealth Authorities) Act 1987

402 Subsection 3(1) (definition of *authority*)

Repeal the definition, substitute:

authority means:

- (a) an incorporated or unincorporated body or authority established for a public purpose:
 - (i) by an Act or by regulations made under an Act; or
 - (ii) by or under a law of a Territory (other than a law of the Australian Capital Territory or the Northern Territory);being a body whose staff consists of, or includes, persons who are not APS employees; or
- (b) a company or other body corporate incorporated under a law of the Commonwealth, of a State or of a Territory, being a company or body corporate in which the Commonwealth has a controlling interest;

but does not include any of the following:

- (c) a relevant employer as defined in section 3 of the *Affirmative Action (Equal Employment Opportunity for Women) Act 1986*;
- (d) the Australian Dairy Corporation;
- (e) the Australian Meat and Live-stock Corporation;
- (f) the Australian Wheat Board;
- (g) the Australian Wool Research and Promotion Corporation;
- (h) Wool International.

403 Subsection 3(1) (definition of *Board*)

Repeal the definition.

404 Subsection 3(1) (definition of *designated group*)

Repeal the definition, substitute:

designated group means any of the following classes of persons:

- (a) members of the Aboriginal race of Australia or persons who are descendants of indigenous inhabitants of the Torres Strait Islands;
- (b) persons who have migrated to Australia and whose first language is not English, and the children of such persons;
- (c) persons with a physical or mental disability;
- (d) any other class of persons prescribed by the regulations for the purposes of this definition.

405 Section 8

Repeal the section.

406 Paragraph 9(1)(b)

Omit "or the Board, as the case may be,".

407 Subsection 9(4)

Repeal the subsection, substitute:

(4) If:

- (a) a relevant authority is required by an Act other than this Act to prepare an annual report for presentation to the Parliament; and
- (b) the annual report is lodged with the responsible Minister within 3 months after the end of the period to which a program report relates;

then the authority may, with the consent of the responsible Minister, include that program report in the annual report.

408 Subsection 10(1)

Repeal the subsection, substitute:

- (1) The responsible Minister may, by notice in writing to a relevant authority, require the authority to give the responsible Minister a special report within the time specified in the notice.

409 Section 11

Repeal the section, substitute:

11 Minister may make recommendations

- (1) After considering a report lodged by a relevant authority under this Part, the responsible Minister may make a recommendation in writing to the authority regarding the action to be taken by the authority to improve the effectiveness of its program.
- (2) If the authority does not concur in or adopt a recommendation made under subsection (1), the authority must, within a reasonable time, inform the responsible Minister in writing of the authority's reasons for not concurring in or adopting the recommendation.

410 Subsection 12(1)

Repeal the subsection, substitute:

- (1) The responsible Minister for a relevant authority may give general directions in writing to the authority about the performance of the authority's obligations under this Act.

411 Sections 13 and 14

Repeal the sections.

Evidence Act 1995**412 After clause 8 of the Dictionary**

Insert:

8A References to offices etc.

In this Act:

- (a) a reference to a person appointed or holding office under or because of an Australian law or a law of the Commonwealth includes a reference to an APS employee; and
- (b) in that context, a reference to an office is a reference to the position occupied by the APS employee concerned.

Excise Tariff Act 1921

413 Item 10 of the Schedule

Omit “Department of the Australian Public Service”, substitute “an Agency (within the meaning of the *Public Service Act 1997*)”.

Family Law Act 1975

414 Subsection 4(1) (paragraph (b) of the definition of *welfare officer*)

Omit “an officer or employee, within the meaning of the *Public Service Act 1922*,”, substitute “a person engaged under the *Public Service Act 1997*”.

415 Subsection 26JA(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

416 Subsection 37A(8)

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

417 Subsection 37B(1)

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

418 Subsection 37B(4)

Repeal the subsection, substitute:

- (4) An Agency Head (within the meaning of the *Public Service Act 1997*) cannot take action under section 15 of the *Public Service Act 1997* against the Principal Registrar, a Registrar or a Deputy Registrar unless such action is requested by the Chief Judge.

419 Subsection 38G(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

420 Subsection 38N(4)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

421 Subsection 38N(5)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

422 Subsection 38N(6)

Omit “the Secretary of a Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

423 Subsection 38N(8)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

424 Section 38Q

Repeal the section, substitute:

38Q Statutory Agency etc. for purposes of Public Service Act

For the purposes of the *Public Service Act 1997*:

- (a) the Chief Executive Officer and the APS employees assisting the Chief Executive Officer together constitute a Statutory Agency; and
- (b) the Chief Executive Officer is the Head of that Statutory Agency.

425 Section 67H (subparagraphs (a)(i) and (ii) of the definition of appropriate authority)

Repeal the subparagraphs, substitute:

- (i) is an SES employee or acting SES employee; or
- (ii) holds an office or position that is at a level equivalent to that of an SES employee; or

426 Subsection 114G(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

427 Subsection 114M(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

428 Subsection 114M(2)

Repeal the subsection, substitute:

- (2) For the purposes of the *Public Service Act 1997*:
 - (a) the Director and the APS employees assisting the Director together constitute a Statutory Agency; and
 - (b) the Director is the Head of that Statutory Agency.

429 Subsection 115(2)

Omit “officers of the Australian Public Service or”, substitute “persons appointed or engaged under the *Public Service Act 1997*, officers”.

Federal Airports Corporation Act 1986

430 Subsection 3(1) (paragraph (a) of the definition of *authority of the Commonwealth*)

Omit “or a Department of the Australian Public Service”.

431 Subsection 3(1) (after paragraph (a) of the definition of *authority of the Commonwealth*)

Insert:

- (aa) an Agency (within the meaning of the *Public Service Act 1997*); and

432 Subsection 17(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

433 Subsection 61(3)

Omit “the Secretary of a Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

434 Subsection 61(3)

Omit “a Department” (second occurring), substitute “an Agency”.

435 Paragraphs 61(3)(a) and (b)

Omit “Department”, substitute “Agency”.

436 Paragraph 66(1)(b)

Repeal the paragraph, substitute:

- (b) an SES employee, or acting SES employee, in the Department;

Federal Court of Australia Act 1976**437 Subsection 18AI(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

438 Subsection 18G(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

439 Subsection 18N(4)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

440 Subsection 18N(5)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

441 Subsection 18N(6)

Omit “the Secretary of a Department of the Australian Public Service”, substitute “an Agency Head within the meaning of the *Public Service Act 1997*”.

442 Subsection 18N(6)

Omit “the Department”, substitute “the Agency”.

443 Subsection 18N(8)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

444 Section 18Q

Repeal the section, substitute:

18Q Statutory Agency etc. for purposes of Public Service Act

For the purposes of the *Public Service Act 1997*:

- (a) the Registrar and the APS employees assisting the Registrar together constitute a Statutory Agency; and
- (b) the Registrar is the Head of that Statutory Agency.

445 Subsection 35A(4)

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

446 Subsection 37F(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

Financial Corporations Act 1974**447 Paragraph 27(1)(d)**

Repeal the paragraph, substitute:

- (d) a person appointed or engaged under the *Public Service Act 1997*.

Financial Management and Accountability Act 1997**448 Section 5 (paragraph (b) of the definition of Chief Executive)**

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

Financial Transaction Reports Act 1988**449 Subsection 3(1) (paragraph (c) of the definition of taxation officer)**

Omit “an officer or employee of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997* and”.

450 Subsection 36B(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

451 Subsection 40(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

452 Subsection 40(2)

Repeal the subsection, substitute:

- (2) For the purposes of the *Public Service Act 1997*:
 - (a) the Director and the APS employees assisting the Director together constitute a Statutory Agency; and
 - (b) the Director is the Head of that Statutory Agency.

First Home Owners Act 1983**453 Subsection 4(1) (definition of *Secretary*)**

Repeal the definition.

Fisheries Management Act 1991**454 Subsection 137(4)**

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

455 Subsection 138(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Fishing Industry Research Act 1969**456 Section 9**

Omit “an officer of the Public Service of the Commonwealth”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Foreign Evidence Act 1994**457 Subsection 26(3) (paragraph (a) of the definition of *authorised officer*)**

Repeal the paragraph, substitute:

- (a) who is an SES employee or acting SES employee in the Attorney-General’s Department; and

Forestry and Timber Bureau Act 1930**458 Subsection 3(3)**

Repeal the subsection, substitute:

- (3) The Director-General and staff required for the purposes of this Act must be engaged under the *Public Service Act 1997*.

Freedom of Information Act 1982

459 Division 1 of Part II of Schedule 2 (item relating to the National Health and Medical Research Council)

Omit “officers, or employees, within the meaning of the *Public Service Act 1922*”, substitute “persons appointed or engaged under the *Public Service Act 1997*”.

Fringe Benefits Tax (Application to the Commonwealth) Act 1986

460 Subsection 3(1) (paragraph (c) of the definition of *Department*)

Repeal the paragraph, substitute:

- (c) an Executive Agency or Statutory Agency (within the meaning of the *Public Service Act 1997*).

Fringe Benefits Tax Assessment Act 1986

461 Subsection 136(1) (definition of *officer*)

Repeal the definition, substitute:

officer means a person appointed or engaged under the *Public Service Act 1997*.

Governor-General Act 1974

462 At the end of section 6

Add:

- (2) The Official Secretary, together with the staff employed under section 13, constitute the Office of Official Secretary to the Governor-General.
- (3) The function of the Office is to assist the Governor-General.

463 Section 14

Repeal the section, substitute:

14 Remuneration and other conditions of employees

The remuneration and other conditions of employment of a person employed under section 13 are as determined by the Official Secretary.

464 Section 16

Repeal the section.

465 Section 17

Repeal the section.

Great Barrier Reef Marine Park Act 1975

466 Subsection 13(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

467 Subsection 40(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

468 Subsections 40(2) and (3)

Repeal the subsections, substitute:

- (2) For the purposes of the *Public Service Act 1997*:
 - (a) the Chairperson and the APS employees assisting the Chairperson together constitute a Statutory Agency; and
 - (b) the Chairperson is the Head of that Statutory Agency.

469 Subsection 42(2)

Omit “the Secretary of a Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

470 Subsection 42(2)

Omit “Department” (last occurring), substitute “Agency”.

Hazardous Waste (Regulation of Exports and Imports) Act 1989

471 Paragraph 60(b)

Repeal the paragraph, substitute:

- (b) an SES employee, or acting SES employee, in the Department.

Health Insurance Act 1973

472 Subsection 106Q(1)

Omit “holding an office or appointment under the *Public Service Act 1922*”, substitute “appointed or engaged under the *Public Service Act 1997*”.

473 Subsection 106ZB(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, if”, substitute “If”.

474 Section 106ZM

Repeal the section, substitute:

106ZM Staff

- (1) The staff necessary to assist the Director are to be persons engaged under the *Public Service Act 1997*.
- (2) For the purposes of the *Public Service Act 1997*:
 - (a) the Director and the APS employees assisting the Director together constitute a Statutory Agency; and
 - (b) the Director is the Head of that Statutory Agency.

475 Subsection 130(5B) (paragraph (b) of the definition of *authorised officer*)

Repeal the paragraph, substitute:

- (b) an APS employee in the Department.

Health Insurance Commission Act 1973

476 Subsection 3(1) (definition of Australian Public Service)

Omit “*Public Service Act 1922-1973*”, substitute “*Public Service Act 1997*”.

477 Subsection 23(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

High Court of Australia Act 1979**478 Subsection 22(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

479 Paragraph 25(3)(a)

Omit “with the concurrence of the Public Service Board,”.

480 Subsection 26(6)

Omit “the Secretary of a Department of the Australian Public Service”, substitute “an Agency Head within the meaning of the *Public Service Act 1997*”.

481 Subsection 26(6)

Omit “the Department”, substitute “the Agency”.

Horticultural Policy Council Act 1987**482 Subsection 25(1)**

Omit “officers or employees of the Department”, substitute “APS employees in the Department”.

Housing Assistance Act 1996**483 After paragraph 8(2)(e)**

Insert:

(ea) an Agency (within the meaning of the *Public Service Act 1997*);

484 Paragraph 8(2)(f)

Omit “the Commonwealth or”.

485 Section 13

Omit “an officer of, or person employed in, the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Housing Loans Insurance Corporation (Sale of Assets and Abolition) Act 1990

486 Section 26

Omit “an officer of the Department of Finance who holds a Senior Executive Service office within the meaning of the *Public Service Act 1922*”, substitute “an SES employee, or acting SES employee, in the Department of Finance”.

Human Rights and Equal Opportunity Commission Act 1986**487 Subsection 39(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

488 Subsection 43(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

489 Subsection 43(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Commission and the APS employees assisting the Commission together constitute a Statutory Agency; and
- (b) the Commission is the Head of that Statutory Agency.

490 Subsection 46F(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

Immigration (Education) Act 1971**491 Subsection 10(1)**

Omit “an officer of the Public Service of the Commonwealth”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Income Tax Assessment Act 1936**492 Subsection 51AL(23)**

Repeal the subsection, substitute:

(23) The Industry Secretary may, by writing, delegate any or all of his or her functions and powers under this section to a person in the Industry Department:

- (a) who is an SES employee or an acting SES employee; or
- (b) whose classification level appears in Group 7 or 8 of Schedule 1 to the Classification Rules under the *Public Service Act 1997*; or
- (c) who is acting in a position usually occupied by a person with a classification level of the kind mentioned in paragraph (b).

493 Subsection 51AL(26) (definition of *Senior Executive Service office*)

Repeal the definition.

494 Subsection 124K(1) (definition of *Senior Executive Service office*)

Repeal the definition, substitute:

Senior Executive Service office means a position that is occupied by an SES employee or acting SES employee.

495 Subsection 124ZADAA(1)

Omit “a person holding or performing the duties of a Senior Executive Service office”, substitute “an SES employee or acting SES employee”.

496 Subsection 124ZADAA(2)

Repeal the subsection.

497 Section 159UX

Omit “a person holding or performing the duties of a Senior Executive Service office”, substitute “an SES employee or acting SES employee”.

498 Section 159UX

Omit “In this section *Senior Executive Service office* has the same meaning as in the *Public Service Act 1922*.”.

Income Tax Assessment Act 1997**499 Section 34-65**

Repeal the section, substitute:

34-65 Delegation of powers by Industry Secretary

The *Industry Secretary may, by writing, delegate any or all of his or her functions and powers under this Division to a person in the Department of Industry, Science and Tourism:

- (a) who holds or performs the duties of a *Senior Executive Service office; or
- (b) whose classification level appears in Group 7 or 8 of Schedule 1 to the Classification Rules under the *Public Service Act 1997*; or
- (c) who is acting in a position usually occupied by a person with a classification level of the kind mentioned in paragraph (b).

500 Subsection 995-1(1) (definition of *Senior Executive Service office*)

Repeal the definition, substitute:

Senior Executive Service office means a position occupied by an SES employee or acting SES employee.

Industrial Chemicals (Notification and Assessment) Act 1989**501 Section 5 (definition of *Department*)**

Repeal the definition, substitute:

Department means an Agency within the meaning of the *Public Service Act 1997*.

502 Section 5 (definition of *Secretary*)

Repeal the definition, substitute:

Secretary means an Agency Head within the meaning of the *Public Service Act 1997*.

503 Subsection 84(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

504 Subsection 84(2)

Omit “section 78 of the *Public Service Act 1922*”, substitute “section 64 of the *Public Service Act 1997*”.

505 Subsection 94(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

506 Subsection 100(1)

Omit “the Secretary of a Department”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

507 Subsection 100(1)

Omit “Department” (last occurring), substitute “Agency”.

508 Paragraph 104(c)

Repeal the paragraph, substitute:

- (c) an SES employee, or acting SES employee, in the Department;

509 Section 104A

Repeal the section, substitute:

104A Delegation by Director

The Director may, by signed instrument, delegate to a person:

- (a) whose classification level appears in Group 7 or 8 of Schedule 1 to the Classification Rules under the *Public Service Act 1997*; or
 - (b) who is acting in a position usually occupied by a person with a classification level of the kind mentioned in paragraph (a);
- all or any of the Director’s functions or powers under this Act, other than those under subsection 14(4), 17(4) or 19(8) or (9), section 24 or 30A, subsection 37(2), section 38, 44, 50B, 60E or 60F or this section.

Industry Commission Act 1989

510 Subsection 34(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

511 Subsection 43(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

512 Subsection 43(3)

Repeal the subsection, substitute:

(3) For the purposes of the *Public Service Act 1997*:

- (a) the Chairperson and the APS employees assisting the Chairperson together constitute a Statutory Agency; and
- (b) the Chairperson is the Head of that Statutory Agency.

Industry Research and Development Act 1986**513 Paragraph 9(1)(b)**

After “office”, insert “or position”.

514 Section 25

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Inspector-General of Intelligence and Security Act 1986**515 Paragraph 18(6)(b)**

Omit “a Department”, substitute “an Agency (within the meaning of the *Public Service Act 1997*)”.

516 Subsection 28(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

517 Subsection 32(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

518 Subsection 32(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Inspector-General and the APS employees assisting the Inspector-General together constitute a Statutory Agency; and
- (b) the Inspector-General is the Head of that Statutory Agency.

Insurance Acquisitions and Takeovers Act 1991**519 Paragraphs 75(4)(a) and (b)**

Repeal the paragraphs, substitute:

- (a) an Agency Head (within the meaning of the *Public Service Act 1997*); or
- (b) an APS employee in the Agency who is approved, in writing, by the Agency Head;

520 Subsection 75(4)

Omit “Department”, substitute “Agency”.

521 Paragraph 75(4)(c)

Omit “Department”, substitute “Agency”.

522 Subsection 75(5)

Omit “the Secretary to a Department of the Commonwealth or to an officer of a Department of the Commonwealth, the Secretary or the officer”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*) or an APS employee, the Agency Head or the APS employee”.

523 Subsection 75(6)

Repeal the subsection.

Insurance (Agents and Brokers) Act 1984

524 Paragraphs 34U(6)(a) and (b)

Repeal the paragraphs, substitute:

- (a) an Agency Head (within the meaning of the *Public Service Act 1997*); or
- (b) an APS employee in the Agency who is approved, in writing, by the Agency Head;

525 Subsection 34U(6)

Omit “Department”, substitute “Agency”.

526 Paragraph 34U(6)(c)

Omit “Department”, substitute “Agency”.

527 Subsection 34U(7)

Omit “the Secretary to a Department of the Commonwealth or to an officer of a Department of the Commonwealth, the Secretary or the officer”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*) or an APS employee, the Agency Head or the APS employee”.

528 Subsection 34U(8)

Repeal the subsection.

Insurance and Superannuation Commissioner Act 1987

529 Subsection 9(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

530 Subsection 13(1)

Omit “appointed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

531 Subsection 13(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Commissioner and the APS employees assisting the Commissioner together constitute a Statutory Agency; and
- (b) the Commissioner is the Head of that Statutory Agency.

Insurance Contracts Act 1984**532 Paragraphs 11F(6)(a) and (b)**

Repeal the paragraphs, substitute:

- (a) an Agency Head (within the meaning of the *Public Service Act 1997*); or
- (b) an APS employee in the Agency who is approved, in writing, by the Agency Head;

533 Subsection 11F(6)

Omit “Department”, substitute “Agency”.

534 Paragraph 11F(6)(c)

Omit “Department”, substitute “Agency”.

535 Subsection 11F(7)

Omit “the Secretary to a Department of the Commonwealth or to an officer of a Department of the Commonwealth, the Secretary or the officer”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*) or an APS employee, the Agency Head or the APS employee”.

536 Subsection 11F(8)

Repeal the subsection.

