

Medical Examination (s57) - Ongoing Claims

Introduction

A Claims Manager (CM) may need to arrange for an employee to be examined by a legally qualified medical practitioner (LQMP) as part of the initial determination process or while managing an employee's accepted claim. Medical examinations are used to obtain additional medical evidence or a specialist opinion in relation to an employee's compensable condition.

Medical reports should be requested as part of a medical examination. Medical reports discuss an employee's compensable condition in detail and normally address a set list of questions asked by the CM. The information provided in the examination and report is used by a CM to determine liability and assist employers manage an employee's return to work, **see:** Medical Report.

The LQMP undertaking the medical examination and report is usually an independent doctor (selected by the CM) who has relevant qualifications in relation to the undetermined claim or compensable condition, but who has not been treating the employee.

A CM can request an employee's treating LQMP examine the employee under s57 of the Safety, Rehabilitation and Compensation Act 1988 (the SRC Act). The LQMP should be requested to provide a report in respect of the employee's condition.

Requesting a medical examination and report

In general, a CM arranges a medical examination and report to obtain a specialist opinion in relation to an employee's condition. There are several reasons for arranging a medical examination, which include but are not limited to:

- an undetermined condition
- an employee is not receiving appropriate treatment, or the treatments being received do not appear to be clinically justified
- there is insufficient or conflicting medical evidence on the employee's claim file
- a claim is complex
- an employee has developed a new or secondary condition
- an employee has submitted a claim for permanent impairment
- there is evidence the employee's treating LQMP or practitioner is adopting the role of an advocate
- there is difficulty establishing a link between employment and the claimed condition
- concerns about the current medical evidence or circumstances of the claim
- the condition has stabilised, or
- recovery has stalled.

Note: If you are unsure about arranging a medical examination, you should discuss the claim with your Team Leader.

Factors to consider when arranging a medical examination

When arranging a medical examination the CM needs to have regards to:

- the skills/expertise required by the LQMP to assess the condition
- whether the employee has previously undergone an independent medical examination and how recently that examination was held
- how much notice you are providing to the employee to ensure they have a reasonable time in which to attend the appointment
- whether the employee requires an escort/support to attend the medical examination, and
- where the employee lives and whether you will need to arrange transport for them to attend the appointment.

Frequency and type of medical examinations

The SRC Act requires that the Minister set (by legislative instrument) a period of time that is to be regarded as the minimum interval between Comcare arranging medical examinations that an employee is required to attend. The current Ministerial direction issued by gazette (no. S365, s4) on 30/11/1988, provides that Comcare cannot request a medical examination using the same LQMP (or one of the same speciality) at an interval less than one month from the initial or previous examination.

The SRC Act provides that an employee can only undergo an examination by one LQMP at a time. If the employee has multiple conditions that require examinations by LQMPs of different specialities, then separate examinations may be conducted for each condition. Comcare cannot arrange for an employee to be examined by a medical panel. However, different and separate medical examinations can be held on the same day.

Example: An employee suffers a knee injury which has resulted in a secondary psychological condition. The employee may be consecutively examined by two doctors at separate examinations (one for the physical condition and one for the psychological condition) on the same day to assess both aspects of the claim.

Non-attendance of a medical examination

Where an employee cancels, refuses to attend, or fails to undergo an examination without a reasonable excuse, the employee's rights to compensation may be suspended until the medical examination takes place.

If an employee notifies that they are unable to attend a medical examination less than 48 hours prior to the arranged scheduled time, or during the examination, a cancellation fee may be charged by the LQMP. Comcare is liable for such fees and the cost cannot be passed on to the employee.

In circumstances where Comcare is issued a non-attendance fee, it may be appropriate for Comcare to negotiate with the provider for the fee to be waived or reduced. This should be assessed on a case-by-case basis considering the business relationship and volume of referrals made to that particular provider.

Note: For an undetermined claim for compensation, the CM should discuss the matter with their Team Leader.

See: Non-Attendance or Obstruction of Medical Examination (s57).

Cancellations by the LQMP

Where a LQMP cancels an appointment there is no fee. The CM will need to arrange a new appointment and contact the employee as soon as possible to advise them of the situation. The CM will need to provide the new appointment details in writing to the employee and employer.

Payment of medical examinations

Comcare is liable to pay for reasonable costs associated with the medical examination, which may include:

- time for the LQMP to read documentation prior to the examination
- the examination of the employee
- time for the LQMP to write the medical report **See:** Payment of Medical Reports.
- any other research the LQMP undertakes, and
- costs incurred by the employee while travelling to, or remaining at, the examination **see:** Travel Because of Medical Treatment or Examination.

Note: Comcare does not usually prepay medical examinations. If the LQMP will not conduct the examination without prepayment, in order not to disadvantage the employee, Comcare may prepay the examination. When considering requests for pre-payment, the CM will need to contact the practitioner and agree on a fee.

In cases that do not involve prepayment, the invoice for the medical examination is entered into Pracsys by the Stakeholder Support and Innovation (SSI) Team and is paid once the report has been received.

Claiming incapacity for attending an examination

Where an employee is requested by Comcare to undergo a medical examination, they may, depending on the provisions of their employer's Collective Agreement, be considered 'on duty' when attending. This means there will be no loss of earnings or leave credits involved and therefore the employee will not need to lodge a claim for time off work.

The employee should consult with their employer about how the absence will be dealt with under their Collective Agreement. If the Collective Agreement does not provide direction, an employee will have to complete a Claim for Time Off Work form (CTOW) and submit it to Comcare in order to claim incapacity for the period of the examination.

Note: If a claim is undetermined or rejected Comcare cannot pay for time off work. The employee will need to seek paid/unpaid leave from their employer to cover the absence.

Injury sustained at an examination

If an employee sustains an injury whilst travelling to or from an examination or during the course of an examination, then the employee will need to lodge a new claim for compensation for the new injury. Liability for the new injury will be determined by

Interpreters for examinations

If the employee requests that they need an interpreter to be present at the examination, then Comcare can arrange for a professional interpreter to attend and will meet the costs of the interpreter. It is not appropriate for the interpreter to be a family member or friend. This is so the interpretation of what the employee is saying is not affected by the family/friends own view. If required, interpreters can be arranged and booked online, from Translating and Interpreting Services (TIS) National, at: http://www.immi.gov.au/living-in-australia/help-with-english/help_with_translating/. TIS is provided by The Department of Immigration and Border Protection (DIBP)

Medical examination topic structure

A medical examination topic is structured into the following processes and procedures:

Arranging a Medical Examination - Ongoing Claims

Details the procedure to follow if arranging a medical examination for an employee with a compensable condition.

Combined Medical and Rehabilitation Examination (s57 and s36)

Details the procedure to follow if arranging a combined s57 and s36 examination.

Non-attendance or Obstruction of a Medical Examination (s57)

Details the procedure to follow if an employee cancels, refuses or fails to attend a medical examination or obstructs a medical examination.

Medical Treatment Information Sheets

Details information relevant to medical examination. Includes information sheets on:

- What Should a Case Summary Include?
- Selecting a Legally Qualified Medical Practitioner
- Description of Specialists
- List of Providers for Medical Examinations - Ongoing Claims
- Escorts for Medical Examinations

Last amended 31 May 2016 LI

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Overview of Medical Examinations

Important: From 29 June 2020, the responsibility for procuring and arranging Independent Medical Exams rests with the Injury Management Team (IMT). Please ensure you are familiar with the new procedure and requirements before proceeding.

Ongoing Claims

Policy

Introduction

A Claims Manager (CM) may need to arrange for an employee to be examined by a legally qualified medical practitioner (LQMP) as part of the initial determination process or while managing an employee's accepted claim. Medical examinations (section 57) are used to obtain additional medical evidence or a specialist opinion in relation to an employee's compensable condition.

Medical reports should be requested as part of a medical examination.

Medical reports provide:

- a history of the injury or disease
- the causation
- current treatment
- progress to date and likely prognosis which can include likely return to work dates and
- normally address a set list of questions asked by the CM.

The information provided in the examination and report is used by a CM to determine liability and assist employers manage an employee's return to work.

An independent medical examiner is an LQMP undertaking a medical examination and providing a report under section 57 of the SRC Act who has relevant qualifications in relation to the claim/condition, but who has not been treating the employee.

A CM can request an employee's treating LQMP to examine the employee under section 57 of the SRC Act. The CM should request the treating LQMP provide a report in respect of the employee's condition.

Reasons for arranging a medical examination

In general, a CM arranges a medical examination and report to obtain a specialist opinion in relation to an employee's compensable condition. There are several reasons for arranging a medical examination, which include but are not limited to:

- an undetermined condition
- an employee is not receiving treatment from a LQMP or evidence based treatment from an Allied Health provider
- there is insufficient or conflicting medical evidence on the employee's claim file
- a claim is medically complex
- an employee has developed a new or secondary condition
- an employee has submitted a claim for permanent impairment
- there is evidence the employee's treating LQMP or practitioner is adopting the role of an advocate
- there is difficulty establishing a link between employment and the claimed condition
- concerns about the current medical evidence or circumstances of the claim

- the condition has stabilised
- clarification of capacity, for example, the employee is able to study but unable to return to any form of work recovery has stalled.

Factors to consider when arranging a medical examination

When arranging a medical examination the CM needs to have regards to a range of factors including:

In relation to the LQMP

- the skills/expertise required by the LQMP to assess the condition
- whether, if the employee attended an independent medical examination in the past, the use of the same LQMP is appropriate.

In relation to the circumstances of the employee

Frequency of medical examinations

- whether the employee has previously undergone a medical examination and how recently that examination was held (refer below)

Logistics

- date and time – the appointment is made at a time and date that the employee can attend, including ensuring that the employee is provided with reasonable notice of the appointment
- whether the distance the employee has to travel is reasonable and within their capacity
- where the employee lives and whether transport for them to attend the appointment will need to be

In relation to the LQMP**In relation to the circumstances of the employee**

arranged

- whether the employee requires a support person to attend the medical examination

Accessibility

- whether the employee is currently using mobility aids, the examination room is accessible and whether the employee has the ability to navigate their way through the community.
- whether interpreting services are available in location of examination if required

Cultural sensitivities

- whether the gender of the employee and the examiner should be considered.

Frequency and type of medical examinations

On 19 March 2019 Safety, Rehabilitation and Compensation (Specification of Medical Examination Interval) Instrument 2019 was issued. The explanatory statement provides the following: This instrument is made by the Minister under subsection 57(6) of the SRC Act. It specifies that an employee shall not be required to undergo an examination by the same legally qualified medical practitioner nominated by the relevant authority under section 57 more frequently than at one-

month intervals (subsection 6(1) of this instrument). The specified interval only applies if the employee undergoes the examination (subsection 6(2) of this instrument).

The SRC Act provides that an employee can only undergo an examination by one LQMP at a time. If the employee has multiple conditions that require examinations by LQMPs of different specialities, then separate examinations may be conducted for each condition. Comcare cannot arrange for an employee to be examined by a medical panel. However, different and separate medical examinations can be held on the same day.

Example: An employee suffers a knee injury which has resulted in a secondary psychological condition. The employee may be consecutively examined by two doctors at separate examinations (one for the physical condition and one for the psychological condition) on the same day to assess both aspects of the claim.

Non-attendance of a medical examination



Where an employee cancels, refuses to attend, or fails to undergo an examination without a reasonable excuse, the employee's rights to compensation may be suspended until the medical examination takes place.

If an employee notifies that they are unable to attend a medical examination less than 48 hours prior to the arranged scheduled time, or during the examination, a cancellation fee may be charged by the LQMP. Comcare is liable for such fees and the cost cannot be passed on to the employee.

In circumstances where Comcare is issued a non-attendance fee, it may be appropriate for Comcare to negotiate with the provider for the fee to be waived or reduced. This should be assessed on a case-by-case basis considering the business relationship and volume of referrals made to that particular provider.

Cancellations by the LQMP

Where a LQMP cancels an appointment there is no fee. The CM will need to arrange a new appointment and contact the employee as soon as possible to advise them of the situation. The CM will need to provide the new appointment details in writing to the employee and employer.

Payment of medical examinations

Comcare shall pay the reasonable costs associated with the medical examination, which may include:

- time for the LQMP to read documentation prior to the examination
- the examination of the employee
- time for the LQMP to write the medical report
- any other research the LQMP undertakes, and
- costs incurred by the employee while travelling to, or remaining at, the examination.

Note: Comcare does not usually prepay medical examinations. If the LQMP will not conduct the examination without prepayment, in order not to disadvantage the employee, Comcare may prepay the examination. When considering requests for pre-payment, the CM will need to contact the practitioner and agree on a fee.

In cases that do not involve prepayment, the invoice for the medical examination is entered into Pracsys by the Claims Administration and Income Support (CAIS) Team and is paid once the report has been received.

What are appropriate costs?

The following information can be used to assist in negotiating a fee for preparation of a report (where a report is to be pre-paid) and as a guide to what you can expect to pay for medical reports. Ultimately the quality of the report is likely to be the area for negotiation with the practitioner rather than the cost.

Variance in report costs could be due to a number of factors including, but not limited to:

- the number of questions asked
- qualifications of the treating practitioner (a specialist opinion would generally cost more than a GP or physiotherapist)
- complexity of the claim (psychological versus injury claims)
- research required
- time taken to complete the report
- level of detail provided
- out-of-hours loading (time out of hours used to prepare report).

Claiming incapacity for attending an examination

Where an employee is requested by Comcare to undergo a medical examination, they may, depending on the provisions of their employer's Enterprise Agreement, be considered 'on duty' when attending. This means there will be no loss of earnings or leave credits involved and therefore the employee will not need to lodge a claim for time off work.

The employee should consult with their employer about how the absence will be dealt with under their Enterprise Agreement. If the Enterprise Agreement does not provide direction, an employee will have to complete a Claim for Time Off

Work form (CTOW) and submit it to Comcare in order to claim incapacity for the period of the examination.

Note: If a claim is undetermined or rejected Comcare cannot pay for time off work. The employee will need to seek paid/unpaid leave from their employer to cover the absence.

Injury sustained at an examination

If an employee sustains an injury whilst travelling to or from an examination or during the course of an examination, then the employee will need to lodge a new claim for compensation for the new injury. Liability for the new injury will be determined by Comcare.

Interpreters for examinations

If the employee requests that they need an interpreter to be present at the examination, then Comcare can arrange for a professional interpreter to attend and will meet the costs of the interpreter. It is not appropriate for the interpreter to be a family member or friend. This is so the interpretation of what the employee is saying is not affected by the family/friends own view. If required, interpreters can be arranged and booked online from

[Translating and Interpreting Services \(TIS\) National.](#)

Complaints

There may be occasions when an employee may express concerns over the conduct of a doctor during an examination or about the content of the doctor's report.

If an employee wants to make a complaint in relation to the medical examination the employee needs to provide the reasons to Comcare in writing. Once the complaint is received, discuss it with your Team Leader before proceeding.

Generally, if the complaint is in relation to inaccurate information then the report should be returned to the LQMP, along with a copy of the employee's complaint. The LQMP will be asked to provide a response to the complaint and if necessary to revisit the conclusions of the report.

Related information

[Arranging a Medical Examination](#)

[Combined Medical \(s57\) and Rehabilitation \(s36\) Examination](#)

[What Should a Case Summary Include?](#)

[Selecting a Legally Qualified Medical Practitioner](#)

[Attendants for Medical Examinations](#)

[Non-attendance or Obstruction of Medical Examination](#)

[Medical Examination Suspension](#)

[Lifting a Medical Examination Suspension](#)

[Arranging a Permanent Impairment Assessment](#)

[Overview of Travel for Medical Treatment or Examination](#)

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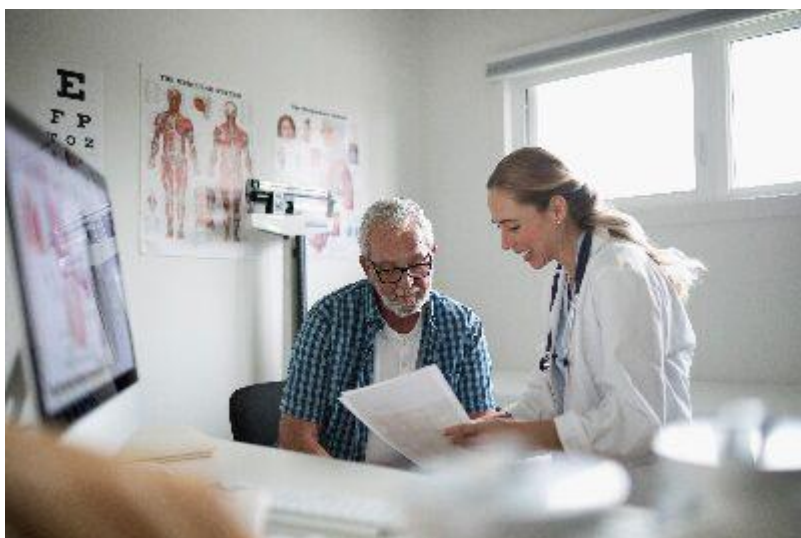
Gathering claim information

Independent medical examinations

This page covers the process and information required to assess and organise an independent medical examination (IME) in accordance with the legislative requirements.



Summary of IME requirements



[Section 57](#) of the SRC Act gives Comcare the power to require the employee to undergo an independent medical examination for the purpose of assessing, determining or managing a claim for compensation.

[The Guide for Arranging Rehabilitation Assessments and Requiring Examinations](#) sets out the limitations and requirements that Comcare must follow when considering and arranging such examinations.

The requirements are summarised below.

- [Section 9 - Requiring medical examinations](#)
- [Section 10 - Qualifications of examiners](#)
- [Section 11 - Notice of determination](#)
- [Section 12 - Limitations on frequency and number of examinations](#)
- [Section 13 - Other relevant matters](#)

Section 9 - Requiring medical examinations

1. First, consider whether Comcare has sufficient information about the **employee's circumstances** (defined in the Guide and including the employee's injury, other medical and personal circumstances, capacity for work and claimed need for treatment or support).

2. If not, i.e. Comcare has **insufficient or inconsistent information** to assess, determine or manage the claim, Comcare should send a **written request for the necessary information to the employee's treating practitioner**, asking for a written response within no fewer than **14 calendar days**.

3. Comcare should rely, as much as possible, on the information provided by the treating practitioner before requiring an IME.

4. Only then, if the information is still insufficient or inconsistent, can Comcare require an IME.

5. When the need for an IME has been established, Comcare must **seek certain views**, either verbally or in writing, from the employee and give them at least **3 business days** to respond.

6. The views that Comcare must seek from the employee are about the **selection of the medical examiner**, whether they need an **emotional support person** to be present and **any other relevant matter** (this could include the ability of the employee to travel to an IME or cultural needs, such as a certain gender examiner or language requirement).

7. Comcare needs to take these views into account.

8. Comcare must advise the employee that **they have the right to have an emotional support person** with them for all or part of the examination.

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Section 10 - Qualifications of examiner

The medical examiner must be a legally qualified medical practitioner and qualified by their training or registration to assess the employee's injury.

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Section 11 - Notice of determination

1. Once it has been determined that an IME is required, Comcare must provide a **notice of determination** to the employee in writing, outlining the terms of the determination, the reasons for it, and a notice of the employee's rights to apply for a reconsideration of the determination under section 62(2), and their obligations to attend the IME even if they have requested a reconsideration, if that reconsideration has not taken place by the date of the appointment.

The notice should also explain that the countdown for the prescribed timeframes that apply to the claim will stop on the day the notice is issued and restart when the medical examination report is received.

2. The notice also needs to include Comcare's reasons for accepting or not accepting, in whole or part, the employee's views as requested in section 9(7). And it needs to include Comcare's reasons for relying or not relying, in whole or part, on the employee's treating practitioner and the information they provided, if any.

3. The notice must be sent to the employee **at least 14 days before the date of the examination**, unless the employee has agreed to a shorter notice period. If so, the notice must be sent no later than the agreed notice period.

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Section 12 - Limitations on frequency and number of examinations

1. The employee cannot be required to attend an IME more frequently than **once every six months**.

2. This applies if the employee undergoes the examination, and they and their support person do not in any way obstruct the examination.

3. The **exceptions** to the six-monthly limitation include:

- the employee or their treating practitioner or another medical practitioner has requested an IME
- the employee's circumstances have changed
- the injury requires multidisciplinary treatment and one practitioner cannot address all the requirements of the IME
- the examiner fails to provide a report after the IME within the requested timeframe
- a reconsideration request is made or an application for review of a reviewable decision is made to the Administrative Review Tribunal, where there is insufficient or inconsistent information and a decision has not yet been made.

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Section 13 - Other relevant matters

1. Comcare can follow these directions in whatever order works operationally.

2. Comcare does not have to require an employee to undergo an IME and there is no restriction on allowing the employee's treating practitioner to be the examiner if they are a LQMP. However, as you must seek the information from the treating practitioner before considering an IME, it is unlikely they would be considered appropriate to conduct the IME if they have been unable or unwilling to provide the necessary information at the earlier stage.

3. Comcare must **record the views of the employee**.

4. Comcare must **provide a copy of the examiner's report** to the employee or their legal representative or treating practitioner.

For more detailed information, see the guidance in this page.

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What is an IME?

Included in this section:

- [What is an IME](#)
- [Relevant legislation](#)
- [Roles and responsibilities](#)
- [The Guide](#)
- [Combined medical \(section 57\) and rehabilitation \(section 36\) examinations](#)
- [Qualifications of examiners](#)
- [IME providers](#)

What is an independent medical examination (IME)?

An employee may be required to attend an independent medical examination (IME) by a [legally qualified medical practitioner](#) (LQMP), referred to as the **examiner** in the guidance below:

- as part of the initial determination process or
- as part of the management of an employee's accepted claim or
- where a request for a reconsideration has been received.

An independent medical examination (IME) aims to gather necessary medical information about the employee's injury or illness that is required to assess, determine or manage their claim.

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Relevant legislation

The relevant sections of the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) that give Comcare the power to request that an employee attend an independent medical examinations (IME) are:

- [section 36](#) (employee's capacity to undertake a rehabilitation program) and
- [section 57](#) (for managing claims for workers' compensation).

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Roles and responsibilities

It is the responsibility of the **Claims Manager** or the **Review Officer**, in the case of a request for a reconsideration, to arrange an IME.

The Injury Management team continues to play a vital role in this process. This includes:

- being involved in the discussion as to whether a medical examination is required
- identifying the appropriate specialist to conduct the examination
- contributing to the schedule of questions
- ensuring clinically appropriate questions are included, and
- contributing to the schedule of documents to be submitted to the medical specialist.

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The Guide

Section 57A of the SRC Act requires Comcare to prepare a *Guide for Arranging Rehabilitation Assessments and Requiring Examinations* (the Guide). View the [Guide](#) and the [Explanatory Statement](#).

The Guide's purpose is to support ethical, transparent and accountable decision-making in relation to:

- arranging a rehabilitation assessment and examination under section 36 of the SRC Act or
- requiring medical examinations arranged under section 57 of the SRC Act.

The Guide came into force on 18 September 2024.

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Combined medical (section 57) and rehabilitation (section 36) examinations

The employee's Rehabilitation Case Manager is responsible for determining whether an assessment is needed under section 36 to determine an employee's capacity to participate in a rehabilitation program. For more information about rehabilitation assessments and programs, see the [Rehabilitation](#) section of the Claims Manual.

If both a medical assessment and a rehabilitation assessment are required, it may be appropriate for you and the Rehabilitation Case Manager (RCM) to arrange for an employee to attend a combined medical (section 57) and rehabilitation (section 36) examination.

Benefits of a combined assessment

A combined assessment will:

- minimise the number of examinations employees are required to attend
- ensure consistency of specialist opinion
- help develop collaborative relationships between you and RCMs
- improve timeframes for early intervention, rehabilitation and appropriate medical treatment to advance employees' ability to recover and return to work as quickly as possible, and
- reduce overall claim costs.

Working with the Rehabilitation Case Manager

It is important that you, the Injury Manager, and Rehabilitation Case Manager (RCM) agree on the appropriate medical specialty for the combined assessment.

The RCM should issue a notice to the employee under section 36 but also forward the completed [Rehabilitation assessment referral form](#) (section 36(1)) or the completed [Rehabilitation assessment/examination form](#) (36(3))

with the appropriate costing to Comcare so that the CAIS Rehabilitation team can register it.

Process to arrange a combined assessment

If it is agreed to conduct a combined section 36/section 57 assessment, Comcare takes ownership of this appointment. The Claims Manager or Review Officer will book the assessment and upload all relevant documentation. Please follow the [Procedure to organise and book an IME](#) and have regard to the following additional requirements:

1. When contacting the employee during this procedure (**Step 5**), include the following points in your discussion.
 - a. Explain the purpose and benefit of the combined assessment.
 - b. Advise that their Rehabilitation Case Manager will contact them to explain the section 36 component of the assessment.
2. When you book the combined assessment with the required specialist/examiner through the [IME provider portal](#) (**Step 6**), advise that the assessment is combined in the "Additional Information" section.
3. You will still issue a separate section 57 notice of determination letter regarding the medical examination (**Step 8**) and the RCM will issue a separate notice of determination letter for the section 36 assessment.
4. Referral to examiner (**Step 10**): The Rehabilitation Case Manager is required to prepare and send you a letter of instruction under section 36. This letter is to be sent to you at least one week before the IME booking. The summary should include a schedule of questions, details of the rehabilitation activities to date, and specific details about the employee's pre-injury job, current return to work arrangements and opportunities.
5. You also need to prepare a case summary for the medical examiner including a letter of instruction and a schedule of questions that you want the medical examiner to answer in relation to the employee's condition.
6. You then need to upload the case summary, the two letters of instruction plus the schedules of questions that the medical examiner is required to answer in relation to the individual section 36 and section 57 reports and any other relevant documentation to the MedEbridge platform.

What if an employee objects?

If an employee objects to attending a combined assessment, you should explain the benefit to them of attending a combined assessment (as opposed to two separate assessments). If the employee still has concerns, ask them to

explain their reasons for the objection. You, the Injury Manager and the Rehabilitation Case Manager should then discuss whether it is appropriate to arrange separate assessments.

Receipt and implementation of report

If you receive the reports from the medical examiner through the MedEbridge platform, you need to provide the section 36 report to the RCM.

Once you and the Injury Manager have reviewed the section 57 report, you need to contact the Rehabilitation Case Manager (RCM) to set up a meeting between you, the Injury Manager and RCM to:

- discuss the section 36 (rehabilitation assessment) report from a liability and rehabilitation perspective (note that you can discuss the section 57 (medical assessment) report as well, if the RCM feels it would be beneficial)
- discuss how each party will proceed based on the specialist's assessment and recommendations for the benefit of the employee's recovery and return to work
- identify what impact the outcomes will have in relation to the management of the claim and the rehabilitation process and any further actions required, and
- implement all actions within an agreed timeframe.

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Qualifications of examiners

Before you or the Review Officer (in the case of a reconsideration) arrange a medical examination, the Guide requires you to be reasonably satisfied that the examiner is:

- a legally qualified medical practitioner registered with the Australian Health Practitioner Regulation Agency (AHPRA).
- qualified, by their training or registration, to assess the employee's injury.

Please note: Medical examiners selected through Comcare's contracts with Medilaw or mlcoa are required to be registered with AHPRA and must complete a minimum of 8 hours per week of clinical practice which meet the requirements for medical examiners under the Guide.

The Injury Manager assigned to the claim will provide a clinical recommendation to you or the Review Officer for the appropriate specialist to complete the assessment.

Please see the [List of Legally Qualified Medical Practitioners](#) for details of different types of specialists and what injuries and illnesses they are responsible for.

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Independent medical examination providers

Comcare currently has a contract with the *Medilaw Group* and *mlcoa* for the delivery of independent medical examination (IME) services for Comcare.

Medilaw group

[Medilaw specialist directory](#)

[Medilaw group contact details](#) - Contactable if you have any queries regarding an IME booking.

Medilaw group - Telehealth services

Where a telehealth appointment has been made, Medilaw or mlcoa will send the information sheets and instructions to you through the MedEbridge platform under the 'Attachments' section.

MedEbridge have also developed the following [FAQ document](#) which will be updated frequently. Please continue to send through queries and questions to the Assistant Director, IME and Injury Management Practice so that they can include these in the FAQs document.

mlcoa

[mlcoa Comcare Panel | 2024 Specialist Directory](#)

If you have any other concerns or queries in relation to Medilaw or mlcoa, please contact the Assistant Director, IME and Injury Management Practice.

Which individual examiner should I choose?

In selecting an examiner, you should consider the following:

- Whether the employee has a treating specialist (although an IME can be conducted by the employee's treating practitioner, an IME should only be conducted when all reasonable efforts to obtain the necessary information from the employee's treating practitioner have failed. Therefore, it is unlikely that an IME conducted by that practitioner will be successful).
- The qualifications, experience or expertise of the examiner.
- Whether the examiner is registered in the state or territory where the examination is to be conducted.
- Whether the employee has previously been assessed by the examiner and if so, whether the use of the same examiner is appropriate.
- The quality and comprehensiveness of any previous medical reports prepared by that examiner and the objectivity displayed towards the employee's compensable condition and/or towards the employee's personal circumstances.
- Whether the examiner can provide appointments and quality reports with minimal delay.
- The proximity of the examiner to the employee. For employees in rural areas, consideration can be given to completing the assessment via telehealth, or if travel is appropriate, in the nearest major city/town.

Important: When considering the employee's injury/illness and personal circumstances, you may need to consider a medical practitioner who is not part of the Medilaw Group or mlcoa to conduct the examination. If this is the case, please discuss this with the Assistant Director, IME and Injury Management Practice.

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Assessing the need for an IME

Included in this section:

- [When might an IME be necessary?](#)
- [Consider the 'employee's circumstances'](#)
- [Seek information from the treating practitioner](#)
- [How often can you schedule an IME?](#)

When might an IME be necessary?

Independent medical examinations are used to obtain a specialist opinion in relation to an employee's compensable condition. There are several reasons

for arranging a medical examination which include, but are not limited to, the following:

- An employee is not receiving treatment from a legally qualified medical practitioner (LQMP) or evidence-based treatment from an allied health provider.
- There is insufficient or conflicting medical evidence on the employee's claim file or new claim.
- A claim is medically complex.
- An employee has developed a new or secondary condition.
- An employee has submitted a claim for permanent impairment.
- There is evidence the employee's treating LQMP or practitioner is adopting the role of an advocate.
- There is difficulty establishing a link between employment and the claimed condition.
- The condition has stabilised.
- Clarification of capacity. For example, determining that the employee is able to study but is unable to return to any form of work.

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Consider the 'employee's circumstances'

Before considering whether an employee should undergo a medical examination, section 9(1) of the Guide requires you to consider whether you have sufficient information about:

- the employee's circumstances or
- any change in the employee's circumstances or
- the employee's capability to undertake a rehabilitation program.

'Employee's circumstances' is a defined term in the *Guide for Arranging Rehabilitation Assessments and Requiring Examinations* and includes a range of matters that you may need information on when determining liability for compensation. These include:

- the injury
- other medical conditions that may be relevant to the claim, for example pre-existing or secondary injuries
- the requirement for medical treatment
- the employee's capacity for work
- the employee's claim for permanent impairment and non-economic loss
- the employee's need for alterations, modifications or aids or appliances

- the employee's need for household services or attendant care services
- understanding suitable employment requirements and availability
- personal circumstances - such as any biopsychosocial factors that may be impacting the employee's return to work
- any other relevant matter.

Important: Attendance at medical examinations can be distressing. You should consider the impact that attending a medical examination may have on an employee, as part of the employee's circumstances.

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Seek information from the treating practitioner

Section 9(2) of the Guide requires you to do everything reasonable to obtain the necessary information that you need to determine or manage a claim from the employee's treating practitioner **BEFORE** arranging an independent medical examination.

This means that if you believe there is insufficient or inconsistent information about the employee's circumstances, including their claimed injury, you should:

- request in writing that the employee's treating practitioner provides the required information, and
- specify that the information must be provided to Comcare in writing, and
- specify a date, allowing at least 14 calendar days from the date of the request, for the information to be provided.

This must all be documented in the IME Decision Making Checklist in the '[Manage IME Assessments](#)' (MIME) function in Pracsys.

Stop clock provisions: If the employee's treating practitioner is a legally qualified medical practitioner and the claim is for compensation under section 14, then the [prescribed timeframes](#) apply. The clock for determining the claim will stop on the day you request the information from the treating practitioner and will restart on the day you receive the report.

Section 9(3) of the Guide states that you should rely on the employee's treating practitioner and the information they provide as much as possible before requiring the employee to undergo an independent medical examination.

Once you have considered the employee's circumstances (section 9(1)) and have relied, as much as possible, on the information provided by the treating practitioner (section 9(3)), then if you still believe there is insufficient or inconsistent information for you to determine or manage the claim, it is appropriate to require the employee to undergo a medical examination (section 9(4) of the Guide).

You should use internal resources including Injury Management or the Clinical Panel to support you with gathering and interpreting the medical information from the treating practitioner to make an informed decision. If an informed decision cannot be achieved, then it is reasonable to consider arranging an Independent Medical Examination (IME).

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How often can you schedule an independent medical examination?

Section 12 of the Guide provides the requirements around frequency of IMEs.

Section 12(1) states that you cannot require an employee to undergo an IME more often than once every six months.

However, section 12(2) explains that this frequency only applies if:

- the employee undergoes the examination, and
- the employee does not in any way obstruct the examination, and
- the support person does not in any way obstruct the examination.

Exceptions to the six-month limitation

There are several exceptions to the frequency rule (section 12(3)). If an exception applies, you can schedule additional medical examinations as appropriate. The exceptions are as follows:

- An examination is requested by the employee or their treating practitioner.
- Another medical practitioner has recommended a further examination or re-examination.
- There has been a change in the '[employee's circumstances](#)' as defined in section 4 of the Guide.

- The injury requires multidisciplinary medical treatment (i.e. a complex case) and it is appropriate for the Claims Manager to require the employee to undergo more than one examination, with a different medical practitioner.
- The assessor fails, for any reason, to provide a written report within the timeframe set by you.
- A request for a reconsideration of a determination is made but a reviewable decision in response to that request has not yet been made.
- An application for review of a reviewable decision is made to the AAT but a final decision has not yet been made.

Section 36 assessments do not impact the frequency limitation

The limitations placed on the frequency of arranging section 57 medical examinations are not impacted by the arrangement of a section 36 rehabilitation examination. That is, a Claims Manager could organise a Section 57 medical examination in the same six-month period as a section 36 rehabilitation examination organised by a rehabilitation authority.

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Requirements when an IME is determined as necessary



Once you have determined that an independent medical examination is necessary, you must:

- advise the employee of their [right to bring an emotional support person](#) to the examination.
- take into account the [employee's views on the medical examiner](#).

These are detailed in this section.

The employee's right to an emotional support person

Section 9(8) of the Guide states that Comcare must advise the employee that they may have an emotional support person accompany them to all or part of the examination and seek their views as to whether they would like to bring one to the appointment. You can explain this right to the employee when you seek their views.

Travel costs for support persons

Sometimes a support person is medically required to assist the employee to attend the medical examination. In this case, there needs to be medical evidence that shows that it is medically necessary that the employee has someone attend with them.

Where an employee requires a support person for medical reasons, Comcare will meet reasonable travel costs associated with the support person attending.

Please see [Receiving and actioning travel requests](#) for more information.

Where the support person is not medically required to assist the employee, Comcare will not meet travel costs associated with the companion attending.

Expectations for support person

The employee's support person must not interfere with or in any way obstruct the examination. They should not attempt to answer questions put to the employee by the examiner.

The selected examiner may be unable to continue with the examination due to the behaviour of the support person. In this case, the examiner may choose to terminate the examination and will advise Comcare of their reasons for doing this in writing.

Please note: It is not appropriate for the employee to take their children to the medical examination. Employees should make alternative arrangements for their children while they attend the medical examination.

Informing the examiner

If an employee would like a support person to attend the independent medical examination, the examiner must be informed before the appointment. This should be done through the MedEbridge portal.

The examiner may not agree to any support person attending the medical examination. In such a case, the employee should be informed, and a different examiner should be sought who will allow the support person to attend.

If a suitable examiner is unable to be found, the employee will need to attend the examination. The support person will be required to wait in the waiting room during the appointment.

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Seeking the employee's views on the IME

You must seek and take into account the employee's views about:

- the selection of the medical practitioner to conduct the medical examination
- whether the employee requires an emotional support person to be present at all or part of the examination (you must also advise the employee that they have this right)
- any other relevant matter that may affect the employee's successful attendance at the examination, such as:
 - any medical or mobility restrictions the employee has
 - geographical location and accessibility
 - the employee's or examiner's gender
 - language or communication barriers.

While not required in the Guide, for ease of booking an appropriate appointment, you should also discuss the employee's availability regarding date and time.

Document the employee's views

Seeking the employee's view can be done verbally or in writing. You must document the employee's views in writing. This must be done in the IME Decision Making Checklist in the '[Manage IME Assessments](#)' (MIME) function in Pracsys and will be included in your written notice of determination.

Timeframe to respond

You must give the employee a period in which to respond. This period must be at **least three business days** from the date of your request. If the employee responds sooner than your due date, you can proceed to issue the notice of determination and schedule the IME as soon as the employee responds.

Interpreters for examinations

If the employee asks for an interpreter at the examination, Comcare can arrange for a professional interpreter to attend. Comcare will meet the costs of the interpreter.

It is not appropriate for the interpreter to be a family member or friend. This is to ensure the interpretation of what the employee is saying is not affected by the family/friend's own view.

If required, interpreters can be arranged and booked online from [Translating and Interpreting Services \(TIS\) National](#).

Reconsideration requests or intent not to attend: If the employee indicates that they will be requesting a reconsideration in relation to the medical examination or indicates that they will not be attending and/or raise any objections to attending the medical examination, please discuss this with your Assistant Director as soon as possible.

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IMEs are determinations under section 60

Included in this section:

- Written [notice of determination](#) and what you must include.
- If you determine that [an IME is no longer required](#).

Notice of determination

A decision to require an employee to attend a medical examination under [section 57](#) of the SRC Act is a determination for the purposes of [section 60](#) of the SRC Act from 14 June 2024.

The determination must include:

- the terms of the determination
- the reasons for the determination
- Comcare's reasons for accepting or not accepting, in whole or part, the employee's views as requested in section 9(7)
- Comcare's reasons for relying or not relying, in whole or part, on the employee's treating practitioner and the information they provided (if any)

- where applicable, an explanation that the countdown for the prescribed timeframes that apply to the claim will stop on the day the notice is issued and restart when the medical examination report is received
- a notice of the employee's rights to apply for a reconsideration of the determination under section 62(2), and their rights to request a review of the reconsideration outcome by the Administrative Review Tribunal
- the employee's obligations to attend and not in any way obstruct the IME without a reasonable excuse, even if they have requested a reconsideration, if that reconsideration has not taken place by the date of the appointment.

You are required to clearly document your conversations and considerations, and you can use this documentation to draft your notice of determination.

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If you determine that an IME is no longer required

If you have issued a notice of determination to the employee requiring them to attend an IME, this is a determination under section 60 of the SRC Act.

If you then determine that the IME is no longer necessary, for example because you have received new information from the employee's treating practitioner, you will have to issue a 'reconsideration on own motion'.

When considering whether to undertake a reconsideration on own motion, you should discuss the claim with your Assistant Director.

For further information, please see: [Reconsideration of own motion](#)

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Administration when organising an IME

Included in this section:

- [Costs](#)
- [Documentation required](#)
- [Cancellations](#)
- [Claiming incapacity to attend an IME](#)

Costs of an independent medical examination

Comcare currently has a contract with the *Medilaw Group* and *Mlcoa* for the delivery of independent medical examination (IME) services for Comcare. The costs associated with examinations are set according to an agreed [pricing list](#).

If the Medilaw Group or Mlcoa do not have a suitable examiner to conduct the examination, please contact the Assistant Director, IME and Injury Management Practice.

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Documentation required

Once the medical examination has been booked, you need to supply a case summary, outlined in this section, to the examiner.

You also need to provide a list of questions that you would like the examiner to answer in relation to the employee's condition as part of the examination.

Please see: [Obtaining a medical report or clinical notes](#) for a list of questions you may want to ask the examiner.

Case summaries

A case summary is used to provide background information to an examiner about an employee's compensable condition or undetermined workers compensation claim. A case summary should only contain facts relevant to the employee's compensable or undetermined condition and must not be used to lead the examiner in any way.

The Injury Manager will work collaboratively with you to assist in developing a detailed case summary and schedule of questions to be provided to the examiner.

Below is a brief outline of what should be included in a case summary.

Background to injury

Provide a brief history of the claim focusing on how the injury occurred and what stage it is currently at. The history can include the following but is not limited to:

- when the claim was lodged by the employee
- diagnosis of the injury sustained (including diagnosis on the initial medical certificate)
- details as to how the injury occurred
- what the accepted condition is (if claim is accepted), and
- any secondary conditions/other claims.

The Claim Chronology document can be used to assist in providing a detailed history of complex claims to the examiner. For further guidance, refer to the [Claim chronology](#) page.

Incapacity

Information about the employee's treatment, rehabilitation and any incapacity the employee has had due to their compensable condition. The summary should include but is not limited to:

- treatment the employee has undertaken in relation to their condition(s)
- outcome of any treatment
- details of any rehabilitation program in which the employee has participated
- the outcome of any rehabilitation program
- any time off work the employee has had in relation to their condition(s), and
- the employee's duties at work (pre-injury, current and proposed).

Attachments

All documents provided to the examiner for the examination should be clearly labelled with a letter or number in the top right-hand corner.

A list of attachments should be included in the letter to the examiner. The list of attachments should be under the date of your signature block with corresponding letters or numbers so the examiner can easily refer to the documents attached. All documentation must be uploaded to the MedEbridge portal no later than five business days prior to the assessment.

Examples of the documents to be provided to the examiner include but are not limited to:

- copy of workers' compensation claim form
- relevant medical certificates
- medical reports
- rehabilitation reports
- service provider reports, e.g. imaging

- employer/employee statements.

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Cancellations

Cancellations by the examiner

Where an examiner cancels an IME, there is no fee. You will need to arrange a new appointment and contact the employee as soon as possible to advise them of the situation. You need to provide the new appointment details in writing to the employee and employer.

Cancellations by the employee or Comcare

If the IME needs to be cancelled, you or the Claims Support Officer must log in to the IME portal and cancel the appointment.

Reasons for the cancellation and explanation of the situation must be documented in Pracsys.

Three full business days' notice are required to avoid any cancellation charges.

If the employee needs to cancel the appointment, you will need to determine whether the reason/s for the cancellation are reasonable.

Refer to the [Reasonable excuse](#) section for details on what is reasonable.

Cancellation by employee with reasonable excuse

If there is a reasonable excuse, cancel and re-schedule the appointment for a date and time that suits the employee.

If the only changes to the medical appointment are the time and date, you do not have to send another section 57 determination letter to the employee. You are however still required to inform the employee in writing of the new details of the medical appointment.

However, if you are required to change the medical examiner and/or the qualifications of the medical examiner when changing the medical appointment (for example, because the original examiner is not available), then a new section 57 determination letter will need to be sent to the employee.

Cancellation by employee with no reasonable excuse

If the reason/s for cancelling the appointment are not reasonable, the appointment should proceed, and you will need to advise the employee of their obligations under section 57 of the SRC Act.

For further information see [Non-attendance at a medical examination](#).

Reasonable excuse

What constitutes a reasonable excuse depends on the facts of each case. To be reasonable, an excuse must show that an employee was physically, mentally or emotionally unable to participate in or attend the examination rather than unwilling to do so. Examples of excuses that may be considered reasonable include but are not limited to:

- medical inability, supported by medical evidence
- a risk of injury or aggravation (supported by medical evidence) to the employee in undertaking the medical examination
- urgent and unforeseeable family matters, and
- other unforeseen circumstances about which the employee was not able to notify Comcare in advance.

The following may not be considered reasonable, remembering that the employee should have been given sufficient notice (at least 14 days) of the examination:

- resignation
- travel overseas
- relocation interstate
- dissatisfaction with how an examination is delivered, or belief that an exam is not necessary
- belief that the IME could be uncomfortable or unpleasant (different to the belief that the IME could be detrimental).

If you are unsure whether an excuse is reasonable, consult your Assistant Director and refer to the [Reasonable excuse - examples](#) guidance document.

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Claiming incapacity to attend an IME

Where an employee is required to undergo a medical examination, they may, depending on the provisions of their employer's Enterprise Agreement, be considered 'on duty' when attending.

This means there will be no loss of earnings or leave credits involved. Therefore, the employee will not need to lodge a claim for time off work.

The employee should consult with their employer about how the absence will be dealt with under their Enterprise Agreement.

If the Enterprise Agreement does not provide direction, an employee may be able to claim incapacity for the period of the examination. They will need to complete a claim for time off work form (CTOW) and submit it to Comcare.

Please see: [Incapacity for work](#) for more information.

If a claim is undetermined or rejected, Comcare cannot pay for time off work. The employee will need to seek paid or unpaid leave from their employer to cover the absence.

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During and after the IME

Included in this section:

- [IME reports and reporting](#)
- [Complaints](#)
- [Injury sustained at or during an IME](#)
- [Non-attendance at an IME](#)

IME reports

Summary of report for the employer

If you need to provide a summary of the report to the employer, please use the relevant prompts in the template below and email the summary to the employer.

Subject heading: IME Report Summary

Dear [RCM, Name],

This email is to provide you with a summary of the IME report to assist in facilitating recovery and return to work.

IME Provider:

Report Date:

Specialist Name:

Employee Name:

Claim Number:

Diagnosis:

The condition/s formally diagnosed by the Doctor.

Causation:

Has the specialist concluded that there is a causal link between employment and the condition/injury?

- *Has the specialist indicated a significant employment contribution for the claimed condition/s?*

Prognosis/Capacity:

Expected recovery timeframes.

- *Recommended treatment and duration.*

Rehabilitation & Return to Work:

Timeframes for returning to work, or if at work, timeframe to achieve normal hours/duties.

