

**DELEGATED LEGISLATION MONITOR
17-20 SEPTEMBER 2012**

This week at a glance

There were 33 disallowable instruments tabled in the Parliament.
These were made under 16 separate enabling Acts, through 10 Commonwealth departments.

Regulations

Seven of the 33 instruments were regulations, comprising

- one made as a primary instrument; and
- six made as amending instruments

Instrument makers

19 instruments were made by the Governor-General or ministers

14 instruments were made by public officials

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**DELEGATED LEGISLATION TABLED IN THE SENATE
17-20 SEPTEMBER 2012**

DEPARTMENT	NUMBER OF INSTRUMENTS
Department of Broadband, Communications and the Digital Economy	1
Department of Defence	4
Department of Regional Australia, Local Government, Arts and Sport	2
Department of Education, Employment and Workplace Relations	2
Department of Families, Housing, Community Services and Indigenous Affairs	2
Department of Health and Ageing	9
Department of Industry, Innovation, Science, Research and Tertiary Education	5
Department of Infrastructure and Transport	5
Department of Sustainability, Environment, Water, Population and Communities	2
Department of the Treasury	1
Total	33

**DELEGATED LEGISLATION TABLED IN THE SENATE
17-20 SEPTEMBER 2012**

NUMBER OF INSTRUMENTS MADE UNDER SPECIFIC ACTS

<i>Aboriginal and Torres Strait Islander Act 2005</i>	2
<i>Aged Care Act 1997</i>	7
<i>Christmas Island Act 1958</i>	1
<i>Civil Aviation Act 1988</i>	5
<i>Coal Mining Industry (long Service Leave) Legislation Amendment Act 2011</i>	1
<i>Cocos (Keeling) Islands Act 1955</i>	1
<i>Defence Act 1903</i>	4
<i>Environment Protection and Biodiversity Conservation Act 1999</i>	2
<i>Higher Education Support Act 2003</i>	2
<i>Income Tax Assessment Act 1936</i>	1
<i>Patents Act 1990</i>	1
<i>Private Health Insurance Act 2007</i>	2
<i>Schools Assistance Act 2008</i>	1
<i>Telecommunications Act 1997</i>	1
<i>Tertiary Education Quality and Standards Agency Act 2011</i>	1
<i>Textile, Clothing and Footwear Investment and Innovation Programs Act 1999</i>	1
Total	33

DEPARTMENT OF BROADBAND, COMMUNICATIONS AND THE DIGITAL ECONOMY

Telecommunications Amendment Regulation 2012
(No. 1)
[Select Legislative Instrument 2012 No. 216]
[F2012L01876]

Telecommunications Act 1997

Made	13/09/12	
Tabled	17/09/12 S	17/09/2102 HR

Summary Amends the principal regulations to enable the Australian Communications and Media Authority to make service provider determinations that apply to service providers concerning fixed, mobile voice or data carriage services.

DEPARTMENT OF DEFENCE

Defence (Declared Explosive Ordnance Depots) Instrument 2012 [under subsection 71L(2) of the *Defence Act 1903*] [F2012L01891]

Defence Act 1903

Made	20/08/12	
Tabled	20/09/12 S	20/09/12 HR

Summary Lists unique codes for the declared explosive ordnance depots.

Defence Determination 2012/52 — Living-in accommodation — amendment [under section 58B of the *Defence Act 1903*]

Defence Act 1903

Made	17/09/12	
Tabled	18/09/12 S	17/09/12 HR

Summary Provides for a licence to live in for members of the Australian Defence Force who are required to live in or who choose to live in.

Defence Determination 2012/50 — Post Indexes — amendment [under section 58B of the *Defence Act 1903*]

Defence Act 1903

Made	13/09/12	
Tabled	18/09/12 S	17/09/12 HR

Summary Specifies revised post indexes that apply to overseas locations where members of the Australian Defence Force serve.

Defence Determination 2012/51 — Leave and travel — amendment [under section 58B of the *Defence Act 1903*]

Defence Act 1903

Made	13/09/12	
Tabled	18/09/12 S	13/09/12 HR

Summary Removes age limits on recreation leave travel.