537 Paragraph 11G(b)

Repeal the paragraph, substitute:

- (b) who is an SES employee or acting SES employee;

Insurance Supervisory Levies Collection Act 1989**538 Subsection 10(1)**

Omit “office in the branch of the Australian Public Service under the control of the Commissioner”, substitute “position in an Agency (within the meaning of the *Public Service Act 1997*) of which the Commissioner is the Agency Head (within the meaning of that Act)”.

International Air Services Commission Act 1992**539 Subsection 44(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, if”, substitute “If”.

International Shipping (Australian-resident Seafarers) Grants Act 1995**540 Subsection 23(1)**

Omit “a person holding, or performing the duties of, a Senior Executive Service office”, substitute “an SES employee or acting SES employee”.

541 Subsection 23(2)

Repeal the subsection.

542 Section 24

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

International Transfer of Prisoners Act 1997**543 Paragraph 53(b)**

Repeal the paragraph, substitute:

- (b) an SES employee, or acting SES employee, in the Department.

Lands Acquisition Act 1989**544 Paragraph 139(1)(a)**

Repeal the paragraph, substitute:

- (a) a person appointed or engaged under the *Public Service Act 1997*; or

Legislative Instruments Act 1997**545 Section 14**

Omit “An officer of the Senior Executive Service”, substitute “An SES employee”.

Life Insurance Act 1995**546 Subsection 216(15) (definition of *authorised officer*)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Long Service Leave (Commonwealth Employees) Act 1976**547 Subsection 4(1) (paragraph (e) of the definition of *approving authority*)**

Repeal the paragraph, substitute:

- (e) in any other case:
 - (i) the chief executive officer of the employing agency (the *original agency*) in which the person is employed, or in which the person was employed at the time of his or her ceasing to be an employee (whether by reason of death or otherwise); or

- (ii) if the original agency no longer exists—the chief executive officer (however described) of the replacement agency determined under subsection (1A).

548 Subsection 4(1)

Insert:

chief executive officer, in relation to an employing agency, means:

- (a) if the employing agency is an Agency within the meaning of the *Public Service Act 1997*—the Agency Head (within the meaning of that Act); or
- (b) in any other case—the person (however described) who is the chief executive officer of the employing agency.

549 Subsection 4(1)

Insert:

employing agency means:

- (a) an Agency within the meaning of the *Public Service Act 1997*; or
- (b) a public authority of the Commonwealth; or
- (c) a body covered by paragraph (6)(b); or
- (d) a company covered by paragraph (6)(c).

550 Subsection 4(1) (definition of *officer*)

Repeal the definition.

551 After subsection 4(1)

Insert:

- (1A) If the employing agency (the **original agency**) in which a person was employed at the time of his or her ceasing to be an employee no longer exists at a later time, then the **replacement agency** at that later time is:
 - (a) the employing agency that is responsible for the matter to which the person's duties related, or mainly related, at the time of his or her ceasing to be an employee; or
 - (b) if there is no employing agency that is responsible for that matter—the employing agency that is nominated in writing by the Secretary of the Department.

552 Subsection 4(9)

Repeal the subsection.

553 Subsection 4(10)

Omit “to whom the *Commonwealth Employees (Redeployment and Retirement) Act 1979* does not apply”.

554 Paragraph 4(10)(a)

Repeal the paragraph, substitute:

- (a) in the case of an employee who is an APS employee—the minimum that applies to the employee under section 30 of the *Public Service Act 1997*; or

555 Sections 9 and 9A

Repeal the sections, substitute:

9 Delegation by approving authority

- (1) An approving authority may, in writing, delegate to another person any of the approving authority’s powers or functions under this Act (other than this section).
- (2) A person (the *first delegate*) to whom powers or functions are delegated under subsection (1) may, in writing, delegate any of those powers or functions to another person (the *second delegate*). However, if the first delegate is subject to directions in relation to the exercise of a power or function delegated under this subsection, the first delegate must give corresponding directions to the second delegate.
- (3) A power or function that is exercised or performed by a person under a delegation under subsection (2) is taken, for the purposes of this Act, to have been exercised or performed by the approving authority.
- (4) A person exercising powers or functions under a delegation under this section must comply with any directions of the person who delegated the power or function.
- (5) In this section:
approving authority does not include the President of the Senate or the Speaker of the House of Representatives.

556 Paragraph 12(3)(a)

Repeal the paragraph, substitute:

- (a) unless a chief executive officer, or the person who granted the leave, determined (otherwise than under this Act), either at the time of the grant or at a later time, that the period of absence be included in the person’s period of service for the purpose of the granting of long service leave; or

Management and Investment Companies Act 1983

557 Section 16

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Maternity Leave (Commonwealth Employees) Act 1973**558 Subsection 3(1)**

Insert:

Agency Head, in relation to an employee, means:

- (a) in the case of an employee in an Agency (within the meaning of the *Public Service Act 1997*)—the Agency Head within the meaning of that Act; or
- (b) in the case of an employee in a prescribed authority—the chief executive officer (however described) of the prescribed authority.

559 Subsection 3(1) (definition of *Department of the Australian Public Service*)

Repeal the definition.

560 Subsection 3(1) (definition of *Secretary*)

Repeal the definition.

561 Paragraph 5(1)(a)

Omit “*Public Service Act 1922-1973*”, substitute “*Public Service Act 1997*”.

562 Subsection 5A(2)

Repeal the subsection, substitute:

- (2) For the purposes of the application of this Act in relation to a person employed in a Parliamentary Department, the powers conferred on an Agency Head (other than the power of delegation conferred by section 11) are to be exercised, in substitution for the Agency Head, by the Head of the Parliamentary Department concerned.

563 Subsection 6(4)

Omit “or (4AB)”.

564 Subsection 6(4AB)

Repeal the subsection.

565 Subsection 6(4B)

Omit “or (4AB)”.

566 Subsection 6(4C)

Omit “the Secretary to the Department”, substitute “the Agency Head”.

567 Subsection 6(4F)

Omit “the Secretary to the Department”, substitute “the Agency Head”.

568 Subsection 7A(4)

Omit “the Secretary to the Department”, substitute “the Agency Head”.

569 Subsection 7A(4)

Omit “wishes the Secretary”, substitute “wishes the Agency Head”.

570 Subsection 7A(5)

Omit “the Secretary to the Department”, substitute “the Agency Head”.

571 Subsection 7A(5)

Omit “subsection (4), the Secretary”, substitute “subsection (4), the Agency Head”.

572 Subsection 7A(6)

Omit “the Secretary to the Department”, substitute “the Agency Head”.

573 Subsection 7A(6)

Omit “or the Secretary”, substitute “or the Agency Head”.

574 Section 8

Repeal the section, substitute:

8 APS employees on maternity leave

Clause 12 of Schedule 14 to the *Workplace Relations Act 1996* applies to a female APS employee if:

- (a) the employee is absent from duty in accordance with section 6; and
- (b) the absence is after her confinement and without pay.

575 Sections 11 and 12

Repeal the sections, substitute:

11 Delegation by Agency Head

- (1) An Agency Head may, in writing, delegate to another person any of the Agency Head’s powers or functions under this Act (other than this section).
- (2) A person (the *first delegate*) to whom powers or functions are delegated under subsection (1) may, in writing, delegate any of those powers or functions to another person (the *second delegate*). However, if the first delegate is subject to directions in relation to the exercise of a power or function delegated under this subsection, the first delegate must give corresponding directions to the second delegate.
- (3) A power or function that is exercised or performed by a person under a delegation under subsection (2) is taken, for the purposes of this Act, to have been exercised or performed by the Agency Head.
- (4) A person exercising powers or functions under a delegation under this section must comply with any directions of the person who delegated the power or function.

(5) In this section:

Agency Head does not include the President of the Senate or the Speaker of the House of Representatives.

Meat and Live-stock Industry Act 1995

576 Section 52 (definition of *designated group*)

Repeal the definition, substitute:

designated group means any of the following classes of persons:

- (a) members of the Aboriginal race of Australia or persons who are descendants of indigenous inhabitants of the Torres Strait Islands;
- (b) persons who have migrated to Australia and whose first language is not English, and the children of such persons;
- (c) persons with a physical or mental disability.

Meat Inspection Arrangements Act 1964

577 Subsection 3(1) (definition of *person employed by the Commonwealth*)

Repeal the definition, substitute:

person employed by the Commonwealth means a person appointed or engaged under the *Public Service Act 1997*.

Members of Parliament (Staff) Act 1984

578 Section 3 (definition of *Agency*)

Repeal the definition.

579 Section 3 (definition of *Board*)

Repeal the definition.

580 Section 3 (definition of *officer*)

Repeal the definition, substitute:

officer means a person appointed or engaged under the Public Service Act.

581 Section 3 (definition of *Public Service Act*)

Omit "*Public Service Act 1922*", substitute "*Public Service Act 1997*".

582 Section 3 (definition of *relevant public servant*)

Repeal the definition.

583 Subsections 5(1), (2) and (3)

Omit "Board", substitute "Prime Minister".

584 Section 10

Repeal the section.

585 Section 11

Repeal the section.

586 Subsection 14(1)

Omit “subsection (2) and to”.

587 Subsection 14(1)

Omit all the words after “are the same as”, substitute “are to be ascertained in accordance with the agreement for the employment of the person”.

588 Subsection 14(1)

Omit “in relation to an officer performing the duties of an office in the Australian Public Service”, substitute “an APS employee”.

589 Subsection 14(2)

Repeal the subsection.

590 Sections 17 and 18

Repeal the sections.

591 Subsection 21(1)

Omit “subsection (2) and to”.

592 Subsection 21(1)

Omit all the words after “are the same as”, substitute “are to be ascertained in accordance with the agreement for the employment of the person”.

593 Subsection 21(1)

Omit “in relation to an officer performing the duties of an office in the Australian Public Service”, substitute “an APS employee”.

594 Subsection 21(2)

Repeal the subsection.

595 Section 24

Repeal the section.

596 Section 25

Repeal the section.

Merit Protection (Australian Government Employees) Act 1984

597 The whole of the Act

Repeal the Act.

Migration Act 1958

598 Paragraph 143(1)(b)

Repeal the paragraph, substitute:

- (b) an SES employee, or acting SES employee, in that Department.

599 Section 275 (paragraphs (a) and (b) of the definition of *official*)

Repeal the paragraphs, substitute:

- (a) a person appointed or engaged under the *Public Service Act 1997*; or

600 Paragraph 364(1)(b)

Omit “employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

601 Subsection 408(4)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

602 Subsection 409(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

603 Paragraph 428(1)(a)

Omit “employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

604 Subsection 472(4)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

605 Subsection 473(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Motor Vehicle Standards Act 1989

606 Paragraph 22(2)(b)

Repeal the paragraph, substitute:

- (b) is to be an SES employee, or acting SES employee, in the Department.

607 Section 23

Omit “another person who holds or performs the duties of a Senior Executive Service office within”, substitute “an SES employee or acting SES employee in”.

608 Subsection 25(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

609 Subsection 25(2)

Omit “section 78 of the *Public Service Act 1922*”, substitute “section 64 of the *Public Service Act 1997*”.

National Crime Authority Act 1984

610 Subsection 40(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

611 Subsection 47(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

612 Subsection 47(2)

Repeal the subsection, substitute:

- (2) For the purposes of the *Public Service Act 1997*:
- (a) the Chairperson and the APS employees assisting the Chairperson together constitute a Statutory Agency; and
 - (b) the Chairperson is the Head of that Statutory Agency.

National Environment Protection Council Act 1994**613 Subsection 43(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

614 Subsection 49(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

615 Subsections 49(2) and (3)

Repeal the subsections, substitute:

- (2) For the purposes of the *Public Service Act 1997*:
- (a) the NEPC Executive Officer and the APS employees assisting the NEPC Executive Officer together constitute a Statutory Agency; and
 - (b) the NEPC Executive Officer is the Head of that Statutory Agency.

616 Subsection 51(1)

Omit “officers and employees of Departments of the Australian Public Service”, substitute “persons engaged under the *Public Service Act 1997*”.

National Gallery Act 1975**617 Subsection 28(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

National Health Act 1953**618 Subsection 4(1) (paragraph (a) of the definition of *Director*)**

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

619 Subsection 82PEA(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

620 Subsection 82PL(2)

Omit “the Secretary of a Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

621 Subsection 82PL(2)

Omit “Department” (last occurring), substitute “Agency”.

622 Subsection 82PN(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

623 Subsection 82R(3)

Omit “an officer of the Australian Public Service”, substitute “a person engaged under the *Public Service Act 1997*”.

624 Subsection 82X(1)

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

625 Subsection 82ZUD(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, if”, substitute “If”.

626 Subsection 82ZUG(2)

Omit “the Secretary of a Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

627 Subsection 82ZUG(2)

Omit “Department” (last occurring), substitute “Agency”.

National Health and Medical Research Council Act 1992**628 Subsection 22(1)**

Repeal the subsection, substitute:

- (1) The Secretary to the Council is an SES employee or acting SES employee who is designated for the purpose by the Secretary of the Department.

629 Subsection 26(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

630 Subsection 45(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

631 Subsection 45(2)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

632 Paragraph 48(1)(a)

Repeal the paragraph, substitute:

- (a) an Agency Head within the meaning of the *Public Service Act 1997*; or

633 Paragraphs 48(1)(d), (e) and (f)

After “of that”, insert “Agency,”.

634 Paragraph 72(a)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

National Labour Consultative Council Act 1977

635 Section 9

Omit all the words after “payable to”, substitute “persons engaged under the *Public Service Act 1997*”.

636 Subsection 12(2)

Omit all the words after “payable to”, substitute “persons engaged under the *Public Service Act 1997*”.

National Library Act 1960

637 Subparagraph 6(c)(ii)

Omit “Departments and”.

638 At the end of paragraph 6(c)

Add:

- (iv) the Agencies (within the meaning of the *Public Service Act 1997*); and

639 Subsection 17(4)

Repeal the subsection, substitute:

(4) For the purposes of the *Public Service Act 1997*:

- (a) the Director-General and the APS employees assisting the Director-General together constitute a Statutory Agency; and
- (b) the Director-General is the Head of that Statutory Agency.

640 Subsection 17(5)

Omit “an officer employed under the *Public Service Act 1922*”, substitute “a person engaged under the *Public Service Act 1997*”.

641 Subsection 17(5)

Omit “including his or her powers referred to in subsection (4) but”.

642 Subsection 17(6)

Omit “, other than the powers referred to in subsection (4) of this section,”.

643 Subsection 17B(1)

Omit "Subject to section 87E of the *Public Service Act 1922*, a", substitute "A".

644 Section 18

Omit "employed under the *Public Service Act 1922*", substitute "engaged under the *Public Service Act 1997*".

National Museum of Australia Act 1980**645 Subsection 26(1)**

Omit "Subject to section 87E of the *Public Service Act 1922*, the", substitute "The".

646 Subsection 30(1)

Omit "appointed or employed under the *Public Service Act 1922*", substitute "engaged under the *Public Service Act 1997*".

647 Subsections 30(2), (3) and (4)

Repeal the subsections, substitute:

(2) For the purposes of the *Public Service Act 1997*:

(a) the Director and the APS employees assisting the Director together constitute a Statutory Agency; and

(b) the Director is the Head of that Statutory Agency.

648 Subsection 31(1)

Omit "the Secretary of a Department of the Australian Public Service", substitute "an Agency Head (within the meaning of the *Public Service Act 1997*)".

National Occupational Health and Safety Commission Act 1985**649 Subsection 12(1)**

Omit "Subject to section 87E of the *Public Service Act 1922*, the", substitute "The".

650 Subsection 32(1)

Omit "Subject to section 87E of the *Public Service Act 1922*, the", substitute "The".

651 Subsection 53(1)

Omit "appointed or employed under the *Public Service Act 1922*", substitute "engaged under the *Public Service Act 1997*".

652 Subsection 53(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

(a) the Chief Executive Officer and the APS employees assisting the Chief Executive Officer together constitute a Statutory Agency; and

- (b) the Chief Executive Officer is the Head of that Statutory Agency.

653 Subsection 54(1)

Omit “the Secretary of a Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

654 Subsection 54(1)

Omit “Department” (last occurring), substitute “Agency”.

National Parks and Wildlife Conservation Act 1975

655 Subsection 26(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

656 Subsection 34(1)

Omit “appointed or employed under the *Public Service Act 1922-1974*”, substitute “engaged under the *Public Service Act 1997*”.

657 Subsections 34(2) and (3)

Repeal the subsections, substitute:

(2) For the purposes of the *Public Service Act 1997*:

(a) the Director and the APS employees assisting the Director together constitute a Statutory Agency; and

(b) the Director is the Head of that Statutory Agency.

658 Subsection 36(2)

Omit “the Secretary of a Department of the Australian Public Service”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

659 Subsection 36(2)

Omit “Department” (last occurring), substitute “Agency”.

National Roads Act 1974

660 Subsection 15(1)

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

National Transmission Network Sale Act 1997

661 Paragraph 23(1)(b)

Omit “a person holding, or performing the duties of, a Senior Executive Service office”, substitute “an SES employee or acting SES employee”.

Native Title Act 1993

662 Subsection 102(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

663 Subsection 117(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

664 Subsection 130(3)

Repeal the subsection, substitute:

Employment etc. under Public Service Act

(3) The Deputy Registrars and the staff of the Tribunal are to be persons engaged under the *Public Service Act 1997*.

665 Subsection 130(4)

Omit “the Secretary of a Department of the Australian Public Service”, substitute “an Agency Head within the meaning of the *Public Service Act 1997*”.

666 Subsection 130(4)

Omit “the Department”, substitute “the Agency”.

667 Section 131

Repeal the section, substitute:

131 Statutory Agency etc. for purposes of Public Service Act

For the purposes of the *Public Service Act 1997*:

- (a) the Registrar and the APS employees assisting the Registrar together constitute a Statutory Agency; and
- (b) the Registrar is the Head of that Statutory Agency.

668 Subsection 183(5)

Omit “the holder of an office in the Senior Executive Service of the Australian Public Service”, substitute “an SES employee or acting SES employee”.

Natural Heritage Trust of Australia Act 1997**669 Paragraph 45(1)(c)**

Repeal the paragraph, substitute:

- (c) an SES employee or acting SES employee (whether or not in the Department);

670 Paragraph 46(1)(b)

Repeal the paragraph, substitute:

- (b) an SES employee or acting SES employee (whether or not in the Department of Primary Industries and Energy);

671 Section 54 (definition of *Senior Executive Service office*)

Repeal the definition.

Natural Resources Management (Financial Assistance) Act 1992

672 Subsection 4(1) (definition of *officer*)

Repeal the definition, substitute:

officer means a person appointed or engaged under the *Public Service Act 1997*.

Naval Defence Act 1910**673 Section 40 (definition of *industrial award*)**

Repeal the definition, substitute:

industrial award means an award within the meaning of the *Workplace Relations Act 1996*.

674 Section 42

Omit all the words after “the Navy”.

675 Subsection 42C(1)

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

676 Subsection 42C(2)

Omit “Section 64 of the *Public Service Act 1922*”, substitute “Section 68 of the *Public Service Act 1997*”.

677 Subsection 42C(2)

Omit “*officer*”, substitute “APS employee”.

Norfolk Island Act 1979**678 Paragraph 13(4)(a)**

Repeal the paragraph, substitute:

(a) is an APS employee; or

Nuclear Non-Proliferation (Safeguards) Act 1987**679 Subsection 4(1) (paragraph (a) of the definition of *Commonwealth officer*)**

Repeal the paragraph, substitute:

(a) a person appointed or engaged under the *Public Service Act 1997*; or

680 Subsection 46(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

681 Section 55

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Occupational Health and Safety (Commonwealth Employment) Act 1991**682 Subsection 5(1) (paragraph (a) of the definition of *Department*)**

Repeal the paragraph, substitute:

- (a) an Agency (within the meaning of the *Public Service Act 1997*); or

683 Subsection 5(1) (paragraph (a) of the definition of Secretary)

Repeal the paragraph, substitute:

- (a) in the case of a Department to which paragraph (a) of the definition of *Department* applies—the Agency Head (within the meaning of the *Public Service Act 1997*); or

684 Section 51

Omit “section 78 of the *Public Service Act 1922*”, substitute “section 64 of the *Public Service Act 1997*”.