- *Workplace modifications recommended to support return to work (i.e. ergonomics, physical restrictions)*
- *Reasonable adjustments recommended to support return to work (i.e. working from home, reduced hours, reduced/alternate days)*

If you wish to obtain a full copy of this IME report, a request can be made under Section 59: [Request access to information](#)

Regards.

[Comcare Delegate, Name]

Releasing medical reports

There is an underlying principle governing the release, or protection from release, of medical reports or other such material (particularly psychiatric or psychological reports). The principle is that they should not be released where there is a real risk that the report could lead to the employee harming (physically or mentally) themselves or another person.

The person best placed to determine the risk involved is the employee's treating practitioner or specialist. It would therefore be considered appropriate to consult with the doctor/specialist before releasing any potentially sensitive information to the employee.

Supplementary Report Requests

If you require a supplementary report from the medical examiner, requests for a Supplementary Report will follow the [Procedure to organise and book an IME](#)

Permanent Impairment IME Reports

Requests for a Permanent Impairment IME report will follow the [Procedure to organise and book an IME](#)

Reconsideration IMEs (including Supplementary Report requests)

Requests for Reconsideration IMEs will require the Review Officer to email the [IMT mailbox](#) to initiate communication with the relevant Injury Manager. The process will then follow the [Procedure to organise and book an IME](#)

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Complaints about the independent medical examination process

IME reports or internal processes

Concerns, queries or complaints regarding the independent medical examination (IME) reports or internal processes should be escalated to the Assistant Director, IME and Injury Management Practice.

These might include concerns around report timeliness, report quality and contents, or an aspect of the internal IME process. The Assistant Director will address the issue with the service provider to ensure a resolution is achieved.

You and the relevant Injury Manager can directly liaise with the Assistant Director, IME and Injury Management Practice, to escalate such issues. You should copy your Assistant Director into the correspondence.

Assistant Directors and Directors can also engage directly with the Assistant Director, IME and Injury Management Practice to address any concerns regarding IMEs.

IME examination or conduct of an IME provider

If you receive concerns or complaints about the actual IME examination or the conduct of an IME provider, you should inform your Assistant Director, Director and the [Claims Complaints and Feedback](#) team immediately.

The Claims Complaints and Feedback team will work with the Assistant Director, IME and Injury Management Practice to assess the concern or complaint and to find a resolution.

If required the Assistant Director, IME and Injury Management Practice will work with the service provider to obtain a response to the complaint and assist in achieving the overall resolution with the Claims Complaints and Feedback team.

Please ensure that you keep an accurate record of all conversations in relation to the concern or complaint raised by the employee or their representative.

For further information about the management of complaints, please see:

[Complaints and feedback](#)

[Complaints Handling Framework Nov 2022](#)

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Injury sustained at an independent medical examination

If an employee reports an injury sustained whilst travelling to or from an examination, or during the course of the examination, the employee will need to lodge a new claim for compensation for the new injury.

Liability for the new injury will be determined by Comcare. For further guidance, refer to the [Newly reported conditions](#) page.

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Non-attendance at an independent medical examination

An employee may refuse or fail, without a [reasonable excuse](#), to undergo an independent medical examination (IME), or they or their support person may in some way obstruct an examination.

Where an employee fails to attend or they or their support person obstructs a medical appointment, you must provide the employee with an opportunity to give a reasonable excuse within **14 calendar days**. You are then responsible for deciding whether the employee's excuse is reasonable.

If you do not consider the excuse reasonable, under section 57(2) of the SRC Act, the employee's rights to compensation under the SRC Act may be suspended until the medical examination takes place. For information about suspending a claim, refer to [Suspending claims](#).

If the employee does not attend the IME, Comcare may be charged a non-attendance fee by the IME provider.

You will need to determine if the employee has a reasonable excuse for not attending the appointment before paying the non-attendance fee.

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Procedure to organise and book an IME

Background Information

Use the '[Manage IME Assessments](#)' (MIME) function in Pracsys to complete the IME Decision Making checklist to ensure you have covered off on the requirements for assessing, determining and scheduling an IME.

Remember: As you progress through the steps for assessing, determining and scheduling an IME examination, you can continue to update the IME Decision Making checklist using the '[Manage IME Assessments](#)' (MIME) function as needed.

While this procedure consists of linear steps, you do not need to follow this order strictly. *For example, you could seek information from the treating practitioner and at the same time, seek the employee's views on a proposed independent medical examiner.*

If the IME appointment is for a combined section 36 and section 57 examination, please review the additional requirements in [Combined assessments](#), as you work through this procedure.

Step 1: Request information from treating practitioner

Review the claim file and identify what further information you require to assess, determine or manage the claim. Document your findings.

Contact the treating practitioner in writing to request the necessary information and provide a period of at least 14 calendar days. You do not have to wait for the specified period to expire if the treating practitioner provides the requested information within that timeframe.

Create and update the stop clock actions in the '*Manage Initial Liability Assessment*' (MILA) function in Pracsys. (**Note:** The stop clock provisions do not apply to requests for information from the employee's treating allied health practitioners, e.g. physiotherapist, psychologist, massage therapist etc).

- If the information received from the treating practitioner/s is sufficient and is consistent with other medical evidence on the claim, and you do not need further evidence to make a determination on the claim, the procedure ends here.
- If the information received from the treating practitioner/s is still insufficient or inconsistent, and you are not able to make a determination on the claim, continue to **Step 2**.

Step 2: Discuss and agree the need for an independent medical examination

Discuss the claim with the relevant Injury Manager and Assistant Director, Claims Operations. Ensure that you document your discussions.

Where agreement cannot be reached on the proposal for an employee to attend a medical examination, escalate the matter to the Assistant Director (Claims Operations) and Assistant Director (Injury Management). Where necessary, the Director (Claims Operations) will make a final decision as the delegate whether it is reasonable to arrange a medical examination under Section 57 of the SRC Act.

- If a medical examination is not needed, end the procedure and add a comment to Pracsys with the reasons why a medical examination is not required at this time.

- If a medical examination is needed, this decision should be recorded in the Claim Plan and the IME Decision Making checklist in the '[Manage IME Assessments](#)' (MIME) function in Pracsys must be started.

Step 3: Update Pracsys

The Injury Manager will complete a "New IMAS service" case note in Pracsys within **one business day** of the agreement being reached on the requirement for the medical examination. The case note should summarise why the medical examination is needed and include:

- details of the triage meeting including any stop clock activities (if an undetermined claim)
- that the IME Decision Making Checklist in the '[Manage IME Assessments](#)' (MIME/VIME) functions in Pracsys has been considered and is being completed by the Claims Manager
- the purpose of the medical examination
- a recommendation for which specialist/s, based on their medical speciality and required sub-specialities, should assess the employee.

Step 4: Contact the employer and treating practitioner

- **Employer**

Contact the employer to advise them that the employee is required to undergo a medical examination and explain the reasoning for this decision.

The employer may want to organise a combined section 36/section 57 examination at this time. Please see [Combined medical \(section 57\) and rehabilitation \(section 36\) examination](#) for more information.

In instances where a combined section 36/57 examination is required, the RCM should issue a notice to the employee under section 36 and forward the completed [Rehabilitation assessment referral form](#) (section 36(1)) or the completed [Rehabilitation assessment/examination form](#) (36(3)) to Comcare so that the CAIS Rehabilitation team can register it.

If the employer has any concerns about the employee attending the medical examination, please discuss next steps with your Assistant Director in conjunction with the Injury Manager.

- **Treating medical practitioner**

The Injury Manager, where appropriate, contacts the treating medical practitioner to advise them that the employee is required to undergo a medical examination and discuss the reasoning for this.

Record your conversations: As medical examinations under section 57 are reviewable, all conversations with employers, treating medical or allied health practitioners or other stakeholders should be recorded in Pracsys.

Step 5: Contact the employee

Steps 5 (discussion) and 6 (booking IME) can take place in the same telephone conversation. However, you must give the employee at least three business days to respond when you seek their views on the proposed examiner. If they wish to take the time they are entitled to, you may need to contact the employee again to hear their views on the person you have booked to conduct the examination.

Further information on planning and making the call can be found in the [IME Talking Points and Call Guide](#)

Contact the employee and advise them of the requirement for an independent medical examination **within 2 business days** of the decision to proceed with a medical examination. You must discuss the following:

- Explain the purpose of the medical examination, including why an examination is required – include your attempts to gather the required information from the treating practitioner and what information is insufficient or inconsistent that an IME needs to clarify.
- Explain what type of speciality the medical examiner will need to conduct the examination.
- Recommend the medical examiner/s that have been identified as being the best suited to conduct the examination (based on qualifications/experience etc) and the reason you would prefer the employee to attend the examination with this examiner.
- Explain that you need to consider the medical practitioner's qualifications, availability and cost of the examination when determining the most appropriate medical practitioner to conduct the examination.
- Seek the employee's views about the selection of medical practitioner/s to conduct the examination.

- If the employee wants to consider for a longer period, give them at least three business days to provide their views.
- If the employee recommends another examiner, other than the nominated examiner, you need to take their views into consideration when deciding on the relevant medical examiner to conduct the examination.
- If during the phone call, the employee is satisfied with your selection of the medical examiner to conduct the examination, you do not have to wait for the three-day period to expire.
- Explain what the employee can expect from the IME assessment and process.
- Explain that the employee has the right to have an emotional support person with them for part or all of the examination and ask if they would like to have an emotional support person (you need to advise the IME examiner if this is the case).
- Obtain the employee's availability to attend (dates and time) and note any personal circumstances that need to be considered. These may include but are not limited to:
 - gender or cultural concerns
 - mobility requirements if the employee uses mobility aids
 - location of the examination/whether they prefer face to face or telehealth
 - travel requirements and options
 - the employee's need for a medical support person (if there is medical evidence for this, explain that Comcare can pay for that person's travel costs)
 - whether the employee needs an interpreter/the employee's preferred language (should not be a family member and will be paid for by Comcare)
 - caregiver responsibilities
 - any other considerations that the employee may have.
- You must also advise the employee of their obligations to attend and not obstruct the IME under section 57 of the SRC Act and inform them of their right to request a reconsideration in relation the medical examination determination.
- If the claim is undetermined, explain about the prescribed timeframes and how the stop clock actions work.

Document your conversation

You need to document your discussions or contact with the employee in Pracsys, including that you have sought the employee's views, what the views were, and how you considered them in selecting the medical practitioner.

This also needs to be documented in the IME Decision Making checklist in the '*Manage IME Assessments*' (MIME) function.

If the employee has concerns about attending the medical examination, discuss next steps with your Assistant Director in consultation with the Injury Manager.

Reconsideration requests or intent not to attend

If during your contact with the employee, the employee indicates that they will be requesting a reconsideration of the section 57 determination or indicates that they will not attend the medical examination, please notify your Assistant Director and Injury Manager as soon as possible.

Step 6: Schedule the medical examination

Schedule the IME appointment via the [IME portal](#) with the recommended specialist at a date and time that suits the employee.

Based on the employee's considerations, it may be appropriate to seek a telehealth appointment or request that the medical examiner undertake a desk top examination of the claim information rather than seeking a face-to-face or in-person examination.

Other considerations when scheduling the medical examination:

- The medical examiner may have requirements for face-to-face or in-person examinations – please notify the employee of these requirements and attach any available guidance from the medical practitioner to the section 57 determination letter.
- If the requirements cannot be met, the medical examiner may not be able to go ahead with the examination.
- Provide the contact details for both parties (employee and medical specialist/examiner).
- Advise the examiner if the employee suffers from multiple/complex conditions. If so, obtain advice about whether the examiner requires an extended consultation to be booked.

If the employee chooses to attend a face-to-face appointment after we have provided them with the above information, and the attendance requirements cannot be met, they will not be seen by the medical examiner at this time. If

this situation occurs, please consider seeking an at-home telehealth appointment if appropriate.

Step 7: Contact the employee (if necessary)

If necessary, for example if the employee has not provided their views on the selected medical examiner in the previous conversation, contact the employee to ensure you have considered their views on the selected medical examiner. Explain how you are taking their views into account and if necessary, the requirements you have to adhere to with regard to qualification of the selected examiner.

Document the details of the call in the '*Manage Claim Comment*' (MCOM) and '*Manage IME Assessments*' (MIME) functions in Pracsys.

Step 8: Draft the section 57 determination letter

Draft the section 57 determination letter to the employee. Use '*Letter template 712 – Section 57 Medical Assessment – employee*'.

The determination letter **must** include the information listed in notice of determination.

The draft letter should also include:

- The appointment details
 - time and date of appointment
 - medical examiner's name
 - medical examiner's address
 - medical examiner's telephone number.
- If the examination is conducted via telehealth, include:
 - the medical examiner's name
 - the location where the telehealth consult will be held
 - the name of the qualified allied health practitioner assisting in the telehealth consult.
- Any other details in relation to the appointment (if applicable), e.g.
 - requirements that the medical examiner has in relation to the examination
 - travel arrangements including those of the medical support person
 - details of the interpreter.

Send the draft section 57 determination letter to the Assistant Director for quality assurance.

Once the draft letter has been signed off by the Assistant Director, contact the employee and advise them of the outcome of their feedback regarding the selected examiner and confirm that a determination letter explaining your reasons for choosing the medical examiner will be sent to them (if you have not already done so in an earlier conversation).

Step 9: Update Pracsys

1. Record your conversation with the employee in the '*Manage Claim Comment*' (MCOM) function in Pracsys.
2. If the prescribed timeframes apply, create and update the stop clock actions in the '*Manage Initial Liability Assessment (MILA)*' function. Attach the section 57 determination letter to the stop clock request (click the green plus icon, tag the relevant document/s in the new window and click 'OK').
3. Update the IME Decision Making checklist in the '*Manage IME Assessments*' function in consultation with the Injury Manager.

Step 10: Draft the medical examination referral

Draft the medical examination referral in Pracsys.

This should include:

- the case summary – refer to the Documentation required section
- the schedule of questions that you would like the medical examiner to answer in relation the employee's compensable condition – refer to 'Obtaining a medical report or clinical notes' page and
- any supporting documentation.

Comcare can ask the medical examiner to telephone Comcare to discuss the outcome of the examination.

If this is required, **please specify in the referral letter**, that Comcare requests that a call is made following the examination to advise the Injury Manager verbally of any recommendations that the examiner has made before the examiner submits the written report to Comcare.

For information on turnaround times for receiving IME reports, please refer to the section Timeframes for receiving medical reports.

If you require assistance with drafting the questions to ask the medical examiner, please discuss this with the Injury Manager.

When the referral letter and documents are ready for review, email them to the Injury Manager for review.

Eight business days before the appointment, the Injury Manager reviews and contributes to the summary, schedule of questions and the supporting documentation within Pracsys, to ensure that relevant clinical information and the appropriate condition-specific questions are included.

Once the medical examination referral has been reviewed by the Injury Manager and the referral documentation is complete, you can upload the relevant documentation to the IME portal. This must be done **five business days** prior to the scheduled appointment.

Step 11: Requests for reconsideration

If you receive a request for a reconsideration of the section 57 determination, you need to:

- forward the reconsideration request to the Reconsiderations team immediately
- review the employee's request
- discuss the request with your Assistant Director and Injury Manager
- proceed with the medical examination (unless there are exceptional circumstances for cancelling the appointment)
- contact and advise the employee of their obligations under section 57
- document the discussion with the employee in the '*Manage Claim Comment*' (MCOM) function in Pracsys including the employee's rationale for not attending the medical examination

Important: The employee is still required to attend the medical examination even if they request a reconsideration of the section 57 determination.

However, reconsiderations should be reviewed on a case-by-case basis, and in exceptional circumstances, you may need to cancel the medical examination. Please discuss this with your Assistant Director and Injury Manager prior to cancelling the appointment.

Stop clock provisions: For undetermined claims where the prescribed timeframes apply, the stop clock actions will continue until the employee has attended the medical examination and Comcare has been notified that the

medical report is ready to be downloaded from the IME portal or has received the medical report from the medical examiner.

Step 12: Remind employee of medical examination

Contact the employee **seven calendar days** before the medical examination and remind them of their upcoming appointment.

If the employee notifies you that they are unable to attend the medical examination, see the information in [Cancellations](#).

Step 13: Failure to attend appointment

If you are notified by the medical examiner that the employee did not attend the appointment, see [Non-attendance at an independent medical examination](#)

The procedure ends here.

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Procedure to action an independent medical examination report

Upon receipt of an independent medical examination (IME) report, follow this procedure.

Timeframes for receiving the medical reports

Reports should be completed and provided to Comcare within the following timeframes:

- Standard report: **7 business days**
- Urgent report: **2 business days**
- Supplementary report: **7 business days**
- Clarification report: **4 business days**
- Desktop File Review report: **17 business days**

Step 1: Send report to Injury Manager

Once you have been notified that the medical report is available through the IME portal, upload the report to Pracsys (if the report has been received via

email or mail, it should have already been uploaded to Pracsys by the Claims Administration and Income Support (CAIS) team).

Alert the Injury Manager that you have received the report and send a copy of the report to the Injury Manager.

Invoice payment for IME fee

The CAIS team will download and process the invoice and make this available for verification by the Claims Manager in Pracsys.

Step 2: Complete Stop Clock actions

Action any stop clock requests in the '*Manage Initial Liability Assessment*' (MILA) function in Pracsys.

The stop clock action will end on the date that Comcare has received the notification from the medical examiner that the medical report is ready to be downloaded from the IME portal or if the IME portal is not used, then the date that Comcare receives the medical report from the examiner.

The calendar-day countdown will recommence the following day.

Step 3: Review the report

Within **one business day**, you and the Injury Manager need to review the medical report.

If the report identifies any **urgent actions** that are required from Comcare, work with the Injury Manager to action these, especially if the examiner has raised any safety concerns in relation to the employee.

Within **one business day**, schedule a triage meeting to discuss the report and agree on any decisions/actions resulting from the report's recommendations or findings.

Reminder: Please record the outcome of the triage meeting in Pracsys.

Within **two business days**, the Injury Manager will review the quality of the report as part of their review process and identify any concerns in relation to the examination or report. If any concerns are identified, the Injury Manager will notify the Assistant Director, IME and Injury Management Practice and request that appropriate steps are taken to rectify these concerns.

Stop clock provisions

If the prescribed timeframes apply, and further actions are required, update the stop clock actions in the '*Manage Initial Liability Assessment*' (MILA) function in Pracsys.

Step 3: Advise employee and other stakeholders of examination outcome

Once the triage meeting has been undertaken, and an agreement on the actions has been reached, contact the employee to explain the outcomes of the medical examination.

A full copy of the report can be provided to the employee (or their representative) providing there are no identified risks or health concerns.

If an adverse decision needs to be communicated to the employee, consideration should be given to sending a copy of the report to the treating practitioner to explain the outcome of the examination to the employee.

Contact the employer to discuss the outcomes and actions taken as a result of the medical examination.

You may need to provide an extract of the relevant information from the report to the employer via email.

Please see Summary of report for employer for the relevant prompts and a template to assist you with writing a summary email to the employer.

You may also need to contact the employee's treating practitioner to discuss the outcomes of the report.

The procedure ends here.

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Procedure to action non-attendance or obstruction of a medical examination

If an employee does not attend an independent medical examination (IME) or obstructs an examination, follow the steps outlined below.

Step 1: Send letter to employee

If the employee did not attend or obstructed the medical examination, send the employee a letter requesting the reasons why they did not attend or obstructed the medical examination.

The employee's reasons need to be provided to Comcare in writing. This will help inform whether their reasons for not attending or obstruction of the medical examination were reasonable in the circumstances.

Use the template '*Letter 366 - Section 57 - Failure to Attend - Empl*' for most claims or for claims for permanent impairment '*Letter 794 - Section 24/57 PI New Appt Accept Refusal to Attend*'

Step 2: Update Pracsys

Go to '*Manage Action Plan*' (MAP) and create an action plan. The '*Description*' field should state that you will follow up with the employee. The '*Required Date*' field should be **14 calendar days** after you requested the employee provide their reasons for non-attendance or obstruction.

Prescribed timeframes: If the prescribed timeframes apply, update the '*Manage Initial Liability Assessment*' (MILA) function in Pracsys.

Step 3: Determine if the non-attendance or obstruction was reasonable

Once the reasons for the non-attendance or obstruction have been received from the employee, determine whether they were reasonable.

Refer to the [Reasonable excuse](#) section for details on what is reasonable.

If yes, the excuse or reason was reasonable:

- re-schedule a new appointment via the [IME portal](#), with the original medical examiner at a date and time that suits the employee

If the only changes to the medical appointment are the time and date, you do not have to send another section 57 determination letter to the employee. You are however still required to inform the employee in writing of the new details of the medical appointment.

However, if you need to change the medical examiner and/or the qualifications of the medical examiner when changing the medical appointment, then a new section 57 determination letter will need to be sent to the employee.

Refer to the [Procedure to organise and book an IME](#) section.

If no, the excuse or reason was not reasonable or the employee provided no reasons for their non-attendance/obstruction:

- suspend the claim - refer to the procedure for [Suspending claims](#)
- send a section 57(2) determination letter to the employee advising of the suspension of their claim or entitlements under section 57(2) of the SRC Act. **The section 57(2) decision will remain in place until the employee attends the medical examination as per the original section 57(1) determination.**
- in your letter, ask the employee to contact you to discuss options for getting the claim reinstated. This includes discussions about the need for the employee to attend a medical examination and arranging a new appointment for the employee.

Step 4: Update Pracsys

Go to '*Manage Claim Comment*' (MCOM) and enter a comment. Record all your conversations and actions. Your comment should include:

- information on the non-attendance or obstruction of the previous appointment
- the reasons provided for the non-attendance or obstruction and whether the reason/s were reasonable in the circumstances
- details of the suspension (if applicable)
- the new appointment details.

Prescribed timeframes: If the prescribed timeframes apply, update the '*Manage Initial Liability Assessment*' (MILA) function in Pracsys.

This is the end of the procedure.

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The date of publication of this Gazette is 7 December 1988.

LATE COPY/AUTHOR'S CORRECTIONS SURCHARGES

From 1 January 1989 late copy may be accepted on payment of a surcharge. Late copy is a notice submitted for publication in a nominated *Gazette* for which the copy deadline has closed but printing has not commenced. The late copy surcharge will be an additional fifty per cent of the current rate.

A surcharge will also apply for author's corrections made after the copy deadline. These corrections will be charged at \$2.00 per altered printed line.

For further information contact Don Kime on (062) 95 4657.

Variation of closing times

CHRISTMAS/NEW YEAR PERIOD

Commonwealth of Australia Gazette

The last regular *Gazette* for 1988 will be the Public Service issue to be published on 22 December 1988 with normal closing times. There will be no regular issues of the *Gazette* on 27 December 1988, 28 December 1988, 29 December 1988, 3 January 1989, 4 January 1989 and 5 January 1989.

The Government Notices Issue of 11 January 1989 will have normal closing times.

Friday, 6 January 1989 at 10.00 a.m.

Departments are requested to note the dates upon which regular issues will not appear and to make every effort to avoid the need for *Special Issues* during the holiday period by making arrangements for all necessary administrative and executive material to be gazetted by Wednesday 21 December 1988. Where possible all other material should be held over until the first regular issue of 1989.

N.N.—8880870

GENERAL INFORMATION

IMPORTANT COPYRIGHT NOTICE

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Government Notices issues, published each Wednesday, containing all legislation, proclamations, special information and government departments notices and are sold at \$5.95 each or on subscription of \$290.00 (50 issues), \$150.00 (25 issues) or \$75.00 (12 issues).

NOTICES FOR PUBLICATION and related correspondence should be addressed to:

Gazette Officer, Australian Government Publishing Service, GPO Box 4007, Canberra ACT 2601. Telephone (062) 95 4656

or lodged at AGPS, Government Printing Office Building, Wentworth Avenue, Kingston. Notices are accepted for publication in the next available issue, unless otherwise specified.

Except where a standard form is used, all notices for publication must have a covering instruction setting out requirements. A typewritten original or good copies are to be provided, wherever possible double-spaced, with a margin surrounding the typewritten matter. Copy is to be confined to one side of the paper, sheets are to be of uniform size (preferably A4), numbered consecutively and fastened securely together. Dates, proper names and signatures particularly are to be shown clearly.

Copy will be returned unpublished if not submitted in accordance with these requirements.

CLOSING TIMES. Notices for publication should be lodged at AGPS, Government Printing Office Building, unless otherwise specified, by the following times (except at holiday periods for which special advice of earlier closing times will be given).

Government Notices Gazette all copy: Friday at 10.00 a.m. in the week before publication.

ADVERTISING RATES for Government Notices are: \$345.00 per typeset page \$115.00 per camera-ready page \$225.00 per altered magnetic tape page; and \$150.00 per unaltered magnetic tape page.

For Special *Gazette* notices the rates are the same as for Government Notices plus \$100.00 per issue.

For Periodic *Gazette* notices the rates are \$260.00 per typeset page plus \$200.00 per issue. Material supplied as camera-ready copy and magnetic tape (altered and unaltered) will be charged at the respective Government Notices rate.

SUBSCRIPTIONS are payable in advance and are accepted for a maximum period of one year. All subscriptions are on a firm basis and refunds for cancellations will not be given. Rates include surface postage in Australia and overseas. Other carriage rates are available on application.

AVAILABILITY. The *Gazette* may be purchased by mail from:

Mail Order Sales, Australian Government Publishing Service, GPO Box 84, Canberra ACT 2601

or over the counter from Commonwealth Government Bookshops at:

Adelaide: 55 Currie St, tel. (08) 237 6955

Brisbane: 294 Adelaide St, tel. (07) 229 6822

Canberra: 70 Alinga St, tel. (062) 47 7211

Hobart: 162 Macquarie St, tel. (002) 23 7151

Melbourne: 347 Swanston St, tel. (03) 663 3010

Perth: 200 St George's Tce, tel. (09) 322 4737

Sydney: 120 Clarence St, tel. (02) 29 1940

Commonwealth Acts and Statutory Rules, Australian Capital Territory Ordinances and Regulations, and other Commonwealth Government publications may also be purchased at these addresses.

ALL REMITTANCES should be made payable to: Collector of Public Moneys, Australia Government Publishing Service.

OTHER ISSUES OF THE GAZETTE

Public Service issues contain notices concerning administrative matters, including examinations, vacancies, transfers and promotions within the Australian Public Service and the Services of the Australian Postal Commission, Australian Telecommunications Commission, Commonwealth Teaching Service and Defence Force appointments etc. These issues are published weekly at 10.30 a.m. on Thursday, and sold at \$8.95 each or on subscription of \$395.00 (50 issues), \$206.00 (25 issues) or \$103.00 (12 issues).

Business issues, published each Tuesday, containing Notices under the Co-operative Companies and Securities Scheme, Bankruptcy Act and Private Notices and sold at \$3.95 each or on subscription of \$220.00 (50 issues), \$116.00 (25 issues) or \$58.00 (12 issues).

Special issues include notices which require urgent publication. All costs associated with producing Specials will be borne by the responsible department or authority. A limited number of Special *Gazettes* will be made available for sale from the Commonwealth Government Bookshop, Canberra, on the day of publication. General distribution of these notices will be by their inclusion in the next published issue of the Government Notices *Gazette* or Business *Gazette* as well as in the next published issue of the series of the *Gazette* in which the notice would normally have been published.

Tariff concessions issues contain notices of tariff concessions proposed, granted or revoked in accordance with the provisions of Part XVA of the *Customs Act 1901*. These issues are published each Wednesday and are sold at \$1.95 or on subscription only at \$115.00 for 50 issues including surface postage.

Periodic issues contain lengthy notices of a non-urgent nature, including the following: certificates of Australian

citizenship; registered tax agents; authorised celebrants; unclaimed deposits and moneys; Australian Public Service conditions of entry and advancement; appointments to the Australian Public Service; holders of import licences and tariff quotas. Issues are made at irregular intervals as required, at individual prices according to size. Advice of availability is given in the Government Notices, Business and Public Service issues immediately following the day of publication. Periodic issues are not available on subscription, but standing orders are accepted for all selected issues.

Purchasing and Disposals issues of the *Gazette* provide information on Commonwealth purchases and disposals and other matters of general interest to persons buying from or selling to the Commonwealth. These issues are published

each Wednesday and sold at \$3.95 or on subscription of \$200.00 including postage for 50 issues.

Index issues contain references to entries in the Government Notices issues and entries in the Orders in Council, Notices under the Superannuation Act, Notices under the Public Service Act, and Determinations under the Public Service Act sections of the Public Service issues. Index issues are published quarterly, are available over the counter from Commonwealth Government Bookshops and are supplied without charge to annual subscribers to the Government Notices issues.

N.N.—8880871

ISSUE OF PERIODIC GAZETTES

The following Periodic issues of the *Gazette* have been published.

Copies may be purchased from Commonwealth government bookshops or by mail from the relevant address given on the front page of this *Gazette*.

<i>Gazette number</i>	<i>Date of publication</i>	<i>Subject</i>
P1	18.1.88	Tariff Quotas—Transfer of Quota Allocations—1 January 1987 to 30 November 1987
P2	5.2.88	Australian Customs Service—Import Licences
P3	19.2.88	Tariff Quotas—Motor vehicles multiple period tender quota allocations—1 December 1987 to 31 January 1989
P4	22.2.88	Tariff Quotas—Motor vehicles multiple period tender quota allocations—1 October 1987 to 31 March 1989
P5	23.2.88	Tariff Quotas—Motor vehicles tender quota allocations—1 October 1987 to 31 March 1989
P6	26.2.88	Tariff Quotas—Textile, clothing, footwear quota allocations—1 January 1988 to 28 February
P7	16.3.88	<i>Wildlife Protection (Regulation of Exports and Imports) Act 1982</i>
P8	14.3.88	Tariff Quotas—1988 Base Quota Allocations—Listing of tariff quota holders
P9	24.3.88	Customs (Import Licensing) Regulations Exception Notice No. M68
P10	6.4.88	Tariff Quotas—Base Motor Vehicles Quota Allocations—Listing of tariff quota holders
P11	27.4.88	Tariff Quotas—Quota transactions for the period 871201 to 880331
P12	13.5.88	Tariff Quotas—Textiles, clothing and footwear allocations of 1988 residual tender by ballot
P13	27.5.88	Great Barrier Reef Marine Park Regulations (1987)
P14	24.6.88	Australian Capital Territory, <i>Unclaimed Moneys Ordinance 1950</i> , Petroz NL (formerly Offshore Oil NL)
P15	24.6.88	Tariff Quotas—Cheese Quota Allocations—1 July 1988 to 30 June 1989—Listing of Tariff Quota Holders
P16	24.6.88	Tariff Quotas—Developing Country Quota Allocations—1 July 1988 to 28 February 1989—List of Quota Holders
P17	1.7.88	<i>Wildlife Protection (Regulation of Exports and Imports) Act 1982</i>
P18	30.6.88	<i>Life Insurance Act 1945</i> —Return of Unclaimed Moneys as at 31 December 1987
P19	15.7.88	Amendment No. 1 to the National Health and Medical Research Council Food Standards Code
P20	30.6.88	Statement of Unclaimed Money Deposits and Money for Year Ended 31.12.87
P21	22.7.88	Import Licences—Issued under the Customs (Import Licensing) Regulations for used, second hand or disposals earthmoving, construction and materials handling machinery and equipment—January to June 1988
P22	8.8.88	<i>Great Barrier Reef Marine Park Act 1975</i> —Permits granted, refused, suspended or revoked
P23	18.8.88	Tariff Quotas—Quota Transactions for the period 1 April 1988 to 30 June 1988
P24	12.9.88	<i>Wildlife Protection (Regulation of Exports and Imports) Act 1982</i>
P25	31.8.88	<i>National Memorials Ordinance 1928</i> —Determination of Nomenclature
P26	26.10.88	Tariff Quotas—Textiles, Clothing and Footwear Base quota allocations for the Period 1 December 1988 to 28 February 1989—List of quota Holders
P27	27.10.88	Tariff Quotas—Quota Transactions for the Period 1 July 1988 to 30 September 1988
P28	11.11.88	<i>Great Barrier Reef Marine Park Act 1975</i> Particulars of Permits Granted, Refused Suspended or Revoked for the Period 1 July 1988 to 30 September 1988

Special Information

NOTICE OF CESSATION OF A STATUTORY LIEN IN RESPECT OF CERTAIN AIRCRAFT

Notice is hereby given that pursuant to section 75 (1) of the *Civil Aviation Act 1988*, a Statutory Lien vested in the Authority ceased to have effect in respect of each of the aircraft described hereunder.

<i>Lien No.</i>	<i>Description and registration mark</i>	<i>Date on which lien ceased to have effect</i>
00548	Beech 58 'Baron', VH-CSY	16 March 1988
00693	Cessna 500, VH-NEW	11 November 1988
00244	Beech D55, VH-MKE	16 November 1988
00314	Piper PA60-601P, VH-PWY	16 November 1988
00508	Cessna 172RG, VH-OLY	16 November 1988

NOTICE OF CANCELLATION OF THE CERTIFICATE OF REGISTRATION IN RESPECT OF CERTAIN AIRCRAFT

Notice is hereby given that pursuant to section 71 (1) of the *Civil Aviation Act 1988*, of the cancellation of the Certificate of Registration in respect of each of the aircraft described hereunder.

<i>Lien No.</i>	<i>Date and time cancelled (EDST)</i>	<i>Description and registration</i>	<i>Name and address of certificate of registration holder</i>
00071	24 November 1988, 12.00 a.m.	Piper PA28-140, VH-RVZ	Mr N. Lee 7 Owen Court, Thomastown Vic. 3074

Dated this 1st day of December 1988.

K. L. CLAYTON
Registrar of Statutory Liens

N.N.—8880873

Legislation

Ordinances

AUSTRALIAN CAPITAL TERRITORY NOTIFICATION OF THE MAKING OF ORDINANCES

Notice is hereby given that the undermentioned Ordinances of the Australian Capital Territory have been made. Copies of the Ordinances may be purchased at the Commonwealth Government Bookshop, 70 Alinga St, Canberra City Australian Capital Territory.

<i>Number and year of Ordinance</i>	<i>Short title</i>
77 of 1988	<i>Interpretation (Amendment) Ordinance (No. 2) 1988</i>
78 of 1988	<i>Trustee (Amendment) Ordinance 1988</i>

N.N.—8880874

Orders

NOTIFICATION OF THE MAKING OF ORDERS UNDER THE CIVIL AVIATION REGULATIONS

Notice is hereby given that amendments to Civil Aviation Orders Parts 105, 106, and 107 listed below, were made on 22 November 1988 and are effective from 29 December 1988.

CIVIL AVIATION ORDERS PART 105 AMENDMENTS

New Airworthiness directives

A109/14: Main Landing Gear Wheels
Beech 33/34: Pilot and Copilot Seat Frame Assemblies
Beech 35/61: Pilot and Copilot Seat Frame Assemblies
Beech 36/33: Pilot and Copilot Seat Tracks and Seat Frames
Beech 55/72: Pilot and Copilot Seat Tracks and Seat Frames
Cessna 303/7: NLG Actuator Attach Fitting
R22/30: Main Rotor Spindle
B767/20: BS 1582 Pressure Bulkhead
BAe 146/10: Oxygen Main Supply Cylinder Corrosion

Amended Airworthiness Directives

General/37 Amendment 5: Emergency Exits
AS355/1 Amendment 8: Retirement Life—Fatigue Critical Components
Beech 90/76 Amendment 2: Elevator Trim Tab System
Beech 200/46 Amendment 2: Elevator Trim Tab System
Bell 212/4 Amendment 15: Retirement Lives—Fatigue Critical Components
Cessna 170/53 Amendment 2: Seat Adjustment Mechanism
EMB 110/25 Amendment 1: Main Landing Gear Torque Link Key
P68/30 Amendment 1: Rudder Cables
PA 31/88 Amendment 3: Fuselage Fatigue Life Limitation
SWSA226/43 Amendment 4: Supplemental Inspection Program and Life Limited Items
General/37 Amendment 5: Emergency Exits
Bell 214ST/5 Amendment 1: Tail Rotor Gearbox Main Case Assembly
DC9/24 Amendment 1: Auxiliary Power Unit Exhaust Duct

Cancelled Airworthiness Directives

FU24/18: Fuselage Skin Panels
Bell 212/15: Main Rotor Hub Fitting Assemblies
B707/58 Amendment 2: Aircraft Flight Data Recorder and Flight Crew Compartment Voice Recorder—Installation Requirements
F27/83A: Main Landing Gear Lock Strut

Previously Submitted as Unscheduled/Urgent Airworthiness Directives

HS125/97: Auxiliary Rear Engine Mount

CIVIL AVIATION ORDER PART 106 AMENDMENTS

New Airworthiness Directives

Nil

Amended Airworthiness Directives

CT7/1 Amendment 12: CT7-TP Life Limits—Engine Rotating Parts

Cancelled Airworthiness Directives

Nil

Previously Submitted as Unscheduled/Urgent Airworthiness Directives

Nil

CIVIL AVIATION ORDERS PART 107 AMENDMENT

New Airworthiness Directives

PMC/42: Oil Filled Hubs for Agricultural Aircraft

Amended Airworthiness Directives

Prop/1: McCauley Propellers
PR/24 Amendment 4: Beta Tube
PHS/11 Amendment 1: Blade Retaining Rings
PMC/35 Amendment 1: Propeller Blade Butt Retention Thread—Eddy Current Inspection

Previously Submitted as Unscheduled/Urgent Airworthiness Directives

Nil

Copies of the above Orders are available for inspection and may be purchased over the counter from the:

Civil Aviation Authority
607 Swanston St
Carlton South Vic. 3053

or by mail from:

Civil Aviation Authority
Publications Centre
GPO Box 1986
Carlton South Vic. 3053

CA03C258 CR100048495

N.N.—8880875

NOTIFICATION OF THE MAKING OF ORDERS UNDER THE CIVIL AVIATION REGULATIONS

Notice is hereby given that the following amendments to Civil Aviation Orders Part 105

made on 29 November,

AD/DH 114: Flap to Flap Jack Connecting Pin
AD/DH 104/38: Flap to Flap Jack Connecting Pin

made on 30 November,

AD/CESSNA 650/1: Elevator Balance

made on 1 December,

AD/AS 355/33: Tail Rotor Front Drive Shaft

will become effective 7 December 1988.

Copies of the above orders are available for inspection and may be purchased over the counter from the:

Civil Aviation Authority
607 Swanston St
Carlton South Vic. 3053

or by mail from:

Civil Aviation Authority
Publications Centre
GPO Box 1986
Carlton South Vic. 3053

N.N.—8880876

Government Departments

Administrative Services

REDISTRIBUTION OF VICTORIA INTO ELECTORAL DIVISIONS FOR THE ELECTION OF MEMBERS OF THE HOUSE OF REPRESENTATIVES DETERMINATION OF QUOTA

Number of Divisions into which Victoria is to be distributed	38
Number of electors in Victoria	2 754 072
Quota for Victoria	72 476
Permissible maximum number of electors in a Division	79 724
Permissible minimum number of electors in a Division	65 228

Dated this 22nd day of November 1988.

COLIN A. HUGHES
Electoral Commissioner

N.N.—8880877

REDISTRIBUTION OF WESTERN AUSTRALIA INTO ELECTORAL DIVISIONS FOR THE ELECTION OF MEMBERS OF THE HOUSE OF REPRESENTATIVES DETERMINATION OF QUOTA

Under section 65 of the *Commonwealth Electoral Act 1918*

Number of Divisions into which Western Australia is to be distributed	14
Number of electors in Western Australia	943 570
Quota for Western Australia	67 398
Permissible maximum number of electors in a Division	74 138
Permissible minimum number of electors in a Division	60 658

Dated this 14th day of November 1988.

COLIN A. HUGHES
Electoral Commissioner

N.N.—8880878

The Arts, Sport, the Environment, Tourism and Territories

AUSTRALIAN CAPITAL TERRITORY

City Area Leases Ordinance 1936

INSTRUMENT OF APPROVAL UNDER SECTION 10

In pursuance of section 10 of the *City Area Leases Ordinance 1936*, I, PETER ROBERT GRIFFITHS, being the officer for the time being occupying an office to the occu-

pant of which the Minister has by instrument in writing under section 12C of the *Seat of Government (Administration) Act 1910* delegated his powers under section 10 of the said Ordinance hereby approve of Herbert Henry Parker ('the Applicant') carrying on the profession, trade, occupation or calling of company director ('the business') on Block 7, Section 32, Division of Lyons known as 3 Beedham Pl, Lyons ('the land') subject to the following conditions relating to the use of the land being observed by the Applicant in carrying on the business:

- (1) that this approval will remain valid only while the Applicant continues to be a bona fide resident of the land;
- (2) that the Applicant will ensure that the conduct of the business does not cause an annoyance, a nuisance or danger and is not offensive to any tenants or occupiers of adjoining lands;
- (3) that the Applicant will not erect or permit or suffer to be displayed or erected upon the land or any building thereon any advertising sign or hoarding whatever without the consent in writing of the National Capital Development Commission and the Building Controller;
- (4) that the Applicant will conduct the business strictly in accordance with the application made by the Applicant under section 10 of the *City Area Leases Ordinance* unless otherwise stipulated in this Instrument;
- (5) that no person other than the Applicant will conduct or in any way carry on the business on the land without the prior approval of the Minister;
- (6) that the Applicant will ensure that all residence and business related vehicles are parked within the confines of the land;
- (7) that no more than two people be employed in the business on the land at any one time;
- (8) that the business will only be conducted on the land between the hours of 9.00 a.m. and 5.00 p.m. Monday to Friday;
- (9) that the Applicant will conduct the business strictly by appointment, and that such appointments will be organised to ensure that no more than two clients are in attendance at any one time;
- (10) that this approval will terminate on the 13th day of November 1989 or on such earlier date as the Minister determines in accordance with condition 11;
- (11) upon any failure to comply with any or all of the foregoing conditions the Minister or his Delegate under the said Ordinance may give written notice requiring the Applicant to show cause within a period of fourteen days why this approval should not be revoked. At the expiration of this period the Minister or his Delegate may revoke the approval.

Dated this 21st day of November 1988.

P. R. GRIFFITHS
Delegate of the Minister of State
for the Arts and Territories

AUSTRALIAN CAPITAL TERRITORY

City Area Leases Ordinance 1936

INSTRUMENT OF APPROVAL UNDER SECTION 10

In pursuance of section 10 of the *City Area Leases Ordinance 1936*, I, PETER ROBERT GRIFFITHS, being the officer for the time being occupying an office to the occupant of which the Minister has by instrument in writing under section 12C of the *Seat of Government (Administration) Act 1910* delegated his powers under section 10 of the said Ordinance hereby approve of Gerard Hirsch ('the Applicant') carrying on the profession, trade, occupation or calling of hypnotherapist ('the business') on Block 19, Section 75, Division of O'Connor known as 65 Wattle St, O'Connor ('the land') subject to the following conditions relating to the use of the land being observed by the Applicant in carrying on the business:

- (1) that this approval will remain valid only while the Applicant continues to be a bona fide resident of the land;
- (2) that the Applicant will ensure that the conduct of the business does not cause an annoyance, a nuisance or danger and is not offensive to any tenants or occupiers of adjoining lands;
- (3) that the Applicant will not erect or permit or suffer to be displayed or erected upon the land or any building thereon any advertising sign or hoarding whatever without the consent in writing of the National Capital Development Commission and the Building Controller;
- (4) that the Applicant will conduct the business strictly in accordance with the application made by the Applicant under section 10 of the City Area Leases Ordinance unless otherwise stipulated in this Instrument;
- (5) that no person other than the Applicant will conduct or in any way carry on the business on the land without the prior approval of the Minister;
- (6) that the Applicant will ensure that all residence and business related vehicles are parked within the confines of the land;
- (7) that the Applicant will not employ any more than one assistant for the purpose of conducting or carrying on the business on the land without the prior approval of the Minister and that assistant shall be the applicant's wife who will be employed on in the capacity of Hypnotherapist;
- (8) that only the study and lounge room in the house be used for the conduct of the business;
- (9) that the business will only be conducted on the land between the hours of 9.00 a.m. and 5.00 p.m. Monday to Friday and on one evening only per week between the hours of 7.30 p.m. and 10.00 p.m.;
- (10) that the Applicant will conduct the business strictly by appointment;
- (11) that this approval will terminate on the 13th day of November 1989 or on such earlier date as the Minister determines in accordance with condition 12;
- (12) upon any failure to comply with any or all of the foregoing conditions the Minister or his Delegate under the said Ordinance may give written notice requiring the Applicant to show cause within a period of fourteen days why this approval should not be revoked. At the expiration of this period the Minister or his Delegate may revoke the approval.

Dated this 21st day of November 1988.

P. R. GRIFFITHS
Delegate of the Minister of State
for the Arts and Territories

N.N.—8880880

AUSTRALIAN CAPITAL TERRITORY

City Area Leases Ordinance 1936

INSTRUMENT OF APPROVAL UNDER SECTION 10

In pursuance of section 10 of the *City Area Leases Ordinance 1936*, I, PETER ROBERT GRIFFITHS, being the officer for the time being occupying an office to the occupant of which the Minister has by instrument in writing under section 12C of the *Seat of Government (Administration) Act 1910* delegated his powers under section 10 of the said Ordinance hereby approve of Lorraine Judith Bevan ('the Applicant') carrying on the profession, trade, occupation or calling of barrister and solicitor ('the business') on Block 5, Section 26, Division of Page known as 68 Belconnen Way, Page ('the land') subject to the following conditions relating to the use of the land being observed by the Applicant in carrying on the business:

- (1) that this approval will remain valid only while the Applicant continues to be a bona fide resident of the land;
- (2) that the Applicant will ensure that the conduct of the business does not cause an annoyance, a nuisance or danger and is not offensive to any tenants or occupiers of adjoining lands;
- (3) that the Applicant will not erect or permit or suffer to be displayed or erected upon the land or any building thereon any advertising sign or hoarding whatever without the consent in writing of the National Capital Development Commission and the Building Controller;
- (4) that the Applicant will conduct the business strictly in accordance with the application made by the Applicant under section 10 of the City Area Leases Ordinance unless otherwise stipulated in this Instrument;
- (5) that no person other than the Applicant will conduct or in any way carry on the business on the land without the prior approval of the Minister;
- (6) that the Applicant will ensure that all residence and business related vehicles are parked within the confines of the land;
- (7) that the Applicant will not employ any more than one part-time secretary for the purpose of conducting or carrying on the business on the land without the prior approval of the Minister;
- (8) that only one room in the house be used for the conduct of the business;
- (9) that the business will only be conducted on the land between the hours of 10.00 a.m. and 6.00 p.m. Monday to Friday and 9.00 a.m. and 12.00 noon Saturdays;
- (10) that the Applicant will conduct the business strictly by appointment, and that such appointments will be organised to ensure that only one client is in attendance at any one time;
- (11) that this approval will terminate on the 13th day of November 1989 or on such earlier date as the Minister determines in accordance with condition 12;
- (12) upon any failure to comply with any or all of the foregoing conditions the Minister or his Delegate under the said Ordinance may give written notice requiring the Applicant to show cause within a period of fourteen days why this approval should not be revoked. At the expiration of this period the Minister or his Delegate may revoke the approval.