**DEPARTMENT OF REGIONAL AUSTRALIA, LOCAL GOVERNMENT, ARTS
AND SPORT**

**List of Acts of the Western Australian Parliament
Wholly or Partly in Force in Christmas Island
[under section 8A of the *Christmas Island Act 1958*]
In the period 25 January 2012 to 6 September 2012
and not in previous lists**

Christmas Island Act 1958

Made	17/09/12	
Tabled	19/09/12 S	18/09/12 HR

Summary Lists those Acts of the Western Australian Parliament that were in force for Christmas Island during the period 25 January 2012 to 6 September 2012.

**List of Acts of the Western Australian Parliament
Wholly or Partly in Force in Cocos (Keeling)
Islands [under section 8A of the *Cocos (Keeling)
Islands Act 1958*]
In the period 25 January 2012 to 6 September 2012
and not in previous lists**

Cocos (Keeling) Islands Act 1955

Made	17/09/12	
Tabled	19/09/12 S	18/09/12 HR

Summary Lists those Acts of the Western Australian Parliament that were in force for the Cocos (Keeling) Islands during the period 25 January 2012 to 6 September 2012.

DEPARTMENT OF EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS

**Coal Mining Industry (Long Service Leave)
Legislation Amendment Regulation 2012**
[Select Legislative Instrument 2012 No. 217]
[F2012L01873]

*Coal Mining Industry (long Service Leave)
Legislation Amendment Act 2011*

Made	13/09/12	
Tabled	17/09/12 S	17/09/12 HR

Summary Amends various dates and timelines by which certain administrative obligations must be met.

**Schools Assistance Amendment Regulation 2012
(No. 1)**
[Select Legislative Instrument 2012 No. 223]
[F2012L01875]

Schools Assistance Act 2008

Made	13/09/12	
Tabled	17/09/12 S	17/09/12 HR

Summary Amends the principal regulations to supplement funding for all programs of financial assistance for the 2012 program year for primary and secondary education, and makes other amendments.

DEPARTMENT OF FAMILIES, HOUSING, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS

**Aboriginal and Torres Strait Islander Commission
Repeal Regulation 2012**
[Select Legislative Instrument 2012 No. 219]
[F2012L01877]

Aboriginal and Torres Strait Islander Act 2005

Made	13/09/12	
Tabled	19/09/12 S	19/09/12 HR

Summary Repeals one set of redundant regulations.

**ATSIC (Regional Councils — Election of
Officeholders) Repeal Regulation 2012**
[Select Legislative Instrument 2012 No. 220]
[F2012L01874]

Aboriginal and Torres Strait Islander Act 2005

Made	13/09/12	
Tabled	17/09/12 S	17/09/12 HR

Summary Repeals five sets of redundant regulations.

DEPARTMENT OF HEALTH AND AGEING

Aged Care (Residential Care Subsidy — Amount of Accommodation Supplement) Determination 2012 (No. 2) [under subsection 44-5A(3) of the *Aged Care Act 1997*] [F2012L01882]

Aged Care Act 1997

Made	11/09/12	
Tabled	19/09/12 S	19/09/12 HR

Summary Specifies the method for determining the amount of the accommodation supplement and specifies the maximum rate of accommodation supplement, with effect from 20 September 2012.

Aged Care (Residential Care Subsidy — Amount of Respite Supplement) Determination 2012 (No. 2) [under subsection 44-12(3) of the *Aged Care Act 1997*] [F2012L01880]

Aged Care Act 1997

Made	11/09/12	
Tabled	19/09/12 S	19/09/12 HR

Summary Specifies the amount of the respite supplement, with effect from 20 September 2012.

Aged Care (Residential Care Subsidy — Amount of Concessional Resident Supplement) Determination 2012 (No. 2) [under subsection 44-6(4) of the *Aged Care Act 1997*] [F2012L01886]

Aged Care Act 1997

Made	11/09/12	
Tabled	19/09/12 S	19/09/12 HR

Summary Specifies the amount of the concessional resident supplement, with effect from 20 September 2012.

Aged Care (Residential Care Subsidy — Amount of Transitional Accommodation Supplement) Determination 2012 (No. 2) [under subsection 44-16(3) of the *Aged Care Act 1997*] [F2012L01885]

Aged Care Act 1997

Made	11/09/12	
Tabled	19/09/12 S	19/09/12 HR

Summary Specifies the amount of the transitional accommodation supplement, with effect from 20 September 2012.