685 Subsection 80(1)

Omit “employed under the *Public Service Act 1922*, the purposes of Division 6 of Part III of that Act,”, substitute “appointed or engaged under the *Public Service Act 1997*”.

686 Subsection 80(2)

After “office”, insert “or position”.

687 Subsection 80(2)

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

Occupational Health and Safety (Maritime Industry) Act 1993

688 Subsection 106(3)

Omit “section 78 of the *Public Service Act 1922*”, substitute “section 64 of the *Public Service Act 1997*”.

Office of National Assessments Act 1977

689 Section 3 (paragraph (e) of the definition of prescribed Commonwealth officer)

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

690 Paragraph 6(2)(d)

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

691 Paragraph 7(2)(a)

Omit “an officer or officers of the Australian Public Service”, substitute “a person or persons appointed or engaged under the *Public Service Act 1997*”.

692 Subsection 13(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

693 Paragraph 17(1)(a)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

694 Subsections 17(2) and (3)

Repeal the subsections, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Director-General and the APS employees assisting the Director-General together constitute a Statutory Agency; and
- (b) the Director-General is the Head of that Statutory Agency.

695 Subsection 17(4)

Omit “the Secretary of a Department”, substitute “an Agency Head (within the meaning of the *Public Service Act 1997*)”.

696 Subsection 17(4)

Omit “appointed or employed under the *Public Service Act 1922* in the Department”, substitute “engaged under that Act in the Agency”.

Ombudsman Act 1976**697 Subsection 3(1) (definition of *Department*)**

Omit “Department of the Australian Public Service referred to in paragraph (a) of the definition of *Department* in subsection 7(1) of the *Public Service Act 1922*”, substitute “Department within the meaning of the *Public Service Act 1997*”.

698 Subsection 3(1) (definition of *Secretary*)

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

699 Paragraph 5(2)(g)

After “office” (first and second occurring), insert “or position”.

700 Subsections 6(9), (10) and (11)

Repeal the subsections, substitute:

(9) If the Ombudsman forms the opinion:

- (a) that a complaint could have been made under the *Public Service Act 1997*; and
- (b) that the complaint could be more conveniently or effectively dealt with by the Public Service Commissioner;

the Ombudsman may decide not to investigate the complaint, or not to investigate the complaint further, as the case may be, and to transfer the complaint to the Public Service Commissioner.

(10) If the Ombudsman makes a decision under subsection (9), the Ombudsman must:

- (a) transfer the complaint to the Public Service Commissioner as soon as is reasonably practicable; and
- (b) give the Public Service Commissioner any information or documents relating to the complaint that are in the possession, or under the control, of the Ombudsman; and

- (c) as soon as is reasonably practicable, give the complainant written notice that the complaint has been transferred to the Public Service Commissioner.

701 Subsection 25(1)

Omit "Subject to section 87E of the *Public Service Act 1922*, the", substitute "The".

702 Subsection 31(1)

Omit "appointed or employed under the *Public Service Act 1922*", substitute "engaged under the *Public Service Act 1997*".

703 Subsections 31(2) and (3)

Repeal the subsections, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Ombudsman and the APS employees assisting the Ombudsman together constitute a Statutory Agency; and
 (b) the Ombudsman is the Head of that Statutory Agency.

Overseas Students (Refunds) Act 1990

704 Section 3 (definition of officer)

Repeal the definition.

705 Subsection 5(1)

Omit "an officer of", substitute "an APS employee in".

706 Paragraph 10(b)

Repeal the paragraph, substitute:

- (b) an SES employee, or acting SES employee, in the Department;

Ozone Protection Act 1989

707 Paragraph 49(1)(a)

Omit "the Australian Public Service or any other", substitute "an".

708 After paragraph 49(1)(a)

Insert:

- (b) a person engaged under the *Public Service Act 1997*; or

709 Section 67A

Omit "a person holding or performing the duties of a Senior Executive Service office", substitute "an SES employee or acting SES employee".

Parliamentary Contributory Superannuation Act 1948

710 Subsection 21B(1) (paragraph (d) of the definition of holder of an office of profit under the Commonwealth)

Repeal the paragraph, substitute:

- (d) the holder of an office of Secretary within the meaning of the *Public Service Act 1997*; or

Parliamentary Counsel Act 1970**711 Subsection 7(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

712 Subsection 16(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

713 Subsections 16(2) and (3)

Repeal the subsections, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the First Parliamentary Counsel and the APS employees assisting the First Parliamentary Counsel together constitute a Statutory Agency; and
- (b) the First Parliamentary Counsel is the Head of that Statutory Agency.

Patents Act 1990**714 Schedule 1 (paragraph (a) of the definition of *employee*)**

Omit “an officer or employee within the meaning of the *Public Service Act 1922*”, substitute “a person engaged under the *Public Service Act 1997*”.

715 Schedule 1 (paragraph (b) of the definition of *employee*)

Omit “an officer or employee”, substitute “a person”.

Petroleum Excise (Prices) Act 1987**716 Subsection 4(2)**

Omit “an officer within the meaning of the *Public Service Act 1922*”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Petroleum Resource Rent Tax Assessment Act 1987**717 Section 2 (definition of *officer*)**

Repeal the definition, substitute:

officer means a person appointed or engaged under the *Public Service Act 1997*.

Plant Breeder's Rights Act 1994**718 Subsections 59(1) and (2)**

Omit “another officer of the Department within the Senior Executive Service”, substitute “an SES employee, or acting SES employee, in the Department”.

Pooled Development Funds Act 1992

719 Section 68

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Prawn Export Promotion Act 1995**720 Paragraph 24(b)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Prices Surveillance Act 1983**721 Subsection 43(4) (at the end of paragraph (a) of the definition of *prescribed person*)**

Add:

- (iv) appointed or engaged under the *Public Service Act 1997*; or

Primary Industries Levies and Charges Collection Act 1991**722 Paragraph 26(b)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Privacy Act 1988**723 Subsection 6(1) (paragraph (a) of the definition of *Commonwealth officer*)**

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “appointed or engaged under the *Public Service Act 1997*”.

724 Subsection 6(1) (definition of *Department*)

Repeal the definition, substitute:

Department means an Agency within the meaning of the *Public Service Act 1997*.

725 Subsection 6(1) (definition of *Secretary*)

Repeal the definition, substitute:

Secretary means an Agency Head within the meaning of the *Public Service Act 1997*.

726 Subsection 22(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

727 Subsection 50(1) (definition of *Merit Protection Act*)

Repeal the definition.

728 Subsection 50(1) (definition of *Merit Protection Agency*)

Repeal the definition.

729 Paragraph 50(2)(b)

Omit “Merit Protection Agency under section 47 of the Merit Protection Act”, substitute “Public Service Commissioner under the *Public Service Act 1997*”.

730 Subsection 50(2)

Omit “or the Merit Protection Agency” (wherever occurring), substitute “or the Public Service Commissioner”.

731 Paragraph 50(3)(b)

Omit “Merit Protection Agency under section 47 of the Merit Protection Act”, substitute “Public Service Commissioner under the *Public Service Act 1997*”.

Proceeds of Crime Act 1987

732 Subsection 4(1) (definition of *prescribed officer*)

Repeal the definition, substitute:

prescribed officer means an SES employee or acting SES employee in the Attorney-General’s Department.

Protection of Movable Cultural Heritage Act 1986

733 Paragraph 24(1)(b)

Repeal the paragraph, substitute:

(b) an SES employee, or acting SES employee, in the Department;

Public Lending Right Act 1985

734 Section 18

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Public Service Act 1922

735 The whole of the Act

Repeal the Act.

Qantas Sale Act 1992

736 Subsection 11(1)

Omit “a person who holds, or performs the duties of, a Senior Executive Service office”, substitute “an SES employee or acting SES employee”.

737 Subsection 11(2)

Repeal the subsection.

738 Paragraphs 20(1)(d) and (e)

Repeal the paragraphs, substitute:

(e) the *Public Service Act 1997*;

739 Subsection 31(3) (paragraph (b) of the definition of *authorised person*)

Repeal the paragraph, substitute:

- (b) an SES employee, or acting SES employee, in the Department who is authorised by the Secretary, in writing, for the purposes of this section.

740 Subsection 40(4) (paragraph (c) of the definition of *authorised person*)

Repeal the paragraph, substitute:

- (c) an SES employee, or acting SES employee, in the Department.

Racial Discrimination Act 1975

741 Subsection 32(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

Radiocommunications Act 1992

742 Section 5 (paragraph (a) of the definition of *Department*)

Omit “a Department within the meaning of the *Public Service Act 1922*”, substitute “an Agency within the meaning of the *Public Service Act 1997*”.

743 Subsection 204(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

744 Subsection 248(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

Referendum (Machinery Provisions) Act 1984

745 Section 3 (subparagraph (b)(iii) of the definition of *authorised witness*)

Omit “in the Australian Public Service or”.

746 Section 3 (after subparagraph (b)(iii) of the definition of *authorised witness*)

Insert:

- (iiia) a person appointed or engaged under the *Public Service Act 1997*; or

747 Paragraph 11(4)(c)

Omit “officers or employees within the meaning of the *Public Service Act 1922*”, substitute “appointed or engaged under the *Public Service Act 1997*”.

748 Subsection 95B(1)

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

749 Subsection 95B(7)

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Registration of Deaths Abroad Act 1984**750 Subsection 5(2)**

Omit “an officer or employee within the meaning of the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

751 Subsection 6(1)

Omit “an officer or employee within the meaning of the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

752 Paragraph 26(1)(a)

Omit “an officer or employee within the meaning of the *Public Service Act 1922*”, substitute “appointed or engaged under the *Public Service Act 1997*”.

Remuneration and Allowances Act 1990**753 After section 8**

Insert:

8A Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

754 Clause 7 of Schedule 1

Omit “officers of the Australian Public Service”, substitute “persons engaged under the *Public Service Act 1997*”.

755 Clause 5 of Schedule 2

Omit “officers of the Australian Public Service”, substitute “persons engaged under the *Public Service Act 1997*”.

756 Subclauses 1(2) and (3) of Schedule 3

Repeal the subclauses, substitute:

- (2) The Members of Parliament annual salary is equal to the minimum executive office salary.
- (3) In this clause:

minimum executive office salary means:

- (a) the minimum annual rate of salary payable to an SES employee with a classification of SES Band 2; or

- (b) if a principal executive classification is prescribed by the regulations under this Act—the minimum annual rate of salary applicable to that classification.

principal executive classification means a classification determined by the Remuneration Tribunal under section 12C of the *Remuneration Tribunal Act 1973*.

Remuneration Tribunal Act 1973

757 Part II (heading)

Repeal the heading, substitute:

Part II—Remuneration etc. for certain offices and appointments

Division 1—Preliminary

758 After section 3

Insert:

Division 2—Determinations and reports by the Remuneration Tribunal

759 Subsection 5(2)

Repeal the subsection, substitute:

- (2) An additional function of the Tribunal is to provide advice to the Australian National University, the University of Canberra and the Australian Maritime College in relation to terms and conditions (including remuneration and allowances) on which executive education offices in those bodies are to be held.
- (2A) An additional function of the Tribunal is to:
- (a) determine a classification structure for principal executive offices; and
 - (b) provide advice to the employing bodies for principal executive offices in relation to terms and conditions (including remuneration and allowances) on which principal executive offices are to be held.
- (2B) An additional function of the Tribunal is to provide advice to the Prime Minister in relation to terms and conditions (including remuneration and allowances) on which offices of Secretary (within the meaning of the *Public Service Act 1997*) are to be held.

760 Subsection 5(3)

Omit “subsection (2)”, substitute “this section”.

761 Subsection 7(3)

Omit “the holders of offices referred to in paragraph (a) of the definition of *office of Secretary* in subsection 7(1) of the *Public Service Act 1922* and to”.

762 At the end of Part II

Add:

Division 3—Determinations by employing bodies for principal executive offices

12C Terms and conditions determined by employing body

- (1) The employing body for a principal executive office may, in writing, determine the terms and conditions (including remuneration and allowances) applying to the office.
- (2) If an employing body proposes to determine terms and conditions that are not consistent with the classification structure determined by the Tribunal under subsection 5(2A), the employing body must first request the advice of the Tribunal.
- (3) If a determination is in force under this section for a principal executive office, the determination overrides any provision of another Act that provides for the terms and conditions applying to the principal executive office, unless that other provision refers to, and is expressed to override, this section.

Repatriation Institutions (Transfer) Act 1992

763 Subsection 3(1) (definition of *employee*)

Repeal the definition.

764 Subsection 3(1) (definition of *officer*)

Repeal the definition.

765 Subsection 3(1) (definition of *the Service*)

Repeal the definition, substitute:

the Service means the APS within the meaning of the *Public Service Act 1997*.

766 Subsection 4(2)

After “office” (wherever occurring), insert “or position”.

767 Paragraph 13(1)(b)

After “office”, insert “or position”.

768 Section 16

Omit all the words after “under”, substitute “subsection 16(4) or 17(2) of the *Long Service Leave (Commonwealth Employees) Act 1976* in respect of resignation from the Service”.

769 Section 17

Repeal the section.

Reserve Bank Act 1959**770 Subsection 14(2)**

Omit “officers of the Bank or of the Australian Public Service”, substitute “officials”.

771 Subsection 14(3)

Omit “an officer of the Bank or of the Australian Public Service”, substitute “an official”.

772 Subsection 14(4)

Omit “an officer of the Bank or of the Australian Public Service”, substitute “an official”.

773 Subsection 14(5)

Omit “an officer of the Bank or of the Australian Public Service”, substitute “an official”.

774 At the end of section 14

Add:

(6) In this section:

official means:

- (a) an officer of the Bank; or
- (b) a person appointed or engaged under the *Public Service Act 1997*.

Retirement Savings Accounts Act 1997**775 Section 16 (definition of *authorised person*)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Roads Grants Act 1974**776 Subsection 15(1)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Roads Grants Act 1980**777 Subsection 38(1)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Roads Grants Act 1981**778 Subsection 33(1)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Rural Adjustment Act 1992**779 Section 20C**

Omit “an officer of the Department who holds or performs the duties of a Senior Executive Service office”, substitute “an SES employee, or acting SES employee, in the Department”.

780 Subsection 21A(2)

Omit “an officer of the Department who holds or performs the duties of a Senior Executive Service office”, substitute “an SES employee, or acting SES employee, in the Department”.

Rural Industries Research Act 1985**781 Subsection 4(1) (definition of *authorised representative*)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

782 Subsection 10(3)

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Safety, Rehabilitation and Compensation Act 1988**783 Subsection 81(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

784 Subsection 86(2)

Omit “an officer, within the meaning of the *Public Service Act 1922*, being the occupant for the time being of such office”, substitute “an APS employee who is performing the duties of such position”.

785 Paragraph 88(1)(a)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

786 Subsection 88(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Chief Executive Officer and the APS employees assisting the Chief Executive Officer together constitute a Statutory Agency; and
- (b) the Chief Executive Officer is the Head of that Statutory Agency.

787 Subsection 114A(2) (definition of *Department*)

Repeal the definition, substitute:

Department means an Agency (within the meaning of the *Public Service Act 1997*).

788 Subsection 114A(2) (definition of *Secretary*)

Repeal the definition, substitute:

Secretary means an Agency Head (within the meaning of the *Public Service Act 1997*).

Science and Industry Research Act 1949**789 Subsection 10C(1)**

Omit "Subject to section 87E of the *Public Service Act 1922*, the", substitute "The".

Seafarers Rehabilitation and Compensation Act 1992**790 Subsection 125(1)**

Repeal the subsection, substitute:

- (1) The Authority may, by resolution, delegate all or any of its powers or functions to a person in the Department:
 - (a) who is an SES employee or acting SES employee; or
 - (b) whose classification level appears in Group 7 or 8 of Schedule 1 to the Classification Rules under the *Public Service Act 1997*; or
 - (c) who is acting in a position usually occupied by a person with a classification level of the kind mentioned in paragraph (b).

Seafarers Rehabilitation and Compensation Levy Collection Act 1992**791 Section 11**

Repeal the section, substitute:

11 Appointment of authorised persons

The Secretary may, in writing, appoint a person in the Department:

- (a) who is an SES employee or acting SES employee; or
- (b) whose classification level appears in Group 7 or 8 of Schedule 1 to the Classification Rules under the *Public Service Act 1997*; or
- (c) who is acting in a position usually occupied by a person with a classification level of the kind mentioned in paragraph (b);

to be an authorised person for the purposes of a specified provision of this Act.

792 Subsection 15(1)

Repeal the subsection, substitute:

- (1) The Secretary may, in writing, delegate all or any of his or her powers or functions under this Act (other than powers under section 11) to a person in the Department:
 - (a) who is an SES employee or acting SES employee; or

- (b) whose classification level appears in Group 7 or 8 of Schedule 1 to the Classification Rules under the *Public Service Act 1997*; or
- (c) who is acting in a position usually occupied by a person with a classification level of the kind mentioned in paragraph (b).

Sea Installations Act 1987

793 Paragraph 74(1)(c)

Repeal the paragraph, substitute:

- (c) a person appointed or engaged under the *Public Service Act 1997*; or

Sex Discrimination Act 1984

794 Subsection 4(1) (paragraph (a) of the definition of *Commonwealth employee*)

Repeal the paragraph, substitute:

- (a) is appointed or engaged under the *Public Service Act 1997*;

795 Subsection 4(1) (definition of *Department*)

Omit “has the same meaning as that expression has in the *Public Service Act 1922*”, substitute “means an Agency within the meaning of the *Public Service Act 1997*”.

796 Subsection 99(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

Shipping Registration Act 1981

797 Subsection 3(1) (definition of *employee*)

Repeal the definition.

798 Subsection 52(1)

Omit “an officer of or employee in the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

799 Subsection 53(1)

Omit “an officer of or employee in the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Ships (Capital Grants) Act 1987

800 Subsection 36(1)

Omit “a person holding or performing the duties of a Senior Executive Service office within the meaning of the *Public Service Act 1922*, being an office”, substitute “an SES employee or acting SES employee”.

Snowy Mountains Engineering Corporation Limited Sale Act 1993

801 Subsection 35(3) (paragraph (b) of the definition of *authorised person*)

Repeal the paragraph, substitute:

- (b) an SES employee, or acting SES employee, in that Department.

802 Subsection 38(4) (paragraph (c) of the definition of *authorised person*)

Repeal the paragraph, substitute:

- (c) an SES employee, or acting SES employee, in that Department, authorised by the Secretary, in writing, for the purposes of this section.

Snowy Mountains Hydro-electric Power Act 1949**803 Subsection 11(1)**

Omit "Subject to section 87E of the *Public Service Act 1922*, a", substitute "A".

Social Security Act 1991**804 Subsection 1331(1)**

Omit "Subject to section 87E of the *Public Service Act 1922*, a", substitute "A".

805 Section 1341

Omit "appointed or employed under the *Public Service Act 1922*", substitute "engaged under the *Public Service Act 1997*".

Special Broadcasting Service Act 1991**806 Subsection 34(1)**

Omit "Subject to section 87E of the *Public Service Act 1922*, the", substitute "The".

807 Subsection 81(4)

Repeal the subsection.

Special Prosecutors Act 1982**808 Paragraph 18(a)**

Omit "appointed or employed under the *Public Service Act 1922*", substitute "appointed or engaged under the *Public Service Act 1997*".

States Grants (Education Assistance—Participation and Equity) Act 1983**809 Paragraph 31(1)(c)**

Omit "an officer of the Australian Public Service", substitute "a person appointed or engaged under the *Public Service Act 1997*".