Dated this 21st day of November 1988.

P. R. GRIFFITHS
Delegate of the Minister of State
for the Arts and Territories

N.N.—8880881

FOI Production Documents [2024-2722]

AUSTRALIAN CAPITAL TERRITORY*City Area Leases Ordinance 1936***INSTRUMENT OF APPROVAL UNDER SECTION 10**

In pursuance of section 10 of the *City Area Leases Ordinance 1936*, I, PETER ROBERT GRIFFITHS, being the officer for the time being occupying an office to the occupant of which the Minister has by instrument in writing under section 12C of the *Seat of Government (Administration) Act 1910* delegated his powers under section 10 of the said Ordinance hereby approve of Karl Heinz Forthuber ('the Applicant') carrying on the profession, trade, occupation or calling of ice cream makers ('the business') on Block 9, Section 16, Division of Rivett known as 241 Hindmarsh Dr, Rivett ('the land') subject to the following conditions relating to the use of the land being observed by the Applicant in carrying on the business:

- (1) that this approval will remain valid only while the Applicant continues to be a bona fide resident of the land;
- (2) that the Applicant will ensure that the conduct of the business does not cause an annoyance, a nuisance or danger and is not offensive to any tenants or occupiers of adjoining lands;
- (3) that the Applicant will not erect or permit or suffer to be displayed or erected upon the land or any building thereon any advertising sign or hoarding whatever without the consent in writing of the National Capital Development Commission and the Building Controller;
- (4) that the Applicant will conduct the business strictly in accordance with the application made by the Applicant under section 10 of the *City Area Leases Ordinance* unless otherwise stipulated in this Instrument;
- (5) that no person other than the Applicant will conduct or in any way carry on the business on the land without the prior approval of the Minister;
- (6) that the Applicant will ensure that all residence and business related vehicles are parked within the confines of the land;
- (7) that the Applicant will not employ any assistants for the purpose of conducting or carrying on the business on the land without the prior approval of the Minister;
- (8) that only the back room off the garage be used for the conduct of the business;
- (9) that the business will only be conducted on the land between the hours of 8.00 a.m. and 8.00 p.m. three days per week for three hours per day;
- (10) that the Applicant will comply with condition established by the ACT Health Authority;
- (11) that the power source of the mechanical equipment involved in the process is not to exceed 0.4 kilowatts;
- (12) that the Applicant will not conduct any retail sales from the land;
- (13) that this approval will terminate on the 13th day of November 1989 or on such earlier date as the Minister determines in accordance with condition 14;
- (14) upon any failure to comply with any or all of the foregoing conditions the Minister or his Delegate under the said Ordinance may give written notice requiring the Applicant to show cause within a period of fourteen days why this approval should not be revoked. At the expiration of this period the Minister or his Delegate may revoke the approval.

Dated this 22nd day of November 1988.

P. R. GRIFFITHS
Delegate of the Minister of State
for the Arts and Territories

N.N.—8880882

AUSTRALIAN CAPITAL TERRITORY*City Area Leases Ordinance 1936***INSTRUMENT OF APPROVAL UNDER SECTION 10**

In pursuance of section 10 of the *City Area Leases Ordinance 1936*, I, PETER ROBERT GRIFFITHS, being the officer for the time being occupying an office to the occupant of which the Minister has by instrument in writing under section 12C of the *Seat of Government (Administration) Act 1910* delegated his powers under section 10 of the said Ordinance hereby approve of Bun Thoeun Ly ('the Applicant') carrying on the profession, trade, occupation or calling of clothing subcontractor ('the business') on Block 11, Section 37, Division of Macgregor known as 99 Florey Dr, Macgregor ('the land') subject to the following conditions relating to the use of the land being observed by the Applicant in carrying on the business:

- (1) that this approval will remain valid only while the Applicant continues to be a bona fide resident of the land;
- (2) that the Applicant will ensure that the conduct of the business does not cause an annoyance, a nuisance or danger and is not offensive to any tenants or occupiers of adjoining lands;
- (3) that the Applicant will not erect or permit or suffer to be displayed or erected upon the land or any building thereon any advertising sign or hoarding whatever without the consent in writing of the National Capital Development Commission and the Building Controller;
- (4) that the Applicant will conduct the business strictly in accordance with the application made by the Applicant under section 10 of the *City Area Leases Ordinance* unless otherwise stipulated in this Instrument;
- (5) that no person other than the Applicant will conduct or in any way carry on the business on the land without the prior approval of the Minister;
- (6) that the Applicant will ensure that all residence and business related vehicles are parked within the confines of the land;
- (7) that the Applicant will not employ any more than one assistant for the purpose of conducting or carrying on the business on the land without the prior approval of the Minister;
- (8) that only bedrooms 3 and 4 in the house be used for the conduct of the business;
- (9) that the business will only be conducted on the land between the hours of 2.30 p.m. and 8.00 p.m. Monday to Sunday;
- (10) that this approval relates to the ironing and pressing of garments only;
- (11) that this approval will terminate on the 13th day of November 1989 or on such earlier date as the Minister determines in accordance with condition 12;
- (12) upon any failure to comply with any or all of the foregoing conditions the Minister or his Delegate under the said Ordinance may give written notice requiring the Applicant to show cause within a period of fourteen days why this approval should not be revoked. At the expiration of this period the Minister or his Delegate may revoke the approval.

Dated this 21st day of November 1988.

P. R. GRIFFITHS
Delegate of the Minister of State
for the Arts and Territories

N.N.—8880883

AUSTRALIAN CAPITAL TERRITORY

City Area Leases Ordinance 1936

INSTRUMENT OF APPROVAL UNDER SECTION 10

In pursuance of section 10 of the *City Area Leases Ordinance 1936*, I, PETER ROBERT GRIFFITHS, being the officer for the time being occupying an office to the occupant of which the Minister has by instrument in writing under section 12C of the *Seat of Government (Administration) Act 1910* delegated his powers under section 10 of the said Ordinance hereby approve of Jacqueline Elizabeth McCauley ('the Applicant') carrying on the profession, trade, occupation or calling of wholesale bookseller ('the business') on Block 6, Section 475, Division of Kambah known as 3 Tiernan Pl, Kambah ('the land') subject to the following conditions relating to the use of the land being observed by the Applicant in carrying on the business:

- (1) that this approval will remain valid only while the Applicant continues to be a bona fide resident of the land;
- (2) that the Applicant will ensure that the conduct of the business does not cause an annoyance, a nuisance or danger and is not offensive to any tenants or occupiers of adjoining lands;
- (3) that the Applicant will not erect or permit or suffer to be displayed or erected upon the land or any building thereon any advertising sign or hoarding whatever without the consent in writing of the National Capital Development Commission and the Building Controller;
- (4) that the Applicant will conduct the business strictly in accordance with the application made by the Applicant under section 10 of the *City Area Leases Ordinance* unless otherwise stipulated in this Instrument;
- (5) that no person other than the Applicant will conduct or in any way carry on the business on the land without the prior approval of the Minister;
- (6) that the Applicant will ensure that all residence and business related vehicles are parked within the confines of the land;
- (7) that the Applicant will not employ any more than one assistant for the purpose of conducting or carrying on the business on the land without the prior approval of the Minister;
- (8) that only the garage be used for the conduct of the business;
- (9) that the business will only be conducted on the land between the hours of 8.00 a.m. and 5.00 p.m. Monday to Friday;
- (10) that deliveries by commercial vehicles to the land be limited to two each day;
- (11) that the Applicant will not conduct any retail sales on the land;
- (12) that this approval will terminate on the 13th day of November 1989 or on such earlier date as the Minister determines in accordance with condition 13;
- (13) upon any failure to comply with any or all of the foregoing conditions the Minister or his Delegate under the said Ordinance may give written notice requiring the Applicant to show cause within a period of fourteen days why this approval should not be revoked. At the expiration of this period the Minister or his Delegate may revoke the approval.

Dated this 21st day of November 1988.

P. R. GRIFFITHS
Delegate of the Minister of State
for the Arts and Territories

N.N.—8880884

AUSTRALIAN CAPITAL TERRITORY

City Area Leases Ordinance 1936

INSTRUMENT OF APPROVAL UNDER SECTION 10

In pursuance of section 10 of the *City Area Leases Ordinance 1936*, I, PETER ROBERT GRIFFITHS, being the officer for the time being occupying an office to the occupant of which the Minister has by instrument in writing under section 12C of the *Seat of Government (Administration) Act 1910* delegated his powers under section 10 of the said Ordinance hereby approve of Peter Robert Harris ('the Applicant') carrying on the profession, trade, occupation or calling of computer manufacturer ('the business') on Block 13, Section 2, Division of Chapman known as 2 Chauvel Cir, Chapman ('the land') subject to the following conditions relating to the use of the land being observed by the Applicant in carrying on the business:

- (1) that this approval will remain valid only while the Applicant continues to be a bona fide resident of the land;
- (2) that the Applicant will ensure that the conduct of the business does not cause an annoyance, a nuisance or danger and is not offensive to any tenants or occupiers of adjoining lands;
- (3) that the Applicant will not erect or permit or suffer to be displayed or erected upon the land or any building thereon any advertising sign or hoarding whatever without the consent in writing of the National Capital Development Commission and the Building Controller;
- (4) that the Applicant will conduct the business strictly in accordance with the application made by the Applicant under section 10 of the *City Area Leases Ordinance* unless otherwise stipulated in this Instrument;
- (5) that no person other than the Applicant will conduct or in any way carry on the business on the land without the prior approval of the Minister;
- (6) that the Applicant will ensure that all residence and business related vehicles are parked within the confines of the land;
- (7) that the Applicant will not employ any assistants for the purpose of conducting or carrying on the business on the land without the prior approval of the Minister;
- (8) that this business will only be conducted on the land between the hours of 7.00 p.m. and 9.00 p.m. Monday to Friday and 9.00 a.m. and 5.00 p.m. Saturday and Sunday;
- (9) that this approval will terminate on the 13th day of November 1989 or on such earlier date as the Minister determines in accordance with condition 10;
- (10) upon any failure to comply with any or all of the foregoing conditions the Minister or his Delegate under the said Ordinance may give written notice requiring the Applicant to show cause within a period of fourteen days why this approval should not be revoked. At the expiration of this period the Minister or his Delegate may revoke the approval.

Dated this 22nd day of November 1988.

P. R. GRIFFITHS
Delegate of the Minister of State
for the Arts and Territories

N.N.—8880885

AUSTRALIAN CAPITAL TERRITORY

City Area Leases Ordinance 1936

INSTRUMENT OF APPROVAL UNDER SECTION 10

In pursuance of section 10 of the *City Area Leases Ordinance 1936*, I, PETER ROBERT GRIFFITHS, being the officer for the time being occupying an office to the occupant of which the Minister has by instrument in writing

under section 12C of the *Seat of Government (Administration) Act 1910* delegated his powers under section 10 of the said Ordinance hereby approve of Allan George Smith ('the Applicant') carrying on the profession, trade, occupation or calling of computer consultant ('the business') on Block 31, Section 45, Division of Mawson known as 10 Hoadley St, Mawson ('the land') subject to the following conditions relating to the use of the land being observed by the Applicant in carrying on the business:

- (1) that this approval will remain valid only while the Applicant continues to be a bona fide resident of the land;
- (2) that the Applicant will ensure that the conduct of the business does not cause an annoyance, a nuisance or danger and is not offensive to any tenants or occupiers of adjoining lands;
- (3) that the Applicant will not erect or permit or suffer to be displayed or erected upon the land or any building thereon any advertising sign or hoarding whatever without the consent in writing of the National Capital Development Commission and the Building Controller;
- (4) that the Applicant will conduct the business strictly in accordance with the application made by the Applicant under section 10 of the *City Area Leases Ordinance* unless otherwise stipulated in this Instrument;
- (5) that no person other than the Applicant will conduct or in any way carry on the business on the land without the prior approval of the Minister;
- (6) that the Applicant will ensure that all residence and business related vehicles are parked within the confines of the land;
- (7) that the Applicant will not employ any more than one assistant for the purpose of conducting or carrying on the business on the land without the prior approval of the Minister;
- (8) that only the rumpus room in the house be used for the conduct of the business;
- (9) that the business will only be conducted on the land between the hours of 10.00 a.m. and 6.00 p.m. Monday to Friday;
- (10) that the Applicant will not conduct any retail sales from the land;
- (11) that the Applicant will conduct the business strictly by appointment, and that such appointments will be organised to ensure that no more than two clients are in attendance at any one time;
- (12) that this approval will terminate on the 13th day of November 1989 or on such earlier date as the Minister determines in accordance with condition 13;
- (13) upon any failure to comply with any or all of the foregoing conditions the Minister or his Delegate under the said Ordinance may give written notice requiring the Applicant to show cause within a period of fourteen days why this approval should not be revoked. At the expiration of this period the Minister or his Delegate may revoke the approval.

Dated this 21st day of November 1988.

P. R. GRIFFITHS
Delegate of the Minister of State
for the Arts and Territories

N.N.—8880886

AUSTRALIAN CAPITAL TERRITORY

City Area Leases Ordinance 1936

INSTRUMENT OF APPROVAL UNDER SECTION 10

In pursuance of section 10 of the *City Area Leases Ordinance 1936*, I, PETER ROBERT GRIFFITHS, being the officer for the time being occupying an office to the occu-

FOI Production Documents [2024-2732]

part of which the Minister has by instrument in writing under section 12C of the *Seat of Government (Administration) Act 1910* delegated his powers under section 10 of the said Ordinance hereby approve of Brian John Dunlop and Yvonne Joy Dunlop ('the Applicant') carrying on the profession, trade, occupation or calling of electronic repairs ('the business') on Block 17, Section 252, Division of Wanniasa known as 10 Sargeant Pl, Wanniasa ('the land') subject to the following conditions relating to the use of the land being observed by the Applicant in carrying on the business:

- (1) that this approval will remain valid only while the Applicant continues to be a bona fide resident of the land;
- (2) that the Applicant will ensure that the conduct of the business does not cause an annoyance, a nuisance or danger and is not offensive to any tenants or occupiers of adjoining lands;
- (3) that the Applicant will not erect or permit or suffer to be displayed or erected upon the land or any building thereon any advertising sign or hoarding whatever without the consent in writing of the National Capital Development Commission and the Building Controller;
- (4) that the Applicant will conduct the business strictly in accordance with the application made by the Applicant under section 10 of the *City Area Leases Ordinance* unless otherwise stipulated in this Instrument;
- (5) that no person other than the Applicant will conduct or in any way carry on the business on the land without the prior approval of the Minister;
- (6) that the Applicant will ensure that all residence and business related vehicles are parked within the confines of the land;
- (7) that the Applicant will not employ any assistants for the purpose of conducting or carrying on the business on the land without the prior approval of the Minister;
- (8) that only the garage be used for the conduct of the business;
- (9) that the business will only be conducted on the land between the hours of 9.00 a.m. and 5.00 p.m. Monday to Friday and 9.00 a.m. and 12 noon Saturdays;
- (10) that the Applicant will conduct the business strictly by appointment, and that such appointments will be organised to ensure that no more than two clients are in attendance at any one time;
- (11) that no retail sales will be conducted on the premises;
- (12) that this approval will terminate on the 13th day of November 1989 or on such earlier date as the Minister determines in accordance with condition 13;
- (13) upon any failure to comply with any or all of the foregoing conditions the Minister or his Delegate under the said Ordinance may give written notice requiring the Applicant to show cause within a period of fourteen days why this approval should not be revoked. At the expiration of this period the Minister or his Delegate may revoke the approval.

Dated this 28th day of November 1988.

P. R. GRIFFITHS
Delegate of the Minister of State
for the Arts and Territories

N.N.—8880887

AUSTRALIAN CAPITAL TERRITORY

City Area Leases Ordinance 1936

INSTRUMENT OF APPROVAL UNDER SECTION 10

In pursuance of section 10 of the *City Area Leases Ordinance 1936*, I, PETER ROBERT GRIFFITHS, being the

officer for the time being occupying an office to the occupant of which the Minister has by instrument in writing under section 12C of the *Seat of Government (Administration) Act 1910* delegated his powers under section 10 of the said Ordinance hereby approve of Brian Leonard McNamara ('the Applicant') carrying on the profession, trade, occupation or calling of communications consultant ('the business') on Block 18, Section 39, Division of Turner known as 12 Macleay St, Turner ('the land') subject to the following conditions relating to the use of the land being observed by the Applicant in carrying on the business:

- (1) that this approval will remain valid only while the Applicant continues to be a bona fide resident of the land;
- (2) that the Applicant will ensure that the conduct of the business does not cause an annoyance, a nuisance or danger and is not offensive to any tenants or occupiers of adjoining lands;
- (3) that the Applicant will not erect or permit or suffer to be displayed or erected upon the land or any building thereon any advertising sign or hoarding whatever without the consent in writing of the National Capital Development Commission and the Building Contoller;
- (4) that the Applicant will conduct the business strictly in accordance with the application made by the Applicant under section 10 of the City Area Leases Ordinance unless otherwise stipulated in this Instrument;
- (5) that no person other than the Applicant will conduct or in any way carry on the business on the land without the prior approval of the Minister;

- FOI Production Documents [2084 2732]
- (6) that the Applicant will ensure that all residence and business related vehicles are parked within the confines of the land;
 - (7) that the Applicant will not employ any more than one assistant for the purpose of conducting or carrying on the business on the land without the prior approval of the Minister;
 - (8) that only the camera room and dark room in the house be used for the conduct of the business;
 - (9) that the business will only be conducted on the land between the hours of 9.00 a.m. and 12.00 noon and 3.00 p.m. and 7.00 p.m. Monday to Friday;
 - (10) that the Applicant will conduct the business strictly by appointment, and that such appointments will be organised to ensure that no more than two clients are in attendance at any one time;
 - (11) that this approval will terminate on the 13th day of November 1989 or on such earlier date as the Minister determines in accordance with condition 12;
 - (12) upon any failure to comply with any or all of the foregoing conditions the Minister or his Delegate under the said Ordinance may give written notice requiring the Applicant to show cause within a period of fourteen days why this approval should not be revoked. At the expiration of this period the Minister or his Delegate may revoke the approval.

Dated this 28th day of November 1988.

P. R. GRIFFITHS
Delegate of the Minister of State
for the Arts and Territories

N.N.—8880888

AUSTRALIAN CAPITAL TERRITORY

Housing Assistance Ordinance 1987

SCHEME FOR PROVIDING AND ASSISTING IN PROVIDING DWELLING HOUSES DETERMINATION OF FEES

Under clause 3 of Part I of the Scheme for Providing and Assisting in Providing Dwelling Houses (being a scheme details of which were published, under section 3 of the *Housing Ordinance 1928*, in the *Gazette* at page 1645 on 31 July 1930 and amended from time to time and which is, by virtue of section 24 of the *Housing Assistance Ordinance 1987*, deemed to be a program in force under that Ordinance) I, determine that the fees payable for administrative expenses shall be in accordance with the Schedule.

Dated this 28th day of November 1988.

TONY RAYMOND WATERS
Acting Commissioner for Housing
for the Australian Capital Territory

THIS IS THE SCHEDULE TO THE DETERMINATION OF FEES MADE BY THE ACTING COMMISSIONER FOR HOUSING UNDER CLAUSE 3 OF PART I OF THE SCHEME FOR PROVIDING AND ASSISTING IN PROVIDING DWELLING HOUSES

Dated this 28th day of November 1988.

SCHEDULE

<i>Matter in respect of which fee is payable</i>	<i>Fee payable (in \$)</i>
Prior to preparation of mortgage documents and undertaking of a title search by or for the Commissioner	69
Upon production of documents to borrowers or to persons authorised by a borrower	17
Upon request by the borrower that a progress payment be made	67
Prior to a variation of a mortgage	17
Prior to approval of subsequent mortgage	10
Upon the borrower applying to sublet the mortgaged property	17
Upon the borrower transferring the mortgaged lease	37

N.N.—8880889

COMMONWEALTH OF AUSTRALIA

Wildlife Protection (Regulation of Exports and Imports) Act 1982

Section 11

DECLARATION OF AN APPROVED INSTITUTION

I, JOHN DERRICK OVINGTON, the Designated Authority under subsection 18 (1) of the *Wildlife Protection (Regulation of Exports and Imports) Act 1982*, in pursuance of Sub-section 11 (1) of that Act, hereby declare the organisation specified in column 2 of the Schedule, in an item in the Schedule, to be an approved institution in relation to the class, or classes, of specimens specified in Column 3 of the Schedule in that item.

Dated this 2nd day of December 1988.

J. D. OVINGTON
Designated Authority

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item</i>	<i>Name and Country of Approved Institution</i>	<i>Approved class, or classes, of specimens</i>
1	Lionel E. Campion Little Moe River Rd Yarragon Vic. 3823	<i>Cervus canadensis</i>

N.N.—8880890

DEPARTMENT OF THE ARTS, SPORT, THE ENVIRONMENT, TOURISM AND TERRITORIES

ENVIRONMENT PROTECTION (IMPACT OF PROPOSALS) ACT 1974

NOTIFICATION OF THE MAKING AVAILABLE FOR PUBLIC COMMENT OF A DRAFT ENVIRONMENTAL IMPACT STATEMENT

The Coronation Hill Joint Venture (CHJV) proposes to develop a new mining operation to produce gold, platinum and palladium at Coronation Hill. The Project Area is located in the conservation Zone in the Northern Territory about 230 km south of Darwin.

Australian Conservation
Foundation
672B Glenferrie Road
HAWTHORN VIC 3122

Coronation Hill Joint
Venture
131 Reichardt Road
WINNELLIE NT 0820

In accordance with the provisions of the Commonwealth *Environment Protection (Impact of Proposals) Act 1974*, a Draft Environmental Impact Statement which describes the proposed facility and its probable effect on the environment has been prepared by the company.

Copies of the Draft Environmental Impact Statement may be purchased for the sum of \$20.00 by writing or applying in person from the CHJV Office in Darwin. The mailing address is:

This document will be available for public review between 7 December 1988 and 7 March 1989.

Coronation Hill Joint
Venture
PO Box 39096
WINNELLIE NT 0821
Attention: Garry Johnston

Copies are available for examination at:

Interested persons and organisations wishing to comment on the environmental impact of the proposal are invited to make written submissions by 7 March 1989 to:

Department of the Arts,
Sport, the Environment,
Tourism and Territories
Environment Assessment
Branch
Floor 4, Tobruk House
15 Moore Street
CANNBERRA ACT 2601
Telephone: (062) 741457

The Secretary
Department of the Arts,
Sport, the Environment,
Tourism and Territories
GPO Box 787
CANNBERRA ACT 2601
Attention:
Mr Clark Gallagher
Environment Assessment
Branch
Telephone: (062)-741455

Environment Centres in
Sydney, Melbourne, Brisbane,
Adelaide, Perth, Hobart,
Darwin

State Libraries in Sydney,
Melbourne, Adelaide, Perth,
Hobart, Darwin.

Alice Springs and
Katherine Libraries

AH Toys Store, Pine Creek

Katherine Post Office

Submissions should preferably be on A4 sized paper and in black ink to facilitate copying. Submissions will be treated as public documents unless confidentiality is requested. Copies will be forwarded to the proponent to be taken into account in the preparation of the final EIS. The Commonwealth Government will undertake an environmental assessment of the proposal.

FOI Production Documents [2024.2732]

Attorney-General

AUSTRALIAN CAPITAL TERRITORY

Magistrates Court Ordinance 1930

APPOINTMENT OF SPECIAL MAGISTRATE

I, SIR NINIAN MARTIN STEPHEN, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and pursuant to section 10H of the *Magistrates Court Ordinance 1930* of the Australian Capital Territory, hereby appoint Alan Anthony Hardiman to be a special magistrate.

Dated this 24th day of November 1988.

N. M. STEPHEN
Governor-General

By His Excellency's Command,
MICHAEL TATE
Minister of State for Justice for
and on behalf of the Attorney-General

N.N.—8880891

**CUSTOMS (CINEMATOGRAPH FILMS)
REGULATIONS—APPROVAL OF EVENT**

I, LIONEL FROST BOWEN, Attorney-General of Australia, in pursuance of subregulation 32 (1) of the Customs (Cinematograph Films) Regulations, hereby approve for the purposes of Part 3 of those regulations a festival of French films, the film *Nouveau '88 Festival*, to be held in Sydney during the period commencing 1 December 1988 and ending at the expiration of 11 December 1988, being the event to be conducted by DCF Film Distribution.

Dated this 23rd day of November 1988.

LIONEL BOWEN
Attorney-General

N.N.—8880892

FILM CENSORSHIP BOARD

WEEK ENDING 11 NOVEMBER 1988

Classifications assigned to films for sale/hire pursuant to the *Australian Capital Territory Classifications of Publications Ordinance 1983*; the *Northern Territory Classification of Publications Act 1985*; the *New South Wales Film and Video Tape Classification Act 1984*; the *Queensland Censorship of Films Act 1947-1984*; the *Tasmania Classification of Publications Act 1984*; the *Western Australia Video Tapes Classification and Control Act 1987*.

An explanatory key to reasons for classifying non-'G' films appears hereunder:

	Frequency		Explicitness/Intensity			Purpose	
	Infrequent	Frequent	Low	Medium	High	Justified	Gratuitous
S (Sex)	i	f	l	m	h	j	g
V (Violence)	i	f	l	m	h	j	g
L (Language)	i	f	l	m	h	j	g
O (Other)							

*** Films Board of Review decision

** Code reasons unavailable for films originally classified before 1972.

Title	Producer	Country	Submitted length (mins)	Applicant	Reason for decision
'G'—Suitable for general exhibition					
<i>1988 Winfield Cup Grand Final</i>	Hoyts Polygram Video	Australia	112	Hoyts Polygram Video	..
<i>Coming Back—Reincarnation in America</i>	J. Leon-Salas	USA	42	Majestic Products	..
<i>Going Hollywood—The War Years</i>	J. Schlossberg	USA	79	Corporate Video	..
<i>Last Dream—Other People's Wars, The</i>	A. Lowery	UK/Australia	50	Ronin Films	..
<i>Last Dream—Secrets The</i>	A. Lowery	Australia	50	Ronin Films	..
<i>Mister Superinvisible</i>	Peter Carsten Productions	USA	93	Majestic Products	..
<i>Top Cat and the Beverley Hills Cats</i>	B. Wolf/J. Hall	USA	93	Taft Hardie Group	..
<i>Transformers in the Demolition Duel, The</i>	G. Singer/J. Walker/G. Wetzler	USA	25	Golden Press	..
'PG'—Parental guidance required for those under 15					
<i>April Morning</i>	R. Halmi/D. Mann	USA	95	Communications and Entertainment	V (i-l-j)
<i>Big Foot</i>	W. Baumes	USA	78	City Lites	V (i-l-j)
<i>Captive Hearts</i>	J. Kuri	USA	97	Communications and Entertainment	L (i-l-j) 68 V (i-l-j) S (i-l-j)

Title	Producer	Country	Submitted length (mins)	Applicant	Reason for decision
<i>In the Aftermath—Angels Never Sleep</i>	T. Dugan	USA	70	Roadshow Home Video	L (i-l-g) V (i-l-j)
<i>Lorenzo Lamas Automatic Self-Defence Workout</i>	M. Erwin	USA	42	Catersons	O (self-defence techniques)
<i>Mo Min Kap Sin Fung</i> (main title not shown in English)	Not shown	Hong Kong	180	Vacole	V (i-l-g)
<i>Moonwalker</i>	D. Jones/J. Kramer	USA	93	Roadshow Home Video	O (drug references) V (i-l-j)
<i>Spaceballs</i> (edited version)	M. Brooks	USA	98	Hoyts Distribution	L (f-l-g) O (sexual allusions)
M—Mature (not recommended for viewing by persons under 15)					
<i>Broken Angel</i>	R. Clark	USA	90	Communications and Entertainment	O (drug use adult concepts)
<i>Command in Hell</i>	R. Halmi	USA	88	Communications and Entertainment	O (adult concepts V (i-m-j))
<i>Hometown USA</i>	R. Camras/J. Vint	USA	92	CBS/Fox Video	O (sexual allusions)
<i>Hotel Colonial</i>	I. Barmak	Italy	98	CBS/Fox Video	V (i-m-g) L (i-m-g) O (drug use adult concepts)
<i>It's No Heaven</i> (main title not shown in English)	HK-TV International	Hong Kong	107	Vacole	V (f-m-g)
<i>Lady in White</i>	A. La Marca/F. La Loggia	USA	109	Virgin Video Australia	V (i-m-j)
<i>Red Headed Stranger</i>	W. Nelson/B. Whittliff	USA	104	Communications and Entertainment	V (i-m-g) O (adult concepts)
<i>Running Home</i>	T. Egan	USA	69	City Lites	V (i-m-j) O (adult concepts)
<i>Unbearable Lightness of Being, The</i>	S. Zaentz	USA	168	CBS/Fox Video	S (i-m-j) O (nudity)
R—Restricted (not to be sold or hired or delivered to minors or displayed in a public place unless container bears prescribed markings)					
<i>Accused, The</i>	S. Jaffe/S. Lansing	USA/Canada	107	United International Pictures	V (i-m-j) O (concept of sexual violence)
<i>And God Created Women</i>	G. Braunstein/R. Hamady	USA	94	Outland Promotions	S (i-m-g)
<i>Beast Within, The</i>	H. Bernhard/G. Katzka	USA	94	Corporate Video	V (f-m-g) O (horror)
<i>Day of the Dead</i>	R. Rubinstein	USA	97	Roadshow Home Video	V (f-m-g) O (graphic horror)
<i>Deadly Reactor</i>	F. Matthews	USA	89	Palace Entertainment Corporation	V (f-m-g)
<i>Fear</i>	L. Hansen	USA	92	Virgin Video Australia	V (i-m-g) L (f-m-g)
X—Extra Restricted (not to be sold or hired or delivered to minors or displayed except in a restricted publications area and bearing prescribed markings)					
<i>Amber Aroused</i>	V. Rossi	USA	79	Capital Duplicators	S (f-h-g)
<i>Decadence</i>	Jack of Heart	USA	76	Leisuremail	S (f-h-g)
<i>Ebony Humpers III</i>	M. Curtis	USA	73	Capital Duplicators	S (f-h-g)
<i>Fine Art of Cunnilingus, The</i>	J. Stagliano	USA	26	Leisuremail	S (f-h-g)
<i>Grand Prixxx</i>	P. Rhodes	USA	98	Leisuremail	S (f-h-g)
<i>How to Enlarge Your Penis</i>	S. Taylor/J. Stagliano	USA	30	Leisuremail	S (f-h-g)
<i>Restless Nights</i>	Scandinavian Erotic Video	USA	74	Mareith Investments	S (f-h-g)

Title	Producer	Country	Submitted length (mins)	Applicant	Reason for decision
<i>Restless Nights</i> (edited version)	Scandinavian Erotic Video	USA	71	Mareith Investments	S (i-h-g)
<i>Trampire</i>	P. Thomas	USA	77	Leisuremail	S (f-h-g)
<i>Wet Nurses</i> (untitled said to be)	R. Dale	USA	84	Leisuremail	S (f-h-g)
Refused Classification					
<i>Taboo VI—The Obsession</i>	L. Rambienkie	USA	93	Leisuremail	O (exploitative incest fantasies)

N.N.—8879531

FILM CENSORSHIP BOARD

WEEK ENDING 4 NOVEMBER 1988

Classifications assigned to films for sale/hire pursuant to the *Australian Capital Territory Classifications of Publications Ordinance 1983*; the *Northern Territory Classification of Publications Act 1985*; the *New South Wales Film and Video Tape Classification Act 1984*; the *Queensland Censorship of Films Act 1947-1984*; the *Tasmania Classification of Publications Act 1984*; the *Western Australia Video Tapes Classification and Control Act 1987*.

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V (Violence)	i	f	l	m	h	j	g
L (Language)	i	f	l	m	h	j	g
O (Other)							

*** Films Board of Review decision

** Code reasons unavailable for films originally classified before 1972.

Title	Producer	Country	Submitted length (mins)	Applicant	Reason for decision
'G'—Suitable for general exhibition					
<i>Amazing Adventures of Sherlock Holmes (Bumper Edition)—Adventures of Mrs Hudson x The Green Balloon etc.</i>	Y. Takahashi	Japan/USA	96	CIC-Taft Video	..
<i>Body-mind and Massage</i>	C. Blain Smith	USA	27	Majestic Products	..
<i>Bugs Bunny Superstar</i>	L. Jackson	USA	93	Communications and Entertainment	..
<i>Debbie-Gibson—Out of the Blue</i>	L. Grodin	USA	26	WEA Records	..
<i>Formators Attack of the Xelans</i>	Not shown	Japan	50	1st Call Video Rights	..
<i>Path to Glory, The</i>	G. McNeice	Australia	85	Hoyts Polygram Video	..
<i>Protectors Vol. 1, The Vital Element</i>	J. Terry	Japan	54	1st Call Video Rights	..
<i>Sci-Bots—Conflict</i>	J. Terry	Japan	54	1st Call Video Rights Ltd	..
<i>Sci-Bots—Strike Back</i>	Not shown	Japan	57	1st Call Video Rights Ltd	..
<i>Season '88 A Look Back</i>	Broadcom International Production	Australia	76	Hoyts Polygram Video	..
<i>What's on in South Australia</i>	Nova Marketing	Australia	57	Nova Marketing	..
'PG'—Parental guidance required for those under 15					
<i>Boot Hill</i>	San Marco Spa Production	Italy	97	Popular Home Products	V (f-l-g)
<i>Date with an Angel</i>	M. Schumacher	USA	100	CBS/Fox Video	L (i-l-j) 70 O (adult concepts)

FOI Production Documents [2024-2732]

Title	Producer	Country	Submitted length (mins)	Applicant	Reason for decision
M—Mature (not recommended for viewing by persons under 15)					
<i>Body Slam</i>	M. Curb/S. Lytton	USA	88	CBS/Fox Video	V (i-m-g)
<i>Dragon, the Hero, The</i>	T. Tang/J. Lai	Hong Kong	87	1st Call Video Rights	S (i-m-g) V (i-m-g)
<i>Made in USA</i>	C. Roven	USA	78	CBS/Fox Video	S (i-m-g) L (f-m-g) O (anti-social concepts)
<i>Secret Ninja Roaring Tiger</i>	T. Tang/J. Lai	Hong Kong	85	1st Call Video rights	V (i-m-g) S (i-m-g)
<i>U2—Rattle and Hum</i>	M. Hamlyn	USA	99	United International Pictures	L (i-m-g)
R—Restricted (not to be sold or hired or delivered to minors or displayed in a public place unless container bears prescribed markings)					
<i>Adult Party Games (Edited Version)</i>	Electric Blue	UK	53	Video Ray	O (exploitative nudity) S (i-m-g)
<i>Hidden The</i>	R. Shaye/G. Olson/ M. Meltzer	USA	92	CBS/Fox Video	V (f-m-g)
<i>Patti Rocks</i>	G. Field/G. Cummins	USA	83	Roadshow Home Video	L (f-m-j) S (i-m-g) O (adult concepts)
<i>Rivers Edge</i>	S. Pillsburg/M. Sanford	Canada/USA	95	CBS/Fox Video	O (drug abuse) L (f-m-g) O (adult concepts)
<i>Tropical Snow</i>	J. Leif	Columbia/ USA	84	CIC-Taft Video	S (i-m-g)
X—Extra Restricted (not to be sold or hired or delivered to minors or displayed except in a restricted publications area and bearing prescribed markings)					
<i>Backdoor Romance</i>	C. Swine	USA	81	Private Screenings	S (f-h-g)
<i>Charmed Forces</i>	Vivid Video	USA	84	Leisuremail	S (f-h-g)
Refused Classification					
<i>Amazing Tails—Volume Two</i>	R. Norman	USA	73	Leisuremail	O (gratuitous sexual violence)

N.N.—8878094

PUBLICATIONS CLASSIFIED UNDER THE ACT CLASSIFICATION OF PUBLICATIONS ORDINANCE 1983 FOR WEEK ENDING 18.11.88

Publications classified under the A.C.T. Ordinance would attract the following classifications under the N.S.W. *Indecent Articles and Classified Publications Act 1975* and the N.T. *Classification of Publications Act 1979*: U/R—Unrestricted; Category 1—Restricted; Category 2—Direct Sale; Refused—Includes Child Pornography (CP) may not be sold.

Title	Edition	Author/Publisher	Decision flagging
<i>Asian Erotica</i>	Vol. 1, No. 1 (C) 1988	Distra, Printed in USA	Category 2
<i>Buf</i>	Vol. 20, No. 6, December 1988	Buf Publications Inc., USA	Category 1
<i>Chic</i>	Vol. 13, No. 2, December 1988	L.F.P. Inc., USA	Category 2
<i>Chic (Best of)</i>	Vol. 6 (C) 1988	L.F.P. Inc., USA	Category 2
<i>Easyriders (Australian)</i>	Vol. 18, No. 187, January 1989	Paisano Publications Inc., USA	Unrestricted
<i>Easyriders—Tattoo</i>	No. 12, Winter 1988	Paisano Publications Inc., USA	Unrestricted
<i>English Tanning</i>	Vol. 3, No. 3 (C) 1988	Esoteric Press Inc. USA	Category 2 (1,2,3)
<i>Erotic Stars (Cinema Blue Presents)</i>	#6 Vol. 1, No. 16 (C) 1988	Hudson Communications, USA	Category 2
<i>Escort (The Best of)</i>	No. 13, November 1988	Paul Raymond Publications, UK	Category 1
<i>Exciting</i>	No. 45, October 1988	Peter Theander, Denmark	Category 2
<i>Exciting</i>	No. 45, October 1988	Color-Climax Corp., Denmark	Category 2
<i>Family Affairs (Letters)</i>	Vol. 7, No. 10, December 1988	Letters Magazine Inc., USA	Category 2

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<i>Title</i>	<i>Editon</i>	<i>Author/Publisher</i>	<i>Decision flagging</i>
<i>Fiesta Xmas Special Issue 1988</i>	(C) 1988	Galaxy Publications Ltd, UK	Category 1
<i>Gallery</i>	Vol. 17, No. 1, January 1989	Montcalm Publishing Co., USA	Category 1
<i>Gem</i>	Vol. 30, No. 4, January 1989	G & S Publications Inc., USA	Category 2
<i>Gentlemen's Companion</i>	Vol. 8, No. 11, January 1989	Gentlemen's Companion Magazine Inc., USA	Category 2
<i>Gung-Ho</i>	Vol. 8, No. 65, November 1988	Charlton Publications Inc., USA	Unrestricted
<i>Harvey</i>	Vol. 9, No. 12, January 1989	Harvey Shapiro Enterprises Inc., USA	Category 2
<i>Health & Efficiency</i>	Vol. 89, No. 11 (International Monthly)	Peenhill Ltd, UK	Unrestricted
<i>Heat</i>	Vol. 1, Issue 9, November 1988	On-Trac Publications, USA	Category 1
<i>Honcho</i>	Vol. 11, No. 11, November 1988	Modernismo Publications, USA	Category 1
<i>Honcho Overload</i>	Vol. 3, No. 7, December 1988	Overload Company Ltd, USA	Category 1
<i>Hot Babes</i>		Presurn Pty Ltd, Australia	Category 1
<i>Hot Boxxx Letters</i>	No. 15, December 1988	Aja Publishing Co., USA	Category 2
<i>Hot Talk (Australian)</i>	No. 12 (C) 1988	PH Editorial Services, Hong Kong	Category 1
<i>Hot Talk</i>	Vol. 1, No. 6, December 1988	Hot Talk Publications, USA	Category 1
<i>Hustler Erotic Video Guide</i>	Vol. 3, No. 7, December 1988	Stewart Communications, USA	Category 2
<i>Hustler Humor</i>	Vol. 11, No. 9, December 1988	Hustler Magazine Inc., USA	Category 1
<i>Hustler Letters</i>	Vol. 2, No. 5, January 1989	Hustler Magazine Inc., USA	Category 2
<i>Inches</i>	Vol. 4, No. 10, December 1988	Inches Inc., USA	Category 1
<i>Intimate Letters</i>	Vol. 8, No. 8, December 1988	Thomaston Publications, USA	Category 1
<i>Knave Amateur Model Special Lui</i>	(C) 1988 No. 13, November 1988 (Including Supplement No. 13)	Galaxy Publications, UK Filipacchi Edittee Par Les Editions, France	Category 1 Unrestricted
<i>Lui</i>	No. 6, April 1988 (Including Supplement No. 6)	Filipacchi Edittee Par Les Editions, France	Unrestricted
<i>Lui</i>	No. 8, June 1988 (Including Supplement No. 8)	Filipacchi Edittee Par Les Editions, France	Category 1
<i>Mandate</i>	Vol. 12, No. 11, November 1988	Mandate Publications, USA	Category 1
<i>Max</i>	Vol. 3, No. 8, February 1989	Max Magazine Inc., USA	Category 1
<i>Men Only</i>	Vol. 53, No. 11, October 1988	Paul Raymond Publications, UK	Category 1
<i>Men Only Bumper Sex Annual 1989</i>	(C) 1988	Paul Raymond Publications, UK	Category 1
<i>Mens World</i>	Vol. 1, No. 1, October 1988	Paul Raymond Publications, UK	Category 1
<i>New Cunts</i>	No. 54, October 1988	Color-Climax Corp., Denmark	Category 2
<i>Numbers</i>	Vol. 2, No. 1, January 1989	Leemar Publishing Inc., USA	Category 1
<i>Oui</i>	Vol. 19, No. 11, November 1988	Laurant Publishing Ltd, USA	Category 2
<i>Outlaw Biker</i>	Vol. 4, No. 8, October 1988	Outlaw Biker Enterprises, USA	Unrestricted
<i>Outrage</i>	No. 66, November 1988	Australian Co-op Media Ent. Australia	Unrestricted
<i>Over 40! (Leisure Plus Presents) Partner Pictorial 1989</i>	†4 Vol. 1, No. 5 (C) 1988 Issue No. 104, December 1988	Leisure Plus Publications, USA Master Publications, USA	Category 1 Category 1
<i>Penthouse Fantasy (National Edition)</i>		PH Editorial Services, Hong Kong	Category 1
<i>Penthouse Letters</i>	No. 20 (C) 1988	PH Editorial Services, Hong Kong	Category 1
<i>Penthouse Letters</i>	No. 6, No. 12, December 1988	Penthouse Letters Ltd, USA	Category 1
<i>Pink (Special Erotica No. 1)</i>	No. 12	Pink Publication, W. Germany	Category 2
<i>Playboy (Australian) (Queensland Edition)</i>	December 1988	Manson Stewart Pub., Hong Kong	Unrestricted
<i>Playboy (Australian) (National Edition)</i>	December 1988	Manson Stewart Pub., Hong Kong	Unrestricted
<i>Playboy Presents 100 Beautiful Women</i>	November 1988	Playboy Press, USA	Unrestricted
<i>Pleasure (Number One in Excitement)</i>	No. 84, October 1988	Pleasure-Verlag GmbH, Germany	Category 2
<i>Pleasure</i>	No. 84, October 1988	Pleasure-Verlag GmbH, Germany	Category 2

Title	Edition	Author/Publisher	Decision flagging
<i>Pocketfox (Gallery)</i>	Vol. 5, No. 1, Winter 1988	Montcalm Publishing, USA	Category 1
<i>Razzle</i>	Vol. 6, No. 11 (C) 1988	Paul Raymond Publications, UK	Category 1
<i>Seventeen's Teenager</i>	No. 11	Coer'est, Holland	Category 2
<i>Sex Bizarre</i>	No. 46, October 1988	Peter Theander, Denmark	Category 2
<i>Sex Guide</i>	January 1989	Jalart House Inc., USA	Category 2
<i>Sex Orgies</i>	No. 25, October 1988	Color-Climax Corp., Denmark	Category 2
<i>Sir Bizarre</i>	No. 59	Titanus-Verlag GmbH, W. Germany	Category 2
<i>Sir Bizarre</i>	No. 59 (C) 1986	Titanus-Verlag GmbH, W. Germany	Category 2
<i>Stallion (Torso's)</i>	Vol. 1, No. 10, December 1988	MMG Services Inc., USA	Category 1
<i>Sweet Little 16</i>	Vol. 8, No. 34, September 1988	Teresa Orlowski, W. Germany	Category 2
<i>Teenager</i>	No. 43, October 1988	Silwa, W. Germany	Category 2
<i>Teenager</i>	No. 43, October 1988	Silwa, W. Germany	Category 2
<i>Torso</i>	Vol. 7, No. 6, December 1988	Varsity Communications, USA	Category 1
<i>Trapped!</i>	Vol. 1, No. 6 (C) 1988	Hom Inc., USA	Category 2 (1,2,3)
<i>Turn-on Letters</i>	Issue No. 50, Vol. 8, No. 1, December 1988	AJA Publishing Co., USA	Category 2
<i>Variations (Australian)</i>	No. 12	Viva International, Hong Kong	Category 1
<i>XS</i>	Vol. 2, No. 11 (C) 1988	Galaxy Communications, UK	Category 1

N.N.—8880894

PUBLICATIONS CLASSIFIED UNDER THE ACT CLASSIFICATIONS OF PUBLICATIONS ORDINANCE 1983 FOR WEEK ENDING 25.11.88

Publications classified under the A.C.T. Ordinance would attract the following classifications under the N.S.W. *Indecent Articles and Classified Publications Act 1975* and the N.T. *Classification of Publications Act 1979*: U/R—Unrestricted; Category 1—Restricted; Category 2—Direct Sale; Refused—Includes Child Pornography (CP) may not be sold.