Aged Care (Residential Care Subsidy — Amount of Pensioner Supplement) Determination 2012 (No. 2) [under subsection 44-28(7) of the *Aged Care Act 1997*] [F2012L01884]

Aged Care Act 1997

Made	11/09/12	
Tabled	19/09/12 S	19/09/12 HR

Summary Specifies the amount of the pensioner supplement, with effect from 20 September 2012.

Aged Care (Residential Care Subsidy — Amount of Transitional Supplement) Determination 2012 (No. 2) [under subsection 44-16(3) of the *Aged Care Act 1997*] [F2012L01879]

Aged Care Act 1997

Made	11/09/12	
Tabled	19/09/12 S	19/09/12 HR

Summary Specifies the amount of the transitional supplement, with effect from 20 September 2012.

**Private Health Insurance (Benefit Requirements)
Amendment Rules 2012 (No. 5) [under item 3A of
the table in section 333-20 of the *Private Health
Insurance Act 2007*]
[F2012L01887]**

Private Health Insurance Act 2007

Made	14/09/12	
Tabled	19/09/12 S	19/09/12 HR

Summary Amends the minimum benefits payable for nursing-home type patients at public hospitals in some states and at private hospitals nationally, and adds additional facilities to the list of facilities eligible for second-tier default benefits.

**Private Health Insurance (Complying Product)
Amendment Rules 2012 (No. 7) [under item 3 of
the table in section 333-20 of the *Private Health
Insurance Act 2007*]
[F2012L01888]**

Private Health Insurance Act 2007

Made	14/09/12	
Tabled	19/09/12 S	19/09/12 HR

Summary Amends the patient contribution payable for nursing-home type patients at public hospitals in some states and at private hospitals nationally.

**User Rights Amendment Principles 2012 (No. 3)
[under subsection 96-1(1) of the *Aged Care Act
1997*]
[F2012L01881]**

Aged Care Act 1997

Made	11/09/12	
Tabled	19/09/12 S	19/09/12 HR

Summary Amend provisions in the principal determination concerning maximum daily accommodation charge for care recipients, with effect from 20 September 2012.

DEPARTMENT OF INDUSTRY, INNOVATION, SCIENCE, RESEARCH AND TERTIARY EDUCATION

Clothing and Household Textile (Building Innovative Capability) Amendment scheme 2012 (No. 1) [under section 37ZM of the *Textile, Clothing and Footwear Investment and Innovation Programs Act 1999*]
[F2012L01894]

Textile, Clothing and Footwear Investment and Innovation Programs Act 1999

Made 18/09/12
Tabled 20/09/12 S 20/09/12 HR

Summary Makes retrospective amendments to the Clothing and Household Textile (Building Innovative Capability) Scheme as a consequence of the *Tax Laws Amendment (Research and Development) Act 2011*.

Higher Education Support Act 2003 — VET Provider Approval (No. 18 of 2012) [under clause 6, paragraphs 11(1)(a) and (b) of schedule 1A to the *Higher Education Support Act 2003*]
[F2012L01865]

Higher Education Support Act 2003

Made 06/09/12
Tabled 17/09/12 S 17/09/12 HR

Summary Approves Milneworth Pty Ltd. as a VET provider.

Higher Education Support Act 2003 — VET Provider Approval (No. 19 of 2012) [under clause 6, paragraphs 11(1)(a) and (b) of schedule 1A to the *Higher Education Support Act 2003*]
[F2012L01866]

Higher Education Support Act 2003

Made 10/09/12
Tabled 17/09/12 S 17/09/12 HR

Summary Approves La Trobe International Galleries Pty Ltd. as a VET provider.

Patents Amendment Regulation 2012 (No. 1) [Select Legislative Instrument 2012 No. 221]
[F2012L01878]

Patents Act 1990

Made 13/09/12
Tabled 19/09/12 S 19/09/12 HR

Summary Amends the principal regulations to correct an omission concerning the amounts of fees payable to the Patent Office.