States Grants (Petroleum Products) Act 1965

810 Subsection 5(2)

Omit “an officer of the Australian Public Service”, substitute “a person engaged under the *Public Service Act 1997*”.

811 Paragraph 5(3)(a)

Omit “an officer of the Australian Public Service”, substitute “a person engaged under the *Public Service Act 1997* (the **public servant**)”.

812 Paragraph 5(3)(a)

Omit “such an officer”, substitute “the public servant”.

813 Subsection 5(3A)

Omit “an officer” (wherever occurring), substitute “the public servant”.

States Grants (Roads) Act 1977**814 Subsection 34(1)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

States Grants (Schools Assistance) Act 1983**815 Subsection 76(1)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

States Grants (Schools Assistance) Act 1984**816 Subsection 89(1)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Stevedoring Industry Charge Assessment Act 1947**817 Subsection 4(1) (definition of *officer*)**

Repeal the definition, substitute:

officer means a person appointed or engaged under the *Public Service Act 1997*.

Student and Youth Assistance Act 1973**818 Subsection 3(1) (definition of *employee*)**

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

Superannuation Act 1976**819 Subsection 3(1)**

Insert:

APS Agency means an Agency within the meaning of the Public Service Act.

820 Subsection 3(1)

Insert:

APS employee has the same meaning as in the Public Service Act.

821 Subsection 3(1) (definition of *permanent employee*)

Repeal the definition, substitute:

permanent employee means a person employed in a permanent capacity by the Commonwealth or by an approved authority, but does not include:

- (a) a part-time employee who is not an approved part-time employee; or
- (b) a person who is engaged or appointed for employment outside Australia only, not being a person who is included in a class of persons approved by the Minister, in writing, for the purposes of this definition.

822 Subsection 3(1) (definition of *Public Service Act*)

Omit "*Public Service Act 1922*", substitute "*Public Service Act 1997*".

823 Subsection 3(1) (definition of *temporary employee*)

Omit all the words from and including "means" to and including "but does not include:", substitute "means a person employed, otherwise than in a permanent capacity, by the Commonwealth or by an approved authority, but does not include:".

824 Subsection 3C(2) (definition of *Department*)

Repeal the definition, substitute:

Department means:

- (a) an APS Agency; or
- (b) a Department of the Parliament.

825 Paragraphs 14A(1)(a) and (c)

Repeal the paragraphs.

826 Paragraph 14A(1)(d)

Repeal the paragraph, substitute:

- (d) is a person who is a permanent employee, or a temporary employee, because of having been, or having been deemed to be, re-appointed or re-employed in circumstances similar to:
 - (i) the circumstances in which a person could have been re-appointed to the Australian Public Service under section 63F, 63G or 66B of the *Public Service Act 1922*, as in force immediately before its repeal; or
 - (ii) the circumstances in which a person could have been deemed to have been re-appointed to the Australian Public Service in accordance with section 87M or 87Q of the *Public Service Act 1922*, as in force immediately before its repeal; or

827 Subsection 14A(1A)

Omit "(1)(a), (b), (c) or (d)", substitute "(1)(b) or (d)".

828 Paragraph 14A(1A)(a)

Omit “(1)(a) or (b)”, substitute “(1)(b)”.

829 Paragraph 14A(1A)(b)

Omit “(1)(c) or (d)”, substitute “(1)(d)”.

830 Subsection 14A(1B) (paragraphs (a) and (b) of the definition of *previous relevant employment*)

Repeal the paragraphs, substitute:

- (a) if the person, after being dismissed or retired from employment, was re-appointed or re-employed (or deemed to have been re-appointed or re-employed) in circumstances similar to the circumstances referred to in subparagraph (1)(d)(i)—the office held by the person, or the employment in which the person was employed, immediately before his or her dismissal or retirement; or
- (b) if the person is re-appointed or re-employed (or deemed to be re-appointed or re-employed) by a previous employer in circumstances similar to the circumstances referred to in subparagraph (1)(d)(ii)—the office last held by the person, or the employment in which the person was last employed by that employer, before his or her re-appointment or re-employment.

831 Subsection 14A(2)

Omit “a person to whom Division 2 or 3 of Part IV of the Public Service Act applies or”.

832 Subsection 14A(5)

Omit “Public Service Act”, substitute “*Public Service Act 1922*”.

833 Paragraph 14A(6)(a)

Repeal the paragraph, substitute:

- (a) a person who has ceased to be an eligible employee again becomes an eligible employee because of having been, or having been deemed to be, re-appointed or re-employed in circumstances similar to the circumstances referred to in subparagraph (1)(d)(i) or (ii); and

834 Subsection 14A(6)

Omit “re-appointment, declaration or reinstatement” (wherever occurring), substitute “re-appointment or reinstatement”.

835 Section 16A

Omit “Public Service Act” (wherever occurring), substitute “*Public Service Act 1922*”.

836 Subsection 21(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

837 Subsection 26(1)

Omit “appointed or employed under the Public Service Act”, substitute “engaged under the Public Service Act”.

838 Subsection 26(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Commissioner and the APS employees assisting the Commissioner together constitute a Statutory Agency; and
- (b) the Commissioner is the Head of that Statutory Agency.

839 Subparagraph 51(2)(f)(i)

Repeal the subparagraph, substitute:

- (i) in respect of a person employed in an APS Agency—the Agency Head of the Agency is satisfied that the engaging by the person in the other employment is in the interests of the Australian Public Service; or

840 Subsection 57B(1) (paragraphs (a), (b) and (c) of the definition of fixed-term employee)

Repeal the paragraphs, substitute:

- (a) a person appointed under section 51 of the Public Service Act; or
- (b) an APS employee on a fixed term; or

841 Subsection 57B(2)

Omit “a person continues as an officer by virtue of a direction under subsection 37(6) of that Act”, substitute “a person is immediately engaged under section 53 of that Act”.

842 Subsection 57B(2)

Omit “at the same time as the person ceases to be an officer by virtue of the direction” (wherever occurring), substitute “at the same time as the engagement under that section ends”.

843 Subsection 57B(3)

Omit “Public Service Act”, substitute “*Public Service Act 1922*”.

844 Paragraph 58(3)(aa)

Repeal the paragraph, substitute:

- (aa) in the case of an SES employee—the person retires under section 37 of the Public Service Act;

845 Paragraph 58(3)(b)

Repeal the paragraph, substitute:

- (b) the person's employment or appointment is terminated on a ground similar to a ground specified in section 76D, 76L or 76W of the *Public Service Act 1922*, as in force immediately before its repeal;

846 Paragraph 58(3)(e)

Repeal the paragraph.

847 Paragraph 58(3)(f)

Omit "Public Service Act", substitute "*Public Service Act 1922*, in its continued application because of section 8 of the *Public Employment (Consequential and Transitional) Amendment Act 1997*".

848 Paragraph 58(3)(g)

Repeal the paragraph.

849 Paragraph 58(3)(h)

Omit "otherwise than under the Public Service Act,".

850 Subparagraph 58A(1)(c)(i)

Repeal the subparagraph, substitute:

- (i) was an APS employee or a Secretary (within the meaning of the Public Service Act), other than a fixed-term employee; or

851 Subparagraph 58B(1)(c)(i)

Repeal the subparagraph, substitute:

- (i) was an APS employee or a Secretary (within the meaning of the Public Service Act), other than a fixed-term employee; or

852 Section 120

Repeal the section, substitute:

120 Persons to whom Part applies

This Part applies to a person if:

- (a) the person ceased to be an eligible employee because he or she has voluntarily terminated his or her employment in order to become:
 - (i) a candidate for election as a member of a House of the Parliament of the Commonwealth or of a State or of the Legislative Assembly for the Northern Territory; or
 - (ii) a candidate in an election that is prescribed under the Public Service Act for the purposes of section 32 of that Act; and
- (b) the termination took effect not earlier than 6 months before the day on which nominations for the election closed.

853 Subsection 125(3)

Omit "section 47C of the Public Service Act", substitute "this section".

854 Subparagraph 159(1)(b)(i)

Omit “appointed or employed under the Public Service Act”, substitute “engaged under the Public Service Act”.

855 Subsection 160(8) (paragraph (a) of the definition of *declared authority*)

Omit “appointed or employed under the Public Service Act”, substitute “engaged under the Public Service Act”.

856 Paragraph 163A(1)(b)

Omit “an officer or employee of the Australian Public Service”, substitute “a Secretary within the meaning of the Public Service Act, or other person engaged under that Act,”.

857 Subsection 167(2) (definition of *officer*)

Omit “an officer of the Australian Public Service or an approved authority”, substitute “a person appointed or engaged under the Public Service Act or an officer of an approved authority”.

858 Section 244

Omit “Public Service Act” (wherever occurring), substitute “*Public Service Act 1922*”.

Superannuation Act 1990**859 Section 3 (definition of *permanent employee*)**

Repeal the definition, substitute:

permanent employee means a person employed in a permanent capacity by the Commonwealth or by an approved authority, but does not include a person who is engaged or appointed for employment outside Australia only, not being a person who is included in a class of persons approved by the Minister, in writing, for the purposes of this definition

860 Section 3 (definition of *temporary employee*)

Omit all the words from and including “means” to and including “does not include”, substitute “means a person employed, otherwise than in a permanent capacity, by the Commonwealth or by an approved authority, but does not include”.

861 Subsection 3AA(2) (definition of *Department*)

Repeal the definition, substitute:

Department means:

- (a) an Agency within the meaning of the *Public Service Act 1997*; or
- (b) a Department of the Parliament.

862 Paragraph 6(1)(h)

Repeal the paragraph.

863 Subparagraph 19(1)(b)(i)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

864 Subsection 35(4) (subparagraph (a)(i) of the definition of declared authority)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

865 Subparagraph 36(c)(i)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Superannuation Benefits (Supervisory Mechanisms) Act 1990**866 Subsection 3(1) (definition of overseas employee)**

Omit “section 82AF of the *Public Service Act 1922*”, substitute “section 67 of the *Public Service Act 1997*”.

867 Subsection 6(6) (definition of employer)

Omit “a Department within the meaning of the *Public Service Act 1922*”, substitute “an Agency within the meaning of the *Public Service Act 1997*”.

Superannuation Contributions Tax (Assessment and Collection) Act 1997**868 Subsection 32(1) (paragraph (b) of the definition of person to whom this section applies)**

Repeal the paragraph, substitute:

- (b) a person engaged under the *Public Service Act 1997* in the Agency (within the meaning of that Act) of which the Commissioner is the Agency Head; or

869 Section 36

Omit “an officer or employee within the meaning of the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

870 Section 43 (definition of authorised officer)

Omit “an officer or employee within the meaning of the *Public Service Act 1922*”, substitute “a person engaged under the *Public Service Act 1997*”.

Superannuation Entities (Taxation) Act 1987**871 Section 20**

Omit “employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Superannuation Guarantee (Administration) Act 1992

872 Subsection 6(1) (definition of *authorised officer*)

Omit “an officer or employee within the meaning of the *Public Service Act 1922*”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

873 Subsection 45(1) (paragraph (b) of the definition of *person to whom this section applies*)

Repeal the paragraph, substitute:

- (b) a person engaged under the *Public Service Act 1997* in an Agency (within the meaning of that Act) of which the Commissioner is the Agency Head (within the meaning of that Act); or

Superannuation Industry (Supervision) Act 1993**874 Subsection 10(1) (definition of *authorised person*)**

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Superannuation (Productivity Benefit) Act 1988**875 Subsection 3(1) (definition of *Department*)**

Repeal the definition, substitute:

Department means:

- (a) an Agency within the meaning of the *Public Service Act 1997*; or
- (b) a Department of the Parliament.

876 Subsection 3(1) (definition of *permanent employee*)

Repeal the definition, substitute:

permanent employee means any person employed in a permanent capacity by the Commonwealth or by an approved authority.

877 Subsection 3(1) (definition of *Public Service Act*)

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

878 Subsection 3(1) (paragraph (a) of the definition of *qualified employee*)

Repeal the paragraph.

879 Subsection 3(1) (paragraph (b) of the definition of *qualified employee*)

Repeal the paragraph, substitute:

- (b) a person employed by the Commonwealth; or

880 Subsection 3(1) (definition of *temporary employee*)

Repeal the definition, substitute:

temporary employee means any person employed, otherwise than in a permanent capacity, by the Commonwealth or by an approved

authority, but does not include a person who is engaged or appointed for employment outside Australia only.

Superannuation (Resolution of Complaints) Act 1993

881 Subsection 51(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

882 Subsection 62(1)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Taxation Administration Act 1953

883 Section 2 (definition of *officer*)

Repeal the definition, substitute:

officer means a person appointed or engaged under the *Public Service Act 1997*.

884 After section 4

Insert:

4A Statutory Agency etc. for purposes of Public Service Act

- (1) The staff necessary to assist the Commissioner are to be persons engaged under the *Public Service Act 1997*.
- (2) For the purposes of the *Public Service Act 1997*:
 - (a) the Commissioner and the APS employees assisting the Commissioner together constitute a Statutory Agency; and
 - (b) the Commissioner is the Head of that Statutory Agency.

885 Subsection 5(3)

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

886 Subsection 6(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

887 Subsection 13D(1) (paragraph (a) of the definition of *officer*)

Repeal the paragraph, substitute:

- (a) a person appointed or engaged under the *Public Service Act 1997*; or

Telecommunications Act 1997

888 Subsection 347(1)

Omit “a person holding or performing the duties of a Senior Executive Service office”, substitute “an SES employee or acting SES employee”.

889 Subsection 347(3) (definition of *Senior Executive Service office*)

Repeal the definition.

Telecommunications (Interception) Act 1979**890 Subsection 5(1) (subparagraph (b)(ii) of the definition of certifying officer)**

Omit “a Senior Executive Service officer within the meaning of the *Public Service Act 1922*”, substitute “an SES employee or acting SES employee”.

Telecommunications (Transitional Provisions and Consequential Amendments) Act 1997**891 Paragraph 25(1)(b)**

Repeal the paragraph, substitute:

- (b) an SES employee, or acting SES employee, in the Department;

892 Subsection 25(3)

Repeal the subsection.

893 Paragraph 35(1)(b)

Repeal the paragraph, substitute:

- (b) an SES employee, or acting SES employee, in the Department;

894 Subsection 35(3)

Repeal the subsection.

Telstra Corporation Act 1991**895 Section 3 (definition of Senior Executive Service office)**

Repeal the definition.

896 Subsection 8AW(6) (paragraph (c) of the definition of associated person)

Repeal the paragraph, substitute:

- (c) a person appointed or engaged under the *Public Service Act 1997*; or

897 Paragraph 8BB(1)(b)

Repeal the paragraph, substitute:

- (b) an SES employee or acting SES employee whether or not in the Department;

898 Paragraph 8BB(2)(b)

Repeal the paragraph, substitute:

- (b) an SES employee or acting SES employee whether or not in the Department of Finance;

899 Paragraph 8CB(1)(b)

Repeal the paragraph, substitute:

- (b) an SES employee or acting SES employee whether or not in the Department;

900 Paragraph 8CB(2)(b)

Repeal the paragraph, substitute:

- (b) an SES employee or acting SES employee whether or not in the Department of Finance;

Termination Payments Tax (Assessment and Collection) Act 1997

901 Subsection 23(1) (paragraph (b) of the definition of *person to whom this section applies*)

Repeal the paragraph, substitute:

- (b) a person engaged under the *Public Service Act 1997* in the Agency (within the meaning of that Act) of which the Commissioner is the Agency Head; or

902 Section 24

Omit “an officer or employee within the meaning of the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

903 Section 31 (definition of *authorised officer*)

Omit “an officer or employee within the meaning of the *Public Service Act 1922*”, substitute “a person engaged under the *Public Service Act 1997*”.

Therapeutic Goods Act 1989

904 Subsection 6A(2)

Repeal the subsection, substitute:

- (2) While an approval is in force for the purpose of subsection (1), section 57 has effect as if such a function or power were a function or power under this Act.

905 Paragraph 57(1)(b)

Omit “another Department or of”.

906 After paragraph 57(1)(b)

Insert:

- (ba) an APS employee in an Agency (within the meaning of the *Public Service Act 1997*) that has functions in relation to therapeutic goods; or

Tobacco Charges Assessment Act 1955

907 Subsection 4(1) (definition of *officer*)

Repeal the definition, substitute:

officer means a person appointed or engaged under the *Public Service Act 1997*.

Trade Marks Act 1995

908 Section 6 (definition of *employee*)

Repeal the definition, substitute:

employee means a person engaged under the *Public Service Act 1997*.

909 Section 6 (paragraph (a) of the definition of *trade marks officer*)

Repeal the paragraph.

910 Section 6 (paragraph (c) of the definition of *trade marks officer*)

Omit "(a) or".

911 Subsection 206(1)

Omit all the words after "functions", substitute "to a prescribed employee, or employees in a prescribed class, employed in the Trade Marks Office".

Trade Practices Act 1974**912 Subsection 12(1)**

Omit "Subject to section 87E of the *Public Service Act 1922*, a", substitute "A".

913 Subsection 27(1)

Omit "appointed or employed under the *Public Service Act 1922*", substitute "engaged under the *Public Service Act 1997*".

914 Subsections 27(2) and (3)

Repeal the subsections, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Chairperson of the Commission and the APS employees assisting the Chairperson together constitute a Statutory Agency; and
- (b) the Chairperson is the Head of that Statutory Agency.

915 Subsection 29G(1)

Omit "Subject to section 87E of the *Public Service Act 1922*, a", substitute "A".

916 Subsection 29M(1)

Omit "appointed or employed under the *Public Service Act 1922*", substitute "engaged under the *Public Service Act 1997*".

917 Subsection 29M(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Council President and the APS employees assisting the Council President together constitute a Statutory Agency; and

(b) the Council President is the Head of that Statutory Agency.

918 Subsection 44(3)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

919 Subsection 44A(1)

Omit “an officer or employee for the purposes of the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

920 Section 65T

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

921 Section 10.80

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

922 Subsection 170(2)

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997* (the *public servant*)”.

923 Subsection 170(2)

Omit “officer” (second and third occurring), substitute “public servant”.

Trade Representatives Act 1933

924 Section 4

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

925 Section 4

Omit “the *Public Service Act 1922*”, substitute “that Act”.

926 Subsection 10(2)

Omit “*Commonwealth Public Service Act 1922-1932* or of the *Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

927 Paragraph 11(4)(a)

Omit “section 82D of the *Public Service Act 1922*”, substitute “section 24 of the *Public Service Act 1997*”.

928 Subsections 11C(1) and (2)

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Transport (Planning and Research) Act 1974

929 Subsection 18(1)

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Transport Planning and Research (Financial Assistance) Act 1977

930 Subsection 14(1)

Omit “an officer of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

Veterans’ Entitlements Act 1986**931 Subsection 89(3)**

Omit “employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

932 Subsection 162(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

933 Section 172

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

934 Section 184

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

935 At the end of paragraphs 184(a), (b) and (c)

Add “and”.

936 Paragraph 184(d)

Omit “President; and”, substitute “President.”.

937 Paragraph 184(e)

Repeal the paragraph.

938 Subsection 186(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, a”, substitute “A”.

939 Paragraph 193(1)(b)

Omit “*Public Service Act 1922*”, substitute “*Public Service Act 1997*”.

940 Section 196

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

941 Section 196T

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

942 Section 196ZM

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

943 Paragraph 212(1)(a)

Omit “an officer or employee of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

944 Subsection 213(1)

Omit “an officer or employee of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

945 Subsection 214(1)

Omit “an officer or employee of the Australian Public Service”, substitute “a person appointed or engaged under the *Public Service Act 1997*”.