Title	Edition	Author/Publisher	Decision flagging
<i>Adult Fantasy (Parade)</i>	No. 36 (C) 1988	Adult Fantasy, UK	Category 1
<i>Adult Fantasy (Parade)</i>	No. 37 (C) 1988	Gold Star Publications, UK	Category 1
<i>Adult Fantasy (Parade)</i>	No. 38 (C) 1988	Gold Star Publications, UK	Category 1
<i>Anal Sex</i>	No. 71 November 1988	Color-Climax Corp., Denmark	Category 2
<i>Bi and Beyond</i>	No. 1, September 1988	Silwa Film, West Germany	Category 2
<i>Biker Lifestyle (Easyriders Presents)</i>	No. 83, December 1988	Paisano Publications, USA	Unrestricted
<i>Blue Book</i>	Issue 25	Sheptonhurst Ltd, UK	Category 1
<i>Blue Book</i>	Issue 26	Sheptonhurst Ltd, UK	Category 1
<i>Blue Book</i>	Issue 27	Sheptonhurst Ltd, UK	Category 1
<i>Club International</i>	Vol. 17, No. 12 (C) 1988	Paul Raymond Publications, UK	Category 1
<i>Club Pour Hommes</i>	No. 28 November 1988	Paul Raymond Publications, UK	Category 2
<i>Couples Today</i>	Vol. 12, No. 1 January 1989	Thomaston Publications, USA	Category 2
<i>Escort</i>	Vol. 8, No. 12, November 1988	Paul Raymond Publications, UK	Category 1
<i>Exclusive (Susan Strong's)</i>	No. 93 (C) 1988	Gold Star Publications, UK	Category 1
<i>Exclusive (Susan Strong's)</i>	No. 94 (C) 1988	Gold Star Publications, UK	Category 1
<i>Exclusive (Susan Strong's)</i>	No. 95 (C) 1988	Gold Star Publications, UK	Category 1
<i>Firsthand</i>	Vol. 8, No. 12, December 1988	Firsthand Ltd, USA	Category 1
<i>Firsthand</i>	Vol. 9, No. 1, January 1988	Firsthand Ltd, USA	Category 1
<i>Fox</i>	Vol. 5, No. 6, March 1989	Montcalm Publishing Co., USA	Category 1
<i>Genesis</i>	Vol. 16, No. 6, January 1989	Atrium Multi-Media Co., USA	Category 1
<i>Glamour Girls (Parade)</i>	Issue 16	Not shown, UK	Category 1
<i>Iron Horse</i>	Vol. 13, Issue 80, January 1989	J. Q. Adams Productions, USA	Unrestricted
<i>Journal of Love, The</i>	No. 123 (C) 1988	Gold Star Publications, UK	Category 1
<i>Journal of Love, The</i>	No. 124 (C) 1988	Gold Star Publications, UK	Category 1
<i>Journal of Love, The</i>	No. 125 (C) 1988	Gold Star Publications, UK	Category 1
<i>Knave</i>	Vol. 20, Christmas Issue (C) 1988	Galaxy Publications, UK	Category 1
<i>Love Extrem +</i>	No. 13	T+B Hahn Anina Verlag, West Germany	Refused
<i>Lovebirds</i>	No. 112	Sheptonhurst Ltd, UK	Category 1

Title	Edition	Author/Publisher	Decision flagging
<i>Lovebirds</i>	No. 113	Sheptonhurst Ltd, UK	Category 1
<i>Lovebirds</i>	No. 114	Sheptonhurst Ltd, UK	Category 1
<i>Lovebirds Hotshots</i>	No. 1	Sheptonhurst Ltd, UK	Category 1
<i>Mirage</i>	Vol. 1, No. 4, September 1988	Verlag Teresa Orłowski, West Germany, UK	Category 2
<i>Miss Sadie Stern's Monthly</i>	No. 106 (C) 1988	Gold Star Publications, UK	Category 1
<i>Miss Sadie Stern's Monthly</i>	No. 107 (C) 1988	Gold Star Publications, UK	Category 1
<i>Miss Sadie Stern's Monthly</i>	No. 108 (C) 1988	Gold Star Publications, UK	Category 1
<i>Miss Sadie Stern's Monthly</i>	No. 109 (C) 1988	Gold Star Publications, UK	Category 1
<i>Model Celebrities (Explicit)</i>	Issue 23	Sheptonhurst Ltd, UK	Category 1
<i>Model Celebrities (Explicit)</i>	Issue 24	Sheptonhurst Ltd, UK	Category 1
<i>New Direction</i>	No. 202 (C) 1988	Gold Star Publications, UK	Category 1
<i>New Direction</i>	No. 203 (C) 1988	Gold Star Publications, UK	Category 1
<i>New Direction</i>	No. 204 (C) 1988	Gold Star Publications, UK	Category 1
<i>New Direction Explicit Couples</i>		Gold Star Publications, UK	Category 1
<i>Newlook</i>	No. 64 December 1988	Filipacchi Editee Par Editions, France	Category 1
<i>Parade</i>	No. 86 (C) 1988	Parade Publications, UK	Category 1
<i>Parade</i>	No. 87 (C) 1988	Parade Publications, UK	Category 1
<i>Parade</i>	No. 88 (C) 1988	Parade Publications, UK	Category 1
<i>Parade</i>	No. 89 (C) 1988	Parade Publications, UK	Category 1
<i>Parade</i>	No. 90	Not shown, UK	Category 1
<i>Parade</i>	No. 91 (C) 1988	Gold Star Publications, UK	Category 1
<i>Parade</i>	No. 93 (C) 1988	Parade Publications, UK	Category 1
<i>Parade</i>	No. 94 (C) 1988	Parade Publications, UK	Category 1
<i>Parade Autumn Special</i>	No. 1 (C) 1988	Gold Star Publications, UK	Category 1
<i>Parade Bottoms Up!</i>	No. 1 (C) 1988	Parade Publications, UK	Category 1
<i>Parade Groupies Special</i>	No. 3 (C) 1988	Parade Publications, UK	Category 1
<i>Parade Mega Boobs Special</i>	No. 4	Not shown, UK	Category 1
<i>Parade Mega Boobs Special</i>	No. 5	Not shown, UK	Category 1
<i>Parade Readers' Letters</i>	Special Issue 2	Not shown, UK	Category 1
<i>Parade Shaven Ravers Special</i>	Special No. 2 (C) 1988	Parade Publications, UK	Category 1
<i>Parade Shaven Ravers!</i>	No. 1 (C) 1988	Parade Publications, UK	Category 1
<i>Park Lane</i>	No. 22 (C) 1988	Gold Star Publications, UK	Category 1
<i>Park Lane</i>	No. 23 (C) 1988	Gold Star Publications, UK	Category 1
<i>Park Lane Busty Bonanza</i>	Special Edition No. 2	Not shown, UK	Category 1
<i>Park Lane Readers Wives Expose</i>	Extra No. 2	Not shown, UK	Category 1
<i>Penthouse Variations</i>	Vol. 10, No. 13, December 1988	Viva International, USA	Category 1
<i>Play Dames</i>	No. 90 (C) 1988	Gold Star Publications, UK	Category 1
<i>Play Dames</i>	No. 91 (C) 1988	Gold Star Publications, UK	Category 1
<i>Playbirds (The New Look)</i>	No. 129	Sheptonhurst Ltd, UK	Category 1
<i>Playbirds (The New Look)</i>	No. 130	Sheptonhurst Ltd, UK	Category 1
<i>Playbirds (The New Look)</i>	No. 131	Sheptonhurst Ltd, UK	Category 1
<i>Playbirds All Colour XXX Rated</i>	Quarterly Issue No. 47	Sheptonhurst Ltd, UK	Category 1
<i>Playbirds All Colour XXX Rated</i>	Quarterly Issue No. 48	Sheptonhurst Ltd, UK	Category 1
<i>Playbirds All Colour XXX Rated</i>	Quarterly Issue No. 46	Sheptonhurst Ltd, UK	Category 1
<i>Playbirds Amateur Models</i>	Model No. 1	Sheptonhurst Ltd, UK	Category 1
<i>Playbirds Continental</i>	No. 74	Sheptonhurst Ltd, UK	Category 1
<i>Playbirds Continental</i>	No. 75	Sheptonhurst Ltd, UK	Category 1
<i>Playboy (U.S.)</i>	Vol. 36, No. 1, January 1989	Playboy, USA	Unrestricted
<i>Private (The New Colour Inc. Climax)</i>	No. 126	Sheptonhurst Ltd, UK	Category 1
<i>Private (The New Colour Inc. Climax)</i>	No. 127	Sheptonhurst Ltd, UK	Category 1
<i>Private (The New Colour Inc. Climax)</i>	No. 128	Sheptonhurst Ltd, UK	Category 1
<i>Raider</i>	No. 72 (C) 1988	Gold Star Publications, UK	Category 1
<i>Raider</i>	No. 73 (C) 1988	Gold Star Publications, UK	Category 1
<i>Raider</i>	No. 74 (C) 1988	Gold Star Publications, UK	Category 1
<i>Readers Wives (Parade)</i>	Issue 20	Not shown, UK	Category 1
<i>Readers Wives (Parade)</i>	Issue 21	Not shown, UK	Category 1
<i>Rund Und Geil</i>	No. 2 August September, October 1988	Distra, Printed in USA	Category 2
<i>Rustler (Big Bold for Men)</i>	No. 155 (C) 1988	Gold Star Publications, UK	Category 1
<i>Rustler (Big Bold for Men)</i>	No. 155 (C) 1988	Gold Star Publications, UK	Category 1
<i>Rustler (Big Bold for Men)</i>	No. 156 (C) 1988	Gold Star Publications, UK	Category 1
<i>Rustler (Big Bold for Men)</i>	No. 158 (C) 1988	Gold Star Publications, UK	Category 1
<i>Rustler Big 'Uns</i>	No. 18 (C) 1988	Gold Star Publications, UK	Category 1
<i>Rustler Big 'Uns</i>	No. 19 (C) 1988	Gold Star Publications, UK	Category 1
<i>Rustler Centrefolds</i>	No. 51 (C) 1988	Gold Star Publications, UK	Category 1
<i>Rustler Centrefolds</i>	No. 52 (C) 1988	Gold Star Publications, UK	Category 1

Title	Edition	Author/Publisher	Decision flagging
<i>Rustler Readers Wives</i>	No. 1	Sheptonhurst Ltd, UK	Category 1
<i>Schul-Madchen</i>	No. 32, November 1988	Silwa Film GmbH, West Germany	Category 2
<i>Sex O'M (International)</i>	No. 68, November 1988	Silwa Film GmbH, West Germany	Category 2
<i>Sunday Sport Girls</i>	Issue 3	Not shown, UK	Unrestricted
<i>Sunday Sport Girls</i>	Issue 4 (C) 1988	Parade Publications, UK	Unrestricted
<i>Swish!</i>	No. 118 (C) 1988	Gold Star Publications, UK	Category 1
<i>Swish!</i>	No. 119 (C) 1988	Gold Star Publications, UK	Category 1
<i>Swish!</i>	No. 120 (C) 1988	Gold Star Publications, UK	Category 1
<i>Swish!</i>	No. 121 (C) 1988	Gold Star Publications, UK	Category 1
<i>Whitehouse</i>	No. 140	Sheptonhurst Ltd, UK	Category 1
<i>Whitehouse</i>	No. 141	Sheptonhurst Ltd, UK	Category 1
<i>Whitehouse</i>	No. 142	Sheptonhurst Ltd, UK	Category 1
<i>Whitehouse</i>	Quarterly Issue No. 47	Sheptonhurst Ltd, UK	Category 1
<i>Whitehouse</i>	Quarterly Issue No. 48	Sheptonhurst Ltd, UK	Category 1
<i>Whitehouse</i>	Quarterly Issue No. 49	Sheptonhurst Ltd, UK	Category 1
<i>Whitehouse</i>	Winter Special	Sheptonhurst Ltd, UK	Category 2
<i>Whitehouse Digest</i>	Issue No. 76	Sheptonhurst Ltd, UK	Category 1
<i>Whitehouse Digest</i>	Issue 75	Sheptonhurst Ltd, UK	Category 1
<i>Whitehouse Digest</i>	Issue 77	Sheptonhurst Ltd, UK	Category 1
<i>Zeta's Hot Shots (Parade Presents)</i>	No. 1 (C) 1988	Parade Publications, UK	Category 1

N.N.—8880895

Community Services and Health

COMMONWEALTH OF AUSTRALIA

National Health Act 1953

NOTICE FOR THE PURPOSES OF SUBSECTION 40AI (1)

I, MARK JOHNSON, Director, Residential Resources Section, Department of Community Services and Health, delegate of the Minister of State for Housing and Aged Care, hereby vary the Notice for the purposes of Subsection 40AI (1) of the *National Health Act 1953* as notified in the *Commonwealth of Australia Gazette* No. GN 45 of 30 November 1988 by amending the Additional Patient Contribution (APC) with effect from 1 December 1988 in respect of:

1. Approval Number: 2585E

Name: Maroubra Junction Nursing Home

Ward type: 001A 1X 002A 003A 004A

No. of wards: 2 3 29 1 6

APC (\$) 0.00 0.00 0.00 0.00 0.00

Dated this 30th day of November 1988.

MARK JOHNSON
Delegate of the
Minister of State for
Housing and Aged Care

N.N.—8880896

Employment, Education and Training

NOTIFICATION OF NON-GOVERNMENT SCHOOLS SEEKING ELIGIBILITY FOR COMMONWEALTH FINANCIAL ASSISTANCE

The following schools have notified their intention to seek eligibility for Commonwealth financial assistance in respect of their proposed commencement or, in the case of existing non-government schools, their proposed change in operation.

Interested parties have the opportunity to make submissions about particular proposals. Such submissions must be made no later than four weeks following publication of the *Gazette* and must address specific issues or matters of concern within the school's proposal. In general, the sub-

mission should be based on the criteria against which the funding priority of the proposal will be assessed. Submissions received within the four week period will be forwarded to the New Schools Committees for their consideration when recommending a funding priority. They will also be made available to proponents of the new schools or schools changing operations.

Interested parties should note that submissions received after the four week period cannot be considered by the Committees.

Submissions should be directed to:

The Secretary
Commonwealth Department of Employment,
Education and Training
PO Box 826
Woden ACT 2606
Attention: New Schools Section

The following abbreviations are used:

P: Primary
JS: Junior secondary
S: Secondary (junior and senior)
SS: Senior secondary
W: Whole
P: Partial
A: Additional Annex

Projected enrolments for the year in which funding is sought and maximum projected enrolments at each level are included.

Commencing School
1990

NEW SOUTH WALES

School name : Wagga Wagga Christian College
School town/suburb : Wagga Wagga
Proposed change : Commencement
Sponsoring org/affil : Wagga Wagga Christian College Association/Christian Parent Controlled Schools Ltd

School level : JSS
Projected enroll year 1 : 1990
Projected enroll junior 1 : 30
Projected enroll senior 1 : 0*
Maximum enroll junior : 120
Maximum enroll senior : 60

*School not proposing to commence senior secondary level until 1994.

N.N.—8880897

Industrial Relations

Conciliation and Arbitration Act 1904

Principal Registry
Nauru House
80 Collins Street
Melbourne, Vic. 3000

NOTICE OF APPLICATION FOR CONSENT TO A CHANGE IN THE DESCRIPTION OF THE INDUSTRY IN CONNECTION WITH WHICH AN ORGANIZATION IS REGISTERED (R No. 161 of 1988)

NOTICE is given that an application has been made to me under the *Conciliation and Arbitration Act 1904* for consent to an alteration of the rules of The Hospital Employees Federation of Australia insofar as those rules relate to the description of the industry in connection with which the organization is registered.

The alteration is sought from the following:-

"The Industry in or in connection with which the Federation is registered is the industry of the employment of persons employed or usually employed:-

- (a) throughout Australia in or about or in connection with the carrying on of all hospitals, benevolent homes, dispensaries, asylums, mental hospitals, sanatoriums, rest homes, convalescent homes, medical schools, laboratories, colleges, industrial and other homes, charitable institutions, ambulance work, all classes of nursing, public or private.
- i. except in the state of Western Australia persons employed by the Crown in Right of the State of Western Australia or any state instrumentality or in private hospitals or undertakings in the said state as (i) dental therapists and (ii) professional, clerical, technical and administrative employees in radiology and pathology clinics.
- ii. provided that in relation to persons employed in or about or in connection with the carrying on of all benevolent homes and convalescent homes the following shall be excluded from membership:-
 1. In the State of Queensland ancillary staff (other than at Eventide Homes), dentists, radiographers and pharmaceutical chemists.
 2. In the State of Western Australia all staff other than registered nursing staff with the exception of enrolled nurses.
 3. In the State of South Australia, all staff other than non-psychiatric nurses and enrolled nurses.
 4. In the Northern Territory, all staff other than registered nurses.

and/or

- (b) In the States of Victoria, Queensland, Tasmania and in the Australian Capital Territory, in the provision of care and training to the intellectually disabled and/or physically disabled and/or psychiatrically disabled and/or developmentally disabled and work ancillary thereto in hostels, day care centres, and homes (including dwellings) but excluding trained teachers employed as such and in the States of Victoria and Queensland and the Australian Capital Territory, teacher aides employed as such;

Provided that the following persons shall be excluded from coverage:-

- (i) In the State of Victoria
 1. cleaners employed pursuant to the Victorian Government School Cleaners Agreement or any successor thereto,
 2. persons employed in the provision of home care services to persons in private homes and dwellings
 3. supervisors, administrators and community service officers as all defined in awards to which The Municipal Officers' Association of Australia is respondent, being employees of employer respondents to such awards

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4. persons being otherwise eligible for membership of the Federated Municipal and Shire Council Employees Union of Australia who are employed directly by Local Government Authorities, but excluding any person employed by a committee of management recognised or appointed by such an Authority, including a committee to which an Authority delegates powers under Section 241A of the Local Government Act 1958.
 - (ii) in the State of Tasmania
 1. cleaners employed in Government educational institutions or educational undertakings;
 2. community service officers, supervisors and administrators employed by local governing authorities or statutory authorities;
 - (iii) in the State of Queensland, community service officers, supervisors and administrators employed by local governing authorities or statutory authorities;
 - (iv) in the Australian Capital Territory
 - persons employed in the provision of homecare services to persons in private homes or dwellings;

and/or

- (c) In the State of Victoria, in the provision of child care services in day care centres and residential centres but excluding
 1. trained teachers and teacher aides employed as such;
 2. cleaners employed pursuant to the Victorian School Cleaners Agreement or any successor thereto;
 3. supervisors, administrators and community service officers as all defined in awards to which The Municipal Officers' Association of Australia is respondent, being employees of employer respondents to such awards;
 4. persons being otherwise eligible for membership of the Federated Municipal and Shire Council Employees Union of Australia who are employed directly by Local Government Authorities, in any centre which is established after 8th October 1986 but excluding any person employed by a committee of management recognised or appointed by such an Authority, including a committee to which an Authority delegates powers under Section 241A of the Local Government Act 1958.

and/or

- (d)
 - (i) In the State of Tasmania in or in connection with doctors and/or dental surgeries, clinics and practices
 - (ii) In the Australian Capital Territory, radiographers and nursing staff in or in connection with doctors and/or dental surgeries, clinics and practices.

and/or

- (e) In the States of Victoria, Queensland and Tasmania and in the Australian Capital Territory in or in connection with the provision of medical, paramedical and/or nursing care for aged persons in day care centres and/or homes (including dwellings) and work ancillary thereto;

Provided that the following persons shall be excluded from coverage;

- (i) in the State of Victoria
 1. supervisors, administrators and community service officers as all defined in awards to which The Municipal Officers' Association of Australia is respondent, being employees of employer respondents to such awards.
 2. persons being otherwise eligible for membership of the Federated Municipal and Shire Council Employees Union of Australia who are employed directly by Local Government Authorities, but excluding any person employed by a committee of management recognised or appointed by such an Authority, including a committee to which an Authority delegates powers under Section 241A of the Local Government Act 1958.
- (ii) in the State of Queensland

- (1) radiographers, dentists, pharmaceutical chemists, ancillary staff (other than at Eventide Homes) and persons employed in the provision of home care services to aged persons in private homes or dwellings
- (2) community service officers, supervisors and administrators employed by local governing authorities or statutory authorities
- (iii) in the state of Tasmania, persons employed as community service officers, supervisors and administrators employed by local governing authorities or statutory authorities.
- (iv) in the Australian Capital Territory in the provision of home care services to aged persons in private homes and dwellings."

to the following:-

"The Industry in or in connection with which the Federation is registered is the industry of the employment of persons employed or usually employed:-

- (a) Throughout Australia in or about or in connection with the carrying on of all hospitals, benevolent homes, dispensaries, asylums, mental hospitals, sanatoriums, rest homes, convalescent homes, medical schools, laboratories, colleges, industrial and other homes, charitable institutions, ambulance work, community health centres and aboriginal health services, all classes of nursing, public or private.
 - (i) Except in the State of Western Australia persons employed by the Crown in Right of the State of Western Australia or any state instrumentality or in private hospitals or undertakings in the said state as (i) dental therapists and (ii) professional, clerical, technical and administrative employees in radiology and pathology clinics.
 - (ii) Provided that in relation to persons employed in or about or in connection with the carrying on of all benevolent homes and convalescent homes the following shall be excluded from membership:
 1. In the State of Queensland ancillary staff (other than at Eventide Homes), dentists, radiographers and pharmaceutical chemists.
 2. In the State of Western Australia all staff other than registered nursing staff with the exception of enrolled nurses.
 3. In the State of South Australia, all staff other than non-psychiatric nurses and enrolled nurses.
 4. In the Northern Territory, all staff other than registered nurses.

and/or

- (b) In the States of Victoria, Queensland, Tasmania and in the Australian Capital Territory, in the provision of care and training to the intellectually disabled and/or physically disabled and/or psychiatrically disabled and/or developmentally disabled and work ancillary thereto in hostels, day care centres, and homes (including dwellings) but excluding trained teachers employed as such and in the States of Victoria and Queensland and the Australian Capital Territory, teacher aides employed as such; provided that the following persons shall be excluded from coverage:-

(i) In the State of Victoria:-

1. Cleaners employed pursuant to the Victorian Government School Cleaners' Agreement or any successor thereto.
2. Persons employed in the provision of home care services to persons in private homes and dwellings.
3. Supervisors, administrators and community service officers as all defined in awards to which The Municipal Officers' Association of Australia is respondent, being employees of employer respondents to such awards.
4. Persons being otherwise eligible for membership of the Federated Municipal and Shire Council

Employees Union of Australia who are employed directly by Local Government Authorities, but excluding any person employed by a committee of management recognised or appointed by such an Authority, including a committee to which an Authority delegates powers under Section 241A of the Local Government Act 1958.

(ii) In the State of Tasmania:-

1. Cleaners employed in Government educational institutions or educational undertakings;
2. Community service officers, supervisors and administrators employed by local governing authorities or statutory authorities;

(iii) In the State of Queensland, community service officers, supervisors and administrators employed by local governing authorities or statutory authorities;

(iv) In the Australian Capital Territory:-

- persons employed in the provision of homecare services to persons in private homes or dwellings;

and/or

(c) In the State of Victoria, in the provision of child care services in day care centres and residential centres but excluding:-

1. Trained teachers and teacher aides employed as such;
2. Cleaners employed pursuant to the Victorian School Cleaners' Agreement or any successor thereto;
3. Supervisors, administrators and community service officers as all defined in awards to which The Municipal Officers' Association of Australia is respondent, being employees of employer respondents to such awards;
4. Persons being otherwise eligible for membership of the Federated Municipal and Shire Council Employees Union of Australia who are employed directly by Local Government Authorities, in any centre which is established after 8th October 1986 but excluding any person employed by a committee of management recognised or appointed by such an Authority, including a committee to which an Authority delegates powers under Section 241A of the Local Government Act 1958.

and/or

(d) (i) In the State of Tasmania in or in connection with doctors and/or dental surgeries, clinics and practices.

(ii) In the Australian Capital Territory, radiographers and nursing staff in or in connection with doctors and/or dental surgeries, clinics and practices.

and/or

(e) In the States of Victoria, Queensland and Tasmania and in the Australian Capital Territory in or in connection with the provision of medical, paramedical and/or nursing care for aged persons in day care centres and/or homes (including dwellings) and work ancillary thereto; provided that the following persons shall be excluded from coverage:-

(i) In the State of Victoria:-

1. Supervisors, administrators and community service officers as all defined in awards to which The Municipal Officers' Association of Australia is respondent, being employees of employer respondents to such awards.
2. Persons being otherwise eligible for membership of the Federated Municipal and Shire Council Employees Union of Australia who are employed directly by Local Government Authorities, but excluding any person employed by a committee of management recognised or appointed by such an Authority, including a committee to which an Authority delegates powers under Section 241A of the Local Government Act 1958.

(ii) In the State of Queensland:-

1. Radiographers, dentists, pharmaceutical chemists, ancillary staff (other than at Eventide Homes) and persons employed in the provision

of homecare services to aged persons in private homes or dwellings.

2. Community service officers, supervisors and administrators employed by local governing authorities or statutory authorities.
- (iii) In the State of Tasmania, persons employed as community service officers, supervisors and administrators employed by local governing authorities or statutory authorities.
- (iv) In the Australian Capital Territory in the provision of home care services to aged persons in private homes and dwellings."

Any organization registered under the Conciliation and Arbitration Act or any person interested who desires to object to the application may do so by lodging with me a notice of objection in the prescribed form and a statutory declaration in support thereof within thirty-five (35) days after the publication of this advertisement and by serving on the organization (whose address for service is: Private Bag No. 1, Carlton South, Vic. 3053) within seven (7) days after the notice of objection has been lodged, copies of the notice of objection and statutory declaration so lodged.

JOHN McMAHON
Industrial Registrar

N. N. 8881370

Conciliation and Arbitration Act 1904

Principal Registry
Nauru House
80 Collins Street
Melbourne, Vic. 3000

NOTICE OF APPLICATION FOR CONSENT TO A CHANGE IN THE CONDITIONS OF ELIGIBILITY FOR MEMBERSHIP

(R No. 145 of 1988)

NOTICE is given that an application has been made to me under the *Conciliation and Arbitration Act 1904* for consent to an alteration of the rules of The Hospital Employees Federation of Australia insofar as those rules relate to the conditions of eligibility for membership of the organization.

The alteration is sought from the following:

"The Federation shall consist of an unlimited number of persons employed or usually employed —

- (a) Throughout Australia in or about or in connection with the carrying on of all hospitals, benevolent homes, dispensaries, asylums, mental hospitals, sanatoriums, rest homes, convalescent homes, medical schools, laboratories, colleges, industrial and other homes, charitable institutions, ambulance work, all classes of nursing, public or private.
- (i) Except in the State of Western Australia persons employed by the Crown in Right of the State of Western Australia or any State instrumentality or in private hospitals or undertakings in the said State as (i) dental therapists and (ii) professional, clerical, technical and administrative employees in radiology and pathology clinics.
- (ii) Provided that in relation to persons employed in or about or in connection with the carrying on of all benevolent homes and convalescent homes the following shall be excluded from membership:-
 1. In the State of Queensland ancillary staff (other than at Eventide Homes), dentists, radiographers and pharmaceutical chemists.
 2. In the State of Western Australia all staff other than registered nursing staff with the exception of enrolled nurses.
 3. In the State of South Australia, all staff other than non-psychiatric nurses and enrolled nurses.

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4. In the Northern Territory, all staff other than registered nurses.

and/or

- (b) In the States of Victoria, Queensland, Tasmania and in the Australian Capital Territory, in the provision of care and training to the intellectually disabled and/or physically disabled and/or psychiatrically disabled and/or developmentally disabled and work ancillary thereto in hostels, day care centres, and homes (including dwellings) but excluding trained teachers employed as such and in the States of Victoria and Queensland and the Australian Capital Territory, teacher aides employed as such; provided that the following persons shall be excluded from coverage:-

(i) In the State of Victoria:-

1. Cleaners employed pursuant to the Victorian Government School Cleaners Agreement or any successor thereto.
2. Persons employed in the provision of home care services to persons in private homes and dwellings.
3. Supervisors, administrators and community service officers as all defined in awards to which The Municipal Officers' Association of Australia is respondent, being employees of employer respondents to such awards.
4. Persons being otherwise eligible for membership of the Federated Municipal and Shire Council Employees Union of Australia who are employed directly by Local Government Authorities, but excluding any person employed by a Committee of Management recognised or appointed by such an Authority, including a committee to which an Authority delegates powers under Section 241A of the Local Government Act 1958.

(ii) In the State of Tasmania:-

1. Cleaners employed in Government educational institutions or educational undertakings.
2. Community service officers, supervisors and administrators employed by local governing authorities or statutory authorities.

(iii) In the State of Queensland:-

1. Community service officers, supervisors and administrators employed by local governing authorities or statutory authorities;

(iv) In the Australian Capital Territory:-

1. Persons employed in the provision of home care services to persons in private homes or dwellings;

and/or

- (c) In the State of Victoria, in the provision of child care services in day care centres and residential centres but excluding:-

1. Trained teachers and teacher aides employed as such.
2. Cleaners employed pursuant to the Victorian School Cleaners Agreement or any successor thereto.
3. Supervisors, administrators and community service officers as all defined in awards to which The Municipal Officers' Association of Australia is respondent, being employees of employer respondents to such awards.
4. Persons being otherwise eligible for membership of the Federated Municipal and Shire Council Employees Union of Australia who are employed directly by Local Government Authorities, in any centre which is established after 8th October 1986 but excluding any person employed by a Committee of Management recognised or appointed by such an Authority, including a committee to which an Authority delegates powers under Section 241A of the Local Government Act 1958.

- and/or
- (d) (i) In the State of Tasmania:-
1. In or in connection with doctors and/or dental surgeries, clinics and practices.
- (ii) In the Australian Capital Territory:-
1. Radiographers and nursing staff in or in connection with doctors and/or dental surgeries, clinics and practices.
- and/or
- (e) In the States of Victoria, Queensland and Tasmania and in the Australian Capital Territory:-
1. In or in connection with the provision of medical, para-medical and/or nursing care for aged persons in day care centres and/or homes (including dwellings) and work ancillary thereto; provided that the following persons shall be excluded from coverage:-
- (i) In the State of Victoria:-
1. Supervisors, administrators and community service officers as all defined in awards to which The Municipal Officers' Association of Australia is respondent, being employees of employer respondents to such awards.
 2. Persons being otherwise eligible for membership of the Federated Municipal and Shire Council Employees Union of Australia who are employed directly by Local Government Authorities, but excluding any person employed by a Committee of Management recognised or appointed by such an Authority, including a committee to which an Authority delegates powers under Section 241A of the Local Government Act 1958.
- (ii) In the State of Queensland:-
1. Radiographers, dentists, pharmaceutical chemists, ancillary staff (other than at Eventide Homes) and persons employed in the provision of home care services to aged persons in private homes or dwellings.
 2. Community service officers, supervisors and administrators employed by local governing authorities or statutory authorities.
- (iii) In the State of Tasmania:-
1. Persons employed as community service officers, supervisors and administrators employed by local governing authorities or statutory authorities.
- (iv) In the Australian Capital Territory:-
1. In the provision of home care services to aged persons in private homes and dwellings.
- and
- (f) Such other persons, whether or not employees in the industry as have been elected or appointed full time officers or organizers of the Federation or any branch thereof and admitted as members of the Federation.
- For the purposes of this Rule, the full time officers of the Federation and of any Branch thereof shall be the holders for the time being of any of the following offices where the duties of such office are of a full time nature:-
- National President, National Vice-President, National Trustee, National Secretary, National Assistant Secretary, Branch President, Branch Senior Vice-President, Branch Junior Vice-President, Branch Trustee, Branch Secretary, Branch Assistant Secretary."
- to the following:-
- "The Federation shall consist of an unlimited number of persons employed or usually employed —
- (a) Throughout Australia in or about or in connection with the carrying on of all hospitals, benevolent homes, dispensaries, asylums, mental hospitals, sanatoriums, rest homes, convalescent homes, medical schools, laboratories, colleges, industrial and other homes, charitable institutions, ambulance work, community health centres and aboriginal health services, all classes of nursing, public or private.
- (i) Except in the State of Western Australia persons employed by the Crown in Right of the State of Western Australia or any State instrumentality or in private hospitals or undertakings in the said State as (i) dental therapists and (ii) professional, clerical, technical and administrative employees in radiology and pathology clinics.
- (ii) Provided that in relation to persons employed in or about or in connection with the carrying on of all benevolent homes and convalescent homes the following shall be excluded from membership:-
1. In the State of Queensland ancillary staff (other than at Eventide Homes), dentists, radiographers and pharmaceutical chemists.
 2. In the State of Western Australia all staff other than registered nursing staff with the exception of enrolled nurses.
 3. In the State of South Australia, all staff other than non-psychiatric nurses and enrolled nurses.
 4. In the Northern Territory, all staff other than registered nurses.
- and/or
- (b) In the States of Victoria, Queensland, Tasmania and in the Australian Capital Territory, in the provision of care and training to the intellectually disabled and/or physically disabled and/or psychiatrically disabled and/or developmentally disabled and work ancillary thereto in hostels, day care centres, and homes (including dwellings) but excluding trained teachers employed as such and in the States of Victoria and Queensland and the Australian Capital Territory, teacher aides employed as such; provided that the following persons shall be excluded from coverage:-
- (i) In the State of Victoria:-
1. Cleaners employed pursuant to the Victorian Government School Cleaners' Agreement or any successor thereto.
 2. Persons employed in the provision of home care services to persons in private homes and dwellings.
 3. Supervisors, administrators and community service officers as all defined in awards to which The Municipal Officers' Association of Australia is respondent, being employees of employer respondents to such awards.
 4. Persons being otherwise eligible for membership of the Federated Municipal and Shire Council Employees Union of Australia who are employed directly by Local Government Authorities, but excluding any person employed by a Committee of Management recognised or appointed by such an Authority, including a committee to which an Authority delegates powers under Section 241A of the Local Government Act 1958.
- (ii) In the State of Tasmania:-
1. Cleaners employed in Government educational institutions or educational undertakings.
 2. Community service officers, supervisors and administrators employed by local governing authorities or statutory authorities.
- (iii) In the State of Queensland:-
1. Community service officers, supervisors and administrators employed by local governing authorities or statutory authorities.
- (iv) In the Australian Capital Territory:-
1. Persons employed in the provision of home care services to persons in private homes or dwellings.
- and/or

2716 Government departments

- (c) In the State of Victoria, in the provision of child care services in day care centres and residential centres but excluding:-
 1. Trained teachers and teacher aides employed as such.
 2. Cleaners employed pursuant to the Victorian School Cleaners' Agreement or any successor thereto.
 3. Supervisors, administrators and community service officers as all defined in awards to which The Municipal Officers' Association of Australia is respondent, being employees of employer respondents to such awards.
 4. Persons being otherwise eligible for membership of the Federated Municipal and Shire Council Employees Union of Australia who are employed directly by Local Government Authorities, in any centre which is established after 8 October 1986 but excluding any person employed by a Committee of Management recognised or appointed by such an Authority, including a committee to which an Authority delegates powers under Section 241A of the Local Government Act 1958.
- (d) (i) In the State of Tasmania:-
 1. In or in connection with doctors and/or dental surgeries, clinics and practices.
 (ii) In the Australian Capital Territory:-
 1. Radiographers and nursing staff in or in connection with doctors and/or dental surgeries, clinics and practices.
- (e) In the States of Victoria, Queensland and Tasmania and in the Australian Capital Territory:-
 1. In or in connection with the provision of medical, para-medical and/or nursing care for aged persons in day care centres and/or homes (including dwellings) and work ancillary thereto; provided that the following persons shall be excluded from coverage:-
 (i) In the State of Victoria:-
 1. Supervisors, administrators and community service officers as all defined in awards to which The Municipal Officers' Association of Australia is respondent, being employees of employer respondents to such awards.
 2. Persons being otherwise eligible for membership of the Federated Municipal and Shire Council Employees Union of Australia who are employed directly by Local Government Authorities, but excluding any person employed by a Committee of Management recognised or appointed by such an Authority, including a committee to which an Authority delegates powers under Section 241A of the Local Government Act 1958.
 (ii) In the State of Queensland:-
 1. Radiographers, dentists, pharmaceutical chemists, ancillary staff (other than at Eventide Homes) and persons employed in the provision of home care services to aged persons in private homes or dwellings.
 2. Community service officers, supervisors and administrators employed by local governing authorities or statutory authorities.
 (iii) In the State of Tasmania:-
 1. Persons employed as community service officers, supervisors and administrators employed by local governing authorities or statutory authorities.
 (iv) In the Australian Capital Territory:-
 1. In the provision of home care services to aged persons in private homes and dwellings.

- FOI Production Documents [2024.2732]**
- (f) Such other persons, whether or not employees in the industry as have been elected or appointed full time officers or organizers of the Federation or any Branch thereof and admitted as members of the Federation.
For the purpose of this Rule, the full time officers of the Federation and of any Branch thereof shall be the holders for the time being of any of the following offices where the duties of such office are of a full time nature:-
National President, National Vice-President, National Trustee, National Secretary, National Assistant Secretary, Branch President, Branch Senior Vice-President, Branch Junior Vice-President, Branch Trustee, Branch Secretary, Branch Assistant Secretary."

Any organization registered under the Conciliation and Arbitration Act or any person interested who desires to object to the application may do so by lodging with me a notice of objection in the prescribed form and a statutory declaration in support thereof within thirty-five (35) days after the publication of this advertisement and by serving on the organization (whose address for service is: Private Bag No. 1, Carlton South, Vic. 3053) within seven (7) days after the notice of objection has been lodged, copies of the notice of objection and statutory declaration so lodged.

JOHN McMAHON
Industrial Registrar

N.N. 8881371

AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

Conciliation and Arbitration Act 1904

NOTICE UNDER SUBSECTION 49A (3) IN RELATION TO VARIATION OF A COMMON RULE

In the matter of the
CLOTHING TRADES AWARD 1982
C No. 31794 of 1988

And in the matter of the variation of the award dated 1 February 1983 in the above matter.

Notice is hereby given:

- (a) that on 16 November 1988 the Commission varied the terms of the above mentioned award referred to in the Schedule as set out in the Schedule;
- (b) that the variation will be a common rule in the Australian Capital Territory in the industry in respect of which the dispute arose with effect from the first pay period to commence on or after 12 August 1988; and
- (c) that any person or organisation having an objection to the variation binding that person or organisation and desiring to be heard in relation to that objection is invited to lodge with the Commission a notice of that objection within twenty-eight days after the date specified in paragraph (a).

A copy of the award may be inspected at the office of the Registrar. Objections should be lodged with the Registrar at 4th Floor, CML Building, University Ave, Canberra, by 4.30 p.m. on 14 December 1988.

**SCHEDULE
TERMS VARIED**

Clause No.	Subject	Substance of variation
		PRINT No. H5539
26	Contract work	Contract work

Dated this 28th day of November 1988.

CHRISTOPHER BRENDON
Deputy Industrial Registrar

AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

Conciliation and Arbitration Act 1904

NOTICE UNDER SUBSECTION 49A (3) IN RELATION TO VARIATION OF A COMMON RULE

In the matter of the

LIQUOR AND ALLIED INDUSTRIES HOTELS, HOSTELS, CLUBS AND BOARDING ESTABLISHMENTS ETC. (ACT) CONSOLIDATED AWARD 1977

C No. 32895 of 1988

And in the matter of the variation of the award dated 26 July 1977 in the above matter.

Notice is hereby given:

- (a) that on 24 November 1988 the Commission varied the terms of the above mentioned award referred to in the Schedule as set out in the Schedule;
- (b) that the variation will be a common rule in the Australian Capital Territory in the industry in respect of which the dispute arose with effect from the first pay period to commence on or after 12 September 1988 and 12 March 1989; and
- (c) that any person or organisation having an objection to the variation binding that person or organisation and desiring to be heard in relation to that objection is invited to lodge with the Commission a notice of that objection within twenty-eight days after the date specified in paragraph (a).

A copy of the award may be inspected at the office of the Registrar. Objections should be lodged with the Registrar at 4th Floor, CML Building, University Ave, Canberra, by 4.30 p.m. on 3 January 1989.

**SCHEDULE
TERMS VARIED**

Clause No.	Subject	Substance of variation
		PRINT No. H4659
5 (a)	Minimum wage—Adults	August National Wage Case, 1988
5A	No extra claims	August National Wage Case, 1988
6	Wages—Licensed Clubs and/or other licenced establishments	August National Wage Case, 1988
7	Wage rates—All other establishments	August National Wage Case, 1988
9 (a)	Adult office employees	August National Wage Case, 1988
13 (a)	Casual employees	August National Wage Case, 1988
15 (a) (c)	Board and residence	August National Wage Case, 1988
18 (f)	Hours of employment and extra rates	August National Wage Case, 1988

Dated this 29th day of November 1988.

CHRISTOPHER BRENDON
Deputy Industrial Registrar

N.N.—8880899

AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

Conciliation and Arbitration Act 1904

NOTICE UNDER SUBSECTION 49A (3) IN RELATION TO VARIATION OF A COMMON RULE

In the matter of the

TRANSPORT WORKERS' (ARMOURED VEHICLES) AWARD 1978

C No. 31093 of 1988

And in the matter of the variation of the award dated 28 August 1978 in the above matter.

Notice is hereby given:

- (a) that on 25 November 1988 the Commission varied the terms of the above mentioned award referred to in the Schedule as set out in the Schedule;
- (b) that the variation will be a common rule in the Australian Capital Territory in the industry in respect of which the dispute arose with effect from the first pay period to commence on or after 11 April 1988 and 20 April 1988; and
- (c) that any person or organisation having an objection to the variation binding that person or organisation and desiring to be heard in relation to that objection is invited to lodge with the Commission a notice of that objection within twenty-eight days after the date specified in paragraph (a).

A copy of the award may be inspected at the office of the Registrar. Objections should be lodged with the Registrar at 4th Floor, CML Building, University Ave, Canberra, by 4.30 p.m. on 23 December 1988.

**SCHEDULE
TERMS VARIED**

Clause No.	Subject	Substance of variation
		PRINT No. H4645
2	Arrangement	Second Tier Increase, March 1987
Appendix B	Armaguard and Brambles Security	Second Tier Increase, March 1987

Dated this 29th day of November 1988.

CHRISTOPHER BRENDON
Deputy Industrial Registrar

CA03I048 CRACTOIRS\$ N.N.—8880900

AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

Conciliation and Arbitration Act 1904

NOTICE UNDER SUBSECTION 49A (3) IN RELATION TO VARIATION OF A COMMON RULE

In the matter of the

PARKING STATIONS ETC. EMPLOYEES (ACT) AWARD 1983

C No. 21171 of 1988

And in the matter of the variation of the award dated 1 July 1983 in the above matter.

Notice is hereby given:

- (a) that on 7 November 1988 the Commission varied the terms of the above mentioned award referred to in the Schedule as set out in the Schedule;
- (b) that the variation will be a common rule in the Australian Capital Territory in the industry in respect of which the dispute arose with effect from the first pay period to commence on or after 27 September 1988; and

- (c) that any person or organisation having an objection to the variation binding that person or organisation and desiring to be heard in relation to that objection is invited to lodge with the Commission a notice of that objection within twenty-eight days after the date specified in paragraph (a).

A copy of the award may be inspected at the office of the Registrar. Objections should be lodged with the Registrar at 4th Floor, CML Building, University Ave, Canberra, by 4.30 p.m. on 5 December 1988.

**SCHEDULE
TERMS VARIED**

<i>Clause No.</i>	<i>Subject</i>	<i>Substance of variation</i>
	PRINT No. H5020	
4	Wages	Second Tier Increase
19 and 19 (a)	Uniforms	Second Tier Increase
21 (b)	Wages etc.—Time and payments off	Second Tier Increase

Dated this 29th day of November 1988.

CHRISTOPHER BRENDON
Deputy Industrial Registrar
N.N.—8880901

AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

Conciliation and Arbitration Act 1904

NOTICE UNDER SUBSECTION 49A (3) IN RELATION TO VARIATION OF A COMMON RULE

In the matter of the

TRANSPORT WORKERS' (REFUSE) AWARD 1978

C No. 32015 of 1988

And in the matter of the variation of the award dated 29 September 1978 in the above matter.

Notice is hereby given:

- (a) that on 25 November 1988 the Commission varied the terms of the above mentioned award referred to in the Schedule as set out in the Schedule;
- (b) that the variation will be a common rule in the Australian Capital Territory in the industry in respect of which the dispute arose with effect from the first pay period to commence on or after 1 November 1988 and 1 May 1989; and
- (c) that any person or organisation having an objection to the variation binding that person or organisation and desiring to be heard in relation to that objection is invited to lodge with the Commission a notice of that objection within twenty-eight days after the date specified in paragraph (a).

A copy of the award may be inspected at the office of the Registrar. Objections should be lodged with the Registrar at 4th Floor, CML Building, University Ave, Canberra, by 4.30 p.m. on 23 December 1988.

**SCHEDULE
TERMS VARIED**

<i>Clause No.</i>	<i>Subject</i>	<i>Substance of variation</i>
	PRINT No. H5015	
9A	No extra claims	August National Wage Case, 1988
10	Weekly wage rates	August National Wage Case, 1988
14 (c) (d)	Payment of wages	August National Wage Case, 1988

FOI Production Documents [2024-2732]

<i>Clause No.</i>	<i>Subject</i>	<i>Substance of variation</i>
17 (f)	Hours of work	August National Wage Case, 1988
20 (c)	Meal times	August National Wage Case, 1988
27 (a)	Travelling allowance	August National Wage Case, 1988
28A (b)	Foot wear	August National Wage Case, 1988
28B	Torches	August National Wage Case, 1988

Dated this 29th day of November 1988.