Tertiary Education Quality and Standards Agency (Register) Guidelines 2012 [under section 204 of the *Tertiary Education Quality and Standards Agency Act 2011*]
[F2012L01889]

Tertiary Education Quality and Standards Agency Act 2011

Made 07/09/12
Tabled 19/09/12 S 19/09/12 HR

Summary Specify the information that the Tertiary Education Quality and Standards Agency must include on the National Register of Higher Education Providers.

DEPARTMENT OF INFRASTRUCTURE AND TRANSPORT

CASA 301/12 — Instructions — RNP APCH LNAV and RNP APCH LNAV/VNAV on National Jet Systems, trading as Cobham Aviation Services Australia — Airline Services, B717-200 aircraft [under regulation 179A of the Civil Aviation Regulations 1988] [F2012L01868]

Civil Aviation Act 1988

Made	07/09/12	
Tabled	17/09/12 S	17/09/12 HR
Summary	Specifies instructions for the operator of specified aircraft concerning certain types of approach procedures.	

CASA EX145/12 — Exemption — Airservices Australia aerodrome rescue and fire fighting service (ARFFS) [under regulation 11.160 of the Civil Aviation Safety Regulations 1998] [F2012L01890]

Civil Aviation Act 1988

Made	18/09/12	
Tabled	20/09/12 S	20/09/12 HR
Summary	Exempts Airservices Australian from compliance with specified requirements concerning certification and training for fire fighters.	

CASA EX144/12 — Exemption — operations without an approved digital flight data recorder [under subregulation 11.160(1) of the Civil Aviation Safety Regulations 1998] [F2012L01892]

Civil Aviation Act 1988

Made	14/09/12	
Tabled	20/09/12 S	20/09/12 HR
Summary	Exempts a named operator from compliance with specified requirements concerning flight data recorders.	

CASA EX147/12 — Exemption — recency requirements for night flying (Virgin Australia Airlines Pty Ltd) [under regulation 11.160 of the Civil Aviation Safety Regulations 1998] [F2012L01893]

Civil Aviation Act 1988

Made	14/09/12	
Tabled	20/09/12 S	20/09/12 HR
Summary	Permits Virgin Australia Airlines Pty Ltd to use an approved flight simulator to satisfy recency requirements.	

Civil Aviation Order 100.5 Amendment Instrument 2012 (No. 3) [under regulations 5, 50A and 50B of the Civil Aviation Regulations 1988] [F2012L01872]

Civil Aviation Act 1988

Made	12/09/12	
Tabled	17/09/12 S	17/09/12 HR
Summary	Amends requirements in the principal order concerning aircraft log books.	

DEPARTMENT OF SUSTAINABILITY, ENVIRONMENT, WATER, POPULATION AND COMMUNITIES

**Amendment of List of Exempt Native Specimens
— New South Wales Ocean Trawl Fishery
(11/09/2012) [under subsection 303DC(1) of the
*Environment Protection and Biodiversity
Conservation Act 1999*]
[F2012L01867]**

***Environment Protection and Biodiversity
Conservation Act 1999***

Made	11/09/12	
Tabled	17/09/12 S	17/09/12 HR

Summary Revokes and replaces the conditions under which specimens taken in the New South Wales Ocean Trawl Fishery are included in the list of native specimens that are exempt from trade control provisions.

**Environment Protection and Biodiversity
Conservation Act 1999 — section 269A —
Instrument Adopting and Revoking Recovery
Plans (NSW, SA and WA) (10/09/2012) [under
subsection 269A(7) of the *Environment Protection
and Biodiversity Conservation Act 1999*]
[F2012L01883]**

***Environment Protection and Biodiversity
Conservation Act 1999***

Made	10/09/12	
Tabled	19/09/12 S	19/09/12 HR

Summary Revokes certain state recovery plans and adopts certain state recovery plans.

DEPARTMENT OF THE TREASURY

Income Tax Amendment Regulation 2012 (No. 4)
[Select Legislative Instrument 2012 No. 222]
[F2012L01871]

Income Tax Assessment Act 1936

Made	13/09/12	
Tabled	17/09/12 S	17/09/12 HR

Summary Amends provisions in the principal regulations concerning tax arrangements for overseas defence service.