War Graves Act 1980**946 Subsection 7(1)**

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

Wet Tropics of Queensland World Heritage Area Conservation Act 1994**947 Paragraph 7(a)**

Repeal the paragraph, substitute:

- (a) persons engaged under the *Public Service Act 1997*; or

Wheat Marketing Act 1989**948 Clause 1 of the Schedule (definition of *designated group*)**

Repeal the definition, substitute:

designated group means any of the following classes of persons:

- (a) members of the Aboriginal race of Australia or persons who are descendants of indigenous inhabitants of the Torres Strait Islands;
- (b) persons who have migrated to Australia and whose first language is not English, and the children of such persons;
- (c) persons with a physical or mental disability.

Wildlife Protection (Regulation of Exports and Imports) Act 1982**949 Paragraph 18(2)(d)**

Omit “an officer or employee within the meaning of the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

Williamstown Dockyard Employees Act 1987**950 Section 3 (paragraph (a) of the definition of *relevant employee*)**

Repeal the paragraph, substitute:

- (a) a person appointed or engaged under the *Public Service Act 1997*; or

951 Section 3 (definition of *the Service*)

Repeal the definition, substitute:

the Service means the APS within the meaning of the *Public Service Act 1997*.

Wool International Act 1993

952 Section 4 (definition of *designated group*)

Repeal the definition, substitute:

designated group means any of the following classes of persons:

- (a) members of the Aboriginal race of Australia or persons who are descendants of indigenous inhabitants of the Torres Strait Islands;
- (b) persons who have migrated to Australia and whose first language is not English, and the children of such persons;
- (c) persons with a physical or mental disability.

Wool Tax (Administration) Act 1964

953 Subsection 4(1) (definition of *officer*)

Repeal the definition, substitute:

officer means a person appointed or engaged under the *Public Service Act 1997*.

Workplace Relations Act 1996

954 Subsection 4(1) (paragraph (a) of the definition of *public sector employment*)

Omit "*Public Service Act 1922*", substitute "*Public Service Act 1997*".

955 Subsection 26(1)

Omit "Subject to section 87E of the *Public Service Act 1922*, a", substitute "A".

956 Subsection 72(1)

Omit "Subject to section 87E of the *Public Service Act 1922*, the", substitute "The".

957 Subsection 83(1)

Omit "appointed or employed under the *Public Service Act 1922*", substitute "engaged under the *Public Service Act 1997*".

958 Subsection 83(2)

Repeal the subsection, substitute:

(2) For the purposes of the *Public Service Act 1997*:

- (a) the Industrial Registrar and the APS employees assisting the Industrial Registrar together constitute a Statutory Agency; and
- (b) the Industrial Registrar is the Head of that Statutory Agency.

959 Section 83BD

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

960 Subsection 83BL(1)

Omit “Subject to section 87E of the *Public Service Act 1922*, the”, substitute “The”.

961 Paragraph 84(2)(a)

Omit “appointed or employed under the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1997*”.

962 Subsection 84(3)

Omit “section 78 of the *Public Service Act 1922*”, substitute “section 64 of the *Public Service Act 1997*”.

963 Subsection 170CD(1) (paragraph (a) of the definition of *Commonwealth public sector employee*)

Repeal the paragraph, substitute:

(a) under the *Public Service Act 1997*; or

964 Section 170WK

Repeal the section, substitute:

170WK AWAs with Commonwealth employees

An Agency Head (within the meaning of the *Public Service Act 1997*) may act on behalf of the Commonwealth in relation to AWAs with persons in the Agency who are engaged under the *Public Service Act 1997*.

Bill, as amended, agreed to.

Paper

Dr Kemp presented a supplementary explanatory memorandum to the Bill.

Consideration in detail concluded.

On the motion of Dr Kemp, by leave, the Bill was read a third time.

9 PARLIAMENTARY SERVICE BILL 1997

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Question—put and passed—Bill read a second time.

Consideration in detail

Bill, by leave, taken as a whole.

Mr McMullan, by leave, moved the following amendments together:

Amendments

Clause 3, page 2 (after line 11), after paragraph (b), insert:

(ba) to define the powers and responsibilities of Secretaries and the Parliamentary Service Commissioner; and

Clause 7—

Page 4 (after line 19), after the definition of *Department*, insert:

designated group means any of the following classes of persons:

- (a) members of the Aboriginal race of Australia or persons who are descendants of indigenous inhabitants of the Torres Strait Islands;
- (b) persons who have migrated to Australia and whose first language is a language other than English, and the children of such persons;
- (c) persons who are physically or mentally disabled; and
- (d) any other class of persons declared by the regulations to be a designated group for the purposes of this definition.

Page 5 (after line 3), after the definition of *insolvent under administration*, insert:

merit, in relation to the engagement and promotion of employees, means assessment of the relative suitability of applicants for employment or promotion using a competitive selection process, where the assessment is:

- (a) based on the relationship between an applicant's work-related qualities and the work-related qualities identified by the Department as required for the job; and
- (b) the sole consideration in a decision to engage or promote an employee.

Page 5 (lines 4 to 7), omit the definition of *minimum retiring age*, substitute:

minimum retiring age means 55 years

Clause 8, page 6 (lines 19 and 20), omit subclause (1), substitute:

- (1) This Act has effect subject to the *Workplace Relations Act 1996*.

Clause 10—

Page 7 (lines 25 and 26), omit "recognises the diverse backgrounds of Parliamentary Service employees", substitute "that reflects the diverse nature of the community it serves".

Page 7 (lines 27 and 28), omit paragraph (h), substitute:

- (h) the Parliamentary Service establishes co-operative and participative workplace relations based on consultation, communication and negotiation;

Page 7 (lines 29 and 30), omit "a fair, flexible, safe and rewarding workplace", substitute:

its employees with:

- (i) a fair, flexible, safe, healthy and rewarding workplace free from harassment; and

- (ii) remuneration rates and conditions of employment commensurate with their responsibilities; and
- (iii) fair and consistent treatment, free of arbitrary or capricious administrative acts or decisions; and
- (iv) the right to be represented by unions; and
- (v) opportunities for appropriate training and development; and
- (vi) opportunities for appropriate participation in the decision-making processes of the Department in which they are employed.

Page 8 (line 4), at the end of the clause, add:

- ; (l) the Parliamentary Service promotes equity in employment;
- (m) the Parliamentary Service provides a fair system of review of decisions taken in respect of Parliamentary Service employees

Clause 11—

Page 8 (line 7), omit “may”, substitute “must”.

Note: The heading to clause 11 is replaced with the heading
**“Commissioner must give advice to Presiding Officers about
Parliamentary Service Values”.**

Page 8 (after line 11), at the end of the clause, add:

- (2) The Presiding Officers must issue written determinations under section 63 in relation to each of the Parliamentary Service Values to each of the Parliamentary Service Values, having regard to any advice received from the Commissioner under subsection (1).
- (3) If a determination issued under subsection (2) is not in accordance with advice received from the Commissioner, the Presiding Officers must cause to be laid before each House of the Parliament a report explaining why they have not accepted the Commissioner’s advice.

Clause 15—

Page 10 (lines 15 and 16), omit “include the following”, substitute “are”.

Page 10 (line 21), at the end of subclause (2), add:

- ; (f) admonishment.

Page 10 (lines 24 and 25), omit “The procedures must have due regard to procedural fairness.”, substitute “The procedures must be based on minimum standards, determined by the Presiding Officers, after consulting the Commissioner, and must have due regard to procedural fairness.”.

Clause 17, page 11 (after line 15), at the end of the clause, add:

- (2) A breach of subsection (1) is to be treated as a breach of the Code of Conduct.

Clause 18, page 11 (lines 16 to 18), omit the clause, substitute:

18 Promotion of employment equity

- (1) A Secretary must establish and implement a workplace diversity program.
- (2) Without limiting the generality of subsection (1), the program of a Department must provide for action to be taken:
 - (a) to inform employees of the contents of the program conducted and of the results of any monitoring and evaluation of the program under paragraph (h); and
 - (b) to confer responsibility for the development and implementation of the program (including a continuous review of the program), on a person or persons having sufficient authority and status within the relevant Department to enable the person or persons properly to develop and implement the program; and
 - (c) to consult with each trade union having members affected by the proposal for the development and implementation of the program in accordance with this Act; and
 - (d) to consult with employees of the relevant Department, particularly employees who are women or persons in designated groups; and
 - (e) for the collection and recording of statistics and related information concerning employment by the Department, including the number of, and the types of, jobs undertaken by, or job classifications of:
 - (i) employees of either sex; and
 - (ii) persons in designated groups; and
 - (f) to consider policies, and examine practices, of the relevant Department, in relation to employment matters to identify:
 - (i) any policies or practices that discriminate against women or persons in designated groups; and
 - (ii) any patterns (whether ascertained statistically or otherwise) of lack of equality of opportunity in respect of women or persons in designated groups; and
 - (g) to set:
 - (i) the particular objectives to be achieved by the program; and
 - (ii) the quantitative and other indicators against which the effectiveness of the program is to be assessed; and
 - (h) to monitor and evaluate the implementation of the program and:
 - (i) to assess the achievement of those objectives; and

- (ii) to assess the effectiveness of the program by comparing statistics and information collected and recorded under paragraph (e) with the indicators against which the effectiveness of the program is to be assessed.

Clause 20—

Page 12 (line 23), omit “particular individuals”, substitute “individual staffing decisions”.

Page 12 (after line 23), at the end of the clause, add:

- (5) A direction under subsection (1) must be published in the *Gazette* within 14 days of its issue.

Clause 22, page 13 (after line 20), at the end of the clause, add:

- (5) Subject to this Act and to relevant awards and certified agreements, a Secretary must engage a person as a Parliamentary Service employee on a permanent basis unless subsections (6) or (7) apply.
- (6) A Secretary may engage a person as a Parliamentary Service employee on a fixed term of less than 6 months if, in the Secretary’s opinion, the need for temporary assistance will not adversely affect the maintenance of a career service or a stable workforce.
- (7) A Secretary may engage a person as a Parliamentary Service employee on a fixed term of more than 6 months if, in the Secretary’s opinion, the employee is required to perform duties in relation to a project or task that has a fixed duration and:
 - (a) the Secretary determines that the duties require skills or ability that is not, or cannot be made, available within the Department; or
 - (b) in the case of a vacancy caused by a permanent officer being placed temporarily in another position or being on long term leave, there is no suitable permanent employee to fill the temporary vacancy.

Page 13 (after line 20), after clause 22, insert:

Proposed new clause

22A Engagement and promotion based on merit

The engagement or promotion of a Parliamentary Service employee for any period in excess of 3 months must be on the basis of merit.

Amendments

Clause 23, page 13 (line 27), after “time to time”, insert “but may not diminish any such provisions”.

Clause 24—

Page 14 (lines 12 to 14), omit “. For this purpose, *award* and *certified agreement* have the same meanings as in the *Workplace Relations Act 1996*.”, substitute “, but may not diminish any such provisions.”.

Page 14 (line 17), at the end of subclause (3), add “, provided any such determination does not diminish any provision of an award or certified agreement as in force at a particular time or as in force from time to time”.

Page 14 (after line 19), at the end of the clause, add:

- (5) For the purposes of this section, *award* and *certified agreement* have the same meanings as in the *Workplace Relations Act 1996*.

Clause 25—

Page 14 (line 22), after “Department,”, insert “consistent with any provision in an award or certified agreement,”.

Page 14 (after line 23), at the end of the clause, add:

- (2) An employee may apply to the Secretary to decline a proposed transfer within 7 days after the employee receives notice of the transfer. The transfer is not to take effect unless the Secretary rejects the application.

Proposed new clause

Page 15 (after line 19), after clause 26, insert:

26A Compulsory moves between the Parliamentary Departments and between the Parliamentary Service and the Australian Public Service

- (1) The Commissioner may, by direction in writing, move an excess Parliamentary Service employee to another Parliamentary Department or to an APS Agency, without anyone’s consent.
- (2) For the purposes of this section, a Parliamentary Service employee is an *excess Parliamentary Service employee* if, and only if, the Secretary has notified the Commissioner in writing that the employee is excess to the requirements of the Parliamentary Department or the Parliamentary Service.

Amendments

Clause 27, page 15 (after line 23), at the end of the clause, add:

- (2) The determinations must not provide for more than 30 days’ suspension without remuneration unless exceptional circumstances apply.

Clause 28, page 15 (lines 24 to 29), omit the clause, substitute:

28 Termination of employment

A Secretary may at any time following due process, by notice in writing, terminate the employment of a Parliamentary Service employee in the Department if, in the opinion of the Secretary, termination is justified on any of the following grounds:

- (a) unsatisfactory work performance;
- (b) physical or mental incapacity;
- (c) loss of essential qualifications;
- (d) a serious breach of the Code of Conduct;
- (e) being excess to the requirements of the Department.

Note: The *Workplace Relations Act 1996* has rules and entitlements that apply to termination of employment.

Clause 30, page 16 (after line 16), after subclause (2), insert:

- (2A) If a Secretary or the Commissioner receives any non-Commonwealth remuneration for performing duties as a Secretary or the Commissioner, as the case may be, then the Presiding Officers may give a notice in writing to the Secretary or the Commissioner in relation to the whole, or a specified part, of the remuneration.
- (2B) The amount notified by the Presiding Officers:
 - (a) is taken to have been received by the Secretary or the Commissioner on behalf of the Commonwealth; and
 - (b) may be recovered by the Commonwealth from the Secretary or the Commissioner as a debt in a court of competent jurisdiction.

Clause 32, page 17 (after line 13), after subclause (2), insert:

- (2A) The review processes must include an external, independent and binding appeal mechanism.
- (2B) An application for review of a Parliamentary Service action (other than action which involves or has resulted in termination of employment) in respect of selection, promotion, redeployment, re-appointment, re-integration, inefficiency or misconduct is to be determined by a Review Committee consisting of:
 - (a) an independent convenor nominated by the Commissioner;
 - (b) a nominee of the relevant Secretary; and
 - (c) an employee representative nominated in accordance with the determinations or in accordance with the provisions of an award or a certified agreement.

Note: The *Workplace Relations Act 1996* has rules and entitlements that apply to the termination of employment.

- (2C) For the purposes of paragraph (2B)(c), the provisions of an award or certified agreement prevail over the provisions of the determinations to the extent of any inconsistency.

Clause 35, page 18 (lines 18 to 20), omit the clause, substitute:

35 Presiding Officers' determinations on SES matters

- (1) Following the receipt of advice from the Commissioner, the Presiding Officers must issue determinations in writing about employment matters relating to SES employees, including engagement, promotion, redeployment, mobility and termination.
- (2) If a determination issued under subsection (1) is not in accordance with advice received from the Commissioner, the Presiding Officers must cause to be laid before each House of the Parliament a report explaining why they have not accepted the Commissioner's advice.

Clause 37, page 19 (lines 4 to 6), omit the clause, substitute:

37 Termination of employment

In the case of termination of the employment of an SES employee, the Commissioner must certify that the termination meets the minimum requirements specified in a determination issued under section 35 and that the termination is in the best interests of the Parliamentary Service.

Clause 39, page 20 (line 12), at the end of subclause (1), add:

; (c) to inquire into, report to the Presiding Officers on and, where appropriate, make recommendations on sanctions regarding alleged breaches of the Code of Conduct by Secretaries.

Clause 52, page 26 (lines 26 and 27), omit subclause (4).

Clause 53, page 27 (lines 8 and 9), omit subclause (3).

Clause 55, page 28 (lines 15 and 16), omit “after receiving a report from the Commissioner”, substitute “on the advice of the Remuneration Tribunal and are to be published in the *Gazette*”.

Clause 57, page 29 (after line 16), at the end of the clause, add:

(2) The report is to be prepared in accordance with guidelines approved by the Joint Committee of Public Accounts and Audit on behalf of the Parliament.

Clause 60, page 31 (line 17), at the end of the clause, add:

; and (c) must ensure that the principles reflected in the *Freedom of Information Act 1982* and the *Privacy Act 1988* are observed in relation to personal information.

Clauses 69 and 70, page 39 (line 16) to page 40 (line 19), omit the clauses, substitute:

69 Rights of first- and second-tier persons

First- and second-tier persons retain all the rights conferred on them by the old Act, except for rights to reassessment for reintegration or reappointment.

Clause 71, page 40 (lines 24 to 29), omit subclauses (2) and (3), substitute:

- (2) A continued determination may be amended or revoked by the Secretary in the same way as if it had actually been made under section 24, provided that no provision of the determination is diminished or revoked unless that provision is incorporated in an award or certified agreement.
- (3) Unless it is sooner revoked, a continued determination (including any amendments made by a Secretary under section 24) ceases to be in force on the third anniversary of the commencing time.

Debate continued.

Amendments negatived.

On the motion of Dr Kemp (Minister Assisting the Prime Minister for the Public Service), by leave, the following amendments were made together, after debate:

Amendments

Clause 7, page 5 (after line 3), after the definition of *insolvent under administration*, insert:

Merit Protection Commissioner means the Parliamentary Service Merit Protection Commissioner appointed under this Act.

Clause 10, page 8 (after line 4), at the end of the clause, add:

- (2) For the purposes of paragraph (1)(f), a decision relating to engagement or promotion is based on merit if:
 - (a) an assessment is made of the relative suitability of the candidates for the duties, using a competitive selection process; and
 - (b) the assessment is based on the relationship between the candidates' work-related qualities and the work-related qualities genuinely required for the duties; and
 - (c) the assessment focuses on the relative capacity of the candidates to achieve outcomes related to the duties; and
 - (d) the assessment is the primary consideration in making the decision.

Clause 13—

Page 8 (lines 20 to 23), omit subclause (3), substitute:

- (3) A Parliamentary Service employee, when acting in the course of Parliamentary Service employment, must treat everyone with respect and courtesy, and without harassment.

Page 9 (lines 18 to 21), omit subclause (9), substitute:

- (9) A Parliamentary Service employee must not provide false or misleading information in response to a request for information that is made for official purposes in connection with the employee's Parliamentary Service employment.

Clause 28, page 15 (after line 29), at the end of the clause, add:

- (2) The notice must include a statement of reasons for the termination.
- (3) Non-compliance with subsection (2) does not affect the termination.

New Part

Page 23 (after line 15), after Part 5, insert:

Part 5A—The Parliamentary Service Merit Protection Commissioner

Division 1—Merit Protection Commissioner's functions etc.

45A Parliamentary Service Merit Protection Commissioner

There is to be a Parliamentary Service Merit Protection Commissioner.

45B Merit Protection Commissioner's functions

The Merit Protection Commissioner has such functions as are prescribed by determinations made for the purposes of section 32.

Note: Section 32 deals with review of actions.

45C Annual Report

- (1) After the end of each financial year, the Merit Protection Commissioner must give a report to the Parliamentary Service Commissioner on the activities of the Merit Protection Commissioner during the year.
- (2) The Merit Protection Commissioner's report is to be included in the Parliamentary Service Commissioner's report under section 41.

Division 2—Merit Protection Commissioner's appointment, conditions etc.

45D Appointment of Merit Protection Commissioner

- (1) The Merit Protection Commissioner is to be appointed by the Presiding Officers for a period of up to 5 years specified in the instrument of appointment.
- (2) A person may hold both the office of Merit Protection Commissioner and the office of Public Service Merit Protection Commissioner.

45E Remuneration and other conditions of appointment

- (1) Subject to subsection (2), the remuneration and other conditions of appointment of the Merit Protection Commissioner are as determined by the Remuneration Tribunal.
- (2) If the same person holds both the office of Merit Protection Commissioner and the office of Public Service Merit Protection Commissioner, the person is not to be paid any remuneration in respect of the office of Merit Protection Commissioner.

45F Removal from office

- (1) The Presiding Officers may remove the Merit Protection Commissioner from office if each House of the Parliament, in the same session of the Parliament, presents an address to the Presiding Officers praying for the removal of the Commissioner on the ground of misbehaviour or physical or mental incapacity.