CHRISTOPHER BRENDON
Deputy Industrial Registrar
N.N.—8880902

AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

Conciliation and Arbitration Act 1904

NOTICE UNDER SUBSECTION 49A (3) IN RELATION TO VARIATION OF A COMMON RULE

In the matter of the

TRANSPORT WORKERS' (PASSENGER VEHICLES) AWARD 1984

C No. 32016 of 1988

And in the matter of the variation of the award dated 19 December 1984 in the above matter.

Notice is hereby given:

- (a) that on 23 November 1988 the Commission varied the terms of the above mentioned award referred to in the Schedule as set out in the Schedule;
- (b) that the variation will be a common rule in the Australian Capital Territory in the industry in respect of which the dispute arose with effect from the first pay period to commence on or after 20 December 1988; and
- (c) that any person or organisation having an objection to the variation binding that person or organisation and desiring to be heard in relation to that objection is invited to lodge with the Commission a notice of that objection within twenty-eight days after the date specified in paragraph (a).

A copy of the award may be inspected at the office of the Registrar. Objections should be lodged with the Registrar at 4th Floor, CML Building, University Ave, Canberra, by 4.30 p.m. on 21 December 1988.

**SCHEDULE
TERMS VARIED**

<i>Clause No.</i>	<i>Subject</i>	<i>Substance of variation</i>
	PRINT No. H5446	
Pt 1 8A	No extra claims	August National Wage Case, 1988
Pt 1 9	Wage rates	August National Wage Case, 1988
Pt 1 11 (d) (ii) 1, 2, 3	Hours of duty	August National Wage Case, 1988
Pt 1 16	Meal or meal allowance	August National Wage Case, 1988
Pt 1 23 (c) (d)	Payment of wages	August National Wage Case, 1988

Dated this 29th day of November 1988.

CHRISTOPHER BRENDON
Deputy Industrial Registrar

N.N.—8880903

AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

Conciliation and Arbitration Act 1904

NOTICE UNDER SUBSECTION 49A (3) IN RELATION TO VARIATION OF A COMMON RULE

In the matter of the

TRANSPORT WORKERS GARBAGE (AUSTRALIAN CAPITAL TERRITORY) AWARD 1970

C No. 32057 of 1988

And in the matter of the variation of the award dated 11 July 1974 in the above matter.

Notice is hereby given:

- (a) that on 23 November 1988 the Commission varied the terms of the above mentioned award referred to in the Schedule as set out in the Schedule;
- (b) that the variation will be a common rule in the Australian Capital Territory in the industry in respect of which the dispute arose with effect from the first pay period to commence on or after 21 September 1988; and
- (c) that any person or organisation having an objection to the variation binding that person or organisation and desiring to be heard in relation to that objection is invited to lodge with the Commission a notice of that objection within twenty-eight days after the date specified in paragraph (a).

A copy of the award may be inspected at the office of the Registrar. Objections should be lodged with the Registrar at 4th Floor, CML Building, University Ave, Canberra, by 4.30 p.m. on 21 December 1988.

SCHEDULE

TERMS VARIED

Clause No.	Subject	Substance of variation
		PRINT No. H5447
4A	No extra claims	August National Wage Case, 1988
8 (b)	Meal times	August National Wage Case, 1988
26 (a)	Excess fares	August National Wage Case, 1988
27 (a)	Fares and travelling expenses on engagement	August National Wage Case, 1988

Dated this 29th day of November 1988.

CHRISTOPHER BRENDON
Deputy Industrial Registrar

CA031048 CRACTOIRS

N.N.—8880904

AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

Conciliation and Arbitration Act 1904

NOTICE UNDER SUBSECTION 49A (3) IN RELATION TO VARIATION OF A COMMON RULE

In the matter of the

DRAUGHTSMEN, PLANNERS AND TECHNICAL OFFICERS (AUSTRALIAN CAPITAL TERRITORY) AWARD 1982

C No. 32524 of 1988

And in the matter of the variation of the award dated 11 February 1982 in the above matter.

Notice is hereby given:

- (a) that on 23 November 1988 the Commission varied the terms of the above mentioned award referred to in the Schedule as set out in the Schedule;

FOI Production Documents [2024.2732]

- (b) that the variation will be a common rule in the Australian Capital Territory in the industry in respect of which the dispute arose with effect from the first pay period to commence on or after 1 September 1988 and 1 March 1989; and
- (c) that any person or organisation having an objection to the variation binding that person or organisation and desiring to be heard in relation to that objection is invited to lodge with the Commission a notice of that objection within twenty-eight days after the date specified in paragraph (a).

A copy of the award may be inspected at the office of the Registrar. Objections should be lodged with the Registrar at 4th Floor, CML Building, University Ave, Canberra, by 4.30 p.m. on 21 December 1989.

SCHEDULE

TERMS VARIED

Clause No.	Subject	Substance of variation
		PRINT No. H4974
4	Wages	August National Wage Case, 1988
9 (a) (b) (c) (d) (e) (f) (g) iii	Extra rates	August National Wage Case, 1988
10A	No extra claims	August National Wage Case, 1988
18	Construction allowance	August National Wage Case, 1988
27 (b)	First aid and ambulance chest	August National Wage Case, 1988

Dated this 29th day of November 1988.

CHRISTOPHER BRENDON
Deputy Industrial Registrar

N.N.—8880905

AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

Conciliation and Arbitration Act 1904

NOTICE UNDER SUBSECTION 49A (3) IN RELATION TO VARIATION OF A COMMON RULE

In the matter of the

CONCRETE PRODUCTS FACTORIES (ACT) AWARD 1970

C No. 90224 of 1988

And in the matter of the variation of the award dated 28 May 1971 in the above matter.

Notice is hereby given:

- (a) that on 18 November 1988 the Commission varied the terms of the above mentioned award referred to in the Schedule as set out in the Schedule;
- (b) that the variation will be a common rule in the Australian Capital Territory in the industry in respect of which the dispute arose with effect from the first pay period to commence on or after 27 September 1988; and
- (c) that any person or organisation having an objection to the variation binding that person or organisation and desiring to be heard in relation to that objection is invited to lodge with the Commission a notice of that objection within twenty-eight days after the date specified in paragraph (a).

A copy of the award may be inspected at the office of the Registrar. Objections should be lodged with the Registrar at 4th Floor, CML Building, University Ave, Canberra, by 4.30 p.m. on 16 December 1988.

SCHEDULE
TERMS VARIED

Clause No.	Subject	Substance of variation
	PRINT No. H5083	
5	Wages	August National Wage Case, 1988
5A	Leading hands	August National Wage Case, 1988
5B	Disability allowance	August National Wage Case, 1988
5C	No extra claims	August National Wage Case, 1988
6 (l) (b) (c) (f) (g) (h) (i)	Extra rates	August National Wage Case, 1988
13 (a)	Meal allowance	August National Wage Case, 1988
22 (b)	First aid ambulance chest	August National Wage Case, 1988
28	Senior plant operators	August National Wage Case, 1988

Dated this 29th day of November 1988.

CHRISTOPHER BRENDON
Deputy Industrial Registrar
N.N.—8880906

AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

Conciliation and Arbitration Act 1904

NOTICE UNDER SUBSECTION 49A (3) IN RELATION TO VARIATION OF A COMMON RULE

In the matter of the

CONCRETE PRODUCTS FACTORIES (ACT) AWARD 1970

C No. 90224 of 1988

And in the matter of the variation of the award dated 28 May 1971 in the above matter.

Notice is hereby given:

- (a) that on 18 November 1988 the Commission varied the terms of the above mentioned award referred to in the Schedule as set out in the Schedule;
- (b) that the variation will be a common rule in the Australian Capital Territory in the industry in respect of which the dispute arose with effect from the first pay period to commence on or after 27 March 1989; and
- (c) that any person or organisation having an objection to the variation binding that person or organisation and desiring to be heard in relation to that objection is invited to lodge with the Commission a notice of that objection within twenty-eight days after the date specified in paragraph (a).

A copy of the award may be inspected at the office of the Registrar. Objections should be lodged with the Registrar at 4th Floor, CML Building, University Ave, Canberra, by 4.30 p.m. on 16 December 1988.

SCHEDULE
TERMS VARIED

Clause No.	Subject	Substance of variation
	PRINT No. H5082	
5	Wages	August National Wage Case, 1988

FOI Production Documents [2024/2732]

Dated this 29th day of November 1988.

CHRISTOPHER BRENDON
Deputy Industrial Registrar

N.N.—8880907

AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

Conciliation and Arbitration Act 1904

NOTICE UNDER SUBSECTION 49A (3) IN RELATION TO VARIATION OF A COMMON RULE

In the matter of the

SECURITY EMPLOYEES (ACT) AWARD 1986

C No. 21852 of 1988

And in the matter of the variation of the award dated 15 April 1986 in the above matter.

Notice is hereby given:

- (a) that on 23 November 1988 the Commission varied the terms of the above mentioned award referred to in the Schedule as set out in the Schedule;
- (b) that the variation will be a common rule in the Australian Capital Territory in the industry in respect of which the dispute arose with effect from the first pay period to commence on or after 26 September 1988 and 26 March 1989; and
- (c) that any person or organisation having an objection to the variation binding that person or organisation and desiring to be heard in relation to that objection is invited to lodge with the Commission a notice of that objection within twenty-eight days after the date specified in paragraph (a).

A copy of the award may be inspected at the office of the Registrar. Objections should be lodged with the Registrar at 4th Floor, CML Building, University Ave, Canberra, by 4.30 p.m. on 21 December 1988.

SCHEDULE
TERMS VARIED

Clause No.	Subject	Substance of variation
	PRINT No. H4905	
7	Weekly wages	August National Wage Case, 1988
7A	No extra claims	August National Wage Case, 1988

Dated this 29th day of November 1988.

CHRISTOPHER BRENDON
Deputy Industrial Registrar

CA031048 CRACTORIS

N.N.—8880908

AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

Conciliation and Arbitration Act 1904

NOTICE UNDER SUBSECTION 49A (3) IN RELATION TO VARIATION OF A COMMON RULE

In the matter of the

MILK TREATMENT AND DISTRIBUTION EMPLOYEES (ACT) AWARD 1967

C No. 7065 of 1987

And in the matter of the variation of the award dated 17 July 1967 in the above matter.

Notice is hereby given:

- (a) that on 18 November 1988 the Commission varied the terms of the above mentioned award referred to in the Schedule as set out in the Schedule;

- (b) that the variation will be a common rule in the Australian Capital Territory in the industry in respect of which the dispute arose with effect from the first pay period to commence on or after 10 December 1987; and
- (c) that any person or organisation having an objection to the variation binding that person or organisation and desiring to be heard in relation to that objection is invited to lodge with the Commission a notice of that objection within twenty-eight days after the date specified in paragraph (a).

A copy of the award may be inspected at the office of the Registrar. Objections should be lodged with the Registrar at 4th Floor, CML Building, University Ave, Canberra, by 4.30 p.m. on 16 December 1988.

**SCHEDULE
TERMS VARIED**

Clause No.	Subject	Substance of variation
	PRINT No. H4899	
6	Casual labour	Second Tier Adjustment

Dated this 29th day of November 1988.

CHRISTOPHER BRENDON
Deputy Industrial Registrar

N.N.—8880909

**Industry, Technology and
Commerce**

**MANAGEMENT AND INVESTMENT COMPANIES
LICENSING BOARD**

Management and Investment Companies Act 1983
Subsection 23A (4)

SURRENDER OF LICENCE

Pursuant to subsection 23A (4) of the *Management and Investment Companies Act 1983*, the Management and Investment Companies Licensing Board has approved the surrender of the Management and Investment Company licence held by Westintech Innovation Corporation Limited effective from 30 November 1988.

C. R. WARD-AMBLER
Chairman
Management and Investment
Companies Licensing Board

N.N.—8880910

ANTI-DUMPING AUTHORITY [19824.2732]

**NOTICE OF INQUIRY INTO THE
DETERMINATION OF CONSTRUCTED NORMAL
VALUES, MATERIAL INJURY AND EXTENDED
PERIOD OF TIME**

The Minister for Science, Customs and Small Business, Barry Jones, has requested the Anti-Dumping Authority to report to him on what guidelines might be issued to the Authority and to the Australian Customs Service regarding a number of matters. These may be summarised as follows:

The circumstances when a profit component should be included in a normal value construction;

The extent to which factors such as substantially reduced profits and the market share of imports need to be established in determining material injury; and

The interpretation of 'extended period of time' under s5 (9) of the *Customs Tariff (Anti-Dumping) Act 1975*.

When the Government reviewed and amended its anti-dumping legislation certain decisions were not incorporated into the legislation because of difficulties in legal drafting. An inquiry and report by the Authority will provide for the development of these decisions into guidelines for promulgation as Regulations or Ministerial Directions.

The Authority intends to forward its report to the Minister no later than 25 March 1989 – but will endeavour to forward it earlier, if practicable. Interested parties are invited to make submissions on any or all of the matters raised in the Minister's references to the Authority as soon as possible, but not later than 23 December 1988. Submissions should address the matters raised in the Minister's references, copies of which can be obtained from the Authority by telephoning Ian Hawke on (062) 76 1631.

The Authority may conduct public hearings as part of its inquiry process. Any such hearing would be held about the end of January to enable the Authority to comply with the Minister's request for an urgent report.

The Authority will be employing a 'public file' system similar to that used by the Australian Customs Service and explained in Australian Customs Notice No. 87/169. Briefly this means that any submission containing confidential information should be accompanied by another version, omitting the confidential information but containing a non-confidential summary of it, which can be made available to interested parties. Three copies of each version are required.

For further information regarding the Authority's inquiry please telephone Jock McGuire on (062) 76 1722.

N.N.—8880911

FOI Production Documents [2024.2732]
COMMONWEALTH OF AUSTRALIA
CUSTOMS ACT 1901

NOTICE OF FAIR RATES OF EXCHANGE

I, BRYAN GEOFFREY GILL, delegate of the Comptroller-General of Customs, hereby specify, pursuant to paragraph (a) of sub-section 161B(2) of the *Customs Act 1901* that the rates of exchange specified in Columns 3 to 7 of the Schedule hereunder are fair rates of exchange for the conversion of the foreign currencies of countries specified opposite in Columns 1 and 2 into Australian dollars on the dates under which the specified rates of exchange appear for the purposes of Division 2 of Part VIII of the *Customs Act 1901*.

<u>SCHEDULE</u>		(Foreign Currency = AUS \$1)				
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Country	Foreign Currency	Date 23/11/88	Date 24/11/88	Date 25-27/11	Date 28/11/88	Date 29/11/88
AUSTRIA	Schillings	10.4300	10.4500	10.4800	10.5600	10.6300
BELGIUM/LUX	Francs	31.1100	31.1500	31.2600	31.5100	31.7000
BRAZIL	Cruzado	472.0900	478.4900	481.0300	482.0200	497.1200
CANADA	Dollars	1.0374	1.0377	1.0391	1.0393	1.0389
CHINA	New Yuan	3.2089	3.2171	3.2341	3.2408	3.2345
DENMARK	Kroner	5.7296	5.7380	5.7501	5.8078	5.8356
FIJI	Dollars	1.1881	1.1854	1.1884	1.1892	1.1837
FINLAND	Marks	3.5262	3.5332	3.5468	3.5678	3.5779
FRANCE	Francs	5.0746	5.0823	5.0974	5.1411	5.1664
GERMANY F.R.	Deutschmarks	1.4844	1.4871	1.4911	1.5055	1.5130
GREECE	Drachmas	123.1900	123.5300	124.0000	124.9400	125.8600
HONG KONG	Dollars	6.7498	6.7675	6.8029	6.8155	6.8016
INDIA	Rupees	13.0022	13.0138	13.0678	13.1053	13.0589
INDONESIA	Rupiahs	1482.0000	1486.0000	1494.0000	1498.0000	1495.0000
IRELAND	Pounds	0.5553	0.5567	0.5572	0.5625	0.5653
ISRAEL	Shekel	1.3699	1.3708	1.3763	1.3792	1.3765
ITALY	Lire	1103.4200	1104.5700	1108.0100	1117.1700	1120.7300
JAPAN	Yen	104.7200	104.9600	105.2100	106.1400	106.4800
KOREA	Won	593.8300	594.7700	597.2800	598.3700	597.2700
MALAYSIA	Dollars	2.2786	2.2887	2.3093	2.3270	2.3357
NETHERLANDS	Guilders	1.6748	1.6769	1.6828	1.6974	1.7054
NEW ZEALAND	Dollars	1.3293	1.3280	1.3277	1.3293	1.3301
NORWAY	Kroner	5.6118	5.6203	5.6370	5.6682	5.6715
PAKISTAN	Rupees	16.1500	16.1900	16.2700	16.3100	16.2700
PNG	Kina	0.7066	0.7071	0.7092	0.7094	0.7099
PHILIPPINES	Pesos	17.9800	18.0200	18.1200	18.1600	18.1200
PORTUGAL	Escudos	123.3600	123.7400	124.0000	124.9400	125.4800
SINGAPORE	Dollars	1.6784	1.6819	1.6897	1.6942	1.6952
SOLOMON IS.	Dollars	1.7675	1.7648	1.7705	1.7706	1.7671
SOUTH AFRICA	Rand	2.0367	2.0337	2.0314	2.0350	2.0183
SPAIN	Pesetas	97.3500	97.4900	97.5800	98.5100	98.9900
SRI LANKA	Rupees	28.4800	28.5500	28.7000	28.7600	28.7100
SWEDEN	Kroner	5.1910	5.1997	5.2119	5.2501	5.2628
SWITZERLAND	Francs	1.2490	1.2467	1.2488	1.2600	1.2661
TAIWAN	Dollars	24.2700	24.3300	24.4500	24.4800	24.4400
THAILAND	Bahts	21.6400	21.6800	21.7900	21.8400	21.8200
UK	Pounds	0.4711	0.4719	0.4739	0.4734	0.4737
USA	Dollars	0.8643	0.8665	0.8711	0.8729	0.8712

B.G. GILL
 Delegate of the
 Comptroller-General of Customs
 CANBERRA A.C.T.
 30/11/88

86

N.N.8881372

Social Security

COMMONWEALTH OF AUSTRALIA

Social Security Act 1947

APPOINTMENT OF NATIONAL CONVENER

I, SIR NINIAN MARTIN STEPHEN, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, pursuant to subsection 218 (1) of the *Social Security Act 1947*, hereby appoint Anne Coghlan as National Convener, Social Security Appeals Tribunal for five years.

Dated this 8th day of November 1988.

N. M. STEPHEN
Governor-General

By His Excellency's Command

BRIAN HOWE

Minister of State for Social Security

(Ex. Min. No. 12)

This notice is in lieu of notification appearing in *Gazette* No. GN 44, 23 November 1988.

N.N.—8880912

Primary Industries and Energy

COMMONWEALTH OF AUSTRALIA

STATES AND NORTHERN TERRITORY GRANTS (RURAL ADJUSTMENT) ACT 1985

NOTICE OF TERMS AND CONDITIONS

I, JOHN CHARLES KERIN, Minister of State for Primary Industries and Energy in pursuance of sub-clause 13(3) of the Agreement between the Commonwealth and the States and the Northern Territory ("the Agreement") as approved under the States and Northern Territory Grants (Rural Adjustment) Act 1985. HEREBY GIVE NOTICE that, pursuant to paragraph 4(a) of Part 5 of the Schedule to the Agreement, the terms and conditions under which assistance is to be provided to primary producers in Western Australia whose properties are affected by chemical residues as agreed between the Commonwealth and Western Australia are as follows:

ADJUSTMENT ASSISTANCE FOR FARMERS WHOSE PROPERTIES ARE
CONTAMINATED BY CHEMICAL RESIDUES

SCHEME

- (1) An interest subsidy equal to half the interest payable will apply for a period of three years on an amount of up to \$50,000 for new commercial loans obtained by a producer whose property is subject to a "Management Notice" issued by the Department of Agriculture under the Agriculture Produce (Chemical Residues) Act.
- (2) The scheme will not be available where the property is issued with a "Management Notice" after 30 June, 1989 and the loan is taken out after 31 December, 1989.
- (3) Where a producer borrows less than \$50,000 the interest subsidy will apply to the total amount of the loan. If the loan exceeds \$50,000 the subsidy will only apply to the first \$50,000.
- (4) Loans must be for carry-on finance but may include finance for short-term working capital deficiencies or finance for the acquisition of assets and carrying out works associated with farm build-up or farm improvement for adjustment made necessary by the issue of the management notice. Loans either in full or part, obtained for the purchase of machinery or the leasing of land will be eligible for the subsidy.

- (5) The test for prospects of long-term commercial viability will rest with commercial lenders who must be satisfied about the producer's ability to service any borrowings on a longer term basis assuming the subsidy is in operation and limited to the first three years of the loan. The applicant and commercial lender will need to demonstrate that there are sound prospects of long-term commercial viability.

ELIGIBILITY CONDITIONS

- (6) Producers with properties subject to "Management Notices" issued by the Department of Agriculture due to chemical contamination.
- (7) The adjustment is made necessary by the issue of such a notice by the Department of Agriculture.
- (8) It is a new loan required for reasonable and genuine adjustments due to contamination by chemical residues.
- (9) There are demonstrated sound prospects of long term viability.
- (10) The cost of normal commercial finance to bring about the necessary adjustment would be such as to place the long term viability of the farm business at risk.
- (11) Assistance is merited and the producer's difficulties are not substantially due to circumstances within the producer's control.

Dated this *Eighteenth* day of *November* 1988.



JOHN CHARLES KERIN
Minister of State for
Primary Industries and Energy

N.N. 8881373

Transport and Communications

AUSTRALIAN BROADCASTING TRIBUNAL GRANT OF A COMMERCIAL FM RADIO LICENCE TO SERVE THE MACKAY AREA OF QUEENSLAND NOTICE OF COMMENCEMENT OF INQUIRY

Submissions Invited

1. The Tribunal has received two applications for the grant of a commercial FM radio licence to serve the Mackay area of Queensland.
2. The applicants for the licence are
 - (a) Regional FM Australia Ltd
 - (b) Tropical FM Pty Ltd

The issues to be considered

3. The issues to be considered in the inquiry include in outline:
 - (a) whether each applicant meets the statutory criteria set out in the Act, including its:
 - (i) fitness and propriety to hold the licence;
 - (ii) financial, technical and management capabilities necessary to provide the service.
 - (b) the need to avoid undue concentration of influence, whether direct or indirect, on the applicants and on companies holding other broadcasting licences in the area.
 - (c) the commercial viability of existing radio and television broadcasting services in the Mackay area.
 - (d) whether the Tribunal should refuse to grant the licence.
 - (e) which of the qualified applicants is more suitable, assuming that the licence should be granted.

For greater detail concerning the criteria for licence grants, consult the *Broadcasting Act 1942* and especially section 83.

Inquiry file

4. A copy of the inquiry file, which contains copies of all applications received and other related documents, is available for inspection at the following locations during the hours indicated.

Mackay

Mackay City Library
Civic Centre, Gordon St
Mackay Qld 4740

Monday, Wednesday, Friday
10.00 a.m. to 4.45 p.m.

Tuesday, Thursday
10.00 a.m. to 7.45 p.m.

Saturday
9.15 a.m. to 11.30 a.m.

Sydney

Australian Broadcasting Tribunal
2nd Floor, Tandem House
76 Berry St
North Sydney NSW 2059

Australian Broadcasting Tribunal
444 Queen St
Brisbane Qld 4000

Monday to Friday
9.00 a.m. to 5.00 p.m.

The inquiry file will be updated progressively and will contain all material on which the Tribunal will rely in reaching its decision, including submissions made by interested persons (see below), subject of any direction relating to restricted material.

Submissions by interested persons

FOI Production Documents [2024.2732]

5. Interested persons may make submissions to the Tribunal in relation to this inquiry by forwarding them to reach the Tribunal's North Sydney office no later than 5.00 p.m. on Friday, 27 January 1989. This call for submissions is in addition to the invitation extended by the Minister for Transport and Communication in his notice of 30 August 1988 which appeared in the *Commonwealth of Australia Gazette* on 21 September 1988.
6. In order to comply with regulations, submissions must be lodged in accordance with the regulations. *A Guide to Submitters* is available on request from the Tribunal. A copy has been placed on the inquiry file for reference.
7. A copy of any submission will generally be placed on the inquiry file, although the Tribunal has the power to do otherwise.
8. Further details, including a background paper prepared by Tribunal staff, may be obtained by contacting Trish Cohen on (02) 959 7903.

N.N.—8880913

AUSTRALIAN BROADCASTING TRIBUNAL

Broadcasting Act 1942

SHARE TRANSACTION

COMMERCIAL BROADCASTING SERVICE 3CV MARYBOROUGH—NOTICE OF INQUIRY

Submissions Invited

The Australian Broadcasting Tribunal has commenced an inquiry into the application by Fobike Pty Ltd to acquire all the issued shares in Central Victorian Radio Pty Ltd, licensee of 3CV Maryborough, Victoria.

The issues which will be addressed during the inquiry are as follows:

1. Whether the Tribunal should refuse approval, having regard to:
 - (a) whether the giving of approval would be contrary to a provision of the Act;
 - (b) whether it would be advisable in the public interest to refuse approval on the grounds that the applicant:
 - (i) is not a fit and proper person to hold the licence;
 - (ii) does not have the financial, technical and management capabilities necessary to operate the television service; or
 - (iii) is not otherwise capable of complying with the conditions of the licence;
 - (c) whether the circumstances are such that, if the Tribunal gave approval:
 - (i) the Tribunal would have reasonable grounds for believing that a person would be contravening the multiple interest or cross-media limits (ss. 90C or 92FAB) in circumstances which would constitute an offence;
 - (ii) a person would be contravening the multiple or cross-media directorship limits (ss. 90F or 92FAD)
 - (iii) a condition specified in s. 90G would be contravened (foreign ownership);
2. Such other matters relevant to the inquiry as the Tribunal sees fit

Any person wishing to make a submission on these issues may lodge it with the Tribunal by 27 January 1989.

Before you lodge a submission, it would assist you to inspect the relevant inquiry file (File No. IO/88/195) (containing the application and other useful background information) and read the Tribunal's Guide for Submitters (copies are available from the Tribunal and are attached to the inquiry files). Background papers on the transaction may

be obtained and inquiry files can be inspected during business hours at the following addresses:

Australian Broadcasting Tribunal
76 Berry St
North Sydney NSW 2060

Contact officer Rose Mary Wu
Telephone (02) 959 7864

Australian Broadcasting Tribunal
Marland House
570 Bourke St
Melbourne Vic. 3000

Contact officer Colin Jones
Telephone (03) 670 4821

Maryborough Library
Tuaggra St
Maryborough Vic.

Hours:

Monday 10.00 a.m. to 5.00 p.m.
Tuesday 12 noon to 5.00 p.m.
Wednesday 10.00 a.m. to 5.00 p.m.
Thursday 10.00 a.m. to 6.00 p.m.
Friday 10.00 a.m. to 8.00 p.m.
Saturday 10.00 a.m. to 12 noon

CA03A162 CRLD1885

N.N.—8880914

AUSTRALIAN BROADCASTING TRIBUNAL LICENCE RENEWAL INQUIRIES—PUBLIC RADIO STATIONS 7WAY AND 7LTN, LAUNCESTON

The Australian Broadcasting Tribunal announces that applications have been lodged by Launceston Christian Broadcasters Inc. and by Launceston Community FM Group Inc., licensees of public radio stations 7WAY Launceston and 7LTN Launceston respectively, for the renewal of their station licences. These licences are due to expire on 31 March 1989.

The issue to be considered in these inquiries is whether the Tribunal should refuse to renew any of the licences for any of the reasons set out in section 86 (11B) of the *Broadcasting and Television Act 1942*:

- (a) whether the licensee has complied with its undertakings to provide an adequate and comprehensive service pursuant to the licence, and to use and encourage the use of Australian creative resources;
- (b) whether the licensee is no longer fit and proper person to hold the licence;
- (c) whether the licensee has the necessary financial, technical and management capabilities;
- (d) whether a condition of the licence has not been complied with;
- (e) whether the service is commercially viable.

COMMERCIAL AM RADIO STATIONS 7LA AND 7EX, LAUNCESTON

Applications have also been lodged with the Tribunal by 7LA Radio Pty Ltd and by Tasradio Pty Ltd for the renewal of their commercial AM radio licences: 7LA and 7EX respectively. These licences are due to expire on 31 March 1989.

The issue to be considered in these inquiries are whether the Tribunal should refuse to renew the licence for any of the reasons set out in section 86 (11B) of the *Broadcasting Act 1942*:

- (a) whether the licensee has complied with its undertakings to provide an adequate and comprehensive service pursuant to the licence, and to use and encourage the use of Australian creative resources;
- (b) whether the licensee is no longer a fit and proper person to hold the licence;
- (c) whether the licensee has the necessary financial, technical and management capabilities;

FOI Production Documents (2024-2732)

(d) whether a condition of the licence has not been complied with;

(e) whether the service is commercially viable.

The particular matter to be considered in the licence renewal inquiry for 7EX is the quality of the local news service, following expressions of concern by the Tribunal at the last licence renewal hearing.

If you wish to make a submission on any of the above stations, you should lodge it with the Tribunal's North Sydney office by 5.00 p.m. on 18 January 1989.

Before lodging a submission, you are invited to inspect the inquiry file (containing the application and other useful background information) and read the Tribunal's 'Guide for Submitters' (copies are available from the Tribunal and are attached to the inquiry file). The inquiry file can be inspected at the following places:

State Library of Tasmania

1 Civiv Sq
Launceston Tas. 7250

Australian Broadcasting Tribunal
76 Berry St
North Sydney NSW 2060

N.N.—8880915

AUSTRALIAN BROADCASTING TRIBUNAL GRANT OF A COMMERCIAL FM RADIO LICENCE TO SERVE DARWIN, NORTHERN TERRITORY NOTICE OF COMMENCEMENT OF INQUIRY Submissions Invited

The Tribunal has commenced in inquiry into the grant of a commercial FM radio licence to serve Darwin, in the Northern Territory. Applications have been lodged by Northern Territory FM Ltd and Darwin FM Pty Ltd.

The issues to be considered in the inquiry are:

- (i) whether a licence of the kind contemplated should be granted;
- (ii) whether the Tribunal should refuse to grant the licence to an application for any of the reasons set out in subsection 83 (6) of the *Broadcasting Act 1942*, and in particular:
 - (a) whether the applicant is a fit and proper person to hold the licence;
 - (b) whether the applicant has the necessary financial, technical and management capabilities;
 - (c) whether the applicant is capable of complying with the conditions of the licence; and
 - (d) the effect on the commercial viability of other broadcasting services serving the area.

Interested persons may make submissions to the Tribunal in relation to this inquiry by forwarding them to reach the Tribunal's North Sydney office no later than 5.00 p.m. on 3 February 1989. This call for submissions is in addition to the invitation extended by the Minister for Communications in his notice of 30 August 1988 which was published in the Commonwealth of Australia Gazette on 21 September 1988.

A copy of the inquiry file, which contains copies of the applications and other related documents, is available for inspection during business hours at the Tribunal's office at North Sydney and at:

Northern Territory State Reference Library
25 Cavanagh St, Darwin
Contact Number (089) 89 6872

Opening hours Monday to Saturday 10.00 a.m. to 6.00 p.m.

Submissions must be lodged in accordance with the Tribunal's inquiry regulations. A Guide for Submitters is available on request from the Tribunal. A copy has been placed on the inquiry file for reference. Further details about the lodgement of submissions may be obtained by contacting Steve Kelen on (02) 959 7885.

N.N.—8880916

BROADCASTING ACT 1942**NOTICE BY MINISTER OF STATE FOR TRANSPORT AND COMMUNICATIONS****INVITATION OF APPLICATIONS FOR A PUBLIC FM RADIO LICENCE FOR CABOOLTURE**

In pursuance of section 82 of the Broadcasting Act 1942, I, Ralph Willis, Minister of State for Transport and Communications, hereby invite applications for, or written submissions relating to, the grant of a licence as specified below:

- (a) category of licence: public radio
- (b) outline of service specifications to which it is proposed the licence is to be subject:

the service area of the licence will be, in terms of areas defined by the Australian Bureau of Statistics at the Census of 30 June 1981, the Local Government Area of Caboolture in the State of Queensland;

the purpose for which the public radio licence is granted shall be to provide a general community purposes service as outlined in Section 81A of the Act;

- (c) outline of technical conditions proposed to be included in the licence warrant:

Transmitter Site:

Location	: D'Aguilar Range		
Map Publisher	: Division of National Mapping		
Series/Scale	: Topographic /1:100,000		
Sheet Number	: 9443 (Edition 1)		
Title	: Caboolture		
Australian Map Grid Reference	: Zone	: Easting	: Northing
	56	4823XX	70094XX
Geographic Co-ordinates	: 27°02'S 152° 49'E		
	(accurate to nearest half-minute)		
Site Height	: 230m AHD		

Technical Characteristics :-

Band	: VHF
Mode	: FM
Carrier Frequency	: 91.5MHz
Polarisation	: Mixed
Height of Antenna (1)	: 30m

Radiation Pattern (2) :- FOI Production Documents [2024.2732]

Bearing or Sector (Clockwise direction)	ERP	Limits	Beam Tilt	Null Fill
50°T-115°T Elsewhere	500W Minimum	+3dB, -3dB practicable	0°	Not Required

- NOTES:
1. Minimum height above ground to electrical centre of antenna.
 2. The pattern shall substantially comply with these limits. However, the detailed pattern of the antenna and transmitter power shall be subject to the approval of the Minister.
 3. Final specifications will be subject to detailed planning conducted in conjunction with the proposal from the successful applicant.

Special Conditions or Notes:

The licensee has the responsibility of co-ordinating (prior to installation) with other radiocommunications users established at or adjacent to the site to ensure that operation of the transmitter is compatible with existing services. A list of users operating at particular sites can be obtained from the Manager, Radiocommunications Operations, in your State.

The allocated frequency is interim and will be changed to a final channel after television stations are cleared from Band II, the VHF-FM Band.

Interested persons are notified that they may:

- (a) lodge applications in accordance with the regulations for the grant of the licence with the General Manager, Australian Broadcasting Tribunal, 76 Berry Street, (PO Box 1308), North Sydney NSW 2060, not later than 5.00 pm on

10 February 1989
or

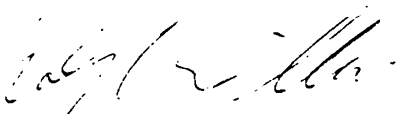
- (b) lodge written submissions relating to the grant of the licence with the General Manager, Australian Broadcasting Tribunal at the above address not later than 5.00 pm on

24 February 1989

FOI Production Documents [2024.2732]

Approved application forms are obtainable on request in writing from the General Manager, Australian Broadcasting Tribunal, at the above address, or by telephoning the Tribunal on (02) 959 7811, or from the State Offices of the Tribunal. Any applications lodged will be made available for inspection at the Tribunal's offices and at a location or locations in the service area of the proposed licence.

Dated this *10th* day of *November* 1988.



RALPH WILLIS
Minister of State for Transport and Communications

N.N.8881374

BROADCASTING ACT 1942

FOI Production Documents [2024.2732]

NOTICE BY MINISTER OF STATE FOR TRANSPORT AND COMMUNICATIONS

INVITATION OF APPLICATIONS FOR A PUBLIC FM RADIO LICENCE FOR PORT HEDLAND

In pursuance of section 82 of the Broadcasting Act 1942, I, Ralph Willis, Minister of State for Transport and Communications, hereby invite applications for, or written submissions relating to, the grant of a licence as specified below:

- (a) category of licence: public radio
- (b) outline of service specifications to which it is proposed the licence is to be subject:

the service area of the licence will be, in terms of areas defined by the Australian Bureau of Statistics at the Census of 30 June 1981, Collection District numbers 010701, 010702, 010703, 010704, 010705, 010706, 010707, 010708, 010709, 010802, 010803, 010804, 010806, 010807, 010808, 010809, 010810 and 010812 within the Local Government Area of Port Hedland in the State of Western Australia.

the purpose for which the public radio licence is granted shall be to provide a general community purposes service as outlined in Section 81A of the Act;

- (c) outline of technical conditions proposed to be included in the licence warrant:

Transmitter Site:

Location : Port Hedland, Hedland College Grounds

Map Publisher : Division of National Mapping
Series/Scale : Topographic/1:100,000
Sheet Number : 2657 (Edition 1)
Title : Port Hedland

Australian Map
Grid Reference : Zone Easting Northing
50 6667XX 77436XX

Geographic
Co-ordinates : 20°24'S 118°36'E
(accurate to nearest half-minute)

Site Height : 10m AHD

Technical Characteristics :-

Band : VHF
Mode : FM
Carrier Frequency : 100.9 MHz
Polarisation : Mixed
Height of Antenna (1) : 30m

Radiation Pattern (2) :-

FOI Production Documents [2024.2732]

Bearing or Sector (Clockwise direction)	ERP	Limits	Beam Tilt	Null Fill
245°T - 120°T	1.25kW	+0dB, -6dB	0°	Not Specified
120°T- 245°T	250W	+3dB, -3dB	0°	Not Specified

- NOTES:
1. Minimum height above ground to electrical centre of antenna.
 2. The pattern shall substantially comply with these limits. However, the detailed pattern of the antenna and transmitter power shall be subject to the approval of the Minister.
 3. Final specifications will be subject to detailed planning conducted in conjunction with the proposal from the successful applicant.

Special Conditions or Notes:

The licensee has the responsibility of co-ordinating (prior to installation) with other radiocommunications users established at or adjacent to the site to ensure that operation of the transmitter is compatible with existing services. A list of users operating at particular sites can be obtained from the Manager, Radiocommunications Operations, in your State.

Interested persons are notified that they may:

- (a) lodge applications in accordance with the regulations for the grant of the licence with the General Manager, Australian Broadcasting Tribunal, 76 Berry Street, (PO Box 1308), North Sydney NSW 2060, not later than 5.00 pm on

10 February 1989

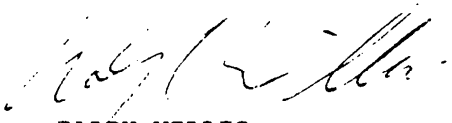
or

- (b) lodge written submissions relating to the grant of the licence with the General Manager, Australian Broadcasting Tribunal at the above address not later than 5.00 pm on

24 February 1989

Approved application forms are obtainable on request in writing from the General Manager, Australian Broadcasting Tribunal, at the above address, or by telephoning the Tribunal on (02) 959 7811, or from the State Offices of the Tribunal. Any applications lodged will be made available for inspection at the Tribunal's offices and at a location or locations in the service area of the proposed licence.

Dated this 10th day of November 1988.



RALPH WILLIS
Minister of State for Transport and Communications


N.N.8881375

NOTICE UNDER SUBSECTION 89U(2) OF THE BROADCASTING ACT 1942MAXIMUM NUMBER OF COMMERCIAL RADIO LICENCES IN A STATE THAT A PERSON MAY HOLD

Pursuant to subsection 89U(2) of the Broadcasting Act 1942, I
RALPH WILLIS, Minister of State for Transport and
Communications:

- (a) determine, in respect of each State listed in column 1 of the table in the Schedule, the number in column 2 of the table as the number of commercial radio licences in that State; and
- (b) specify, in respect of each State listed in column 1 of the table in the Schedule, the number in column 3 of the table as the maximum number of commercial radio licences in that State that a person may hold.

Dated this 23rd..... day of November..... 1988


RALPH WILLIS
Minister of State for Transport
and Communications

SCHEDULE

COLUMN 1	COLUMN 2*	COLUMN 3
New South Wales**	34	17
Queensland***	23	11
South Australia	7	3
Tasmania	6	3
Victoria	15	7
Western Australia	16	8

- * The number of licences specified in this column is in accordance with subsections 89U(4) and 89U(8). For example, the eight Sydney commercial radio licences are counted as only one licence. Supplementary commercial radio licences are not included in the calculations.
- ** The Australian Capital Territory is taken to form part of New South Wales for the purposes of this Notice [subsection 89U(10)].
- *** The number specified in column 2 includes the licence of 2MW Murwillumbah. The service area of 2MW overlaps the borders of New South Wales and Queensland but more than half of the population within the service area is located in Queensland. [see sub-section 90(1B) Notice].

NOTICE UNDER SUBSECTION 90(1B) OF THE BROADCASTING ACT 1942

POPULATION OF SERVICE AREAS IN DIFFERENT STATES

Whereas part of the service area of each commercial radio licence listed by reference to its call-sign in column 1 of the table in the Schedule is located in each of the States listed in column 2 of the table, pursuant to subsection 90(1B) of the Broadcasting Act 1942, I, RALPH WILLIS, Minister of State for Transport and Communications, determine the number listed in column 3 of the table as the population of the part of the service area located in each of those States.

Dated this *23rd* day of *November* 1988.



RALPH WILLIS
Minister of State for Transport
and Communications

SCHEDULE

Column 1	Column 2	Column 3
2AY Albury	New South Wales Victoria	58,351 43,096
2EC Bega	New South Wales Victoria	45,879 899
2MW Murwillumbah	New South Wales Queensland	60,815 61,478
2QN Deniliquin	New South Wales Victoria	27,120 19,757
2VM Moree	New South Wales Queensland	39,426 5,002
3MA Mildura	Victoria New South Wales	37,594 8,356
3NE Wangaratta	Victoria New South Wales	64,520 6,836
3SH Swan Hill	Victoria New South Wales	40,790 5,541
3SR Shepparton	Victoria New South Wales	126,411 7,644
4GG Gold Coast	Queensland New South Wales	202,366 22,992
5SE Mt Gambier	South Australia Victoria	48,421 876

NOTICE UNDER SUBSECTION 89T(2) OF THE BROADCASTING ACT 1942
LICENCES HAVING SUBSTANTIAL MARKETS IN COMMON

FOI Prohibition Exemptions [2024/2739]

I, RALPH WILLIS, Minister of State for Transport and Communications:

- (a) pursuant to subsection 89T(2) of the Broadcasting Act 1942 (the Act) declare that each pair of licences specified in Schedule 1 and Schedule 2 of this Notice has 'a substantial market in common' within the meaning of that expression as given by section 89T of the Act;
 - (b) whereas:
 - (i) my declaration under subsection 89T(2) of the Act in respect of the licences in Schedule 1 of this Notice included a declaration in respect of the pairs of licences specified in Schedule 3 of this Notice, each being a pair of licences consisting of a commercial radio licence and a commercial television licence that was granted pursuant to section 94ZC of the Act;
 - (ii) I am satisfied that, at all times since the grant of that commercial television licence, the declaration under subsection 89T(2) in respect of the licences specified in Schedule 3 of this Notice could (assuming that section 89T of the Act had been in force) have been made;
- pursuant to subsection 89T(7) of the Act declare that the pairs of licences specified in Schedule 3 of this Notice are affected by consolidation; and
- (c) being satisfied that, if section 89T had been in force during the period commencing on 29 October 1987 and ending immediately before the date of this Notice, the declaration I have made in respect of each pair of licences specified in Schedules 1 and 2 of this Notice could have been made during the whole of that period, pursuant to subsection 89T(8) of the Act declare that the whole of the period is a notional pairing period in respect of those pairs of licences.

Dated this 23rd day of November 1988



RALPH WILLIS
Minister of State for Transport
and Communications

For the purposes of the above list of licences crossing state borders, population figures for the service areas of the commercial radio stations have been determined on the basis of the 1986 Census count results published by the Australian Statistician.

N.N.8881376

SCHEDULE 1: RADIO/TELEVISION LICENCE PAIRS

FOI Production Documents [2024.2732]

New South Wales Metropolitan Licences

Any pair of licences consisting of one of the following commercial radio licences and one of the following commercial television licences:

Radio: 2CH, 2DAY, 2GB, 2KY, 2MMM, 2SM, 2UE and 2UW Sydney

Television: ATN, TCN and TEN Sydney

New South Wales Regional and Metropolitan Licences

Any pair of licences consisting of one of the following commercial radio licences and one of the following commercial television licences:

Radio: 2GO Gosford, Proposed FM Gosford, 2KA Katoomba and 2WS Western Suburbs

Television: ATN, TCN and TEN Sydney

New South Wales Regional Licences

The following pairs of commercial radio and commercial television licences:

Radio

Television

2AD Armidale	NEN Mid North Coast/New England
2AY Albury	AMV Albury
2BH Broken Hill	BKN Broken Hill
2BS Bathurst	CBN Orange
2CS Coffs Harbour	NRN Coffs Harbour
2DU Dubbo	CBN Orange
2DU Dubbo	CWN Dubbo
2EC Bega	WIN Wollongong
2GF Grafton	NRN Coffs Harbour
2GN Goulburn	CTC Canberra
2GO Gosford	NBN Newcastle
Proposed FM Gosford	NBN Newcastle
2GZ Orange	CBN Orange
2HD Newcastle	NBN Newcastle
2KO Newcastle	NBN Newcastle
New FM Newcastle	NBN Newcastle
2LF Young	CBN Orange
2LF Young	RVN Wagga Wagga
2LM Lismore	RTN Lismore
Proposed FM Lismore	RTN Lismore
2LT Lithgow	CBN Orange
2MC Kempsey	NEN Mid North Coast/New England
2MC Kempsey	NRN Coffs Harbour
2MG Mudjee	CBN Orange
2MG Mudjee	CWN Dubbo
2MO Gunnedah	NEN Mid North Coast/New England
2MW Murwillumbah	RTN Lismore
2MW Murwillumbah	BTQ Brisbane
2MW Murwillumbah	QTQ Brisbane

2MW Murwillumbah	TVQ Brisbane
2NM Muswellbrook	NBN Newcastle
2NX Newcastle	NBN Newcastle
2NZ Inverell	NEN Mid North Coast/New England
2OO Wollongong	WIN Wollongong
2PK Parkes	CBN Orange
2QN Deniliquin	BTV Bendigo
2QN Deniliquin	GMV Shepparton
2RE Taree	NEN Mid North Coast/New England
2RG Griffith	MTN Griffith
2ST Nowra	WIN Wollongong
2TM Tamworth	NEN Mid North Coast/New England
2VM Moree	NEN Mid North Coast/New England
2WG Wagga Wagga	RVN Wagga Wagga
2WL Wollongong	WIN Wollongong
2XL Cooma	CTC Canberra

Victorian Metropolitan Licences

Any pair of licences consisting of one of the following commercial radio licences and one of the following commercial television licences:

Radio: 3AK, 3AW, 3CR, 3EON, 3FOX, 3KZ, 3MP, 3TT, 3UZ and 3XY
Melbourne

Television: ATV, GTV and HSV Melbourne

Victorian Regional and Metropolitan Licences

Any pair of licences consisting of one of the following commercial radio licences and one of the following commercial television licences:

Radio: 3GL Geelong, 3UL Warragul and Proposed FM Geelong

Television: ATV, GTV and HSV Melbourne

Victorian Regional Licences

The following pairs of commercial radio and commercial television licences:

Radio	Television
3BA Ballarat	BTV Ballarat
3BO Bendigo	BCV Bendigo
3CS Colac	BTV Ballarat
3HA Hamilton	BTV Ballarat
3MA Mildura	STV Mildura
3NE Wangaratta	AMV Albury
3NE Wangaratta	GMV Shepparton
3SH Swan Hill	BCV Bendigo
3SR Shepparton	BCV Bendigo
3SR Shepparton	GMV Shepparton
Proposed FM Shepparton	BCV Bendigo
Proposed FM Shepparton	GMV Shepparton
3TR Sale	GLV Traralgon
3UL Warragul	GLV Traralgon
3WM Horsham	BTV Ballarat
3YB Warrnambool	BTV Ballarat

Queensland Metropolitan Licences

Any pair of licences consisting of one of the following commercial radio licences and one of the following commercial television licences:

Radio: 4BC, 4BH, 4BK, 4IO, 4KQ and 4MMM Brisbane
Television: BTQ, QTQ and TVQ Brisbane

Queensland Regional and Metropolitan Licences

Any pair of licences consisting of one of the following commercial radio licences and one of the following commercial television licences:

Radio: 4GG Gold Coast, New FM Gold Coast and Proposed FM Ipswich
Television: BTQ, QTQ and TVQ Brisbane

Queensland Regional Licences

The following pairs of commercial radio and commercial television licences:

Radio	Television
4AK Oakey	DDQ Toowoomba
4AK Oakey	SDQ Warwick
4AM Mareeba	FNQ Cairns
4BU Bundaberg	SEQ Maryborough
4CA Cairns	FNQ Cairns
4CC Gladstone	RTQ Rockhampton
4GC Charters Towers	TNQ Townsville
4GG Gold Coast	RTN Lismore
New FM Gold Coast	RTN Lismore
4GR Toowoomba	DDQ Toowoomba
4GR Toowoomba	SDQ Warwick
4GY Gympie	SEQ Maryborough
4HI Emerald	MVQ Mackay
4HI Emerald	RTQ Rockhampton
4KZ Innisfail	FNQ Cairns
4LM Mount Isa	ITQ Mount Isa
4MB Maryborough	SEQ Maryborough
4MK Mackay	MVQ Mackay
Proposed FM Mackay	MVQ Mackay
4RO Rockhampton	RTQ Rockhampton
4RR Townsville	TNQ Townsville
4SB Kingaroy	DDQ Toowoomba
4TO Townsville	TNQ Townsville
Proposed FM Townsville	TNQ Townsville
4WK Warwick	DDQ Toowoomba
4WK Warwick	SDQ Warwick

South Australian Metropolitan Licences

FOI Production Documents [2024.2732]

Any pair of licences consisting of one of the following commercial radio licences and one of the following commercial television licences:

Radio: 5AA, 5AD, 5DN, 5KA and 5SSA Adelaide
Television: ADS, NWS and SAS Adelaide

South Australian Regional and Metropolitan Licences

Any pair of licences consisting of the following commercial radio licence and one of the following commercial television licences:

Radio: 5MU Murray Bridge
Television: ADS, NWS and SAS Adelaide

South Australian Regional Licences

The following pairs of commercial radio and commercial television licences:

Radio	Television
5AU Port Augusta	GTS Port Pirie
5CC Port Lincoln	GTS Port Pirie
5CS Port Pirie	GTS Port Pirie
5RM Renmark	RTS Loxton
Proposed FM Renmark	RTS Loxton
5SE Mt Gambier	SES Mt Gambier

Western Australian Metropolitan Licences

Any pair of licences consisting of one of the following commercial radio licences and one of the following commercial television licences:

Radio: 6GL, 6KY, 6NOW, 6PM and 6PR Perth
Television: NEW, STW and TVW Perth

Western Australian Regional and Metropolitan Licences

Any pair of licences consisting of the following commercial radio licence and one of the following commercial television licences:

Radio: 6MM Mandurah
Television: NEW, STW and TVW Perth

Western Australian Regional Licences

FOI Production Documents [2024.2732]

The following pairs of commercial radio and commercial television licences:

Radio	Television
6AM Northam	BTW Bunbury
6BY Bridgetown	BTW Bunbury
6CI Collie	BTW Bunbury
6GE Geraldton	GTW Geraldton
Proposed FM Geraldton	GTW Geraldton
6KG Kalgoorlie	VEW Kalgoorlie
6MD Merredin	BTW Bunbury
6MM Mandurah	BTW Bunbury
6NA Narrogin	BTW Bunbury
6SE Esperance	VEW Kalgoorlie
6TZ Bunbury	BTW Bunbury
6VA Albany	GSW Albany
6WB Katanning	BTW Bunbury

Tasmanian Metropolitan Licences

Any pair of licences consisting of one of the following commercial radio licences and the following commercial television licence:

Radio: 7HO, 7HT and Proposed FM Hobart
Television: TVT Hobart

Tasmanian Regional and Metropolitan Licences

The following commercial radio licence and the following commercial television licence:

Radio: 7XS Queenstown
Television: TVT Hobart

Tasmanian Regional Licences

Any pair of licences consisting of one of the following commercial radio licences and the following commercial television licence:

Radio: 7AD Devonport, 7BU Burnie, 7EX Launceston, 7LA Launceston and 7SD Scottsdale

Television: TNT Launceston

Northern Territory Regional Licences

Any pair of licences consisting of one of the following commercial radio licences and the following commercial television licence:

Radio: 8DN Darwin, Proposed FM Darwin
Television: NTD Darwin

Australian Capital Territory Regional Licences

Any pair of licences consisting of one of the following commercial radio licences and the following commercial television licence:

Radio: 2CA and 2CC Canberra
Television: CTC Canberra

SCHEDULE 2: RADIO/RADIO LICENCE PAIRS

New South Wales Metropolitan Licences

Any pair of the following commercial radio licences:

2CH, 2DAY, 2GB, 2KY, 2MMM, 2SM, 2UE and 2UW Sydney.

New South Wales Regional and Metropolitan Licences

Any pair of licences consisting of one of the following regional commercial radio licences and one of the following metropolitan commercial radio licences:

Regional: 2KA Katoomba and 2WS Western Suburbs
Metropolitan: 2CH, 2DAY, 2GB, 2KY, 2MMM, 2SM, 2UE and 2UW Sydney

New South Wales Regional Licences

The following pairs of commercial radio licences:

2GO Gosford	Proposed FM Gosford
2HD Newcastle	2KO Newcastle
2HD Newcastle	2NM Muswellbrook
2HD Newcastle	2NX Newcastle
2HD Newcastle	New FM Newcastle
2KA Katoomba	2WS Western Suburbs
2KO Newcastle	2NM Muswellbrook
2KO Newcastle	2NX Newcastle
2KO Newcastle	New FM Newcastle
2LM Lismore	Proposed FM Lismore
2MW Murwillumbah	4GG Gold Coast
2MW Murwillumbah	New FM Gold Coast
2NM Muswellbrook	2NX Newcastle
2NM Muswellbrook	New FM Newcastle
2NX Newcastle	New FM Newcastle
2OO Wollongong	2WL Wollongong
2QN Deniliquin	3SR Shepparton

Victorian Metropolitan Licences

Any pair of the following commercial radio licences:

3AK, 3AW, 3CR, 3EON, 3FOX, 3KZ, 3MP, 3TT, 3UZ and 3XY
Melbourne

Victorian Regional and Metropolitan Licences

Nil.

Victorian Regional Licences

The following pairs of commercial radio licences:

3GL Geelong	Proposed FM Geelong
3HA Hamilton	3YB Warrnambool
3SR Shepparton	2QN Deniliquin
3SR Shepparton	Proposed FM Shepparton
Proposed FM Shepparton	2QN Deniliquin
3TR Sale	3UL Warragul

Queensland Metropolitan Licences

Any pair of the following commercial radio licences:

4BC, 4BH, 4BK, 4IO, 4KQ and 4MMM Brisbane

Queensland Regional and Metropolitan Licences

Any pair consisting of the following regional commercial radio licence and one of the following metropolitan commercial radio licences:

Regional: Proposed Ipswich FM

Metropolitan: 4BC, 4BH, 4BK, 4IO, 4KQ and 4MMM Brisbane

Queensland Regional Licences

The following pairs of commercial radio licences:

4AK Oakey	4GR Toowoomba
4AK Oakey	4WK Warwick
4CC Gladstone	4RO Rockhampton
4GG Gold Coast	2MW Murwillumbah
New FM Gold Coast	2MW Murwillumbah
4GR Toowoomba	4WK Warwick
4MK Mackay	Proposed FM Mackay
4RR Townsville	4TO Townsville
4RR Townsville	Proposed FM Townsville
4TO Townsville	Proposed FM Townsville

South Australian Metropolitan Licences

Any pair of the following commercial radio licences:

5AA, 5AD, 5DN, 5KA and 5SSA Adelaide

South Australian Regional and Metropolitan Licences

Nil.

South Australian Regional Licences FOI Production Documents [2024.2732]

The following pairs of commercial radio licences:

5AU Port Augusta	5CS Port Pirie
5RM Renmark	Proposed FM Renmark

Western Australian Metropolitan Licences

Any pair of the following commercial radio licences:

6GL, 6KY, 6NOW, 6PM and 6PR Perth

Western Australian Regional and Metropolitan Licences

Nil.

Western Australian Regional Licences

The following pairs of commercial radio licences:

6CI Collie	6TZ Bunbury
6GE Geraldton	Proposed FM Geraldton

Tasmanian Metropolitan Licences

Any pair of the following commercial radio licences:

7HO, 7HT and Proposed FM Hobart

Tasmanian Regional and Metropolitan Licences

Nil.

Tasmanian Regional Licences

The following pair of commercial radio licences:

7EX Launceston	7LA Launceston
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Northern Territory Regional Licences

The following pair of commercial radio licences:

8DN Darwin	Proposed FM Darwin
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Australian Capital Territory Regional Licences

The following pair of commercial radio licences:

2CA Canberra	2CC Canberra
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~~FCI Production Documents 20242782~~
 SCHEDULE 3: RADIO AND TELEVISION LICENCE PAIRS APPLICABLE TO
CONSOLIDATION

Any pair of licences consisting of one of the following commercial radio licences and the following commercial television licence:

Radio: 2AD Armidale, 2MC Kempsey, 2MO Gunnedah, 2NZ Inverell,
2RE Taree, 2TM Tamworth, 2VM Moree

Television: NEN Mid North Coast/New England

Notes:

1. For the purposes of specifying the above lists of paired licences, population figures for the service areas of the commercial radio and commercial television stations have been determined on the basis of the 1986 Census count results published by the Australian Statistician.
2. With the exception of proposed licences (see Note 3) and the new commercial radio licences for Newcastle and the Gold Coast, all licences in Schedules 1 and 2 are specified by reference to their call-sign.
3. The effect of subsection 89T(13) of the Broadcasting Act is to require proposed licences, for which applications have been invited pursuant to section 82, to be included in the specification of relevant licence pairs. The following table indicates proposed licences which have been included in the licence pairs specified in Schedules 1 and 2, together with the date the Notice inviting licence applications appeared in the Commonwealth of Australia Gazette.

<u>Area</u>	<u>Gazette Date</u>
Geelong	13 May 1987
Gosford	13 May 1987
Shepparton	13 May 1987
Geraldton	2 March 1988
Hobart	2 March 1988
Ipswich	2 March 1988
Lismore	18 May 1988
Townsville	18 May 1988
Darwin	21 September 1988
Mackay	21 September 1988
Renmark	21 September 1988

N.N.8881377

Telecommunications Act 1975

Determination of Rentals and Charges

I, George Edward Hams, the Acting Chief General Manager of the Australian Telecommunications Commission, being a person to whom the Commission has by instrument in writing under section 33 of the Telecommunications Act 1975, delegated its powers and functions under the Act, in pursuance of section 11 of the Act, hereby make the following determination -

1. The determination of rentals and charges made by the Commission on the 21st August 1975*, varied to date 0, is further varied as follows -

A. by omitting paragraph (q) of Item 11 of Schedule 2 and substituting the following:

"(q) Maintenance of extension sockets and associated wiring -

(i) in premises served by a customer switching system -

a charge per socket 6.00

(ii) in premises not served by a customer switching system -

(a) where the customer subscribes to a wiring repair plan, a charge per premises 6.00

(b) in all other cases, a fee per visit required to effect maintenance calculated by reference to Item 12 of this Schedule."

B. by omitting paragraphs (ac) and (as) of Item 11 of Schedule 2.

2. This determination shall take effect on and from 1 January 1989.

DATED this twenty-third day of November 1988.

G.E. Hams
Delegate of the Australian
Telecommunications Commission

* Notified in Gazette No S170 of 29.8.75.

0 For previous amendment see footnote 0 appearing on page 2520 of Gazette GN43 of 16.11.88.

COMMONWEALTH OF AUSTRALIA Action Documents [2024.2732]TELECOMMUNICATIONS ACT 1975DETERMINATION OF RENTAL AND CHARGES

I, Geoffrey William Irvine, the Acting Director - Corporate Pricing of the Australian Telecommunications Commission, being a person to whom the Commission has, by instrument in writing under Section 33 of the Telecommunications Act 1975, delegated its powers and functions under the Act in pursuance of Section 11 of the Act, hereby make the following determination.

1. The determination of rentals and charges made by the Commission on 21 August 1975*, as varied to date 0, is further varied by omitting paragraph (g) of Item 8 of Schedule 2 and substituting the following -

"(g) The annual charge payable by a subscriber or lessee for the maintenance by the Commission of a Stored Program Controlled (SPC) System private automatic branch exchange or premises wiring and associated terminal equipment, where a Service Assurance Enhanced package applies shall be as follows -

(i) BUSINESS PACKAGE

For a call to service between the hours of 8am to 5pm Monday to Friday excluding public holidays, with a guaranteed response time of 2 hours, shall be charged at a rate of 1.25 times the rate as ascertained by reference to paragraph (f) or (h) of this item as the case requires.

(ii) BUSINESS PLUS PACKAGE

For a call to service between the hours of 8am to 9pm Monday to Saturday including public holidays, with a guaranteed response time of 2 hours, shall be charged at a rate of 1.5 times the rate as ascertained by reference to paragraph (f) or (h) of this item as the case requires.

(iii) PREMIER PACKAGE

For a call to service at all times, with a guaranteed response time of 2 hours, shall be charged at a rate of 1.70 times the rate as ascertained by reference to paragraph (f) or (h) of this item as the case requires.

(iv) CUSTOMIZED PACKAGED

For a service package between the Commission and the customer designed to suit the customer's special requirements, the customer shall be charged in accordance with Bylaw 33 of the Telecommunications (General) Bylaws, with a minimum rate not less than 1.50 times the rate as ascertained by reference to paragraph (f) or (h) of this item as the case requires.

(h) Notwithstanding the charges referred to in Item 11 of Schedule 2 the annual charge payable by a subscriber or lessee for the following services provided by the Commission when in use in conjunction with a PABX Service Assurance agreement shall be -

	\$
(i) Rotary Dial Telephone	39.96
(ii) Touchfone (and other telephones attracting the equivalent of Touchfone rental tariffs)	43.56
(ii) Socket - per Socket	3.96"

2. This determination will take effect on and from 1 January 1989.

DATE this twenty-fifth day of November 1988

G.W. Irvine
Delegate of the Australian
Telecommunications Commission

* Notified in Gazette No. S170 of 29.8.75.

Ø For previous amendments see footnote Ø appearing on Pages 2519 - 2520 of Gazette No. GN43 of 16.11.88.

N.N.8881379

C O M M O N W E A L T H O F A U S T R A L I A

FOI Production Documents [2024.2732]

Telecommunications Act 1975Determination of Rentals and Charges

I, Mario Dominic Zilko the General Manager, Operator Assisted Services of the Australian Telecommunications Commission, being a person to whom the Commission has by instrument in writing under section 33 of the Telecommunications Act 1975, delegated its powers and functions under the Act, in pursuance of section 11 of the Act, hereby make the following determination -

1. The determination of rentals and charges made by the Commission on the 21st August 1975*, as varied to date 0, is further varied as follows -
 - (a) by omitting the figure "1.80" and substituting the figure "2.00", in paragraph (e) of Item 6 of Schedule 2.
 - (b) by omitting the figure "0.80" and substituting the figure "1.00" in paragraph (f) of Item 6 of Schedule 2.
2. This determination shall take effect on and from 1 November 1988.

DATED this thirty first day of October 1988

M.D. Zilko
Delegate of the Australian
Telecommunications Commission

* Notified in Gazette No. S170 of 29.8.75

0 For previous amendment see footnote 0 appearing on pages 2349 - 2352 of Gazette GN39 of 19.10.88.

N.N.8881380

Treasurer

AUSTRALIAN TAXATION OFFICE

Income Tax Assessment Act 1936

NOTICE UNDER PARAGRAPH 251 O (2) (b)

I, TREVOR PERCY WINSTON BOUCHER, Commissioner of Taxation, declare by this notice published in the *Gazette* under paragraph 251 O (2) (b) of the *Income Tax Assessment Act 1936* the following scheme to be an approved voluntary assistance scheme for the purposes of that paragraph of the Act:

Tax Help volunteer program

Dated this 19th day of November 1988.

TREVOR PERCY WINSTON BOUCHER
Commissioner of Taxation

CA03T008\$

N.N.—8880917

Insurance Act 1973

NOTIFICATION OF GRANT OF AUTHORITY IN ACCORDANCE WITH SECTION 28

In pursuance of section 28 of the *Insurance Act 1973*, I, RICHARD MATTHEW BEETHAM, Insurance and Superannuation Commissioner, hereby give notice that I did on the 18th day of November 1988, pursuant to Section 23

of the *Insurance Act 1973* grant to AMB Family Insurance Co. Limited, the registered office of which is situated at 118 Walker Street, North Sydney, an authority to carry on insurance business.

In accordance with section 122 of the *Insurance Act 1973*, copies of grants of authority are contained in the Register of Authorised Insurers which can be inspected at my Office.

Dated this 18th day of November 1988.

RICHARD M. BEETHAM
Commissioner

CA03T032 CR\$

N.N.—8880918

Insurance Act 1973

NOTIFICATION OF REVOCATION OF AUTHORITY IN ACCORDANCE WITH SUBSECTION 36 (1)

In pursuance of subsection 36 (6) of the *Insurance Act 1973*, notice is hereby given that I, RICHARD MATTHEW BEETHAM, Insurance and Superannuation Commissioner, have revoked the authority to carry on insurance business granted to Lumley Reinsurance Ltd.

Dated this 28th day of November 1988.

RICHARD M. BEETHAM
Commissioner

N.N.—8880919



PROCLAMATION

Commonwealth of
Australia
N. M. STEPHEN
Governor-General

By His Excellency the
Governor-General of
the Commonwealth of
Australia

I, SIR NINIAN MARTIN STEPHEN, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under subsection 2 (2) of the *Banking Legislation Amendment Act 1986*, hereby fix 30 November 1988 as the day on which sections 9, 10 and 11 and Part III of that Act shall come into operation.

(L.S.) GIVEN under my Hand and the Great Seal of Australia on 8 November 1988

By His Excellency's Command
PETER MORRIS
Minister of State for
Industrial Relations for and
on behalf of the Treasurer

GOD SAVE THE QUEEN!



Government House
Canberra
17 November 1988

It is hereby notified for general information that the Governor-General has awarded the Defence Force Service Medal, Reserve Force Decoration, and Clasps where indicated, to the following Royal Australian Air Force personnel.

ROYAL AUSTRALIAN AIR FORCE

Defence Force Service Medal

- O229565 EDDER, Phillip Sorrell
(Squadron Leader)
- A228300 FIELDING, Richard James
(Flight Sergeant)
- A121740 HAFNER, John
(Warrant Officer)
- A230855 HOULT, Kevin Michael
(Corporal)
- A320529 IVERSON, Peter John
(Corporal)
- A121787 JAMES, Peter
(Flight Sergeant)
- A47633 SALT, Richard
(Sergeant)
- A123477 SMITH, John William
(Corporal)

First Clasp to the Defence Force Service Medal

- A113282 AIZLEWOOD, Gregory Harold
(Warrant Officer)
- A225082 ADAIR, Robert Keith
(Leading Aircraftman)
- A46591 AMOS, James Winston
(Sergeant)
- A118637 BAKER, Leonard William
(Flight Sergeant)
- A58291 BAKER, Peter
(Sergeant)
- A119070 BOCQUEE, Louis Joseph Gaetan
(Sergeant)
- A58264 BROWNE, George Thomas
(Flight Sergeant)
- A318521 CAMP, John Kelvin
(Flight Sergeant)
- A119064 CLACHERTY, Donald Allan
(Sergeant)
- A119088 COMISKEY, Martin Noel
(Corporal)
- O61815 COOPES, Robert John
(Wing Commander)
- A46594 DE JONG, Willebrordus Antonius Maria
(Flight Sergeant)
- O119068 DEVINE, Paul Francis
(Squadron Leader)
- A318531 DOHERTY, Anthony John
(Warrant Officer)
- A318523 DOWNES, Alan
(Sergeant)
- A58285 DRAGE, Ian Claude
(Corporal)
- A324890 DYER, Ronald Lawrence
(Corporal)

- O225074 ELLIOTT, Richard David
(Squadron Leader)
- A58407 GAMBLE, Kenneth Owen
(Corporal)
- A225053 GILMORE, Rodney John
(Flight Sergeant)
- A118640 GOODE, Bruce Harold
(Warrant Officer)
- A119059 GORNALL, John Francis
(Sergeant)
- A318539 GRANT, Gary John
(Flight Sergeant)
- A225050 GUNTER, Gregory Paul
(Corporal)
- A46604 HAMILTON, Stuart Edward
(Flight Sergeant)
- A225083 HEARN, Ian Bruce
(Sergeant)
- O318518 HARTWICH, Bruce Malcolm
(Squadron Leader)
- A119093 HENRIKSEN, Darcy Eric
(Warrant Officer)
- O318538 HOLMES, Anthony Robert
(Flight Lieutenant)
- O225073 HOOD, Robert Douglas
(Squadron Leader)
- A118634 HOOPER, Darryl
(Warrant Officer)
- O46613 JOHNSTONE, Ronald William Gibson
(Squadron Leader)
- A225066 JONES, Francis Kevan
(Corporal)
- A46614 KACZMAREK, Leon
(Flight Sergeant)
- A46606 KESISOGLOU, Nicholas
(Sergeant)
- A318520 KING, Daniel
(Sergeant)
- A125793 LEWIS, Barry
(Corporal)
- A119098 LYONS, Michael
(Sergeant)
- A318549 MADDOCK, William Walter
(Warrant Officer)
- A46596 MARSH, William Maurice
(Corporal)
- A46117 MCCARTNEY, John Raymond
(Sergeant)
- A225056 MCGRAW, Peter William
(Flight Sergeant)
- O225069 MENGERSEN, Graham Robert
(Squadron Leader)
- A118629 NORTON, Alan Harry
(Flight Sergeant)
- A119061 ORAM, Alister John
(Flight Sergeant)
- O119065 PAGE, David Thomas
(Squadron Leader)
- A225065 PEARMAIN, Christopher John
(Sergeant)

2 Award of Medals and Clasps

A119099 PHELAN, Michael Anthony
(Warrant Officer)
A46580 PLATT, Russell John
(Corporal)
A225063 PRITCHARD, Colin Neil
(Warrant Officer)
A225037 ROSS, John Thomas
(Corporal)
O225078 SCOTLAND, Rodney Gill
(Wing Commander)
O225033 SIMMONDS, John Albert
(Wing Commander)
A46609 SIMPSON, William
(Sergeant)
O318543 SMITH, Colin Martin
(Group Captain)
A58286 SMITH, Brian John
(Sergeant)
A119102 STEADMAN, Keith Edwin
(Warrant Officer)
A119074 TAYLOR, Norman Leslie
(Flight Sergeant)
A46610 TEMPLE, Thomas Lee
(Flight Sergeant)
O117023 THEODORE, Noel Keith
(Squadron Leader)
W118303 VANE, Valda Ruth
(Warrant Officer)
A318552 VAN STRATEN, Herman
(Sergeant)
A119111 WALSH, Alfred John
(Flight Sergeant)

FOI Production Documents [2024 2732]

A318352 WHITEHEAD, Bryan Douglas
(Sergeant)
A318540 WOODYARD, Bruce Francis
(Sergeant)

Second Clasp to the Defence Force Service Medal

O316174 COTTRELL, Macaulay
(Group Captain)
O56647 HAY, Peter Florian
(Group Captain)
A110845 PANKHURST, Rodney Francis
(Warrant Officer)
O56491 RICHARDSON, Brian Robert
(Squadron Leader)
O61413 WALFORD, Charles William
(Squadron Leader)

Reserve Force Decoration

O320851 MCELVENEY, John William
Chaplain (Squadron Leader)
O32120 SEBASTION, Jeffrey Graham
(Flight Lieutenant)
O210325 TABRETT, Robert John
(Flight Lieutenant)

First Clasp to the Reserve Force Decoration

O316099 BLUCK, Richard John
(Wing Commander)

By His Excellency's Command
ROBIN RAWSON
Registrar of Awards



No. S 364, Tuesday, 29 November 1988

Published by the Australian Government Publishing Service, Canberra

SPECIAL

CERTIFICATION OF THE MAKING OF A STATUTE

Notice is hereby given that the undermentioned Statute has been made under the *Canberra College of Advanced Education Act 1967*. Copies of the Statute may be purchased at the Office of the Registrar, Canberra College of Advanced Education, Bruce ACT.

<i>Title of the Statute</i>	<i>Number of the Statute</i>
Courses and Awards Amendment Statute 1988	65



COMMONWEALTH OF AUSTRALIA

Commonwealth Employees' Rehabilitation and Compensation Act 1988

NOTICE OF DECLARATIONS AND SPECIFICATIONS

I, BRIAN HOWE, Minister of State for Social Security, hereby declare or specify with effect on and from 1 December 1988 the following matters for the various provisions of the *Commonwealth Employees' Rehabilitation and Compensation Act 1988* (in this Notice referred to as "the Act"):

1. (1) For the purposes of paragraph (a) of the interpretation of "Commonwealth authority" in subsection 4(1) of the Act, the following body corporate is declared to be a body corporate in relation to which the Act does not apply:-
Joint Coal Board.

(2) For the purposes of paragraph (c) of the interpretation of "Commonwealth authority" in subsection 4(1) of the Act, each of the following bodies corporate is declared to be a body corporate in relation to which the Act applies:-
Australian Airlines Limited
Coselco Finance Proprietary Limited
Coselco Insurance Proprietary Limited
Coselco Mimitopes Proprietary Limited
Mimotech Proprietary Limited
OTC International Limited
Telecom Australia (International) Ltd.

2. (1) For the purposes of subparagraph (i) of the interpretation of "employee" in paragraph 5(2)(c) of the Act, each office established by the following Act is declared to be an office in relation to which the Act does not apply:-
Coal Industry Act 1946.

(2) For the purposes of subparagraph (ii) of the interpretation of "employee" in paragraph 5(2)(c) of the Act, each office established by a law of a Territory (other than the Territory of Norfolk Island) is declared to be an office to which the Act applies.

3. For the purposes of subsection 5(6) of the Act-

(a) a person who is included in a class of persons referred to in the first column of the following table, being a class of persons who engage in activities at the request or direction, for the benefit, or under a requirement made by or under a law of the Commonwealth, or at the request or direction, or for the benefit, of a Commonwealth authority, is declared to be employed by the Commonwealth or by that authority, as the case may be; and

(b) the employment of the person is declared to be constituted by the performance by the person of an act included in the class of acts referred to in the second column of that table opposite to the reference to that class of persons. 20

First Column Class of persons	Second Column Class of acts
Members of the Air Training Corps established by regulations under the <i>Air Force Act 1923</i>	Acts performed in connection with the activities of the Corps
Members of the Australian Cadet Corps established under section 62 of the <i>Defence Act 1903</i>	Acts performed in connection with the activities of the Corps
Members of the Naval Reserve Cadets established under section 38 of the <i>Naval Defence Act 1910</i>	Acts performed in connection with the activities of the Cadets
Persons employed under an agreement or arrangement made between the Commonwealth and the Government of another country for the purposes of rendering services to the Government of that other country outside Australia	Acts performed under the agreement or arrangement
Persons who, without receiving any remuneration (excluding payment of expenses incurred), place their services at the disposal of the Chief Fire Control Officer appointed by the Bush Fire Council constituted under the <i>Careless Use of Fire Ordinance 1936</i> of the Australian Capital Territory for the purpose of extinguishing, or preventing the spread of, a fire or taking part in a training exercise	Acts performed at the direction of the Chief Fire Control Officer
Persons who, under the control or direction of a Commonwealth officer, assist, without receiving any remuneration (excluding payment of expenses incurred), in extinguishing, or preventing the spread of, a fire at the Defence Support Centre at Woomera	Acts performed in connection with the extinguishing, or preventing the spread of, the fire
Persons who, under the control or direction of a Commonwealth officer, take part, without receiving any remuneration (excluding payment of expenses incurred), in search and rescue activities or training exercises carried out by the Department of Transport and Communications	Acts performed in connection with the carrying out of the search and rescue activities or training exercises

First Column Class of persons	Second Column Class of acts
Persons rendering assistance to a designated Commonwealth officer in the performance of his or her duty at the request of that officer or in the honest and reasonable belief that the assistance was necessary for the performance by the officer of his or her duty	Acts performed in rendering the assistance
Persons receiving treatment or training provided or arranged by the Secretary to the Department of Community Services and Health under section 20 of the <i>Disability Services Act 1986</i>	Acts performed in the course of receiving the treatment or training
Persons who, under the control or direction of a Commonwealth officer, render services, without receiving remuneration (excluding payment of expenses incurred), in an institution or for a service conducted by the Department of Veterans' Affairs	Acts performed in connection with the rendering of the services
Persons who, under the control or direction of a Commonwealth officer, take part, without receiving any remuneration (excluding payment of expenses incurred), in the carrying out of a health survey in the Australian Capital Territory	Acts performed in connection with the carrying out of the survey
Persons who, under the control or direction of a Commonwealth officer, take part, without receiving any remuneration (excluding payment of expenses incurred), in activities relating to civil defence carried out in the Australian Capital Territory	Acts performed in connection with the carrying out of the activities

First Column Class of persons	Second Column Class of acts
<p>Persons, other than a Minister of State of a State, a member of the Parliament of a State or a person holding, or acting in, an office (including a judicial office) established by a law of the Commonwealth, of a State or of a Territory of the Commonwealth, who are members of a board, committee or other body or group of persons (not being a body corporate) to which they are appointed by, or on the nomination or with the approval of, the Governor-General, a Minister of State, a Commonwealth authority, an officer of the Public Service of the Commonwealth or a person holding, or acting in, an office of a Territory of the Commonwealth (other than the Northern Territory or the Territory of Norfolk Island)</p>	<p>Acts performed as a member of the board, committee or other body or group of persons</p>
<p>Persons-</p> <p>(a) engaged under subsection 26(3) of the <i>High Court of Australia Act 1979</i>; or</p> <p>(b) whose services have been made available under subsection 26(6) of that Act, for the purposes of the High Court</p>	<p>Acts performed for the purposes of the High Court</p>
<p>Persons employed to assist in the households of the Governor-General who are employed otherwise than on a regular basis</p>	<p>Acts performed in the course of that employment</p>

A reference in the first column to a designated Commonwealth officer shall be read as a reference to-

- . a member or special member of the Australian Federal Police;
- . the Sheriff of the Australian Capital Territory or a person appointed under section 3 of the *Sheriff Ordinance 1934* of that Territory to assist him or her in the execution of his or her duties;
- . an officer of Customs within the meaning of the *Customs Act 1901*;
- . the Marshal or a Deputy Marshal of the Family Court of Australia;
- . the Sheriff or a Deputy Sheriff of the Federal Court of Australia; or
- . the Marshal or a Deputy of the Marshal of the High Court or an officer appointed under section 55 of the *Judiciary Act 1903* to assist the Marshal and his or her Deputies.

4. For the purposes of subsection 7(1) of the Act, the specified diseases and the specified employments related to those diseases are:-

Occupational diseases

Employment involving
exposure to risk

-
- | | |
|--|--|
| 1. Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthracosilicosis, asbestosis) and silico-tuberculosis, provided that silicosis is an essential factor causing the resultant incapacity, impairment or death. | Employment involving exposure to sclerogenic mineral dust. |
| 2. Bronchopulmonary diseases caused by hard-metal dust. | Employment involving exposure to hard-metal dust. |
| 3. Bronchopulmonary diseases caused by cotton dust (byssinosis), or flax, hemp or sisal dust. | Employment involving exposure to cotton dust, or flax, hemp or sisal dust. |
| 4. Occupational asthma caused by sensitising agents or irritants. | Employment processes involving asthmagenic agents. |
| 5. Extrinsic allergic alveolitis and its sequelae. | Employment involving exposure to the inhalation of organic dusts. |
| 6. Diseases caused by beryllium or its toxic compounds. | Employment involving exposure to beryllium or its toxic compounds. |
| 7. Diseases caused by cadmium or its toxic compounds. | Employment involving exposure to cadmium or its toxic compounds. |
| 8. Diseases caused by phosphorus or its toxic compounds. | Employment involving exposure to phosphorus or its toxic compounds. |
| 9. Diseases caused by chromium or its toxic compounds. | Employment involving exposure to chromium or its toxic compounds. |
| 10. Diseases caused by manganese or its toxic compounds. | Employment involving exposure to manganese or its toxic compounds. |
| 11. Diseases caused by arsenic or its toxic compounds. | Employment involving exposure to arsenic or its toxic compounds. |
| 12. Diseases caused by mercury or its toxic compounds. | Employment involving exposure to mercury or its toxic compounds. |

Occupational diseases	Employment involving exposure to risk
13. Diseases caused by lead or its toxic compounds.	Employment involving exposure to lead or its toxic compounds.
14. Diseases caused by fluorine or its toxic compounds.	Employment involving exposure to fluorine or its toxic compounds.
15. Diseases caused by carbon disulphide.	Employment involving exposure to carbon disulphide.
16. Diseases caused by toxic halogen derivatives of aliphatic or aromatic hydrocarbons.	Employment involving exposure to toxic halogen derivatives of aliphatic or aromatic hydrocarbons.
17. Diseases caused by benzene or its toxic homologues.	Employment involving exposure to benzene or its toxic homologues.
18. Diseases caused by toxic nitro- and amino-derivatives of benzene or its homologues.	Employment involving exposure to toxic nitro- and amino-derivatives of benzene or its homologues.
19. Diseases caused by nitroglycerin or other nitric acid esters.	Employment involving exposure to nitroglycerin or other nitric acid esters.
20. Diseases caused by alcohols, glycols or ketones.	Employment involving exposure to alcohols, glycols or ketones.
21. Diseases caused by asphyxiants: carbon monoxide, hydrogen cyanide or its toxic derivatives, hydrogen sulphide.	Employment involving exposure to carbon monoxide, hydrogen cyanide or its toxic derivatives, hydrogen sulphide.
22. Diseases caused by vibration (disorders of muscles, tendons, bones, joints, peripheral blood vessels or peripheral nerves).	Employment involving exposure to vibration.
23. Diseases caused by work in compressed air.	Employment involving exposure to compressed air.
24. Diseases caused by ionising radiation.	Employment involving exposure to the action of ionising radiation.

Occupational diseases	Employment involving exposure to risk
25. Skin diseases caused by physical, chemical or biological agents not included under other items.	Employment involving exposure to the risk concerned.
26. Primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances.	Employment involving exposure to tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances.
27. Lung cancer or mesotheliomas caused by asbestos.	Employment involving exposure to asbestos.
28. Occupational infectious or parasitic diseases.	Employment carrying a particular risk of contamination including: (a) Health or Laboratory work; (b) Veterinary work; (c) Work handling animals, animal carcasses, parts of such carcasses, or merchandise which may have been contaminated by animals, animal carcasses, or parts of such carcasses.

5. For the purposes of subsection 26(2) of the Act the rate of interest is specified to be the weighted average yield derived from the Treasury note tender for ninety day notes settled immediately prior to the last day of the 30 day settlement period.

6. For the purposes of subsection 30(2) of the Act the specified rate shall be 3 per cent.

7. For the purposes of subsection 57(6) of the Act, where an employee is in receipt of weekly payments of compensation and has been subject to an assessment under section 36 of the Act, the intervals between examinations under this section by the same practitioner shall not be less than one month.

8. In pursuance of subsection 101(1) of the Act, each of the following Commonwealth authorities is declared to be an administering authority:-

- Australian Postal Commission
- Australian Telecommunications Commission

9. For the purposes of the meaning of "specified law" in subsection 119(7) of the Act, each law of a State or Territory listed hereunder is declared to be a specified law for the purposes of the Act:-

Part 1 - Laws of the State of New South Wales

Compensation to Relatives Act of 1897

Crimes Act 1900

Damage by Aircraft Act 1952

Civil Aviation (Carriers' Liability) Act 1967

Sporting Injuries Insurance Act 1978

Victims Compensation Act 1987

Transport Compensation Act 1987

Part 2 - Laws of the State of Victoria

Civil Aviation (Carriers' Liability) Act 1961

Criminal Injuries Compensation Act 1972

Motor Accidents Act 1973

Part 3 - Laws of the State of Queensland

The Criminal Code Act 1899

Part 4 - Laws of the State of Western Australia

Criminal Code Act Compilation Act 1913

Fatal Accidents Act 1959

Civil Aviation (Carriers' Liability) Act 1961

Damage by Aircraft Act 1964

Criminal Injuries Compensation Act 1982

Part 5 - Laws of the State of South Australia

Civil Aviation (Carriers' Liability) Act 1962

Criminal Injuries Compensation Act 1977-78

Part 6 - Laws of the State of Tasmania

Criminal Code Act 1924

Fatal Accidents Act 1934

Civil Aviation (Carriers' Liability) Act 1963

Damage by Aircraft Act 1963

Motor Accidents (Liabilities and Compensation) Act 1973

Criminal Injuries Compensation Act 1976

Part 7 - Laws of the Australian Capital Territory

Crimes Act 1900 of the State of New South Wales in its application to the Australian Capital Territory

Criminal Injuries Compensation Ordinance 1983

Part 8 - Laws of the Northern Territory

Compensation (Fatal Injuries) Act

Motor Accidents (Compensation) Act

Crimes Compensation Act 1982

Dated this 28th day of November 1988.



BRIAN HOWE
Minister of State for
Social Security



PROCLAMATION

Commonwealth of
Australia
N. M. STEPHEN
Governor-General

By His Excellency the
Governor-General of
the Commonwealth of
Australia

I, SIR NINIAN MARTIN STEPHEN, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under section 2 of the *Extradition Act 1988*, hereby fix 1 December 1988 as the day on which that Act comes into operation.
(L.S.) GIVEN under my hand and the Great Seal of Australia on 24 November 1988.

By His Excellency's Command,
LIONEL BOWEN
Attorney-General

GOD SAVE THE QUEEN!

PROCLAMATION

Commonwealth of
Australia
N. M. STEPHEN
Governor-General

By His Excellency the
Governor-General of
the Commonwealth of
Australia

I, SIR NINIAN MARTIN STEPHEN, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under subsection 2(3) of the *Crimes Legislation Amendment Act (No. 2) 1988*, hereby fix 1 December 1988 as the day on which sections 13 to 19 (inclusive) of that Act commence.
(L.S.) GIVEN under my hand and the Great Seal of Australia on 24 November 1988.

By His Excellency's Command,
LIONEL BOWEN
Attorney-General

GOD SAVE THE QUEEN!

NOTIFICATION OF THE MAKING OF STATUTORY RULES

NOTICE is hereby given that the undermentioned Statutory Rules have been made. Copies of the Statutory Rules may be purchased at the Commonwealth Government Bookshop, 70 Alinga St, Canberra City Australian Capital Territory.

<i>Act under which the Statutory Rules were made</i>	<i>Description of the Statutory Rules</i>	<i>Year and Number of the Statutory Rules</i>
<i>Extradition Act 1988</i>	Extradition Regulations	1988 No. 280
<i>Extradition Act 1988</i>	Extradition (Commonwealth Countries) Regulations	1988 No. 281
<i>Extradition Act 1988</i>	Extradition (Hijacking of Aircraft) Regulations	1988 No. 282
<i>Extradition Act 1988</i>	Extradition (Internationally Protected Persons) Regulations	1988 No. 283
<i>Extradition Act 1988</i>	Extradition (Narcotic Drugs) Regulations	1988 No. 284
<i>Extradition Act 1988</i>	Extradition (Physical Protection of Nuclear Material) Regulations	1988 No. 285
<i>Extradition Act 1988</i>	Extradition (Protection of Aircraft) Regulations	1988 No. 286
<i>Extradition Act 1988</i>	Extradition (Republic of Austria) Regulations	1988 No. 287
<i>Extradition Act 1988</i>	Extradition (Kingdom of Belgium) Regulations	1988 No. 288
<i>Extradition Act 1988</i>	Extradition (Finland) Regulations	1988 No. 289
<i>Extradition Act 1988</i>	Extradition (State of Israel) Regulations	1988 No. 290
<i>Extradition Act 1988</i>	Extradition (Republic of Italy) Regulations	1988 No. 291
<i>Extradition Act 1988</i>	Extradition (Grand Duchy of Luxembourg) Regulations	1988 No. 292
<i>Extradition Act 1988</i>	Extradition (Kingdom of the Netherlands) Regulations	1988 No. 293
<i>Extradition Act 1988</i>	Extradition (Norway) Regulations	1988 No. 294
<i>Extradition Act 1988</i>	Extradition (Republic of Portugal) Regulations	1988 No. 295
<i>Extradition Act 1988</i>	Extradition (Spain) Regulations	1988 No. 296
<i>Extradition Act 1988</i>	Extradition (Sweden) Regulations	1988 No. 297
<i>Extradition Act 1988</i>	Extradition (United States of America) Regulations	1988 No. 298
<i>Extradition Act 1988</i>	Extradition (Brazil) Regulations	1988 No. 299
<i>Extradition Act 1988</i>	Extradition (Denmark) Regulations	1988 No. 300
<i>Extradition Act 1988</i>	Extradition (Republic of South Africa) Regulations	1988 No. 301
<i>Extradition Act 1988</i>	Extradition (Federal Republic of Germany) Regulations	1988 No. 302
<i>Extradition Act 1988</i>	Extradition (Iceland) Regulations	1988 No. 303
<i>Extradition Act 1988</i>	Extradition (Ireland) Regulations	1988 No. 304
<i>Extradition Act 1988</i>	Extradition (Japan) Regulations	1988 No. 305

Act under which the Statutory Rules were made	Description of the Statutory Rules	Year and Number of the Statutory Rules
Federal Court of Australia Act 1976	Rules under the Federal Court of Australia Act 1976	1988 No. 306
Radiocommunications (Transmitter Licence Tax) Act 1983	Radiocommunications (Transmitter Licence Tax) Regulations (Amendment)	1988 No. 307
Radiocommunications (Receiver Licence Tax) Act 1983	Radiocommunications (Receiver Licence Tax) Regulations (Amendment)	1988 No. 308
Radiocommunications (Test Permit Tax) Act 1983	Radiocommunications (Test Permit Tax) Regulations (Amendment)	1988 No. 309
Radiocommunications (Temporary Permit Tax) Act 1983	Radiocommunications (Temporary Permit Tax) Regulations (Amendment)	1988 No. 310
Radiocommunications (Frequency Reservation Certificate Tax) Act 1983	Radiocommunications (Frequency Reservation Certificate Tax) Regulations (Amendment)	1988 No. 311

ARRANGEMENT between HIS EXCELLENCY THE GOVERNOR-GENERAL OF THE COMMONWEALTH OF AUSTRALIA, acting with the advice of the Executive Council and THE DEPUTY GOVERNOR FOR AND ON BEHALF OF HIS EXCELLENCY THE GOVERNOR OF THE STATE OF QUEENSLAND, acting by and with the advice of the Executive Council of the State of Queensland.

WHEREAS:

A. Sub-section 46 (1) of the *Extradition Act 1988* of the Parliament of the Commonwealth (hereinafter referred to as "the Act") provides that the Governor-General may make arrangements with the Governor of a State for the performance of the functions of a Magistrate under the Act by a Magistrate of that State.

B. It is desired to make such arrangements for the performance and the functions of a Magistrate under that Act by Stipendiary Magistrates of the State of Queensland.

NOW, IT IS HEREBY ARRANGED in pursuance of section 46 of the Act that all or any of the persons who from time to time hold office as Stipendiary Magistrates of the State of Queensland may perform the functions of a Magistrate under the Act.

Dated this 24th day of November 1988.