- (2) The Presiding Officers must remove the Merit Protection Commissioner from office if the Merit Protection Commissioner becomes an insolvent under administration.

45G Acting Merit Protection Commissioner

- (1) The Presiding Officers may appoint a person to act as Merit Protection Commissioner:
- (a) if there is a vacancy in the office of Merit Protection Commissioner, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Merit Protection Commissioner is absent from duty or from Australia or is, for any reason, unable to perform the duties of the office.
- (2) A person may act in both the office of Merit Protection Commissioner and the office of Public Service Merit Protection Commissioner.
- (3) Anything done by or in relation to a person purporting to act under this section is not invalid merely because:
- (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.

Clause 62, page 32 (after line 13), after subclause (2), insert:

- (2A) A power or function that is exercised or performed by a person under a delegation under subsection (2) is taken, for the purposes of this Act, to have been exercised or performed by the person who originally delegated the corresponding power or function under subsection (1).

Clause 67, page 37 (line 16) to page 38 (line 12), omit “7” (wherever occurring), substitute “5”.

Bill, as amended, agreed to.

Paper

Dr Kemp presented a supplementary explanatory memorandum to the Bill.

Consideration in detail concluded.

On the motion of Dr Kemp, by leave, the Bill was read a third time.

10 PARLIAMENTARY SERVICE (CONSEQUENTIAL AMENDMENTS) BILL 1997

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Question—put and passed—Bill read a second time.

Leave granted for third reading to be moved forthwith.

Dr Kemp (Minister Assisting the Prime Minister for the Public Service) moved—That the Bill be now read a third time.

Debate ensued.

Question—put and passed—Bill read a third time.

11 CHARTER OF BUDGET HONESTY BILL 1996—SENATE'S AMENDMENTS

The order of the day having been read for the consideration of the amendments made by the Senate, viz.:

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

- (1) Schedule 1, clause 5, page 7 (after line 23), at the end of paragraph (b), add:
 - (iii) to the achievement of full employment in Australia; and
 - (iv) to the overall economic prosperity and welfare of the people of Australia; and
 - (v) to the maintenance or improvement of the real value of wages and conditions and the welfare of workers; and
- (2) Schedule 1, clause 12, page 11 (after line 25), after paragraph (d), insert:
 - (da) a report prepared by the Commissioner of Taxation and the Secretary to the Treasury of any material threats to the integrity of the tax system including the fiscal impact of these threats, and their best professional judgment of the specific means necessary to counter these threats;
- (3) Schedule 1, clause 20, page 16 (lines 5 to 11), omit "5" (wherever occurring), substitute "3".
- (4) Schedule 1, clause 22, page 17 (lines 5 to 8), omit the clause, substitute:

22 Public release of pre-election economic and fiscal outlook report

The responsible Secretaries are, jointly, to publicly release a pre-election economic and fiscal outlook report:

- (a) two years and nine months after the first day of sitting of the House of Representatives following the previous general election; or
 - (b) should writs for a general election be issued prior to the report required under paragraph (a), within five days of the issue of those writs.
- (5) Schedule 1, clause 27, page 20 (after line 25), at the end of the clause, add:
 - (3) Apart from providing information to the responsible Secretaries under subclause (1), the Minister must not participate in the preparation of a pre-election economic and fiscal outlook report.
 - (6) Schedule 1, clause 29, page 22 (line 7), omit "publicly announced".

- (7) Schedule 1, clause 29, page 22 (line 11), omit “publicly announced”.
- (8) Schedule 1, clause 29, page 22 (lines 19 to 23), omit subclause (4), substitute:
 - (4) The making of a request by the Leader of the Opposition is to be authorised by the Prime Minister who must then notify the responsible Secretaries immediately of the authorisation. The responsible Secretaries are not obliged or authorised to take any action in relation to the request unless the Prime Minister has notified them that the request has been authorised.
 - (4A) Nothing in this clause requires the Leader of the Opposition to disclose to the Prime Minister the details of an Opposition policy.
- (9) Schedule 1, page 22 (after line 30), at the end of clause 29, add:
 - (6) The Secretaries may decline to prepare costings under any request pursuant to this clause where they consider the request requires policy advice rather than merely the preparation of costings.
 - (7) Any request by the Leader of the Opposition pursuant to subclause (1) shall not be disclosed by the Secretaries to any person not authorised by the Leader of the Opposition to have access to that information.
- (10) Schedule 1, page 23 (after line 15), at the end of clause 30, add:
 - (4) A policy costing must indicate what assumptions have been used in the costing and must explain any limitations of, or information necessary to qualify, any modelling process used in the costing—

Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister) moved—
That the amendments be disagreed to.

Debate ensued.

Question—put.

The House divided (the Deputy Speaker, Mr Adams, in the Chair)—

AYES, 86

Mr Abbott	Mrs Draper	Mr Lloyd	Mr Scott
Mr Anderson	Mr Entsch	Mr McArthur*	Mr Sharp
Mr J. N. Andrew	Mr R. D. C. Evans	Mr McDougall	Mr Sinclair
Mr K. J. Andrews	Mr Fahey	Mr McGauran	Mr Slipper*
Mr Anthony	Mr Forrest	Mr McLachlan	Mr A. C. Smith
Mrs Bailey	Mrs Gallus	Mr Marek	Mr W. L. Smith
Mr R. C. Baldwin	Ms Gambaro	Mr Miles	Dr Southcott
Mr Barresi	Mrs Gash	Mr Moore	Mrs Stone
Mr Bartlett	Mr Georgiou	Mrs Moylan	Mr Taylor
Mr Billson	Mrs E. J. Grace	Mr Mutch	Mr A. P. Thomson
Mrs Bishop	Mr Hardgrave	Mr Nairn	Mr Truss
Mr Bradford	Mr Hawker	Mr Nehl	Mr Tuckey
Mr Broadbent	Mr Hicks*	Dr Nelson	Mr M. A. J. Vaile
Mr Brough	Mr Hockey	Mr Neville	Mrs D. S. Vale
Mr Cadman	Ms Jeanes	Mr Nugent	Mr Wakelin
Mr R. A. Cameron	Mrs Johnston	Mr Prosser	Mrs West
Mr Causley	Mr Jull	Mr Pyne	Mr Williams
Mr Charles	Mr Katter	Mr Randall	Dr Wooldridge
Mr Cobb	Mrs D. M. Kelly	Mr Reid	Ms Worth
Mr Costello	Miss J. M. Kelly	Mr Reith	Mr Zammit
Mr Dondas	Dr Kemp	Mr Ronaldson	
Mr Downer	Mr Lieberman	Mr Ruddock	

NOES, 45

Mr Albanese	Mr M. J. Ferguson	Mr McClelland	Mr Quick
Mr Andren	Mr Fitzgibbon	Ms Macklin	Mr Sawford*
Mr Beddall	Mr E. L. Grace*	Mr McLeay	Mr Sercombe*
Mr Bevis	Mr Griffin	Mr McMullan	Mr S. F. Smith
Mr Brereton	Mr Hatton	Mr Martin	Mr Tanner
Mr Brown	Mr Holding	Mr Melham	Dr Theophanous
Mr Crean	Mr Hollis	Mr A. A. Morris	Mr K. J. Thomson
Mrs Crosio	Mr Jenkins	Mr P. F. Morris	Mr Willis
Mr Dargavel	Mr Kerr	Mr Mossfield	Mr Wilton
Ms Ellis	Mr Latham	Mr O'Connor	
Mr G. J. Evans	Dr Lawrence	Mr O'Keefe	
Mr L. D. T. Ferguson	Mr Lee	Mr Price	

* Tellers

And so it was resolved in the affirmative.

Mr Miles moved—That Mr R. D. C. Evans, Mr Bartlett and the mover be appointed a committee to draw up reasons for the House of Representatives disagreeing to the amendments of the Senate.

Question—put and passed.

Mr Miles, on behalf of the committee, brought up reasons, which were circulated, and are as follows:

Reasons of the House of Representatives for disagreeing to the amendments of the Senate

Senate amendment (1)

The House of Representatives considers this amendment — to broaden the principles of sound fiscal management to include: the achievement of full employment in Australia; the overall economic prosperity and welfare of the people of Australia; and maintenance of real wages and conditions — should not proceed. It is unnecessary as these issues are already, and more appropriately, covered in clause 4 of the Bill. That clause provides that fiscal policy should be directed to maintain the on-going economic prosperity and welfare of the people of Australia.

Senate amendment (2)

This amendment requires the annual preparation of a report by the Secretary to the Treasury and the Commissioner of Taxation on material threats to the integrity of the tax system, including the fiscal impact of such threats and specific action necessary to counter these threats. The House of Representatives considers that this amendment should not proceed, as it would draw the attention of tax planners to weaknesses and anomalies in tax legislation, risking larger losses in revenue than would otherwise be the case. Moreover, clause 12 of the Bill already requires that material threats to the fiscal outlook, quantified where feasible, be outlined in a Statement of Risks.

Senate amendment (3)

The House of Representatives considers that this amendment — which requires an intergenerational report to be produced within three years after the commencement of the Act and thereafter within three years of the public release of the preceding report — should not proceed.

The House of Representatives considers that it is not appropriate to require the release of reports at a greater frequency than five years, as assessments of the long term sustainability of policy are unlikely to change quickly. Assessments in an intergenerational report will be more affected by factors such as demographic change and Australia's long term growth potential, rather than short-term budgetary and economic developments. The House of Representatives notes that the Bill only prescribes a minimum reporting frequency and that does not prevent governments from releasing reports more frequently if appropriate.

Senate amendment (4)

This amendment requires responsible Secretaries to jointly release a pre-election economic and fiscal outlook report two years and nine months after the first sitting day of the House of Representatives following the previous election. If an election is called before then, a pre-election economic and fiscal outlook report would be required within five days of the issue of writs for a general election.

The House of Representatives considers this amendment should not proceed. In the case where a report is produced two years and nine months after the first sitting following an election, the amendment could allow economic and fiscal developments in the subsequent months prior to an election announcement to go unreported. This would be inconsistent with providing up to date information on the economic and fiscal outlook to the electorate prior to an election. In the case where an earlier election is called, the House of Representatives considers that a requirement for a pre-election economic and fiscal outlook report to be produced within five days of the issue of writs is impractical. A minimum period of ten days is required for a report to be produced.

Senate amendment (5)

The House of Representatives considers that this amendment — requiring Ministers to not participate in the pre-election economic and fiscal outlook report other than to provide needed information — should not proceed. The amendment is not necessary as the Bill already requires that the Treasury and Finance Secretaries must sign off on the report stating that it reflects the best professional judgement of officers of their Departments.

Senate amendments (6), (7), (8) and (9)

These amendments will allow the possibility of the Departments of the Treasury and Finance costing unannounced policies for the Government and Opposition in the caretaker period prior to an election. Further, the amendments allow for the making of requests for costings by the Leader of the Opposition to be authorised by the Prime Minister, but that the details of the policies being costed need not be disclosed to the Prime Minister. They also provide that the details of policies, which are the subject of a request by the Leader of the Opposition, shall not be disclosed by the Secretaries of the Departments of Treasury and Finance to anyone not authorised by the Leader of the Opposition. The Secretaries may decline to prepare costings under any request where they consider that policy advice is being sought.

The House of Representatives does not consider that these amendments should proceed. The amendments will result in the loss of transparency in the costing process. The lack of transparency under the amendments is also inconsistent with clause 31 of the Bill. This Clause requires that all policy costings are made public by the Secretaries of the Departments of Treasury and Finance as soon as practicable before polling day.

As the requests for the costing of unannounced policies would be permitted, requests could be made for a range of alternative policy options to be costed. The House of Representatives considers that this risks placing the Departments of Treasury and Finance in the position of developing policy for the Opposition, inconsistent with usual conventions. It could also add substantially to the workload of Departments, which could be required to cost a myriad of alternative options.

Senate amendment (10)

This amendment requires that policy costings must indicate what assumptions have been used and explain any limitations on the methodology used. The House of Representatives considers that this amendment is unnecessary as costing guidelines issued by Secretaries of the Departments of the Treasury and Finance for the preparation of policy costings (provided for in subclause 30(1)) would detail such processes.

On the motion of Mr Miles, the committee's reasons were adopted.

12 WORKPLACE RELATIONS AND OTHER LEGISLATION AMENDMENT BILL 1997—SENATE'S AMENDMENTS

The order of the day having been read for the consideration of the amendments made by the Senate, viz.:

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

(1) Schedule 1, page 3 (after line 4), before item 1, insert:

1A After subsection 111(1E)

Insert:

(1F) Where, as a result of a notification of a dispute, an organisation or an associated body is affected by action under a State law which results in the loss of:

- (a) responsiveness to existing State awards or agreements to which the organisation or an associated body was a party; and/or
- (b) the right to cover members under the eligibility rules of that organisation or an associated body;

then notwithstanding section 111AAA, the Commission must proceed to deal with the application as quickly as it can, and if the Commission considers it appropriate, make an interim award for an interim period.

(1G) For the purposes of this section, *associated body* has the same meaning as in Schedule 4.

(2) Page 5 (after line 19), at the end of Schedule 2, add:

5 Subsection 170NH(1)

Omit "order the employer", substitute "make the following orders".

6 At the end of subsection 170NH(1)

Add:

- ; and (c) any other order that the Court thinks necessary to remedy the effect of the contravention; and
- (d) any other consequential orders.

(3) Schedule 3, item 8, page 7 (line 20), after "requirements", insert "in paragraphs 170VO(1)(a) and (c)".

- (4) Schedule 3, item 8, page 7 (line 21), omit “the filing”, substitute “those filing”.
- (5) Schedule 3, item 14, page 8 (line 6), omit “considers it appropriate”, substitute “so requests”.
- (6) Schedule 5, item 3, page 11 (line 17), after “after”, insert “the employee is given notice of”.
- (7) Schedule 6, page 13 (after line 4), before item 1, insert:

1A Subsection 4(1A)

After “in this Act”, insert “(except in Part XA)”.

- (8) Schedule 6, page 14 (after line 19), after item 5, insert:

5A At the end of section 298B

Add:

- (5) It is declared that a reference in this Part, or in regulations made for the purposes of this Part, to an independent contractor is not confined to a natural person.

5B Application of items 1A and 5A

For the purposes of the application of Part XA of the *Workplace Relations Act 1996* in respect of any conduct occurring after the commencement of this item, the amendments made by items 1A and 5A are taken to have been in force at all times since the commencement of that Part.

- (9) Schedule 7, page 17 (after line 29), after item 3, insert:

3A After section 253ZJ

Insert:

253ZJA Outline of proposed withdrawal

- (1) The application must be accompanied by a written outline of the proposal for the constituent part to withdraw from the amalgamated organisation. Subject to subsection (2), the outline must:
 - (a) provide, in no more than 3,000 words, sufficient information on the proposal to enable the constituent members to make informed decisions in relation to the proposed withdrawal; and
 - (b) address such matters as are prescribed.
- (2) The outline may, if the Court allows, consist of more than 3,000 words.
- (3) The outline must be a fair and accurate representation of the proposed withdrawal and must address any matters prescribed for the purposes of paragraph (1)(b) in a fair and accurate manner.
- (4) If the Court is not satisfied that the outline complies with subsection (3), the Court must order the making of such amendments to the

outline as it considers are needed for the outline to comply with that subsection.

253ZJB Filing the “yes” case

- (1) The constituent members, or committee of management, making the application may file with the Court a written statement of no more than 2,000 words in support of the proposal for the constituent part to withdraw from the amalgamated organisation.
- (2) The statement must either:
 - (a) accompany the application; or
 - (b) be filed within such later time as the Court allows.
- (3) The Court may order that the statement be amended, in accordance with the order, to correct factual errors or otherwise to ensure that it complies with this Act.

253ZJC Filing the “no” case

- (1) The amalgamated organisation may file with the Court a written statement of no more than 2,000 words in opposition to the proposal for the constituent part to withdraw from the organisation.
- (2) The statement must be filed either:
 - (a) not later than 7 days before the day set down for the hearing of the application in question by the Court; or
 - (b) within such later time as the Court allows.
- (3) The Court may order that the statement be amended, in accordance with the order, to correct factual errors or otherwise to ensure that it complies with this Act.

253ZJD Provisions relating to outlines and statements of “yes” and “no” cases

- (1) An outline under section 253ZJA or a statement under section 253ZJB or 253ZJC may, if the Court allows, include matter that is not in the form of words, including, for example, diagrams, drawings, illustrations, photographs and symbols.
- (2) The Court may allow an outline under section 253ZJA, or a statement under section 253ZJB or 253ZJC, to be amended by whoever filed the outline or statement with the Court.

3B After paragraph 253ZL(1)(a)

Insert:

- (aa) the outline under section 253ZJA accompanying the application, or (if applicable) that outline as amended:
 - (i) is a fair and accurate representation of the proposal for withdrawal from the organisation; and
 - (ii) addresses any matters prescribed for the purposes of paragraph 253ZJA(1)(b) in a fair and accurate manner; and

3C Subsection 253ZL(2)

Repeal the subsection, substitute:

- (2) In considering whether to order that a ballot be held, the Court may hear from:
- (a) an applicant for the ballot; and
 - (b) the amalgamated organisation; and
 - (c) a creditor of the amalgamated organisation; and
 - (d) any other person who would be affected by the withdrawal of the constituent part from the amalgamated organisation.

3D At the end of section 253ZM

Add:

- (2) The ballot paper sent to the constituent members of a constituent part of an amalgamated organisation in connection with a proposal for the constituent part to withdraw from the amalgamated organisation must be accompanied by:
- (a) a copy of the outline under section 253ZJA relating to the proposed withdrawal; and
 - (b) if there is a statement under section 253ZJB in support of the proposed withdrawal— a copy of that statement; and
 - (c) if there is a statement under section 253ZJC in opposition to the proposed withdrawal— a copy of that statement.

3E At the end of Subdivision D of Division 7A

Add:

253ZW Certain actions etc. not to constitute breach of rules of amalgamated organisation

- (1) Neither of the following constitutes a breach of the rules of an amalgamated organisation:
- (a) an act done, or omitted to be done, under or for the purposes of this Division, or regulations made for the purposes of this Division;
 - (b) an act done, or omitted to be done, in connection with the proposal of, or preparation for, an act or omission of a kind referred to in paragraph (a).
- (2) The following are examples of acts and omissions to which subsection (1) applies:
- (a) making an application under section 253ZJ;
 - (b) supporting, or supporting the making of, an application under section 253ZJ;
 - (c) participating in, or encouraging a person to participate in, a ballot under Subdivision B;
 - (d) not participating in a ballot under Subdivision B;

- (e) encouraging a person not to participate in a ballot under Subdivision B;
- (f) casting a vote in a particular way in a ballot under Subdivision B;
- (g) encouraging a person to cast a vote in a particular way in a ballot under Subdivision B;
- (h) complying with an order or requirement made under this Division or regulations made for the purposes of this Division; or
- (i) encouraging a person to resign his or her membership of the amalgamated organisation from which the constituent part withdrew to form the newly registered organisation so that the person can become a member of the newly registered organisation.

253ZX Amalgamated organisation not to penalise members etc.

- (1) The amalgamated organisation, or an officer or member of the organisation, must not impose, or threaten to impose, a penalty, forfeiture or disability of any kind on:
 - (a) a member or officer of the organisation; or
 - (b) a branch, or other part, of the organisation;because the member, officer, branch or part concerned does, or proposes to do, an act or omission to which section 253ZW applies.
- (2) The Court may, if the Court considers it appropriate in all the circumstances, make one or more of the following orders in respect of conduct that contravenes subsection (1):
 - (a) an order imposing on a person whose conduct contravenes that subsection a penalty of not more than:
 - (i) in the case of a body corporate—\$10,000; or
 - (ii) in any other case—\$2,000;
 - (b) an order requiring the person not to carry out a threat made by the person, or not to make any further threat;
 - (c) injunctions (including interim injunctions), and any other orders, that the Court considers necessary to stop the conduct or remedy its effects;
 - (d) any other consequential orders.
- (3) An application for an order under subsection (2) may be made by:
 - (a) a person against whom the conduct is being, has been, or is threatened to be, taken; or
 - (b) any other person prescribed by the regulations.