N. M. STEPHEN
Governor-General of
the Commonwealth of
Australia

By His Excellency's Command,
LIONEL BOWEN

Attorney-General of the
Commonwealth of Australia

D. G. ANDREWS
Deputy Governor of the
State of Queensland

By Command,

PAUL CLAUSON

Attorney-General of the
State of Queensland

ARRANGEMENT between HIS EXCELLENCY THE GOVERNOR-GENERAL OF THE COMMONWEALTH OF AUSTRALIA, acting with the advice of the Executive Council and HIS EXCELLENCY THE GOVERNOR OF THE STATE OF NEW SOUTH WALES, acting with the advice of the Executive Council of the State of New South Wales.

WHEREAS:

A. Sub-section 46 (1) of the *Extradition Act 1988* of the Parliament of the Commonwealth (hereinafter referred to as "the Act") provides that the Governor-General may make arrangements with the Governor of a State

for the performance of the functions of a Magistrate under the Act by a Magistrate of that State.

B. It is desired to make such arrangements for the performance of the functions of a Magistrate under that Act by Magistrates of the State of New South Wales.

NOW, IT IS HEREBY ARRANGED in pursuance of section 46 of the Act that all or any of the persons who from time to time hold office as Magistrates of the State of New South Wales may perform the functions of a Magistrate under the Act.

Dated this 24th day of November 1988.

N. M. STEPHEN
Governor-General of
the Commonwealth of
Australia

By His Excellency's Command,
LIONEL BOWEN
Attorney-General of the
Commonwealth of Australia

J. A. ROWLAND
Governor of the State of
New South Wales

By His Excellency's Command,
J. R. DOWD

Attorney-General of the
State of New South Wales

ARRANGEMENT between HIS EXCELLENCY THE GOVERNOR-GENERAL OF THE COMMONWEALTH OF AUSTRALIA, acting with the advice of the Executive Council and HIS EXCELLENCY THE GOVERNOR OF THE STATE OF TASMANIA, acting with the advice of the Executive Council of the State of Tasmania.

WHEREAS:

A. Sub-section 46 (1) of the *Extradition Act 1988* of the Parliament of the Commonwealth (hereinafter referred to as "the Act") provides that the Governor-General may make arrangements with the Governor of a State for the performance of the functions of a Magistrate under the Act by a Magistrate of that State.

B. It is desired to make such arrangements for the performance of the functions of a Magistrate under that Act by Magistrates of the State of Tasmania.

NOW, IT IS HEREBY ARRANGED in pursuance of section 46 of the Act that all or any of the persons who from time to time hold office as Magistrates of the State of Tasmania may perform the functions of a Magistrate under the Act.

Dated this 24th day of November 1988.

N. M. STEPHEN
Governor-General of
the Commonwealth of
Australia

By His Excellency's Command,

LIONEL BOWEN
Attorney-General of the
Commonwealth of Australia

P. H. BENNETT
Governor of the State of
Tasmania

By His Excellency's Command,

J. M. BENNETT
Attorney-General of the State
of Tasmania

ARRANGEMENT between HIS EXCELLENCY THE GOVERNOR-GENERAL OF COMMONWEALTH OF AUSTRALIA, acting with the advice of the Executive Council and THE DEPUTY GOVERNOR OF THE STATE OF VICTORIA, acting with the advice of the Executive Council of the State of Victoria.

WHEREAS:

- A. Sub-section 46 (1) of the *Extradition Act 1988* of the Parliament of the Commonwealth (hereinafter referred to as "the Act") provides that the Governor-General may make arrangements with the Governor of a State for the performance of the functions of a Magistrate under the Act by a Magistrate of that State.
- B. It is desired to make such arrangements for the performance of the functions of a Magistrate under that Act by Magistrates of the State of Victoria.

NOW, IT IS HEREBY ARRANGED in pursuance of section 46 of the Act that all or any of the persons who from time to time hold office as Magistrates of the State of Victoria may perform the functions of a Magistrate under the Act.

Dated this 24th day of November 1988.

N. M. STEPHEN
Governor-General of
the Commonwealth of
Australia

By His Excellency's Command,

LIONEL BOWEN
Attorney-General of the
Commonwealth of Australia

W. C. CROCKETT
The Honourable, Mr Justice William Charles
Crockett,
as Deputy for the Governor
of the State of Victoria

By the Deputy Governor's Command,

A. MCCUTCHEON
Attorney-General of the State
of Victoria

ARRANGEMENT between HIS EXCELLENCY THE GOVERNOR-GENERAL OF THE COMMONWEALTH OF AUSTRALIA, acting with the advice of the Federal Executive Council and HIS HONOUR THE ACTING ADMINISTRATOR OF THE NORTHERN TERRITORY, acting with the advice of the Executive Council of the Northern Territory.

WHEREAS:

- A. Subsection 46 (1) of the *Extradition Act 1988* of the Parliament of the Commonwealth (hereinafter referred to as "the Act") provides that the Governor-General may make arrangements with the Administrator of the Northern Territory for the performance of the functions of a Magistrate under the Act by a Magistrate of that Territory.

FOI Production Documents [2024.2732]

- B. It is desired to make such arrangements for the performance of the functions of a Magistrate under that Act by Magistrates of the Northern Territory of Australia.

NOW, IT IS HEREBY ARRANGED in pursuance of section 46 of the Act that all or any of the persons who from time to time hold office as Magistrates of the Northern Territory may perform the functions of a Magistrate under the Act.

Dated this 24th day of November 1988.

N. M. STEPHEN
Governor-General of
the Commonwealth of
Australia

By His Excellency's Command,

LIONEL BOWEN
Attorney-General of the
Commonwealth of Australia

AUSTIN ASCHE
Acting Administrator of
the Northern Territory
of Australia

By His Honour's Command,

D. W. MANZIE
Attorney-General of the
Northern Territory of Australia

ARRANGEMENT between HIS EXCELLENCY THE GOVERNOR-GENERAL OF THE COMMONWEALTH OF AUSTRALIA, acting with the advice of the Executive Council and HIS EXCELLENCY THE GOVERNOR OF THE STATE OF SOUTH AUSTRALIA, acting with the advice and consent of the Executive Council of the State of South Australia.

WHEREAS:

- A. Sub-section 46 (1) of the *Extradition Act 1988* of the Parliament of the Commonwealth (hereinafter referred to as "the Act") provides that the Governor-General may make arrangements with the Governor of a State for the performance of the functions of a Magistrate under the Act by a Magistrate of that State.
- B. It is desired to make such arrangements for the performance of the functions of a Magistrate under that Act by Magistrates of the State of South Australia.

NOW, IT IS HEREBY ARRANGED in pursuance of Section 46 of the Act that all or any of the persons who from time to time hold office as Magistrates of the State of South Australia may perform the functions of a Magistrate under the Act.

Dated this 24th day of November 1988.

N. M. STEPHEN
Governor-General of
the Commonwealth of
Australia

By His Excellency's Command,

LIONEL BOWEN
Attorney-General of the
Commonwealth of Australia

D. B. DUNSTAN
Governor of the
State of South Australia

By Command,

G. J. CRAFTER
A/Attorney-General of the
State of South Australia

ARRANGEMENT between HIS EXCELLENCY THE GOVERNOR-GENERAL OF THE COMMONWEALTH OF AUSTRALIA, acting with the advice of the Executive Council and HIS EXCELLENCY THE GOVERNOR OF THE STATE OF WESTERN AUSTRALIA, acting with the advice of the Executive Council of the State of Western Australia.

WHEREAS:

- A. Subsection 46 (1) of the *Extradition Act 1988* of the Parliament of the Commonwealth (hereinafter referred to as "the Act") provides that the Governor-General may make arrangements with the Governor of a State for the performance of the functions of a Magistrate under the Act by a Magistrate of that State.
- B. It is desired to make such arrangements for the performance of the functions of a Magistrate under that Act by Magistrates of the State of Western Australia.

NOW, IT IS HEREBY ARRANGED in pursuance of section 46 of the Act that all or any of the persons who from time to time hold office as Magistrates of the State of Western Australia may perform the functions of a Magistrate under the Act.

Dated this 24th day of November 1988.

N. M. STEPHEN
Governor-General of
the Commonwealth of
Australia

By His Excellency's Command,
LIONEL BOWEN
Attorney-General of the
Commonwealth of Australia

GORDON REID
Governor of the State
of Western Australia

By His Excellency's Command,
J. M. BERINSON
Attorney-General of the
State of Western Australia

ARRANGEMENT between HIS EXCELLENCY THE GOVERNOR-GENERAL OF THE COMMONWEALTH OF AUSTRALIA, acting with the advice of the Federal Executive Council and HIS HONOUR THE ADMINISTRATOR OF NORFOLK ISLAND.

WHEREAS:

- A. Sub-section 46 (1) of the *Extradition Act 1988* of the Parliament of the Commonwealth (hereinafter referred to as "the Act") provides that the Governor-General may make arrangements with the Administrator of Norfolk Island for the performance of the functions of a Magistrate under the Act by a Magistrate of that Island.
- B. It is desired to make such arrangements for the performance of the functions of a Magistrate under that Act by Magistrates of Norfolk Island.

NOW, IT IS HEREBY ARRANGED in pursuance of section 46 of the Act that all or any of the persons who from time to time hold office as Magistrates of Norfolk Island may perform the functions of a Magistrate under the Act.

Dated this 24th day of November 1988.

N. M. STEPHEN
Governor-General of
the Commonwealth of
Australia

By His Excellency's Command,
LIONEL BOWEN
Attorney-General of the
Commonwealth of Australia

J. A. MATTHEW
Administrator of
Norfolk Island



COMMONWEALTH OF AUSTRALIA

NATIONAL CAPITAL DEVELOPMENT COMMISSION ACT 1957

**NOTIFICATION OF NATIONAL CAPITAL DEVELOPMENT
COMMISSION POLICIES**

I hereby give notice of all of the Policies of the National Capital Development Commission which are both current and in published form as set out in Schedule 1.

Date: 29 November, 1988

ALLAN CLYDE HOLDING
Minister of State for the
Arts and Territories

EXPLANATORY STATEMENT

Section 62 of the *Australian Capital Territory (Planning and Land Management) Bill 1988* provides that policies of the National Capital Development Commission which are in published form and in operation before the commencement of that Section and which have been notified in the Commonwealth Gazette will, subject to Section 65 and 66 of the Bill, continue to be in effect.

**NATIONAL CAPITAL DEVELOPMENT COMMISSION
POLICY PLANS AND STATEMENTS****POLICY PLANS****AINSLIE LOCAL CENTRE**

AINSLIE: Block 1 Section 93

AREAS OF SPECIAL NATIONAL CONCERN**BELCONNEN TOWN CENTRE**

BRADDON: Sections 18 and 19

BRADDON: Section 21 Blocks 1-12

BRADDON: Section 24 Block 16

BRADDON: Section 22

BRUCE: Section 4 (Part) and 21 (Part)

CALWELL: Sections 751, 757, and Parts 701, 725, 726,
729, 750, 752, 761, 795, and 799CALWELL: Sections 701-706, 739, 742, 743 Part, 744
Part 792. Combined with ISABELLA PLAINS:Sections 812 Part 837, 839, 841, 844-846, 849, 850,
854, Part 855, Part 856, 857

CHARWOOD: Section 95, Part Sections 97 and 117

CHISHOLM GROUP CENTRE

CHISHOLM: Section 575, Block 3

CHISHOLM: Section 507 Block 38-39

**CITY—AREA BETWEEN LONDON CIRCUIT AND
VERNON CIRCLE**

CIVIC CENTRE CANBERRA (1984)

DEAKIN LOCAL CENTREDEAKIN: Section 35, Blocks 5, 13, 14, 30, 31 Part
Block 10

DEAKIN: Section 36, Blocks 4 & 7

DEAKIN: Section 37, Block 80 (Part)

DEAKIN: Section 67

DICKSON: Section 72

DOWNER: Section 61 Block 3

DOWNER: Section 61 Block 1

DUFFY: Section 27 Part Block 1 and Block 2

DUFFY: Section 25, Block 2, Section 27 Block 5

ERINDALE GROUP CENTRE

EVATT: Sections 52 and 88

FADDEN: Block 1 Section 332, Block 2 Section 301

GOWRIE Part Block 3 Section 226

FADDEN: Section 353 Block 1 Part Block 2 & Block 3

FISHER: Part Section 30, 33, 55 & 56

FLOREY**FYSHWICK****GILMORE HIGHWAY SERVICE CENTRE**

GILMORE: Part Sections 44-49 and 65

GILMORE: Part Sections 50, 55, 56, 58, 60 and 61

GOLD CREEK TOURIST AREAHACKETT: Section 17 Blocks 11 and 12, Section 18
Block 3, Part Section 19

HACKETT: Part Section 22

HALL

HAWKER: Section 1 and Block 2 Section 2

HAWKER SHOPPING CENTRE Section 33 Block 21

HAWKER SHOPPING CENTRE Sections 33, 34, 35,
and 36

HIGGINS: Section 12 Part Block 14

HOLT: Section 49 Block 55

ISABELLA PLAINS NORTH (MONASH)**KALEEN EAST LOCAL CENTRE****KALEEN SOUTH LOCAL CENTRE**KALEEN: Sections 27, 28, 88-92 and Part
Section 117

KAMBAH: Sections 274-277

KAMBAH: Section 353 Blocks 5, 6, 7 and
Part Block 3

KAMBAH: Section 499

KAMBAH: Section 513 Block 1

KAMBAH: Section 502 Blocks 1 and 2

KINGSTON: Section 20

KINGSTON: Section 8, Block 3 and Part
Block 5

LATHAM: Section 32 Block 1

LYNEHAM: Section 57 (North Lyneham)

LYNEHAM: Section 41 Part Block 11

MACARTHUR: Section 391 and Part Sections
344, 394 & 398

MACGREGOR: Section 58 Part Block 1

MACQUARIE: Section 19 Blocks 8, 9, 15 and
Part 19

MACQUARIE: Section 54 Block 5

MANUKA GROUP CENTRE

MAWSON: Section 47 Block 6

MAWSON: Section 57 Part Block 3

McKELLAR: Section 52 Part Block 5

McKELLAR: Section 71

METROPOLITAN CANBERRA**MURRUMBIDGEE RIVER CORRIDOR****NAMADGI****OAKS ESTATE**

OAKS ESTATE: Sections 5 and 7 Amendment

O'MALLEY NORTH WEST: Sections 4-7, 15, 16, 46
and Part Sections 8, 11, 14 and 34

PEARCE: Section 27 Block 2

POLICY PLANS—continued

PHILLIP: Sections 52 and 129

PHILLIP: Sections 103 and 130

RED HILL: Section 27 Blocks 13 and 22

SCULLIN: Section 25 Blocks 8 and 9

SPENCE: Section 23 Blocks 2 and 8

STIRLING: Section 24 Blocks 8 and Part
Block 11

THARWA

TORRENS: Section 22 Block 4

TORRENS: Section 21 Block 11

TUGGERANONG SOUTH, PART CONDER,
GORDON AND BANKS

TUGGERANONG TOWN CENTRE

TUGGERANONG: Part Block 1239, 1271, 1283
(Bonython)

TURNER: Section 35 Part Block 1

TURNER: Section 35 Part Block 2

TURNER: Section 24 and Section 43
Blocks 1-9

TURNER: Section 51, Blocks 9, 10 and 11

WANNIASSA: Section 237 Blocks 2 and 3

WARAMANGA: Section 40 Block 5

WARAMANGA: Section 41 Blocks 2 and 3; Section 42
Part Block 1

WATSON: Section 21, Blocks 3 and 4 and Part 5

WATSON: Section 64 Part Block 3

WESTON: Section 58 Part Block 5 and Block 9

WESTON NORTH: Sections 81, 82, 83, 94, 96 and 97

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YARRALUMLA BRICKWORKS

YARRALUMLA LOCAL CENTRE

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TAVERNS



NOTIFICATION OF THE MAKING OF STATUTORY RULES

NOTICE is hereby given that the undermentioned Statutory Rules have been made. Copies of the Statutory Rules may be purchased at the Commonwealth Government Bookshop, 70 Alinga St, Canberra City, Australian Capital Territory.

<i>Act under which the Statutory Rules were made</i>	<i>Description of the Statutory Rules</i>	<i>Year and number of the Statutory Rules</i>
<i>Public Works Committee Act 1969</i>	Public Works Committee Regulations (Amendment)	1988 No. 312
<i>Seat of Government (Administration) Act 1910</i>	Seat of Government (Administration) Regulations	1988 No. 313
<i>Health Insurance Act 1973</i>	Health Insurance Regulations (Amendment)	1988 No. 314
<i>Epidemiological Studies (Confidentiality) Act 1981</i>	Epidemiological Studies (Confidentiality) Regulations (Amendment)	1988 No. 315
<i>Student Assistance Act 1973</i>	Student Assistance Regulations (Amendment)	1988 No. 316
<i>Superannuation Act 1976</i>	Superannuation (Transfer Arrangements) Regulations (Amendment)	1988 No. 317
<i>Audit Act 1901</i>	Audit Regulations (Amendment)	1988 No. 318
<i>Remuneration Tribunals Act 1973</i>	Remuneration Tribunals (Miscellaneous Provisions) Regulations (Amendment)	1988 No. 319
<i>Remuneration Tribunals Act 1973</i>	Remuneration Tribunals (Miscellaneous Provisions) Regulations (Amendment)	1988 No. 320
<i>Defence Act 1903</i>	Defence Force Regulations (Amendment)	1988 No. 321
<i>Defence Act 1903</i>	Defence Force Regulations (Amendment)	1988 No. 322
<i>Banks (Shareholdings) Act 1972</i>	Banks (Shareholdings) Regulations (Amendment)	1988 No. 323
<i>Australian Citizenship Act 1948</i>	Australian Citizenship Regulations (Amendment)	1988 No. 324
<i>Australian Citizenship Act 1948</i>	Australian Citizenship Regulations (Amendment)	1988 No. 325
<i>Customs Act 1901</i>	Customs (Prohibited Imports) Regulations (Amendment)	1988 No. 326
<i>Customs Act 1901</i>	Customs (Prohibited Imports) Regulations (Amendment)	1988 No. 327



No. S 369, Friday, 2 December 1988

Published by the Australian Government Publishing Service, Canberra

SPECIAL

NOTICES OF COMMENCEMENT
AUSTRALIAN CAPITAL TERRITORY
Nurses Ordinance 1988

I, ALLAN CLYDE HOLDING, Minister of State for the Arts and Territories, pursuant to section 2 of the *Nurses Ordinance 1988*, hereby fix 5 December 1988 as the date on and from which the *Nurses Ordinance 1988* shall come into operation.

Dated this 1st day of December 1988.

CLYDE HOLDING

Minister of State for the Arts and Territories

AUSTRALIAN CAPITAL TERRITORY
Health Professions Boards (Procedures) (Amendment) Ordinance 1988

I, ALLAN CLYDE HOLDING, Minister of State for the Arts and Territories, pursuant to section 2 of the *Health Professions Boards (Procedures) (Amendment) Ordinance 1988*, hereby fix 5 December 1988 as the date on and from which the *Health Professions Boards (Procedures) (Amendment) Ordinance 1988* shall come into operation.

Dated this 1st day of December 1988.

CLYDE HOLDING

Minister of State for the Arts and Territories

AUSTRALIAN CAPITAL TERRITORY
Health Professions Boards (Elections) (Amendment) Ordinance 1988

I, ALLAN CLYDE HOLDING, Minister of State for the Arts and Territories, pursuant to section 2 of the *Health Professions Boards (Elections) (Amendment) Ordinance 1988*, hereby fix 5 December 1988 as the date on and from which the *Health Professions Boards (Elections) (Amendment) Ordinance 1988* shall come into operation.

Dated this 1st day of December 1988.

CLYDE HOLDING

Minister of State for the Arts and Territories

AUSTRALIAN CAPITAL TERRITORY
Nurses (Consequential Amendments) Ordinance 1988

I, ALLAN CLYDE HOLDING, Minister of State for the Arts and Territories, pursuant to section 2 of the *Nurses (Consequential Amendments) Ordinance 1988*, hereby fix 5 December 1988 as the date on and from which the *Nurses (Consequential Amendments) Ordinance 1988* shall come into operation.

Dated this 1st day of December 1988.

CLYDE HOLDING

Minister of State for the Arts and Territories



AUSTRALIAN CAPITAL TERRITORY

Liquor Ordinance 1975

DETERMINATION OF FEES

Determination No. 52 of 1988

Under section 105A of the *Liquor Ordinance 1975* I REVOKE the determination of Fees made by instrument published in the *Commonwealth of Australia Gazette* No. S 326 on 30 November 1987 and DETERMINE, notwithstanding the determination of fees made under section 105A of the Ordinance made by instrument published in the *Commonwealth of Australia Gazette* No. S 412 on 20 August 1986, the fee payable for the purposes of section 94 (2) of the Ordinance for the renewal of an Off Licence by a licensee listed in the Schedule to this instrument shall be an amount equal to:

\$500.00 plus 10% of the aggregate of amounts, including duties, paid or payable by the licensee for liquor sold by the licensee during the financial year last preceding the date on which the licence would, but for its renewal, cease to be in force but excluding all liquor sold to:

- (a) holders of licences or permits;
- (b) the Australian National University;
- (c) the Canberra College of Advanced Education;
- (d) the Canberra Theatre Trust;
- (e) an exempt person; or
- (f) persons who, under the law of a State or another Territory, hold licences authorising them to sell liquor.

Date: 30 November 1988

WILLIAM JOHN HARRIS

ACT Administration,
Delegate of the Minister of State
for the Arts and Territories

This is the Schedule to the Determination made under section 105A of the *Liquor Ordinance* by the Delegate of the Minister of State for the Arts and Territories on 30 November 1988.

SCHEDULE

Licensees subject to this determination:

- Matteo Bortolussi
- C.B.A.A.S. Investments Pty Ltd
- Campbells Cash and Carry Pty Ltd
- Liquor Distributors Pty Ltd
- Harry Williams and Co Pty Ltd
- O'Malley & Co Pty Ltd
- Dorina Lazzarini & Enzo D'Annibale
- G & L Warehouse Pty Ltd
- Oak Barrel Winery & Gide Pty Ltd
- Canberra Wine Supplies Pty Ltd
(licence No. 140 only)
- Swift & Moore Pty Ltd
- Carlton Wines and Spirits (Aust.) Pty Ltd
- Cantarella (Canberra) Pty Ltd



AUSTRALIAN CAPITAL TERRITORY

NOTIFICATION OF THE MAKING OF REGULATIONS

NOTICE is hereby given that the undermentioned Regulations of the Australian Capital Territory have been made. Copies of the Regulations may be purchased at the Commonwealth Government Bookshop, 70 Alinga St, Canberra City Australian Capital Territory.

<i>Ordinance under which Regulations made</i>	<i>Description of Regulations</i>	<i>Number and year of Regulations</i>
<i>Nurses Registration Ordinance 1933</i>	Nursing Regulations (Repeal)	1988 No. 21
<i>Public Health Ordinance 1928</i>	Public Health (Private Hospitals) Regulations (Amendment)	1988 No. 22
<i>Public Health Ordinance 1928</i>	Public Health (Medical and Dental Inspection of School Children) Regulations (Amendment)	1988 No. 23



AUSTRALIAN CAPITAL TERRITORY

Nurses Ordinance 1988

DETERMINATION OF FEES

I, ALLAN CLYDE HOLDING, Minister of State for the Arts and Territories in pursuance of section 60 of the Nurses Ordinance 1988 hereby determine that the fees for the purposes of the section of the Ordinance set out in Column 1 of the Schedule shall be the amount set out in Column 2 of the Schedule opposite and in relation to that section.

Dated this 5th day of December 1988

CLYDE HOLDING
Minister of State for the Arts and Territories

SCHEDULE

Table with 2 columns: Column 1 Section, Column 2 Amount. Lists sections like 14(b), 18(7), 19(2) and their corresponding amounts in dollars.



Safety, Rehabilitation and Compensation (Specification of Medical Examination Interval) Instrument 2019

I, KELLY O'DWYER, Minister for Jobs and Industrial Relations, make the following instrument.

Dated 7 March 2019

KELLY O'DWYER
Minister for Jobs and Industrial Relations

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1 Name

This instrument is the *Safety, Rehabilitation and Compensation (Specification of Medical Examination Interval) Instrument 2019*.

2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

3 Authority

This instrument is made under subsection 57(6) of the *Safety, Rehabilitation and Compensation Act 1988*.

4 Definitions

In this instrument:

Act means the *Safety, Rehabilitation and Compensation Act 1988*.

month has the meaning given by the *Acts Interpretation Act 1901*.

5 Application

This instrument applies in relation to an examination that the relevant authority for an employee requires the employee to undergo pursuant to section 57 of the Act after the commencement of this instrument.

6 Specification

- (1) For the purposes of subsection 57(6) of the Act, an employee shall not be required to undergo an examination by the same legally qualified medical practitioner nominated by the relevant authority under section 57 of the Act more frequently than at one-month intervals.
- (2) The minimum interval specified in subsection 6(1) of this instrument only applies if the employee undergoes the examination with the legally qualified medical practitioner nominated by the relevant authority.

EXPLANATORY STATEMENT

Safety, Rehabilitation and Compensation Act 1988

Issued by the Minister for Jobs and Industrial Relations

Safety, Rehabilitation and Compensation (Specification of Medical Examination Interval) Instrument 2019

The *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) establishes the Commonwealth workers' compensation and rehabilitation scheme for employees of the Commonwealth, Commonwealth authorities and licensed corporations. For the purposes of the SRC Act, Comcare and licensees are relevant authorities responsible for determining liability and managing claims under the Act.

Section 57 of the SRC Act provides that where a notice has been given to a relevant authority under section 53 in relation to an employee, or where an employee has made a claim for compensation under section 54, the relevant authority may require the employee to undergo an examination by one legally qualified medical practitioner nominated by the relevant authority. If the employee refuses or fails, without reasonable excuse, to undergo the examination, or in any way obstructs the examination, the employee's rights to compensation under the Act, and to institute or continue any proceedings under the Act in relation to compensation, are suspended until the examination takes place.

Section 57 is qualified by subsection 57(6) of the SRC Act, which provides that an employee shall not be required to undergo an examination under section 57 at more frequent intervals than are specified by the Minister by legislative instrument.

This instrument is made by the Minister under subsection 57(6) of the SRC Act. It specifies that an employee shall not be required to undergo an examination by the same legally qualified medical practitioner nominated by the relevant authority under section 57 more frequently than at one-month intervals (subsection 6(1) of this instrument). The specified interval only applies if the employee undergoes the examination (subsection 6(2) of this instrument).

Section 5 provides that the instrument applies in relation to an examination that an employer may require the employee to undergo pursuant to section 57 of the SRC Act after the commencement of this instrument.

For the avoidance of doubt, the interval specified in this instrument is the minimum interval for which an employee can be required to undergo an examination under section 57 of the SRC Act. This instrument does not specify, or imply, that employees should be required to undergo an examination at such intervals under section 57 of the SRC Act.

Section 2 of this instrument provides that this instrument takes effect from the day after it is registered on the Federal Register of Legislation.

This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

Consultation

The Department of Jobs and Small Business consulted with Comcare, licensees, Australian Public Service agencies, the Australian Capital Territory Government and the Australian Council of Trade Unions.

Regulation Impact Statement

The Office of Best Practice Regulation confirmed that a Regulation Impact Statement is not required (OBPR ID 24112).

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Safety, Rehabilitation and Compensation (Specification of Medical Examination Interval) Instrument 2019

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

Overview of the legislative instrument

The *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) establishes the Commonwealth workers' compensation and rehabilitation scheme for employees of the Commonwealth, Commonwealth authorities and licensed corporations. For the purposes of the SRC Act, Comcare and licensees are relevant authorities responsible for determining liability and managing claims under the Act.

Section 57 of the SRC Act provides that, where a notice has been given to a relevant authority under section 53 in relation to an employee, or an employee has made a claim for compensation under section 54, the relevant authority may require the employee to undergo an examination by one legally qualified medical practitioner nominated by the relevant authority. If the employee refuses or fails, without reasonable excuse, to undergo the examination, or in any way obstructs the examination, the employee's rights to compensation under the Act, and to institute or continue any proceedings under the Act in relation to compensation, are suspended until the examination takes place.

Section 57 is qualified by subsection 57(6) of the SRC Act, which provides that an employee shall not be required to undergo an examination under section 57 at more frequent intervals than are specified by the Minister by legislative instrument.

This instrument is made by the Minister under subsection 57(6) of the SRC Act to specify that an employee shall not be required to undergo an examination by the same legally qualified medical practitioner nominated by the relevant authority under section 57 more frequently than at one-month intervals. The specified interval only applies if the employee undergoes the examination.

For the avoidance of doubt, the interval specified in this instrument is the minimum interval for which an employee can be required to undergo an examination under section 57 of the SRC Act. This instrument does not specify, or imply, that employees should be required to undergo an examination at such intervals under section 57 of the SRC Act.

Human rights implications

Article 9 of the *International Covenant on Economic, Social and Cultural Rights* provides for the right of everyone to social security, including social insurance. General Comment 19 by the Committee on Economic, Social and Cultural Rights elaborates on Article 9, stating that the 'States parties should ... ensure the protection of workers who are injured in the course of employment or other productive work'.¹

¹ Committee on Economic, Social and Cultural Rights, *General Comment 19: The Right to Social Security (art. 9)*, U.N. Doc E/C.12/GC/19 (2008), [17].

The workers' compensation scheme established by the SRC Act is a form of social insurance which relevantly provides rehabilitation and compensation support for employees with work-related injuries.

This instrument positively engages the right to social security by protecting injured employees from the requirement to attend medical examinations with the same legally qualified medical practitioner more frequently than is necessary for the relevant authority to determine their entitlements under the SRC Act.

Conclusion

This legislative instrument is compatible with human rights.

The Hon Kelly O'Dwyer MP

Minister for Jobs and Industrial Relations



Fair Work Legislation Amendment (Closing Loopholes) Act 2023

No. 120, 2023

An Act to amend the law relating to workplace relations, work health and safety, workers' compensation and rehabilitation, certain independent contractors, the Asbestos Safety and Eradication Agency and registered organisations, and for related purposes

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)

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Fair Work Legislation Amendment (Closing Loopholes) Act 2023

No. 120, 2023

An Act to amend the law relating to workplace relations, work health and safety, workers' compensation and rehabilitation, certain independent contractors, the Asbestos Safety and Eradication Agency and registered organisations, and for related purposes

[Assented to 14 December 2023]

The Parliament of Australia enacts:

No. 120, 2023

Fair Work Legislation Amendment (Closing Loopholes) Act 2023

1

1 Short title

This Act is the *Fair Work Legislation Amendment (Closing Loopholes) Act 2023*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	14 December 2023
3. Schedule 1, Part 2	The day after this Act receives the Royal Assent.	15 December 2023
7. Schedule 1, Part 6	The day after this Act receives the Royal Assent.	15 December 2023
8. Schedule 1, Part 7, Division 1	The day after this Act receives the Royal Assent.	15 December 2023
10. Schedule 1, Part 8	The day after this Act receives the Royal Assent.	15 December 2023
18. Schedule 1, items 213 to 222	The later of: (a) 1 January 2025; and (b) the day after the first time the Minister declares a Voluntary Small Business Wage Compliance Code under subsection 327B(1) of the <i>Fair Work Act 2009</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
19. Schedule 1,	The day after the end of the period of 6	14 June 2024

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
items 223 and 224	months beginning on the day this Act receives the Royal Assent.	
20. Schedule 1, items 225 to 236	At the same time as the provisions covered by table item 18.	
20A. Schedule 1, Part 14A	The day after this Act receives the Royal Assent.	15 December 2023
22A. Schedule 1, Part 16A	The day after this Act receives the Royal Assent.	15 December 2023
24. Schedule 1, Part 18	The day after this Act receives the Royal Assent.	15 December 2023
25. Schedule 2	The day after this Act receives the Royal Assent.	15 December 2023
26. Schedule 3, Part 1	The day after this Act receives the Royal Assent.	15 December 2023
26A. Schedule 3, Part 2	The day after the end of the period of 6 months beginning on the day this Act receives the Royal Assent.	14 June 2024
27. Schedule 4, Part 1	1 July 2024.	1 July 2024
28. Schedule 4, Parts 2 to 6	The day after this Act receives the Royal Assent.	15 December 2023
29. Schedule 4, Part 7	The later of: (a) at the same time as the provisions covered by table item 28; and (b) immediately after the commencement of the <i>Work Health and Safety Amendment Act 2023</i> .	15 December 2023 (paragraph (a) applies)
30. Schedule 4, Part 8	The day after this Act receives the Royal Assent.	15 December 2023
Note:	This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.	

-
- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Review of operation of amendments

- (1) The Minister must cause a review to be conducted of the operation of the amendments made by this Act.
- (2) Without limiting the matters that may be considered when conducting the review, the review must:
- (a) consider whether the operation of the amendments made by this Act is appropriate and effective; and
 - (b) identify any unintended consequences of the amendments made by this Act; and
 - (c) consider whether amendments of the *Fair Work Act 2009*, or any other legislation, are necessary to:
 - (i) improve the operation of the amendments made by this Act; or
 - (ii) rectify any unintended consequences identified under paragraph (b).
- (3) The review must start no later than 2 years after this section commences.
- (4) The persons who conduct the review must give the Minister a written report of the review within 6 months of the commencement of the review.
- (5) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

4A Review of operation of Part 16A of Schedule 1

- (1) The Minister must cause a review to be conducted of the operation of the amendments made by Part 16A of Schedule 1 to this Act.
- (2) Without limiting the matters that may be considered when conducting the review, the review must:
 - (a) consider whether the operation of the amendments made by that Part is appropriate and effective; and
 - (b) identify any unintended consequences of the amendments made by that Part; and
 - (c) consider whether amendments of the *Fair Work Act 2009*, or any other legislation, are necessary to:
 - (i) improve the operation of the amendments made by that Part; or
 - (ii) rectify any unintended consequences identified under paragraph (b).
- (3) The review must start no later than 9 months after that Part commences.
- (4) The persons who conduct the review must give the Minister a written report of the review within 6 months of the commencement of the review.
- (5) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

Schedule 1 Main amendments**Part 2** Small business redundancy exemption**Schedule 1—Main amendments****Part 2—Small business redundancy exemption***Fair Work Act 2009***26 Section 12 (definition of *appointment*)**

Repeal the definition, substitute:

***appointment*:**

- (a) of a bargaining representative means an appointment of a bargaining representative under paragraph 176(1)(c) or (d) or 177(c); and
- (b) of an insolvency practitioner includes a person becoming an insolvency practitioner:
 - (i) by taking possession or control of property; or
 - (ii) by operation of law.

27 Section 12

Insert:

***Bankruptcy Act 1966*:** a reference to the *Bankruptcy Act 1966* or a provision of that Act is a reference to that Act or provision:

- (a) applying of its own force; or
- (b) applying, with or without modifications, because of a law of the Commonwealth, a State or a Territory.

bankruptcy trustee of a person means the trustee under the *Bankruptcy Act 1966* of the person's estate in bankruptcy.

Corporations Act 2001*:** the reference to the *Corporations Act 2001* in the definitions of ***insolvency practitioner and ***liquidator*** in this section is a reference to that Act:

- (a) applying of its own force; or
- (b) applying, with or without modifications, because of a law of the Commonwealth, a State or a Territory.

insolvency practitioner for an employer means:

- (a) a liquidator of the employer; or

- (b) an administrator of the employer appointed under the *Corporations Act 2001*; or
- (c) a restructuring practitioner for the employer appointed under that Act; or
- (d) a person appointed as a receiver of property of the employer; or
- (e) a person who has possession or control of property of the employer for the purpose of enforcing:
 - (i) a charge; or
 - (ii) a mortgage; or
 - (iii) a lien; or
 - (iv) a pledge; or
 - (v) a security interest, within the meaning of the *Personal Property Securities Act 2009*, to which that Act applies, other than a transitional security interest within the meaning of that Act; or
- (f) a bankruptcy trustee of the employer.

liquidator means a liquidator appointed (provisionally or otherwise) under the *Corporations Act 2001*.

members' voluntary winding up: see subsection 121(5).

28 At the end of section 121

Certain small businesses to pay redundancy pay

- (4) Despite subsection (1), an employee whose employment is terminated is entitled to be paid redundancy pay in accordance with this Division if:
 - (a) at the time of the termination, section 119 did not apply to the termination because the employer was a small business employer; and
 - (b) the employer is bankrupt or in liquidation (other than only because of a members' voluntary winding up); and
 - (c) the employer is a small business employer because the employment of one or more employees was terminated; and
 - (d) those terminations occurred:

Schedule 1 Main amendments**Part 2** Small business redundancy exemption

- (i) on or after the day that is 6 months before the employer became bankrupt or went into liquidation; or
 - (ii) if there was an insolvency practitioner (the ***last insolvency practitioner***) for the employer on the business day before the employer became bankrupt or went into liquidation—on or after the day that is 6 months before the insolvency practitioner was appointed; or
 - (iii) if, before the last insolvency practitioner was appointed, other insolvency practitioners for the employer were appointed without any intervening business days between any of those appointments—on or after the day that is 6 months before the first of those insolvency practitioners was appointed; or
 - (iv) due to the insolvency of the employer.
- (5) A ***members' voluntary winding up*** is a winding up under section 495 of the *Corporations Act 2001*.

Time of liquidation—members' voluntary winding up where company turns out to be insolvent

- (6) If a liquidator takes action under section 496 of the *Corporations Act 2001* (company turns out to be insolvent) in relation to a small business employer whose liquidation began as a members' voluntary winding up, then, for the purposes of subparagraph (4)(d)(i), the time the employer goes into liquidation is the time the employer goes into liquidation because of the members' voluntary winding up.

Application to partnerships

- (7) For the purposes of subsection (4), a small business employer that is a partnership is not bankrupt or in liquidation unless each partner of the partnership is bankrupt or in liquidation, as the case requires.

Part 6—Closing the labour hire loophole

Fair Work Act 2009

71 After paragraph 5(8)(a)

Insert:

- (aa) provided by Part 2-7A (which deals with regulated labour hire arrangement orders); and

72 Section 12

Insert:

alternative protected rate of pay order: see subsection 306M(2).

arbitrated protected rate of pay order: see subsection 306Q(1).

covered employment instrument means:

- (a) an enterprise agreement; or
- (b) a workplace determination; or
- (c) a determination under section 24 of the *Public Service Act 1999* that applies to a class of APS employees in an Agency (within the meaning of that Act); or
- (d) an instrument made under any other law of the Commonwealth (other than this Act), or of a State or a Territory, that provides for the terms and conditions of employment for a class of national system employees of:
 - (i) the Commonwealth or a State or Territory; or
 - (ii) an authority of the Commonwealth or of a State or Territory; or
- (e) any other instrument relating to the employment of a class of national system employees that:
 - (i) is made under a law of the Commonwealth (other than this Act) or a State or Territory; and
 - (ii) is prescribed by the regulations.

host employment instrument: see subsection 306E(6).

protected rate of pay: see section 306F.

Schedule 1 Main amendments**Part 6** Closing the labour hire loophole

recurring extended exemption period: see subsection 306K(2).

regulated employee: see subsection 306E(5).

regulated host: see section 306C.

regulated labour hire arrangement order: see subsection 306E(1).

72A At the end of section 201

Add:

Approval decision to note that enterprise agreement to be new host employment instrument for regulated labour hire arrangement order

(5) If:

- (a) the FWC approves an enterprise agreement; and
- (b) the enterprise agreement will become the host employment instrument covered by a regulated labour hire arrangement order because of section 306EB;

the FWC must note in its decision to approve the agreement that the agreement will be the host employment instrument covered by the order.

Note: Certain notification requirements also apply if the enterprise agreement will be the host employment instrument covered by a regulated labour hire arrangement order (see section 306EC).

73 After Part 2-7

Insert:

Part 2-7A—Regulated labour hire arrangement orders

Division 1—Introduction

306A Guide to this Part

This Part is about regulated labour hire arrangement orders.

Division 2 deals with the making of regulated labour hire arrangement orders by the FWC and sets out the obligations of employers and regulated hosts covered by those orders.

Division 2 also deals with the making of alternative protected rate of pay orders by the FWC, the continued application of regulated labour hire arrangement orders in particular circumstances, and certain payments relating to termination of employment.

Division 3 deals with disputes about the operation of this Part.

Division 4 is about anti-avoidance.

Division 5 requires the FWC to make written guidelines in relation to the operation of this Part.

306B Meanings of *employee* and *employer*

In this Part, *employee* means a national system employee, and *employer* means a national system employer.

Note: See also Division 2 of Part 6-4A (TCF contract outworkers taken to be employees in certain circumstances).

306C Meaning of *regulated host*

A *regulated host* is:

- (a) a constitutional corporation; or
- (b) the Commonwealth; or
- (c) a Commonwealth authority; or
- (d) a person, so far as work is performed for the person in connection with constitutional trade or commerce, and the work is of a kind that would ordinarily be performed by:
 - (i) a flight crew officer; or
 - (ii) a maritime employee; or
 - (iii) a waterside worker; or
- (e) a body corporate incorporated in a Territory; or
- (f) a person who carries on an activity (whether of a commercial, governmental or other nature) in a Territory in Australia, so

Schedule 1 Main amendments**Part 6** Closing the labour hire loophole

far as work is performed for the person in connection with the activity carried on in the Territory; or

- (g) a person, so far as work is performed for the person in a Territory in Australia; or
- (h) any person in a State that is a referring State because of Division 2A or 2B of Part 1-3.

Note: In this context, *Australia* includes Norfolk Island, the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands (see the definition of *Australia* in section 12).

306D References to kinds of work and work performed for a person etc.

- (1) A reference in this Part to work of a kind includes a reference to work that is substantially of that kind.
- (2) A reference in this Part to work performed for a person includes a reference to work performed wholly or principally for the benefit of:
 - (a) the person; or
 - (b) an enterprise carried on by the person; or
 - (c) a joint venture or common enterprise engaged in by the person and one or more other persons.
- (3) To avoid doubt, in determining for the purposes of this Part whether work is or is to be performed for a person by an employee of an employer, it does not matter whether there is or will be any agreement between the person and the employer relating to the performance of the work.

Division 2—Regulated labour hire arrangement orders**Subdivision A—Making regulated labour hire arrangement orders****306E FWC may make a regulated labour hire arrangement order***Regulated labour hire arrangement order*

- (1) The FWC must, on application by a person mentioned in subsection (7), make an order (a **regulated labour hire arrangement order**) if the FWC is satisfied that:
- (a) an employer supplies or will supply, either directly or indirectly, one or more employees of the employer to perform work for a regulated host; and
 - (b) a covered employment instrument that applies to the regulated host would apply to the employees if the regulated host were to employ the employees to perform work of that kind; and
 - (c) the regulated host is not a small business employer.

Note: The FWC may make other decisions under this Part which relate to regulated labour hire arrangement orders: see Subdivisions C (short-term arrangements) and D (alternative protected rate of pay orders) of this Division, and Division 3 (dealing with disputes).

- (1A) Despite subsection (1), the FWC must not make the order unless it is satisfied that the performance of the work is not or will not be for the provision of a service, rather than the supply of labour, having regard to the matters in subsection (7A).
- (2) Despite subsection (1), the FWC must not make the order if the FWC is satisfied that it is not fair and reasonable in all the circumstances to do so, having regard to any matters in subsection (8) in relation to which submissions have been made.
- (3) For the purposes of paragraph (1)(a), it does not matter:
- (a) whether the supply is the result of an agreement, or one or more agreements; or
 - (b) if there are one or more agreements relating to the supply—whether an agreement is between:
 - (i) the regulated host and the employer; or

Schedule 1 Main amendments**Part 6** Closing the labour hire loophole

- (ii) the regulated host and a person other than the employer;
or
- (iii) the employer and a person other than the regulated host;
or
- (iv) any 2 persons who are neither the regulated host nor the employer; or
- (c) whether the regulated host and employer are related bodies corporate.

Note: If related bodies corporate with different corporate branding do not provide labour to each other, a regulated labour hire arrangement order cannot be made because labour is not supplied in the way mentioned in paragraph (1)(a).

- (4) For the purposes of paragraph (1)(b), in determining whether a covered employment instrument would apply to the employees, it does not matter on what basis the employees are or would be employed.

Regulated employee and host employment instrument

- (5) An employee referred to in paragraph (1)(a) is a **regulated employee**.
- (6) The covered employment instrument referred to in paragraph (1)(b) is a **host employment instrument**.

Who may apply for an order

- (7) The following persons may apply for the order:
 - (a) a regulated employee;
 - (b) an employee of the regulated host;
 - (c) an employee organisation that is entitled to represent the industrial interests of an employee mentioned in paragraph (a) or (b);
 - (d) the regulated host.

Matters that must be considered in relation to whether work is for the provision of a service

- (7A) For the purposes of subsection (1A), the matters are as follows:

- (a) the involvement of the employer in matters relating to the performance of the work;
- (b) the extent to which, in practice, the employer or a person acting on behalf of the employer directs, supervises or controls (or will direct, supervise or control) the regulated employees when they perform the work, including by managing rosters, assigning tasks or reviewing the quality of the work;
- (c) the extent to which the regulated employees use or will use systems, plant or structures of the employer to perform the work;
- (d) the extent to which either the employer or another person is or will be subject to industry or professional standards or responsibilities in relation to the regulated employees;
- (e) the extent to which the work is of a specialist or expert nature.

Matters to be considered if submissions are made

- (8) For the purposes of subsection (2), the matters are as follows:
 - (a) the pay arrangements that apply to employees of the regulated host (or related bodies corporate of the regulated host) and the regulated employees, including in relation to:
 - (i) whether the host employment instrument applies only to a particular class or group of employees; and
 - (ii) whether, in practice, the host employment instrument has ever applied to an employee at a classification, job level or grade that would be applicable to the regulated employees; and
 - (iii) the rate of pay that would be payable to the regulated employees if the order were made;
 - (c) the history of industrial arrangements applying to the regulated host and the employer;
 - (d) the relationship between the regulated host and the employer, including whether they are related bodies corporate or engaged in a joint venture or common enterprise;
 - (da) if the performance of the work is or will be wholly or principally for the benefit of a joint venture or common

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enterprise engaged in by the regulated host and one or more other persons:

- (i) the nature of the regulated host's interests in the joint venture or common enterprise; and
 - (ii) the pay arrangements that apply to employees of any of the other persons engaged in the joint venture or common enterprise (or related bodies corporate of those other persons);
- (e) the terms and nature of the arrangement under which the work will be performed, including:
- (i) the period for which the arrangement operates or will operate; and
 - (ii) the location of the work being performed or to be performed under the arrangement; and
 - (iii) the industry in which the regulated host and the employer operate; and
 - (iv) the number of employees of the employer performing work, or who are to perform work, for the regulated host under the arrangement;
- (f) any other matter the FWC considers relevant.