- (4) For the purposes of this section, action done by one of the following bodies or persons is taken to have been done by an amalgamated organisation:
- (a) the committee of management of the amalgamated organisation;
 - (b) an officer or agent of the amalgamated organisation acting in that capacity;
 - (c) a member or group of members of the amalgamated organisation acting under the rules of the organisation;
 - (d) a member of the amalgamated organisation, who performs the function of dealing with an employer on behalf of other members of the organisation, acting in that capacity.
- (5) Paragraphs (4)(c) and (d) do not apply if:
- (a) a committee of management of the amalgamated organisation; or
 - (b) a person authorised by the committee; or
 - (c) an officer of the amalgamated organisation;
- has taken reasonable steps to prevent the action.

- (6) In this section:

amalgamated organisation includes a branch of an amalgamated organisation.

officer, in relation to an amalgamated organisation, includes:

- (a) a delegate or other representative of the organisation; and
- (b) an employee of the organisation.

- (10) Schedule 7, item 4, page 17 (line 30), omit “**Schedule**”, substitute “**items 1, 2 and 3**”.
- (11) Schedule 7, item 4, page 18 (line 1), omit “this Schedule”, substitute “items 1, 2 and 3”.
- (12) Schedule 7, page 18 (after line 4), at the end of the Schedule, add:

5 Commenced ballots for withdrawals from amalgamations

The amendments made by items 3A, 3B and 3D do not apply in relation to any proposal for a constituent part of an amalgamated organisation to withdraw from the organisation if the ballot to decide whether the constituent part should withdraw has commenced under section 253ZM of the *Workplace Relations Act 1996* before the commencement of this Schedule.

6 Applications for withdrawals from amalgamations

- (1) If:
- (a) an application was made, before the commencement of this Schedule, under section 253ZJ of the *Workplace Relations Act 1996*, for a ballot to be held to decide whether a

constituent part of an amalgamated organisation should withdraw from the organisation; and

- (b) a ballot to decide whether the constituent part should withdraw has not commenced under section 253ZM of that Act before the commencement of this Schedule;

the amendments made by items 3A, 3B and 3D apply in relation to the proposal for withdrawal, subject to the modifications specified in subitem (2).

- (2) The modifications that apply in relation to the proposal for withdrawal are as follows:
 - (a) the requirement under subsection 253ZJA(1) of the *Workplace Relations Act 1996* that the application referred to in that subsection must be accompanied by the outline referred to in that subsection is taken to be a requirement that the outline must be filed with the Court within such time as the Court allows;
 - (b) the requirement under subsection 253ZJB(2) of that Act is taken to be a requirement that the statement referred to in that subsection must be filed with the Court within such time as the Court allows.

7 Application of section 253ZW to acts etc. before commencement

Section 253ZW of the *Workplace Relations Act 1996* applies to acts or omissions that took place before the commencement of this Schedule but after the commencement of Division 7A of Part IX of the *Workplace Relations Act 1996* in the same way that it applies to acts or omissions that took place after the commencement of this Schedule.

- (13) Schedule 9, item 1, page 23 (lines 5 and 6), omit the item.
- (14) Schedule 9, page 23 (after line 12), after item 2, insert:

2A At the end of section 187AA

Add:

- (4) For the purposes of this section, an employee is not deemed to be engaged in industrial action where the employee is fully engaged during his or her ordinary hours of work in performing work directed by the employer, notwithstanding that the employee may refuse to perform some other aspect of work required by the employer.
- (15) Schedule 9, page 23 (after line 12), after item 2, insert:

2B After section 187AD

Insert:

187AE Industrial action not to include certain action

For the purpose of this Part, industrial action does not include action by employees that is authorised, agreed to or accepted by the employer of the employees—

On the motion of Mr Reith (Minister for Workplace Relations and Small Business), Senate amendments (3) to (12) were agreed to, after debate.

On the motion of Mr Reith, Senate amendments (1), (2) and (13) to (15) were disagreed to, after debate.

On the motion of Mr Reith the following amendments, relevant to the Senate amendments, were agreed to:

Schedule 5, item 3, proposed subsection (7A), omit “is made”.

Schedule 9, after “*Workplace Relations Act 1996*”, insert:

1 Paragraph 152(5)(a)

After “relevant”, insert “State”.

Mr Reith moved—That Mr Lloyd, Mr Zammit and the mover be appointed a committee to draw up reasons for the House of Representatives disagreeing to amendments (1), (2) and (13) to (15) of the Senate.

Question—put and passed.

Mr Reith, on behalf of the committee, brought up reasons, which were circulated, and are as follows:

Reasons of the House of Representatives for disagreeing to amendments (1), (2) and (13) to (15) of the Senate

Senate amendment (1)

This amendment would oblige the AIRC to move quickly to deal with certain dispute notifications, and where appropriate make interim awards, relating to employees whose employment is covered by a State award or agreement. The effect of the amendment is that section 111AAA of the Workplace Relations Act, which requires the Commission to cease dealing with any matter where the employees concerned are covered by a State award or agreement, unless the Commission considers that to cease dealing with the matter would be contrary to the public interest, would not apply to the applications covered by the amendment.

The purpose of section 111AAA is to ensure that employers and employees are free to operate within the jurisdiction of their choice. In determining the public interest for the purposes of the section, the Commission is obliged to give primary consideration to the views of the employees and employers concerned. The proposed amendment would reverse the policy of choice which underpins the Workplace Relations Act by obliging the AIRC to proceed without regard to section 111AAA.

The amendment is directed specifically towards fast-tracking federal award applications made by Western Australian unions. It singles out Western Australia, taking away from Western Australian employers and employees

operating in the State system the right to have section 111AAA apply to federal award applications affecting them.

Where employees wish to transfer to federal jurisdiction, there is scope for them to do so under the Act as it stands. The views of the employees will be a primary consideration for the Commission in determining whether to continue to deal with a matter. Subsection 111AAA(3) obliges the Commission to move quickly to ascertain their views. Section 98 of the Act requires the Commission to move as quickly as practicable in performing its functions. Where the Commission decides to continue to deal with a matter, it is able to make an interim award, and subsection 111(1D) requires the Commission to decide quickly whether to make an interim award.

The existing legislation therefore provides appropriate protection for employees without taking away their rights, and the rights of their employers, to remain in a State jurisdiction if they wish to do so.

Senate amendment (2)

This amendment would permit a Court, in addition to ordering the reinstatement of a dismissed employee and payment of compensation for loss suffered as a result of dismissal or other prejudicial conduct, to make any other order it considers necessary to remedy the effect of a breach of section 170MU and any consequential orders.

This amendment is unnecessary. It does no more than add another layer of regulation. Section 170NH already provides for reinstatement and compensation and preserves any other rights a person may have in connection with a breach of section 170MU. Section 170NF provides for penalties in respect of breaches of section 170MU. It is also the case that Courts generally have inherent powers to make consequential orders. When these factors are taken into account, the amendment serves no purpose.

Senate amendment (13)

Section 152 of the Act deals with the interaction between federal awards and State laws, State awards and State employment agreements. Subsection 152(3) of the Act is intended to allow State employment agreements to override federal awards, provided certain conditions are met. Those conditions are contained in subsection 152(5) of the Act. One condition is that the employees covered by the agreement are not disadvantaged in comparison to their entitlements under the relevant award. The term 'relevant award', for the purposes of section 152, is not defined in the Act. However, it can only mean the relevant State award. This is because State industrial authorities apply their no-disadvantage tests against relevant State awards.

The proposed amendment which the Opposition Senate amendment has omitted did not alter the meaning or operation of subsection 152(5). It was simply intended avoid any uncertainty about the operation of the provision. The inclusion of the word "State" before "relevant award" will provide clarification of the provision and be of assistance to the parties, so the amendment should be reinstated.

Senate amendment (14)

The House of Representatives opposes this amendment because it amounts to an open invitation to employees to engage in industrial action involving bans and limitations. It would allow employees to choose not to perform certain work, knowing that they could pressure their employers into paying them irrespective of the effects of their action on their employers' businesses.

This amendment would allow employees to be paid even if they impose bans on key elements of their work and their employers' businesses, simply because particular tasks in relation to which bans have been imposed happen to involve little actual working time and there is other work available to be done. The amendment ignores the realities of work. The failure to perform a particular task involving little time could have major adverse implications for an employer, other businesses and the community more generally.

Senate amendment (15)

The definition of industrial action contained in the Workplace Relations Act already excludes action authorised or agreed to by an employer. This means that there will be some circumstances in which an employer may choose to authorise or agree to defective work performance. The House of Representatives opposes the proposed amendment because it will expose employers to pressure after the event to accept action, which could be in the form of bans, limitations or even all out strike action, and pay the employees engaged in the action.

On the motion of Mr Reith, the committee's reasons were adopted.

13 QUESTIONS

Questions without notice being asked—

Member ordered to withdraw

At 3.03 p.m. the Member for Denison (Mr Kerr) was ordered, under standing order 304A, to withdraw from the House for one hour for continuing to interject after a warning had been given from the Chair, and he accordingly withdrew from the Chamber.

Questions without notice continued.

14 PAPER

The Speaker presented the following paper:

Public Service Act—Department of the Parliamentary Reporting Staff—Report for 1996-97—

Report.

Report—Interactive multimedia CD-ROM version.

15 AUDITOR-GENERAL'S REPORT

The Speaker presented the following paper:

Audit Act—Auditor-General—Audit report No. 11 of 1997-98—Performance audit—Austudy: Department of Employment, Education, Training and Youth Affairs.

Ordered to be printed.

16 PAPERS

The following papers were presented:

Administrative Appeals Tribunal Act—

Administrative Appeals Tribunal—Report for 1996-97.

Administrative Review Council—21st report, for 1996-97.

Australian Antarctic Foundation—Report for 1996-97.

Australian Centre for International Agricultural Research Act—Australian Centre for International Agricultural Research—Report for 1996-97.

Australian Institute of Marine Science Act—Australian Institute of Marine Science—Report for 1996-97.

Australian Political Exchange Council—Report for 1996-97.

Australian Tourist Commission Act—Australian Tourist Commission—Report for 1996-97.

Civil Aviation Act—Civil Aviation Safety Authority—Report for 1996-97.

Classification (Publications, Films and Computer Games) Act—Classification Board and Classification Review Board—Report for 1996-97.

Commissioner of Taxation—Report for 1996-97.

Commonwealth Electoral Act—Australian Electoral Commission—Report for 1996-97.

Commonwealth Fire Board—Report for 1996-97.

Commonwealth Law Enforcement Board—Report for 1996-97.

Complaints (Australian Federal Police) Act—Federal Police Disciplinary Tribunal—Report for 1996-97.

Defence Force Retirement and Death Benefits Act—Defence Force Retirement and Death Benefits Authority—Report for 1996-97.

Defence Housing Authority Act—Defence Housing Authority—Report for 1996-97.

Economic Planning Advisory Commission Act—Economic Planning Advisory Commission—Report for 1996-97.

Family Law Act—

Family Court of Australia—Report for 1996-97.

Family Law Council—Report for 1996-97.

High Court of Australia Act—High Court of Australia—Report for 1996-97.

Human Rights and Equal Opportunity Commission Act—Human Rights and Equal Opportunity Commission—Report for 1996-97.

Industry Commission Act—Industry Commission—Report for 1996-97.

Military Superannuation and Benefits Act—Military Superannuation and Benefits Board of Trustees No.1—Report for 1996-97.

National Road Transport Commission Act—National Road Transport Commission—Report for 1996-97.

Native Title Act—National Native Title Tribunal—Report for 1996-97.

Privacy Act—Privacy Commissioner—9th report, for 1996-97.

Public Service Act—

Attorney-General's Department—Report for 1996-97.

Department of Finance—Report for 1996-97.

Department of the Treasury—Report for 1996-97.

Snowy Mountains Hydro-electric Power Act—Snowy Mountains Hydro-electric Authority—Report for 1996-97.

Trade Practices Act—National Competition Council—Report for 1996-97.

Workplace Relations Act—Industrial Relations Court of Australia—Report for 1996-97.

17 PAPERS—MOTION TO TAKE NOTE OF PAPERS

Mr Reith (Leader of the House) moved—That the House take note of the following papers:

Australian Political Exchange Council—Report for 1996-97.

Australian Tourist Commission Act—Australian Tourist Commission—Report for 1996-97.

Civil Aviation Act—Civil Aviation Safety Authority—Report for 1996-97.

Commonwealth Fire Board—Report for 1996-97.

National Road Transport Commission Act—National Road Transport Commission—Report for 1996-97.

Public Service Act—Department of Finance—Report for 1996-97.

Debate adjourned (Mr Crean), and the resumption of each debate made an order of the day for the next sitting.

18 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—DRUG TRADE

The House was informed that Mr Martin had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The failure of the Government to prevent the recent influx of heroin and other harmful drugs as a result of federal budget cuts to the Australian Federal Police and the Australian Customs Service which has led to the unnecessary death of hundreds of young Australians".

The proposed discussion having received the necessary support—

Mr Martin addressed the House.

Discussion ensued.

Discussion concluded.

19 POSTPONEMENT OF ORDERS OF THE DAY

Ordered—That orders of the day Nos. 6 and 7, government business, be postponed until a later hour this day.

20 EXTENSION OF NATIONAL FILM AND SOUND ARCHIVE HEADQUARTERS BUILDING, ACTON, ACT—APPROVAL OF WORK

Mr Fahey (Minister for Finance and Administration), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, it is expedient to carry out the following proposed work which was referred to the Parliamentary Standing Committee on Public Works and on which the committee has duly reported to Parliament: Extension of National Film and Sound Archive Headquarters Building, Acton, ACT.

Question—put and passed.

21 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—NEW FACILITIES FOR NATIONAL MUSEUM OF AUSTRALIA AND AUSTRALIAN INSTITUTE OF ABORIGINAL AND TORRES STRAIT ISLANDER STUDIES

Mr Fahey (Minister for Finance and Administration), by leave, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: New facilities for the National Museum of Australia and the Australian Institute of Aboriginal and Torres Strait Islander Studies.

Question—put and passed.

22 MIGRATION LEGISLATION AMENDMENT (STRENGTHENING OF PROVISIONS RELATING TO CHARACTER AND CONDUCT) BILL 1997

Mr Ruddock (Minister for Immigration and Multicultural Affairs), pursuant to notice, presented a Bill for an Act to amend the *Migration Act 1958*, and for other purposes.

Bill read a first time.

Mr Ruddock moved—That the Bill be now read a second time.

Paper

Mr Ruddock presented an explanatory memorandum to the Bill.

Debate adjourned (Mr M. J. Ferguson), and the resumption of the debate made an order of the day for the next sitting.

23 MIGRATION LEGISLATION AMENDMENT (MIGRATION AGENTS) BILL 1997—REPORT FROM MAIN COMMITTEE

The Deputy Speaker reported that the Main Committee had been unable to complete consideration of the Bill and returned the Bill for further consideration, and presented a certified copy of the Bill.

Debate resumed on the question—That the Bill be now read a second time—*And on the amendment moved thereto by Mr M. J. Ferguson, viz.*—That all words after “That” be omitted with a view to substituting the following words: “the House declines to give the Bill a second reading, and:

- (1) deplores the Government’s proposal to self-regulate the migration advice industry, being of the view that this will open the way to the most

- unscrupulous agents to exploit migrants' vulnerability and lack of knowledge;
- (2) condemns the Government for proposing that voluntary agencies pay registration fees and regards this action as a deliberate strategy to undermine the service delivery of the voluntary sector;
 - (3) notes that under the self-deregulation proposal there will be no overall monitoring authority and that consumer rights and protection will be marginalised as the decision makers are also members of the industry association, with no independent overseer to review any decision made;
 - (4) notes that the reduction in the time allowed to lodge an objection reveals the Government's disastrous failure to ensure a high standard of character, professionalism, expertise and accountability within the profession and that this will further compound the barriers for consumers to complain, as many who have grounds to will be from non-English speaking backgrounds and will require extra time in order to respond to a nomination; and
 - (5) is of the view that arrangements should be introduced to continue the present arrangements".

Question—That the words proposed to be omitted stand part of the question—put.

The House divided (the Deputy Speaker, Mr Nehl, in the Chair)—

AYES, 72

Mr Abbott	Mr Downer	Mr Lieberman	Mr Ronaldson
Mr Anderson	Mrs Draper	Mr Lloyd	Mr Ruddock
Mr J. N. Andrew	Mr Entsch	Mr McArthur*	Mr Scott
Mr K. J. Andrews	Mr R. D. C. Evans	Mr McDougall	Mr Sharp
Mrs Bailey	Mr Fahey	Mr McLachlan	Mr Sinclair
Mr R. C. Baldwin	Mr Forrest	Mr Marek	Mr Slipper*
Mr Barresi	Ms Gambaro	Mr Miles	Mr A. C. Smith
Mr Bartlett	Mrs Gash	Mrs Moylan	Mr W. L. Smith
Mr Billson	Mr Georgiou	Mr Mutch	Dr Southcott
Mrs Bishop	Mrs E. J. Grace	Mr Nairn	Mr Taylor
Mr Bradford	Mr Hardgrave	Dr Nelson	Mr Truss
Mr Broadbent	Mr Hawker	Mr Neville	Mr M. A. J. Vaile
Mr Brough	Mr Hicks*	Mr Nugent	Mrs D. S. Vale
Mr Causley	Mrs Johnston	Mr Pyne	Mr Wakelin
Mr Charles	Mr Jull	Mr Randall	Mrs West
Mr Cobb	Mrs D. M. Kelly	Mr Reid	Dr Wooldridge
Mr Costello	Miss J. M. Kelly	Mr Reith	Ms Worth
Mr Dondas	Dr Kemp	Mr Rocher	Mr Zammit

NOES, 44

Mr Adams	Mr L. D. T. Ferguson	Mr Lee	Mr O'Keefe
Mr Albanese	Mr M. J. Ferguson	Mr McClelland	Mr Price
Mr Beddall	Mr Fitzgibbon	Ms Macklin	Mr Quick
Mr Bevis	Mr E. L. Grace*	Mr McLeay	Mr Sawford*
Mr Brereton	Mr Griffin	Mr McMullan	Mr Sercombe*
Mr Brown	Mr Hatton	Mr Martin	Mr S. F. Smith
Mr Crean	Mr Holding	Mr Melham	Mr Tanner
Mrs Crosio	Mr Hollis	Mr A. A. Morris	Dr Theophanous
Mr Dargavel	Mr Jenkins	Mr P. F. Morris	Mr K. J. Thomson
Ms Ellis	Mr Kerr	Mr Mossfield	Mr Willis
Mr G. J. Evans	Mr Latham	Mr O'Connor	Mr Wilton

* Tellers

And so it was resolved in the affirmative.

Question—That the Bill be now read a second time—put and passed—Bill read a second time.

Message from the Governor-General

Message No. 205, dated 1 October 1997, from His Excellency the Governor-General was announced recommending an appropriation for the purposes of the Bill.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Ruddock (Minister for Immigration and Multicultural Affairs), the Bill was read a third time.

24 ADJOURNMENT NEGATIVED

It being 5.30 p.m.—The question was proposed—That the House do now adjourn.

Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister) requiring the question to be put forthwith without debate—

Question—put and negatived.

25 MIGRATION AGENTS REGISTRATION APPLICATION CHARGE BILL 1997—REPORT FROM MAIN COMMITTEE

The Deputy Speaker reported that the Main Committee had been unable to complete consideration of the Bill and returned the Bill for further consideration, and presented a certified copy of the Bill.

Question—That the Bill be now read a second time—put and passed—Bill read a second time.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister), the Bill was read a third time.

**26 MIGRATION AGENTS REGISTRATION RENEWAL CHARGE BILL 1997—
REPORT FROM MAIN COMMITTEE**

The Deputy Speaker reported that the Main Committee had been unable to complete consideration of the Bill and returned the Bill for further consideration, and presented a certified copy of the Bill.

Question—That the Bill be now read a second time—put and passed—Bill read a second time.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister), the Bill was read a third time.

27 PUBLICATIONS COMMITTEE—14TH REPORT

Mr Lieberman (Chair) presented the following paper:

PUBLICATIONS COMMITTEE 14TH REPORT

The Publications Committee reports that it has met in conference with the Publications Committee of the Senate.

The Committee, having considered petitions and documents presented to the Parliament since 1 October 1997, recommends that the following be printed:

Aboriginal and Torres Strait Islander Commission Act—Indigenous Land Corporation—Report for 1996-97.

Aboriginal Hostels Limited—Report for 1996-97.

Aboriginal Land Rights (Northern Territory) Act—Aboriginals Benefit Trust Account—Report for 1996-97.

Affirmative Action (Equal Employment Opportunity for Women) Act—Affirmative Action Agency—Report for period—1 June 1996 to 31 May 1997.

Agricultural and Veterinary Chemicals (Administration) Act—National Registration Authority for Agricultural and Veterinary Chemicals—Report for 1996-97.

Air Services Act—Airservices Australia—Report for 1996-97.

Archives Act—Australian Archives and Advisory Council on Australian Archives—Report for 1996-97.

Audit Act—Auditor-General—Audit reports for 1997-98—

No. 4—Performance audit—Service delivery in radio and telecommunications—Australian Telecommunications Authority and Spectrum Management Agency.

No. 5—Performance audit—Performance management of Defence inventory: Department of Defence.

Australia Council Act—Australia Council—Report for 1996-97.

Australia New Zealand Food Authority Act—Australia New Zealand Food Authority—Report for 1996-97.

Australia-Japan Foundation Act—Australia-Japan Foundation—Report for 1996-97.

Australian Bureau of Statistics Act—Reports for 1996-97—Australian Bureau of Statistics—Australian Statistics Advisory Council.

Australian Capital Territory (Planning and Land Management) Act—National Capital Planning Authority—Report for 1996-97.

Australian Competition and Consumer Commission—Report for 1996-97.

Australian Film Commission Act—Reports for 1996-97—
Australian Film Commission.
Film Australia Limited.

Australian Film, Television and Radio School Act—Australian Film, Television and Radio School—Report for 1996-97.

Australian Hearing Services—Report for 1996-97.

Australian Institute of Aboriginal and Torres Strait Islander Studies Act—
Australian Institute of Aboriginal and Torres Strait Islander Studies—Report for 1996-97.

Australian Institute of Health and Welfare Act—Australian Institute of Health and Welfare—Report for 1996-97.

Australian Law Reform Commission Act—Australian Law Reform Commission—Report for 1996-97—No. 83.

Australian Maritime Safety Authority Act—Australian Maritime Safety Authority—Report for 1996-97.

Australian Postal Corporation Act—Australian Postal Corporation (Australia Post)—Report for 1996-97.

Australian Securities Commission Act—Australian Securities Commission—
Report for 1996-97.

Australian Trade Commission Act—Australian Trade Commission (AUSTRADE)—Report for 1996-97.

Australian Wine and Brandy Corporation Act—Australian Wine and Brandy Corporation—Report for 1996-97.

Australian Wool Research and Promotion Organisation Act—Australian Wool Research and Promotion Organisation—Report for 1996-97.

Bureau of Meteorology—Report for 1996-97.

Coal Industry Act—Joint Coal Board—Report for 1996-97.

Commonwealth Grants Commission Act—Commonwealth Grants Commission—Report for 1996-97.

Crimes Act—Controlled operations—Report for 1996-97.

Criminology Research Act—Australian Institute of Criminology and the Criminology Research Council—Report for 1996-97.

Data-matching Program (Assistance and Tax) Act—Data-matching program—
Reports—Commissioner of Taxation—1996-97.

Defence Force Discipline Act—Judge Advocate General—Reports—1996.

Department of Communications and the Arts—Report for 1996-97.

- Department of Foreign Affairs and Trade—Report for 1996-97.
- Department of Health and Family Services—Reports, including report on the administration and operation of the Commonwealth Rehabilitation Service, Therapeutic Goods Administration and the Australian Government Health Service—1996-97.
- Department of Industrial Relations—Reports, incorporating a report on the operation of Part V of the Industrial Relations Act—1996-97.
- Department of Industry, Science and Tourism—Report for 1996-97.
- Department of Primary Industries and Energy—Report for 1996-97.
- Department of the Environment, Sport and Territories—Reports, including reports on the operation of the Hazardous Waste (Regulation of Exports and Imports) Act and the Ozone Protection Act—1996-97.
- Department of the House of Representatives—Report for 1996-97.
- Department of the Prime Minister and Cabinet—Report for 1996-97.
- Department of Transport and Regional Development—Report for 1996-97.
- Director of Public Prosecutions Act—Office of the Director of Public Prosecutions—Report for 1996-97.
- Export Finance and Insurance Corporation Act—Export Finance and Insurance Corporation—Report for 1996-97.
- Family Law Act—Australian Institute of Family Studies—Report for 1996-97.
- Fisheries Administration Act—Australian Fisheries Management Authority—Report for 1996-97.
- Fisheries Management Act—Queensland Fisheries Joint Authority—Report for 1996-97.
- Great Barrier Reef Marine Park Authority Act—Great Barrier Reef Marine Park Authority—Report for 1996-97.
- Health Insurance Commission Act—Health Insurance Commission—Report for 1996-97.
- Horticultural Research and Development Corporation Act—Horticultural Research and Development Corporation—Report for 1996-97.
- Housing Assistance Act—Reports on the operation of Commonwealth-State Housing Agreement—1996-97.
- Human Rights and Equal Opportunity Commission Act—Aboriginal and Torres Strait Islander Social Justice Commissioner—Report—1996-97(5th).
- Immigration Review Tribunal—Report for 1996-97.
- Industrial Chemicals (Notification and Assessment) Act—National Industrial Chemicals Notification and Assessment Scheme—Report for 1996-97.
- Industrial Relations Act—Australian Industrial Relations Commission and the Australian Industrial Registry—Report for 1996-97.
- Industry Research and Development Act—Industry Research and Development Board—Report for 1996-97.

Inspector-General of Intelligence and Security Act—Inspector-General of Intelligence and Security—Report for 1996-97.

Insurance and Superannuation Commission—Report for 1996-97.

International Air Services Commission Act—International Air Services Commission—Report for 1996-97.

Joint House Department—Report for 1996-97.

Meat and Live-stock Industry Act—Reports for 1996-97—
Australian Meat and Live-stock Corporation.

Meat Industry Council.

Meat Research Corporation.

Murray-Darling Basin Act—Murray-Darling Basin Commission—Report for 1996-97.

National Gallery Act—National Gallery of Australia—Report for 1996-97.

National Health Act—Private Health Insurance Complaints Commissioner—
Report for 1996-97.

National Health and Medical Research Council Act—National Health and
Medical Research Council—Report for 1996.

National Library Act—National Library of Australia—Report for 1996-97.

National Measurement Act—National Standards Commission—Report for
1996-97.

National Museum of Australia Act—National Museum of Australia—Report
for 1996-97.

National Occupational Health and Safety Commission Act—National
Occupational Health and Safety Commission (Worksafe Australia)—Report for
1996-97.

National Residue Survey Administration Act—National Residue Survey—
Report for 1996-97.

Native Title Act—Aboriginal and Torres Strait Islander Social Justice
Commissioner—Native Title Report for 1996-97.

Nuclear Non-Proliferation (Safeguards) Act and Chemical Weapons
(Prohibition) Act—Australian Safeguards Office and the Chemical Weapons
Convention Office—Report for 1996-97.

Official Establishments Trust—Report for 1996-97.

Parliamentary Counsel Act—Office of Parliamentary Counsel—Report for
1996-97.

Pig Industry Act—Australian Pork Corporation—Report for 1996-97.

Primary Industries and Energy Research and Development Act—Dairy
Research and Development Corporation—Report for 1996-97.

Primary Industries and Energy Research and Development Act—Fisheries
Research and Development Corporation—Report for 1996-97.

Primary Industries and Energy Research and Development Act—Forest and Wood Products Research and Development Corporation and Forest and Wood Products Research and Development Corporation Selection Committee—Reports for 1996-97.

Primary Industries and Energy Research and Development Act—Land and Water Resources Research and Development Corporation and Land and Water Resources Research and Development Corporation Selection Committee—Reports for 1996-97.

Primary Industries and Energy Research and Development Act—Pig Research and Development Corporation—Report for 1996-97.

Primary Industries and Energy Research and Development Act—Rural Industries Research and Development Corporation—Report for 1996-97.

Primary Industry Councils Act—Australian Pig Industry Council—Report for 1996-97.

Public Lending Right Act—Public Lending Right Committee—Report for 1996-97.

Public Service Act—Reports for 1996-97—

Public Service and Merit Protection Commission—Reports, incorporating the report of the Merit Protection and Review Agency in accord with the Merit Protection (Australian Government Employees) Act—1996-97.

Remuneration Tribunal Act—Remuneration Tribunal—Report for 1996-97.

Royal Australian Mint—Report for 1996-97.

Rural Adjustment Act—Rural Adjustment Scheme Advisory Council—Reports, including a report on the Rural Adjustment Scheme—1996-97.

Science and Industry Research Act—Commonwealth Scientific and Industrial Research Organisation (CSIRO)—Report for 1996-97.

Special Broadcasting Service Act—Special Broadcasting Service Corporation (SBS)—Report for 1996-97.

Superannuation Act 1976—CSS Board—Report for 1996-97.

Superannuation Act 1990—PSS Board—Report for 1996-97.

Telecommunications Act—Australian Telecommunications Authority (AUSTEL)—Report for 1996-97.

Telstra Corporation Act—Telstra—Report for 1996-97.

Veterans' Entitlements Act—Veterans' Review Board—Report for 1996-97.

Witness Protection Act—Report for the period 19 April 1995 to 30 June 1997 on the operation of the Act

Wool International Act—Wool International—Report for 1996-97.

LOU LIEBERMAN

Chair

30 October 1997

Mr Lieberman, by leave, moved—That the report be agreed to.

Question—put and passed.

28 HOUSE COMMITTEE

Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister), by leave, moved—That Mrs Sullivan (Parliamentary Secretary to the Minister for Foreign Affairs) be discharged from attendance on the House Committee, and that, in her place, Mrs E. J. Grace be appointed a member of the committee.

Question—put and passed.

29 PROCEDURE—STANDING COMMITTEE

The House was informed that the Chief National Party Whip had nominated Mr Forrest to be a member of the Standing Committee on Procedure in place of Mr Truss (Minister for Customs and Consumer Affairs).

30 MESSAGE FROM THE SENATE—SNOWY HYDRO CORPORATISATION BILL 1997

A message from the Senate was reported returning the following Bill with amendments:

30 October 1997—Message No. 362—Snowy Hydro Corporatisation 1997.

Ordered—That the amendments be considered forthwith.

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

- (1) Clause 2, page 2 (lines 11 to 14), omit subclause (3), substitute:
 - (3) A proclamation fixing a day for the commencement of section 59 is not to be made unless:
 - (a) a public inquiry, sponsored by the Governments of New South Wales and Victoria, has been held with respect to environmental issues arising out of the current pattern of water flows in rivers and streams, caused by the operation of the Snowy Mountains Scheme, and the Minister is satisfied with the adequacy of the conduct, outcome and planned implementation of the inquiry, having regard to the continuing viability of the Scheme; and
 - (b) the Minister is satisfied that the Governments of New South Wales and Victoria have agreed to that section commencing on that day.
- (2) Clause 7, page 7 (line 5), omit “The Commonwealth”, substitute “Subject to subsection (2A), the Commonwealth”.
- (3) Clause 7, page 7 (after line 13), after subclause (2), insert:
 - (2A) The Commonwealth must not dispose of or transfer shares in the Snowy Hydro Company without the approval of the Parliament if the disposal or transfer of shares would result in the Commonwealth holding less than the relevant percentage of all issued shares.

On the motion of Mr Scott (Minister for Veterans' Affairs), the amendments were agreed to, after debate.

31 MESSAGES FROM THE SENATE

Messages from the Senate, dated 30 October 1997, were reported returning the following Bills without amendment:

Message—

No. 363—Snowy Hydro Corporatisation (Consequential Amendments) 1997.

No. 364—Student and Youth Assistance (Sex Discrimination Amendment) 1997.

No. 365—Superannuation Industry (Supervision) Amendment 1997.

No. 366—Sydney Airport Demand Management 1997.

32 NATIVE TITLE AMENDMENT (TRIBUNAL APPOINTMENTS) BILL 1997—SENATE'S AMENDMENT

The order of the day having been read for the consideration of the amendment made by the Senate, viz.:

SCHEDULE OF THE AMENDMENT MADE BY THE SENATE

Schedule 1, item 3, page 4 (lines 20 to 27), omit the item—

On the motion of Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister), the amendment was agreed to.

33 TAXATION LAWS AMENDMENT BILL (NO. 4) 1997—SENATE'S AMENDMENTS

The order of the day having been read for the consideration of the amendments made by the Senate, viz.:

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

(1) Schedule 1, page 4 (after line 8), after item 6, insert:

6A Paragraph 159GZF(4)(b)

Omit "(other than as a partner in a partnership or a trustee or beneficiary of a trust estate)".

(2) Schedule 5, item 5, page 21 (lines 30 and 31), omit "7.30 pm by legal time in the Australian Capital Territory on 20 August 1996", substitute "1 July 1997".

(3) Schedule 5, item 6, page 22 (lines 3 and 4), omit "20 August 1996", substitute "1 July 1997".

(4) Schedule 5, item 6, page 22 (line 6), omit "20 August 1996", substitute "1 July 1997".

(5) Schedule 5, item 6, page 22 (lines 12 and 13), omit "20 August 1996", substitute "1 July 1997".

(6) Schedule 5, item 6, page 22 (lines 19 and 20), omit "20 August 1996", substitute "1 July 1997".

- (7) Schedule 5, item 8, page 23 (line 17), omit “20 August 1996”, substitute “1 July 1997”.
- (8) Schedule 5, item 8, page 23 (line 19), omit “20 August 1996”, substitute “1 July 1997”.
- (9) Schedule 5, item 8, page 23 (line 21), omit “20 August 1996”, substitute “1 July 1997”.
- (10) Schedule 5, item 8, page 23 (lines 31 to 33), omit “7.30 pm by legal time in the Australian Capital Territory on 20 August 1996 (**1996 Budget time**)”, substitute “1 July 1997”.
- (11) Schedule 5, item 8, page 24 (line 1), omit “20 February 1997”, substitute “1 July 1997”.
- (12) Schedule 5, item 8, page 24 (lines 8 and 9), omit “1996 Budget time”, substitute “the start of 1 July 1997”.
- (13) Schedule 5, item 8, page 24 (lines 12 and 13), omit “1996 Budget time”, substitute “1 July 1997”.
- (14) Schedule 5, item 11, page 24 (line 29) to page 25 (line 4), omit the item, substitute:

11 Application

The amendments of the *Income Tax Assessment Act 1936* made by items 1 to 4 and 6 to 10 of this Schedule apply in relation to income derived on or after 1 July 1997—

On the motion of Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister), the amendments were agreed to, after debate.

34 SUSPENSION OF STANDING AND SESSIONAL ORDERS—ADJOURNMENT DEBATE

Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister) moved—That so much of the standing and sessional orders be suspended as would prevent a motion being moved forthwith to enable a 30 minute adjournment debate today.

Question—put and passed, with the concurrence of an absolute majority.

35 ADJOURNMENT DEBATE

Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister) moved—That the adjournment debate today proceed for 30 minutes after the motion for the adjournment of the House is moved by a Parliamentary Secretary.

Question—put and passed.

36 ADJOURNMENT

Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister) moved—That the House do now adjourn.

Debate ensued.

Question—put and passed.

And then the House, at 6.17 p.m., adjourned until Monday, 17 November 1997, at 12.30 p.m.

PAPERS

The following papers were deemed to have been presented on 30 October 1997:
Export Control Act—Export Control (Orders) Regulations—Export Control Orders 1997 No. 5.

Public Service Act—Determinations 1997 Nos. 31, 32.

Remuneration Tribunal Act—Determination 1997 No. 12.

Taxation Administration Act—Ruling 1997 No. TR 19.

ATTENDANCE

All Members attended (at some time during the sitting) except Mr P. J. Baldwin, Mr E. H. Cameron, Mr Jones, Mr Lindsay, Mr Somlyay and Mrs Sullivan.

I. C. HARRIS

Clerk of the House of Representatives

1996-97

HOUSE OF REPRESENTATIVES
SUPPLEMENT TO VOTES AND PROCEEDINGS

No. 125

MAIN COMMITTEE

MINUTES OF PROCEEDINGS

THURSDAY, 30 OCTOBER 1997

1 The Main Committee met at 10 a.m.

2 MIGRATION LEGISLATION AMENDMENT (MIGRATION AGENTS) BILL 1997

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed by Mr M. J. Ferguson who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “the House declines to give the Bill a second reading, and:

- (1) deplores the Government’s proposal to self-regulate the migration advice industry, being of the view that this will open the way to the most unscrupulous agents to exploit migrants’ vulnerability and lack of knowledge;
- (2) condemns the Government for proposing that voluntary agencies pay registration fees and regards this action as a deliberate strategy to undermine the service delivery of the voluntary sector;
- (3) notes that under the self-deregulation proposal there will be no overall monitoring authority and that consumer rights and protection will be marginalised as the decision makers are also members of the industry association, with no independent overseer to review any decision made;
- (4) notes that the reduction in the time allowed to lodge an objection reveals the Government’s disastrous failure to ensure a high standard of character, professionalism, expertise and accountability within the profession and that this will further compound the barriers for consumers to complain, as many who have grounds to will be from non-English speaking backgrounds and will require extra time in order to respond to a nomination; and
- (5) is of the view that arrangements should be introduced to continue the present arrangements”.

Debate continued.

On the motion of Mr Sercombe, further proceedings to be conducted in the House.

3 MIGRATION AGENTS REGISTRATION APPLICATION CHARGE BILL 1997

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

On the motion of Mr Sercombe, further proceedings to be conducted in the House.

4 MIGRATION AGENTS REGISTRATION RENEWAL CHARGE BILL 1997

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

On the motion of Mr Sercombe, further proceedings to be conducted in the House.

5 FAMILY AND COMMUNITY AFFAIRS—STANDING COMMITTEE—REPORT ON THE SEMINAR INTO ASPECTS OF YOUTH SUICIDE—MOTION TO TAKE NOTE OF PAPER

The order of the day having been read for the resumption of the debate on the motion of Mr Slipper—That the House take note of the paper (*presented on 2 June 1997*), viz.:

Family and Community Affairs—Standing Committee—Report—Aspects of youth suicide—Summary of a seminar, May 1997—

Debate resumed.

Debate adjourned (Mr Anthony), and the resumption of the debate made an order of the day for the next sitting.

6 ADJOURNMENT

On the motion of Mr Anthony, the Main Committee adjourned at 1.01 p.m.

The Deputy Speaker fixed Wednesday, 19 November 1997, at 10 a.m., for the next meeting of the Main Committee.

B. C. WRIGHT
Clerk of the Main Committee