What an order must specify

- (9) A regulated labour hire arrangement order must specify:
- (a) the regulated host covered by the order; and
 - (b) the employer covered by the order under this section; and
 - (c) the regulated employees covered by the order under this section; and
 - (d) the host employment instrument covered by the order; and
 - (e) the day the order comes into force, which must be:
 - (i) if the order is made before 1 November 2024—that day or a later day; or
 - (ii) otherwise—the day the order is made or a later day.

Note: For paragraphs (b) and (c), additional employers and regulated employees of those employers may be covered by the order under section 306EA.

What an order may specify

- (10) A regulated labour hire arrangement order may specify when the order ceases to be in force.

Note: For variation and revocation of a regulated labour hire arrangement order, see section 603.

306EA Regulated labour hire arrangement order may cover additional arrangements

Determination that application covers additional employers and employees

- (1) If an application for a regulated labour hire arrangement order is made in relation to a regulated host, an employer and one or more employees of the employer, the FWC may determine that the application is taken to also relate to:

- (a) one or more other employers (each of which is an **additional employer**) that the FWC is satisfied supply or will supply, in the manner referred to in paragraph 306E(1)(a), one or more employees to perform work, for the regulated host, of the kind in relation to which the application was made; and
- (b) the employees referred to in paragraph (a) of this subsection (each of whom is an **additional regulated employee**).

Note: The employees referred to in paragraph (a) of this subsection are **regulated employees** (see subsection 306E(5)).

- (2) The FWC may make the determination:
- (a) on its own initiative; or
- (b) on application by any of the following:
- (i) the applicant for the order or any other person who could have applied for the order (see subsection 306E(7));
- (ii) the employer mentioned in paragraph 306E(1)(a);
- (iii) an employer that supplies or will supply employees as referred to in paragraph (1)(a) of this section;
- (iv) a person who is such an employee;
- (v) an employee organisation that is entitled to represent the industrial interests of such an employee.

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- (3) If the FWC makes such a determination, the FWC must seek the views of the following before deciding whether to make the regulated labour hire arrangement order:
- (a) the additional regulated employees;
 - (b) employee organisations that are entitled to represent the industrial interests of the additional regulated employees;
 - (c) the additional employers.

Additional employers and employees in regulated labour hire arrangement order

- (4) Subject to subsections (5) and (6), if the FWC makes a determination under subsection (1) in relation to an application for a regulated labour hire arrangement order, the FWC may specify in the regulated labour hire arrangement order (if made) that, in addition to the persons referred to in paragraphs 306E(9)(b) and (c), the order also covers:
- (a) any or all of the additional employers; and
 - (b) additional regulated employees of those employers.
- (5) The FWC must not specify an additional employer or additional regulated employees of the employer under subsection (4) unless:
- (a) the FWC is satisfied of the matters mentioned in subsection 306E(1) in relation to the additional employer and the additional regulated employees; and
 - (b) the FWC is satisfied that the covered employment instrument that would apply to the additional regulated employees, as referred to in paragraph 306E(1)(b), is the host employment instrument covered by the order; and
 - (c) the FWC is satisfied that the performance of the work by the additional regulated employees is not or will not be for the provision of a service, rather than the supply of labour, having regard to the matters in subsection 306E(7A) in relation to the additional employer and the additional regulated employees.
- (6) The FWC must not specify an additional employer or additional regulated employees of the employer under subsection (4) if the FWC is satisfied that it is not fair and reasonable in all the circumstances to do so, having regard to:

- (a) the views (if any) of persons referred to in subsection (3); and
- (b) any matters mentioned in subsection 306E(8) in relation to which submissions are made, to the extent the submissions relate to the additional employer and the additional regulated employees.

306EB Application of regulated labour hire arrangement order to new covered employment instrument

- (1) This section applies if:
 - (a) a regulated labour hire arrangement order is in force; and
 - (b) the host employment instrument covered by the order ceases to apply to the regulated host covered by the order, or to a class of employees of the regulated host covered by the order, in connection with another covered employment instrument (the *new instrument*) starting to apply to the regulated host or those employees; and
 - (c) the new instrument would apply to the regulated employees covered by the order if the regulated host were to employ the employees to perform work of a kind to which the order relates.
- (2) From the time the new instrument starts to apply to the regulated host or the class of employees mentioned in paragraph (1)(b), the order has effect (and may be dealt with) as if the new instrument were the host employment instrument covered by the order.
- (3) For the purposes of paragraph (1)(c), in determining whether a covered employment instrument would apply to the employees, it does not matter on what basis the employees are or would be employed.

306EC Notification requirements in relation to new covered employment instrument

Notification by regulated host

- (1) If a regulated labour hire arrangement order in force covers a regulated host and an event mentioned in subsection (2) occurs, the

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regulated host must, as soon as practicable after the event occurs, give written notice to any employers covered by the order of:

- (a) the event; and
- (b) the effect that the event will have or would have in relation to the order.

Note: This subsection is a civil remedy provision (see Part 4-1).

- (2) The events are the following:
 - (a) approval, by employees, of a covered employment instrument that will, if it comes into operation, become the host employment instrument covered by the order because of section 306EB;
 - (b) any other approval or making of a covered employment instrument that will, if it comes into operation, become the host employment instrument covered by the order because of section 306EB, other than an approval by the FWC of an enterprise agreement (see subsection (3) of this section).

Notification by FWC

- (3) If the FWC approves an enterprise agreement that, because of section 306EB, will become the host employment instrument covered by a regulated labour hire arrangement order, the FWC must, as soon as practicable after the approval, give written notice to any employers covered by the order of:
 - (a) the approval of the enterprise agreement; and
 - (b) the effect of the approval in relation to the order.

306ED Varying regulated labour hire arrangement order to cover new employers

- (1) This section applies if:
 - (a) a regulated labour hire arrangement order that covers a regulated host and one or more employers, and relates to a kind of work, is in force or has been made but is not yet in force; and
 - (b) one or more other employers (each of which is a *new employer*) start or will start to supply employees (each of whom is a *relevant regulated employee*) to perform work of

that kind for the regulated host, in a manner referred to in paragraph 306E(1)(a); and

- (c) the new employers are not covered by any regulated labour hire arrangement order (whether in force, or made but not yet in force) that covers or will cover the relevant regulated employees in relation to the performance of that work; and
- (d) the FWC did not make a determination under subsection 306EA(1) in relation to the new employers and the application for the regulated labour hire arrangement order.

Note: The employees referred to in paragraph (b) of this subsection are **regulated employees** (see subsection 306E(5)).

Regulated host must make application

- (2) As soon as practicable after the regulated host becomes aware of the circumstances referred to in paragraph (1)(b), the regulated host must apply to the FWC for an order under this section varying the regulated labour hire arrangement order to cover the new employers and the relevant regulated employees of those employers.

Note: This subsection is a civil remedy provision (see Part 4-1).

- (3) Section 588 (discontinuing applications) does not apply in relation to the application unless the circumstances referred to in paragraph (1)(b) of this section no longer exist.
- (4) As soon as possible after the application is made, the regulated host must give written notice of the following to each of the new employers:
 - (a) that the application has been made;
 - (b) the effect of subsection (11) in relation to the application.

Note: This subsection is a civil remedy provision (see Part 4-1).

FWC must decide whether to make variation order

- (5) The FWC must:
 - (a) decide whether to make an order under this section varying the regulated labour hire arrangement order in accordance with subsection (6) or (7) to cover:

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- (i) any or all of the new employers; and
 - (ii) relevant regulated employees of those employers; and
- (b) take all reasonable steps to make the decision before the time any of those employees start to perform the work referred to in paragraph (1)(b).
- (6) The FWC must vary the regulated labour hire arrangement order to cover a new employer and the relevant regulated employees of the employer if the regulated host and the new employer notify the FWC that the regulated host and the new employer agree to the making of the variation.
- (7) Subject to subsections (8) and (9), the FWC must also vary the regulated labour hire arrangement order to cover a new employer and the relevant regulated employees of the employer if the FWC is satisfied of the matters referred to in subsection 306E(1) in relation to the regulated host, the new employer and the relevant regulated employees.
- (8) The FWC must not vary the regulated labour hire arrangement order in accordance with subsection (7) unless the FWC is satisfied that the performance of the work by the relevant regulated employees is not or will not be for the provision of a service, rather than the supply of labour, having regard to the matters referred to in subsection 306E(7A) in relation to the new employer and the relevant regulated employees.
- (9) The FWC must not vary the regulated labour hire arrangement order in accordance with subsection (7) if the FWC is satisfied that it is not fair and reasonable in all the circumstances to make the variation, having regard to any matters referred to in subsection 306E(8) in relation to which submissions have been made in respect of the variation.

When variation order comes into force

- (10) An order under this section comes into force on a day specified in the order.

Interim arrangements before FWC decides application

- (11) If the FWC does not decide whether to make an order under this section by the time referred to in paragraph (5)(b), the regulated labour hire arrangement order is taken (so long as it is in force) to cover the new employers and the relevant regulated employees from the time the application for the order under this section is made until:
- (a) if the FWC decides not to make an order under this section—the time the FWC makes that decision; or
 - (b) if the FWC decides to make an order under this section—the time that order comes into force.

306EE Notifying tenderers etc. of regulated labour hire arrangement order

- (1) This section applies if:
- (a) a regulated host is covered by a regulated labour hire arrangement order that is in force or has been made but is not yet in force; and
 - (b) a tender process is conducted:
 - (i) by or on behalf of the regulated host; or
 - (ii) for the purposes of a joint venture or common enterprise engaged in by the regulated host and one or more other persons.
- (2) If it could reasonably be expected that one or more employers would, as a result of the tender process, become covered by the regulated labour hire arrangement order because of section 306ED, the regulated host must ensure that, from the start of the tender process, all prospective tenderers are advised, in writing, that if one or more tenderers are successful in the process:
- (a) one or more employers could become covered by the regulated labour hire arrangement order; and
 - (b) the employers could be required to pay employees of the employers who perform work for the regulated host, in accordance with this Part, in connection with the work.

Note: This subsection is a civil remedy provision (see Part 4-1).

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- (3) If the regulated host is required to apply to the FWC in relation to one or more employers under subsection 306ED(2) as a result of the tender process, the regulated host must, as soon as practicable after the end of the tender process, advise the successful tenderer or tenderers in that process (whether or not they are the employers), in writing, of the following:
- (a) that the regulated host is required to make the application;
 - (b) the effect of subsection 306ED(11) in relation to the application;
 - (c) that if the FWC decides to vary the order under section 306ED to cover those employers, and the order is in force or comes into force, the employers will be required to pay employees of the employers who perform work for the regulated host, in accordance with this Part, in connection with the work.

Note: This subsection is a civil remedy provision (see Part 4-1).

Subdivision B—Obligations of employers and regulated hosts etc. when a regulated labour hire arrangement order is in force

306F Protected rate of pay payable to employees if a regulated labour hire arrangement order is in force

Application of section

- (1) This section applies if a regulated labour hire arrangement order is in force that covers a regulated host, an employer and a regulated employee of the employer.

Employer must not pay less than protected rate of pay

- (2) The employer must pay the regulated employee at no less than the protected rate of pay for the employee in connection with the work performed by the employee for the regulated host.

Note: This subsection is a civil remedy provision (see Part 4-1).

Exceptions

- (3) The employer does not contravene subsection (2) if the employer pays the regulated employee at less than the protected rate of pay because:
- (a) the regulated host provides information to the employer under section 306H (which deals with information about the protected rate of pay); and
 - (b) the employer reasonably relies on the information for the purposes of working out the protected rate of pay for the regulated employee; and
 - (c) the information is incorrect in a material particular.
- (3A) The employer does not contravene subsection (2) if:
- (a) the regulated labour hire arrangement order covers the employer because of the operation of subsection 306ED(11); and
 - (b) the employer pays the regulated employee at less than the protected rate of pay because the employer has not been either:
 - (i) notified that the regulated host has made an application under subsection 306ED(2) (which deals with certain variation orders); or
 - (ii) for an employer who was a successful tenderer in a tender process—advised under subsection 306EE(2) or (3) (which deal with notifying tenderers) in relation to the regulated labour hire arrangement order.

Meaning of protected rate of pay

- (4) Unless subsection (5) applies, the **protected rate of pay** for the regulated employee is the full rate of pay that would be payable to the employee if the host employment instrument covered by the regulated labour hire arrangement order were to apply to the employee.
- (5) If the regulated employee is a casual employee, and there is no covered employment instrument that applies to the regulated host that provides for work of that kind to be performed by casual employees, the **protected rate of pay** for the regulated employee is the full rate of pay that would be payable to the employee if:
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- (a) the employee were an employee other than a casual employee and the host employment instrument covered by the regulated labour hire arrangement order were to apply to the employee; and
- (b) the base rate of pay that would be payable to the employee, in the circumstances referred to in paragraph (a), were increased by 25%.
- (6) Despite subsections (4) and (5), if the employer is a national system employer only because of section 30D or 30N, the ***protected rate of pay*** for the regulated employee does not include any amount that relates to an excluded subject matter within the meaning of subsection 30A(1) or 30K(1).
- Note: Sections 30D and 30N extend the meaning of ***national system employer***.
- (7) If the regulated employee is a pieceworker and paragraph 16(2)(b) would apply to the employee were the host employment instrument to apply to the employee, the base rate of pay that would be payable to the employee for the purposes of subsection (5) of this section is taken to be the base rate of pay that would be referred to in that paragraph.
- (8) If the regulated employee is a pieceworker and paragraph 18(2)(b) would apply to the employee were the host employment instrument to apply to the employee, the full rate of pay that would be payable to the employee for the purposes of subsections (4) and (5) of this section is taken to be the full rate of pay that would be referred to in that paragraph.
- (9) To avoid doubt, this section does not require that a regulated employee referred to in subsection (5) be taken to be an employee other than a casual employee for the purposes of determining entitlements to kinds of leave, or any other purpose, except determining the protected rate of pay for the regulated employee.

Requirement to pay no less than protected rate of pay applies despite other fair work instruments etc.

- (10) Subsection (2) applies despite any provision of:
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- (a) a fair work instrument (other than an instrument made by the FWC under this Part) that applies to the regulated employee; or
 - (b) a covered employment instrument (other than a fair work instrument) that applies to the regulated employee; or
 - (c) the regulated employee's contract of employment;
- that provides for a rate of pay for the regulated employee that is less than the protected rate of pay for the regulated employee.

Note: See also section 306N (effect of alternative protected rate of pay order) and subsection 306Q(6) (effect of arbitrated protected rate of pay order).

306G Exceptions from requirement to pay protected rate of pay

Training arrangements

- (1) Section 306F does not apply to a regulated employee if a training arrangement applies to the employee in respect of the work performed for the regulated host.

Certain short-term arrangements

- (2) Section 306F does not apply to a regulated employee if:
 - (a) no determination for the purposes of paragraph 306J(2)(a) (no exemption period) that applies to the employee in respect of the work performed for the regulated host is in force; and
 - (b) the employee performs, or is to perform, the work for the regulated host during:
 - (i) if neither subparagraph (ii) nor (iii) applies—a period of no longer than 3 months; or
 - (ii) if a determination in force under section 306J specifies a period as the exemption period for the regulated host, the employer and the work—a period of no longer than the period specified; or
 - (iii) if subparagraph (ii) does not apply and the work commences during a recurring extended exemption period for work of the kind performed by the employee for the regulated host—a period of no longer than the remainder of the extended exemption period, or a period of no longer than 3 months, whichever ends later.

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- (3) However, if the regulated employee does in fact perform the work for longer than the maximum period applicable under paragraph (2)(b), as a result of a variation to or the making of one or more agreements, section 306F applies to the regulated employee on and after the day the agreements are varied or made.

306H Obligations of regulated hosts covered by a regulated labour hire arrangement order*Application of this section*

- (1) This section applies to a regulated host and an employer if the regulated host and employer are covered by a regulated labour hire arrangement order that is in force.

Ability to request information regarding protected rate of pay

- (2) If the employer reasonably considers that the employer does not have all of the information needed regarding what is the protected rate of pay for one or more regulated employees of the employer covered by the order, the employer may request, in writing, that the regulated host provide the employer with specified information needed.
- (3) The regulated host must comply with the request:
- (a) as soon as reasonably practicable; and
 - (b) in any event, within such a period as would reasonably enable the employer to comply with its obligations under section 306F (protected rate of pay payable to employees if a regulated labour hire arrangement order is in force) in relation to the employees.

Note: This subsection is a civil remedy provision (see Part 4-1).

Manner of complying with request

- (4) The regulated host may comply with the request by:
- (a) providing the employer with the information requested; or
 - (b) providing information, for each relevant pay period of the employees, setting out the protected rate of pay for each employee for the period.
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Subdivision C—Short-term arrangements

306J Determination altering exemption period for short-term arrangements

- (1) This section applies if:
 - (a) a regulated labour hire arrangement order is in force that covers a regulated host, an employer and one or more regulated employees of the employer performing work for the regulated host; or
 - (b) a regulated labour hire arrangement order has been made but is not yet in force that covers a regulated host, an employer and one or more regulated employees of the employer performing work for the regulated host; or
 - (c) an application for a regulated labour hire arrangement order that would cover a regulated host, an employer and one or more regulated employees of the employer performing work for the regulated host has been made to the FWC under section 306E but has not been finally determined.
- (2) The FWC may determine that, in relation to the regulated host, the employer and work to be performed by one or more regulated employees of the employer:
 - (a) there is no exemption period for the purposes of section 306G; or
 - (b) a specified period of less than 3 months is the exemption period for the purposes of that section; or
 - (c) a specified period of more than 3 months is the exemption period for the purposes of that section.

Note: The exemption period is used in determining whether the exception to pay the protected rate of pay in the case of short-term arrangements in subsection 306G(2) applies.

306K Determination of recurring extended exemption period

- (1) This section applies if:
 - (a) a regulated labour hire arrangement order is in force that covers a regulated host, one or more employers and one or more regulated employees performing work for the regulated host; or

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- (b) a regulated labour hire arrangement order has been made but is not yet in force that covers a regulated host, one or more employers and one or more regulated employees performing work for the regulated host; or
 - (c) an application for a regulated labour hire arrangement order that would cover a regulated host, one or more employers and one or more regulated employees performing work for the regulated host has been made to the FWC under section 306E but has not been finally determined.
- (2) The FWC may determine that a specified period of more than 3 months, starting on a specified day of the year in specified consecutive years, is a **recurring extended exemption period** for the regulated host in relation to a specified kind of work to which the regulated labour hire arrangement order relates.

306L Making and effect of determinations under this Subdivision*Who may apply for determination*

- (1) The FWC may make a determination under this Subdivision only on application by:
- (a) the regulated host, an employer covered by the regulated labour hire arrangement order or a regulated employee covered by the order who is performing or is to perform work for the regulated host; or
 - (b) an organisation entitled to represent the industrial interests of any of those persons.

Time for making determination

- (2) The FWC must decide whether or not to make the determination as quickly as possible after the application is made.

Requirements for making determination

- (3) Before deciding whether or not to make the determination, the FWC must seek the views of any person or organisation that, apart from the applicant, could have applied for the determination under subsection (1).

- (4) The FWC may make the determination only if satisfied that there are exceptional circumstances that justify making it, having regard to:
- (a) whether the purpose of the proposed exemption period or recurring extended exemption period relates to satisfying a seasonal or short-term need for workers; and
 - (b) the industry in which the work is performed or is to be performed; and
 - (c) the circumstances of:
 - (i) the regulated host; and
 - (ii) any relevant employers covered by the regulated labour hire arrangement order; and
 - (d) the views (if any) of any persons or organisations mentioned in subsection (1); and
 - (e) for a determination made for the purposes of paragraph 306J(2)(c)—the principle that the longer the period to be specified in the determination, the greater the justification required; and
 - (f) for a determination that a period is a recurring extended exemption period for a regulated host for a kind of work—the principle that the longer the period to be specified in the determination, and the greater the number of recurrences of that period to be specified, the greater the justification required; and
 - (g) any other matter the FWC considers relevant.

When determination comes into force

- (5) The determination comes into force on the later of the day the regulated labour hire arrangement order comes into force, and the following:
- (a) for a determination under section 306J that there is no exemption period for the purposes of section 306G—the day it is made;
 - (b) for a determination under section 306J that there is an exemption period of more than, or less than, 3 months for the purposes of section 306G—the day it is made or a later day specified in the determination;

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- (c) for a determination under section 306K (which deals with recurring extended exemption periods)—the day it is made or a later day specified in the determination.

Subdivision D—Alternative protected rate of pay orders**306M Making an alternative protected rate of pay order***Application of this section*

- (1) This section applies if:
- (a) a regulated labour hire arrangement order is in force that covers a regulated host, an employer and a regulated employee of the employer performing work for the regulated host; or
 - (b) a regulated labour hire arrangement order has been made but is not yet in force that covers a regulated host, an employer and a regulated employee of the employer performing work for the regulated host; or
 - (c) an application for a regulated labour hire arrangement order that would cover a regulated host, an employer and a regulated employee of the employer performing work for the regulated host has been made to the FWC under section 306E but has not been finally determined.

Alternative protected rate of pay order

- (2) The FWC may make an order (an **alternative protected rate of pay order**) specifying:
- (a) how the rate of pay at which the employer must pay the regulated employee in connection with the work is to be worked out; and
 - (b) that the employer must pay the rate of pay worked out in that way to the regulated employee in connection with the work.

Rate of pay

- (3) The rate of pay for the purposes of paragraph (2)(a) must be the protected rate of pay for the regulated employee that would apply if the references in section 306F to the host employment instrument covered by the regulated labour hire arrangement order were
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instead references to a specified covered employment instrument that:

- (a) applies to a related body corporate of the regulated host and would apply to a person employed by the related body corporate to perform work of that kind; or
- (b) applies to the regulated host and would apply to a person employed by the regulated host to perform work of that kind in circumstances that do not apply in relation to the employee.

Who may apply

- (4) The FWC may make an alternative protected rate of pay order only on application by the employee, the employer, the regulated host or an organisation entitled to represent the industrial interests of any of those persons.

Time for making

- (5) The FWC must decide whether or not to make the order as quickly as possible after the application is made.

Criteria for making etc.

- (6) The FWC must not make the order unless satisfied that:
 - (a) it would be unreasonable for the requirement in section 306F, that the employer pay the regulated employee at no less than the protected rate of pay, to apply in connection with that work (including, for example, because the rate would be insufficient or would be excessive); and
 - (b) there is a covered employment instrument of the kind referred to in paragraph (3)(a) or (b).
- (7) Before deciding whether to make the order, the FWC must seek the views of the following:
 - (a) the employer;
 - (b) the regulated host;
 - (c) the employer to which a covered employment instrument to be specified in the order for the purposes of subsection (3) applies (if not the regulated host);
 - (d) the employee;

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- (e) employees to whom the covered employment instrument to be specified in the order for the purposes of subsection (3) applies;
 - (f) organisations entitled to represent the industrial interests of any of the persons referred to in paragraphs (a) to (e).
- (8) In deciding whether to make the order, the FWC must have regard to:
- (a) whether the host employment instrument covered by the regulated labour hire arrangement order applies only to a particular class or group of employees; and
 - (b) whether, in practice, the host employment instrument has ever applied to an employee at a classification, job level or grade that would be applicable to the regulated employee; and
 - (c) the views (if any) of any persons or organisations mentioned in subsection (7);
 - (d) the rate of pay that would be payable to the regulated employee in connection with the work if the order were made; and
 - (e) any other matter the FWC considers relevant.

Exception for short-term arrangements

- (9) In making an order under this section, the FWC must ensure that, if an exception in section 306G would apply to the requirement to pay the regulated employee at no less than the protected rate of pay, the exception also applies in relation to the requirement to pay the employee at the rate worked out under the alternative protected rate of pay order.

306N Effect of alternative protected rate of pay order*When alternative protected rate of pay order comes into force*

- (1) An alternative protected rate of pay order comes into force:
- (a) if the order is made before the regulated labour hire arrangement order to which the order relates comes into force:

- (i) on the day the regulated labour hire arrangement order comes into force; or
- (ii) on a later day specified in the alternative protected rate of pay order; or
- (b) otherwise—on the day the alternative protected rate of pay order is made, or on a later day specified in the order.

Effect of alternative protected rate of pay order

- (2) If:
- (a) a regulated labour hire arrangement order is in force that covers a regulated host, an employer and work performed by a regulated employee of the employer; and
 - (b) an alternative protected rate of pay order is made in relation to the regulated labour hire arrangement order;
- then:
- (c) the alternative protected rate of pay order applies in relation to so much of the work as is performed during the period that the alternative protected rate of pay order is in force; and
 - (d) during that period, the alternative protected rate of pay order has effect despite section 306F (protected rate of pay payable to employees if a regulated labour hire arrangement order is in force), and despite any provision of the following that provides for a lower rate of pay than that worked out in accordance with the order:
 - (i) a fair work instrument that applies to the regulated employee;
 - (ii) a covered employment instrument (other than a fair work instrument) that applies to the regulated employee;
 - (iii) the regulated employee's contract of employment.

Person must not contravene an alternative protected rate of pay order

- (3) A person must not contravene a term of an alternative protected rate of pay order.

Note: This subsection is a civil remedy provision (see Part 4-1).

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Part 6 Closing the labour hire loophole

Subdivision E—Termination payments

306NA Determining amounts of payments relating to termination of employment

Application of this section

- (1) This section applies if:
- (a) a regulated employee's employment is or is to be terminated; and
 - (b) the employee is or has been covered by a regulated labour hire arrangement order.

Determining amounts of payments relating to termination of employment

- (2) Subject to subsection (5), if an amount that the employee's employer is required to pay to the employee (or to a person on the employee's behalf) in relation to the termination of the employment is to be determined wholly or partly on the basis of a rate of pay in relation to the employee, the rate of pay for the purposes of determining the amount is:
- (a) if the employee is covered by subsection (3) in relation to the amount—the applicable rate of pay that results from the operation of this Part; or
 - (b) in any other case—the applicable rate of pay to which the employee is entitled apart from the operation of this Part.
- (3) This subsection covers the employee in relation to the amount if:
- (a) immediately before the termination of the employment occurs or is to occur, the employee is or will be covered by a regulated labour hire arrangement order in force in relation to work performed by the employee for a regulated host; and
 - (b) the termination of the employment occurs or is to occur during a period in which the employee is performing work for the regulated host, including a period when the employee is taking paid or unpaid leave, or is absent, in connection with that work and the leave or absence is authorised:
 - (i) by the employee's employer; or

- (ii) by or under a term or condition of the employee's employment; or
 - (iii) by or under a law of the Commonwealth, a State or a Territory, or an instrument in force under such a law; and
 - (c) the rate of pay mentioned in paragraph (2)(a) is higher than the rate mentioned in paragraph (2)(b); and
 - (d) unless the amount is a payment in lieu of notice of termination—the employee has not performed work for any other regulated host in relation to the employee's employment with the employer.
- (4) If the performance of the work for the regulated host relates to a joint venture or common enterprise engaged in by the regulated host and one or more other persons, then for the purposes of paragraph (3)(d), disregard any work that is taken to be performed for those other persons because of the operation of paragraph 306D(2)(c).

Excluded subject matters

- (5) If the employer is a national system employer only because of section 30D or 30N, nothing in this Part, including the determination of any rate of pay under or in accordance with this Part, affects any amount:
- (a) that the employer is required to pay to the employee (or to a person on the employee's behalf) in relation to the termination of the employment; and
 - (b) which relates to an excluded subject matter within the meaning of subsection 30A(1) or 30K(1).

Interaction with fair work instruments etc.

- (6) This section applies despite:
- (a) a fair work instrument that applies to the employee; or
 - (b) a covered employment instrument (other than a fair work instrument) that applies to the employee; or
 - (c) the employee's contract of employment.

Schedule 1 Main amendments**Part 6** Closing the labour hire loophole**Division 3—Dealing with disputes****306P Disputes about the operation of this Part***When this Division applies to a dispute*

- (1) This Division applies to a dispute about the operation of this Part if:
 - (a) a regulated labour hire arrangement order is in force that covers a regulated host, an employer and a regulated employee of the employer performing work for the regulated host; or
 - (b) a regulated labour hire arrangement order has been made but is not yet in force that covers a regulated host, an employer and a regulated employee of the employer performing work for the regulated host.
- (2) Without limiting subsection (1), this Division applies to a dispute about:
 - (a) what the protected rate of pay for a regulated employee is; or
 - (b) whether a regulated employee has been, or is being, paid less than the protected rate of pay for the employee.

Parties must attempt to resolve dispute at workplace level

- (3) In the first instance, the parties to the dispute must attempt to resolve the dispute at the workplace level by discussions between the parties.
- (4) If discussions at the workplace level do not resolve the dispute, a party to the dispute may apply to the FWC to resolve the dispute.

How the FWC deals with dispute

- (5) If a party to the dispute makes an application under subsection (4):
 - (a) the FWC must first deal with the dispute by means other than arbitration, unless there are exceptional circumstances; and
 - (b) the FWC may deal with the dispute by arbitration in accordance with section 306Q.

Note: For the purposes of paragraph (a), the FWC may deal with the dispute as it considers appropriate, including by mediation, conciliation,

making a recommendation or expressing an opinion (see subsection 595(2)).

Representatives

- (6) The employer, employee or regulated host may appoint a person or organisation that is entitled to represent the industrial interests of the employer, employee or regulated host to provide the employer, employee or regulated host (as the case may be) with support or representation for the purposes of:
- (a) resolving the dispute; or
 - (b) the FWC dealing with the dispute.

Note: A person may be represented by a lawyer or paid agent in a matter before the FWC only with the permission of the FWC (see section 596).

Joinder of other employees to disputes

- (7) Without limiting section 609, the procedural rules may provide for the joinder, as parties to a dispute in relation to which an employee has made an application under subsection (4), of any other employees who have a dispute about the operation of this Part with the same regulated host or employer.

306Q Dealing with disputes by arbitration

- (1) The FWC may deal with the dispute by arbitration, including by making an order (an *arbitrated protected rate of pay order*) determining:
- (a) how the rate of pay at which the employer must pay the employee in connection with the work is to be worked out; and
 - (b) that the employer must pay the rate of pay worked out in that way to the employee in connection with the work.
- (2) If the employer is a national system employer only because of section 30D or 30N, the rate of pay for the purposes of paragraph (1)(a) of this section must not include any amount that relates to an excluded subject matter within the meaning of subsection 30A(1) or 30K(1).

Schedule 1 Main amendments**Part 6** Closing the labour hire loophole

Note: Sections 30D and 30N extend the meaning of *national system employer*.

- (3) The FWC must not make an arbitrated protected rate of pay order unless the FWC considers that it would be fair and reasonable to make the order.
- (4) If the parties have notified the FWC, in writing, that they agree to the FWC arbitrating the dispute, an arbitrated protected rate of pay order made in relation to the dispute may apply in relation to work performed at any time on or after the day the regulated labour hire arrangement order comes into force.
- (5) If the parties have not notified the FWC that they agree to the FWC arbitrating the dispute, an arbitrated protected rate of pay order made in relation to the dispute may apply only in relation to work performed on or after:
 - (a) if the arbitrated protected rate of pay order is made before the regulated labour hire arrangement order to which the order relates comes into force—the day the regulated labour hire arrangement order comes into force; or
 - (b) otherwise—the day the arbitrated protected rate of pay order is made.

Effect of arbitrated protected rate of pay order

- (6) If the FWC makes an arbitrated protected rate of pay order in relation to the dispute, the order has effect, in relation to so much of the work as is performed during the period to which the order applies, despite the following:
 - (a) section 306F (protected rate of pay payable to employees if a regulated labour hire arrangement order is in force);
 - (b) any provision of the following that provides for a lower rate of pay than that worked out in accordance with the order:
 - (i) a fair work instrument that applies to the employee;
 - (ii) a covered employment instrument (other than a fair work instrument) that applies to the employee;
 - (iii) the employee's contract of employment.
 - (7) A person must not contravene a term of an arbitrated protected rate of pay order.
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Note: This subsection is a civil remedy provision (see Part 4-1).

- (8) In making an order under this section, the FWC must ensure that, if an exception in section 306G would apply to the requirement to pay the regulated employee at no less than the protected rate of pay, the exception also applies in relation to the requirement to pay the employee at the rate worked out under the arbitrated protected rate of pay order.

306R Application fees

- (1) An application under subsection 306P(4) must be accompanied by any fee prescribed by the regulations.
- (2) The regulations may prescribe:
 - (a) a fee for making an application to the FWC under that subsection; and
 - (b) a method for indexing the fee; and
 - (c) the circumstances in which all or part of the fee may be waived or refunded.

Division 4—Anti-avoidance

306S Preventing making of regulated labour hire arrangement orders

- (1) A person contravenes this section if:
 - (a) the person is an employer or a regulated host; and
 - (b) the person, either alone or with one or more other persons:
 - (i) enters into a scheme; or
 - (ii) begins to carry out a scheme; or
 - (iii) carries out a scheme; and
 - (c) the person does so for the sole or dominant purpose of preventing the FWC from making a regulated labour hire arrangement order in relation to any person or persons (whether or not those persons are the same persons mentioned in paragraph (b)); and
 - (d) as a result of that scheme or part of that scheme, the FWC is prevented from making the order.

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Note: This section is a civil remedy provision (see Part 4-1).

(2) In this section:

scheme means:

- (a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings; or
- (b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

306SA Avoidance of application of regulated labour hire arrangement orders

(1) A person contravenes this section if:

- (a) the person is an employer or a regulated host; and
- (b) the person, either alone or with one or more other persons:
 - (i) enters into a scheme; or
 - (ii) begins to carry out a scheme; or
 - (iii) carries out a scheme; and
- (c) the person does so for the sole or dominant purpose of avoiding the application of a regulated labour hire arrangement order that has been made (whether or not the order is yet in force), in relation to any person or persons (whether or not those persons are the same persons mentioned in paragraph (b)); and
- (d) as a result of that scheme or part of that scheme, a person avoids the application of the regulated labour hire arrangement order.

Note: This section is a civil remedy provision (see Part 4-1).

(2) In this section:

scheme means:

- (a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings; or

- (b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

306T Short-term arrangements—engaging other employees

An employer covered by a regulated labour hire arrangement order contravenes this section if:

- (a) the employer is not required to pay a regulated employee at a rate determined under or in accordance with this Part because of the operation of subsection 306G(2) (including as it applies because of subsection 306M(9) or 306Q(8)); and
- (b) the employer engages another person to perform the same, or substantially the same, work as that performed by the employee for the regulated host; and
- (c) it could reasonably be concluded that the purpose, or one of the purposes, of engaging the other person is to achieve the result that the employer is not required to pay a regulated employee at a rate determined under or in accordance with this Part.

Note: This section is a civil remedy provision (see Part 4-1).

306U Short-term arrangements—entering into other labour hire agreements

A regulated host covered by a regulated labour hire arrangement order contravenes this section if:

- (a) an employer covered by the regulated labour hire arrangement order is not required to pay a regulated employee at a rate determined under or in accordance with this Part because of the operation of subsection 306G(2) (including as it applies because of subsection 306M(9) or 306Q(8)); and
- (b) the regulated host enters into an agreement that has the result that another person is to perform the same, or substantially the same, work as that performed by the regulated employee for the regulated host; and
- (c) it could reasonably be concluded that the purpose, or one of the purposes, of engaging the other person is to achieve the result that the employer is not required to pay a regulated

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employee at a rate determined under or in accordance with this Part.

Note: This section is a civil remedy provision (see Part 4-1).

306V Engaging independent contractors

An employer covered by a regulated labour hire arrangement order contravenes this section if:

- (a) the employer dismisses an employee who performs, or is to perform, work for a regulated host covered by the order; and
- (b) the employer engages another person as an independent contractor, under a contract for services, to perform that work, or work of that kind, for the regulated host; and
- (c) a result of the employer dismissing the employee and engaging the independent contractor is that the employer is not required to pay a person at a rate determined under or in accordance with this Part; and
- (d) it could reasonably be concluded that the employer dismissed the employee and engaged the independent contractor for the purpose, or purposes including the purpose, of achieving that result.

Note: This section is a civil remedy provision (see Part 4-1).

Division 5—Other matters**306W Guidelines**

- (1) The FWC may make written guidelines in relation to the operation of this Part.
- (2) Guidelines made under subsection (1) are not a legislative instrument.
- (3) The FWC must ensure that guidelines under subsection (1) are in force:
 - (a) by 1 November 2024; and
 - (b) at all times on and after that day.

74 Subsection 539(2) (after table item 9)

Insert:

Part 2-7A—Regulated labour hire arrangement orders

9A	306EC(1)	(a) an employee;	(a) the Federal	for a serious
	306ED(2)	(b) an employee	Court;	contravention
	306ED(4)	organisation;	(b) the Federal	—600 penalty
	306EE(2)	(c) an inspector	Circuit and	units; or
	306EE(3)		Family Court	otherwise—60
	306F(2)		of Australia	penalty units
	306H(3)		(Division 2);	
	306N(3)		(c) an eligible	
	306Q(7)		State or	
	306S(1)		Territory court	
	306SA(1)			
	306T			
	306U			
	306V			

75 After paragraph 557(2)(f)

Insert:

- (fa) subsection 306F(2) (which deals with the protected rate of pay payable to employees covered by a regulated labour hire arrangement order);
- (fb) subsection 306H(3) (which deals with the obligations of regulated hosts covered by a regulated labour hire arrangement order);
- (fc) subsection 306N(3) (which deals with the contravention of alternative protected rate of pay orders);
- (fd) subsection 306Q(7) (which deals with the contravention of arbitrated protected rate of pay orders);

76 After paragraph 576(1)(f)

Insert:

- (fa) regulated labour hire arrangement orders (Part 2-7A);

Schedule 1 Main amendments
Part 7 Workplace delegates' rights

Part 7—Workplace delegates' rights

Division 1—Amendments commencing day after Royal Assent

Fair Work Act 2009

77 Section 12

Insert:

delegates' rights term means a term in a fair work instrument that provides for the exercise of the rights of workplace delegates.

Note: The rights of workplace delegates are set out in section 350C, and a delegates' rights term must provide at least for the exercise of those rights.

workplace delegate: see subsection 350C(1).

78 At the end of Subdivision C of Division 3 of Part 2-3

Add:

149E Workplace delegates' rights

A modern award must include a delegates' rights term for workplace delegates covered by the award.

Note: *Delegates' rights term* is defined in section 12.

79 Section 169 (paragraph about Division 5)

Omit "and consultation requirements", substitute ", consultation requirements and the rights of workplace delegates".

80 After subsection 201(1)

Insert:

Approval decision to note modern award delegates' rights term included in an enterprise agreement

(1A) If:

- (a) the FWC approves an enterprise agreement; and
- (b) a delegates' rights term in a modern award is taken to be a term of the enterprise agreement because of subsection 205A(2):

the FWC must note in its decision to approve the agreement that the term is so included in the agreement.

81 At the end of Division 5 of Part 2-4

Add:

205A Enterprise agreements to include a delegates' rights term etc.

- (1) An enterprise agreement must include a delegates' rights term for workplace delegates to whom the agreement applies.

Note: *Delegates' rights term* is defined in section 12.

When modern award term prevails

- (2) However, if, when the agreement is approved, the delegates' rights term is less favourable than the delegates' rights term in one or more modern awards that cover the workplace delegates:
 - (a) the term in the enterprise agreement has no effect; and
 - (b) the most favourable term of those in the modern awards, as determined by the FWC, is taken to be a term of the enterprise agreement.
- (3) To avoid doubt, if the delegates' rights term of a modern award is taken to be a term of an enterprise agreement, the term does not change if the modern award changes.

82 At the end of section 273

Add:

Delegates' rights term

- (6) The determination must include a delegates' rights term for the workplace delegates to whom the determination applies.

Note: *Delegates' rights term* is defined in section 12.

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-
- (7) The delegates' rights term must not be less favourable than the delegates' rights term in any modern award that covers a workplace delegate to whom the determination applies.

83 Section 334 (paragraph about Division 4)

Repeal the paragraph, substitute:

Division 4 protects freedom of association, involvement in lawful industrial activities, and the exercise of workplace delegates' rights.

84 At the end of Division 4 of Part 3-1

Add:

350A Protection for workplace delegates

- (1) The employer of a workplace delegate must not:
- (a) unreasonably fail or refuse to deal with the workplace delegate; or
 - (b) knowingly or recklessly make a false or misleading representation to the workplace delegate; or
 - (c) unreasonably hinder, obstruct or prevent the exercise of the rights of the workplace delegate under this Act or a fair work instrument.

Note: This subsection is a civil remedy provision (see Part 4-1).

- (2) To avoid doubt, subsection (1) applies only in relation to the workplace delegate acting in that capacity.
- (3) The burden of proving that the conduct of the employer is not unreasonable as mentioned in subsection (1) lies on the employer.

Exception—conduct required by law

- (4) Subsection (1) does not apply in relation to conduct required by or under a law of the Commonwealth or a State or a Territory.

350C Workplace delegates and their rights

Meaning of workplace delegate

- (1) A **workplace delegate** is a person appointed or elected, in accordance with the rules of an employee organisation, to be a delegate or representative (however described) for members of the organisation who work in a particular enterprise.

Rights of workplace delegates

- (2) The workplace delegate is entitled to represent the industrial interests of those members, and any other persons eligible to be such members, including in disputes with their employer.

Note: This section does not create any obligation on a person to be represented by a workplace delegate.

- (3) The workplace delegate is entitled to:
- (a) reasonable communication with those members, and any other persons eligible to be such members, in relation to their industrial interests; and
 - (b) for the purpose of representing those interests:
 - (i) reasonable access to the workplace and workplace facilities where the enterprise is being carried on; and
 - (ii) unless the employer of the workplace delegate is a small business employer—reasonable access to paid time, during normal working hours, for the purposes of related training.
- (4) The employer of the workplace delegate is taken to have afforded the workplace delegate the rights mentioned in subsection (3) if the employer has complied with the delegates' rights term in the fair work instrument that applies to the workplace delegate.
- (5) Otherwise, in determining what is reasonable for the purposes of subsection (3), regard must be had to the following:
- (a) the size and nature of the enterprise;
 - (b) the resources of the employer of the workplace delegate;
 - (c) the facilities available at the enterprise.

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Part 7 Workplace delegates' rights

85 Subsection 539(2) (table item 11, column 1)

After “350(2)”, insert “350A(1)”.

Part 8—Strengthening protections against discrimination

Fair Work Act 2009

94 Subsection 153(1)

After “family or carer’s responsibilities,” insert “subjection to family and domestic violence,”.

95 Subsection 195(1)

After “family or carer’s responsibilities,” insert “subjection to family and domestic violence,”.

96 Subsection 351(1)

After “family or carer’s responsibilities,” insert “subjection to family and domestic violence,”.

97 Section 578

After “family or carer’s responsibilities,” insert “subjection to family and domestic violence,”.

98 Paragraph 772(1)(f)

After “family or carer’s responsibilities,” insert “subjection to family and domestic violence,”.

99 Before section 789HA

Insert:

Division 1—Breastfeeding, gender identity and intersex status

100 Section 789HA (heading)

Omit “Part”, substitute “Division”.

101 Section 789HA

Omit “Part”, substitute “Division”.

Schedule 1 Main amendments**Part 8** Strengthening protections against discrimination**102 At the end of Part 6-4E**

Add:

Division 2—Family and domestic violence**789HC Constitutional basis of this Division**

This Division relies on the Commonwealth's legislative powers under paragraph 51(xxix) (external affairs) of the Constitution as it relates to giving effect to Australia's obligations under:

- (a) the ILO Convention (No. 111) concerning Discrimination in respect of Employment and Occupation, done at Geneva on 25 June 1958; and
- (b) the ILO Convention (No. 190) concerning the elimination of violence and harassment in the world of work, done at Geneva on 21 June 2019.

Note: The Conventions could in 2023 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

789HD Extension of anti-discrimination rules

- (1) Subsection (3) applies for the purposes of the operation of the provisions identified in subsection (2) in relation to family and domestic violence.
- (2) The provisions are as follows:
 - (a) section 153;
 - (b) section 172A;
 - (c) section 195;
 - (d) section 351.
- (3) In applying sections 30H and 30S in relation to that operation of the provisions identified in subsection (2), assume that:
 - (a) the matter to which that operation of those provisions relates is not an excluded subject matter for the purposes of:
 - (i) the State's referral law mentioned in sections 30H and 30S; and
 - (ii) Divisions 2A and 2B of Part 1-3; and

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- (b) the referral of that matter by that referral law results in the Parliament of the Commonwealth having sufficient legislative power for those provisions (to the extent of that operation) to have effect.

Part 14—Wage theft

Fair Work Act 2009

213 Section 12

Insert:

Australian government: see subsection 794A(2).

contravene this Act, or a provision of this Act, includes contravene any of the following:

- (a) a civil remedy provision;
- (b) a provision of this Act that creates an offence;
- (c) a related offence provision.

cooperation agreement: see subsection 717B(1).

engage in conduct means:

- (a) do an act; or
- (b) omit to perform an act.

Finance Minister means the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

governing body of an agency of the Commonwealth: see subsection 794B(5).

offence against this Act, or a particular provision of this Act, includes a reference to an offence against a related offence provision.

Note: See also section 11.6 of the *Criminal Code*.

related offence provision means:

- (a) section 6 of the *Crimes Act 1914*; or
 - (b) a provision of Part 2.4 of the *Criminal Code*;
- to the extent that the offence created by the provision relates to an offence against this Act other than an offence mentioned in paragraph (a) or (b).

responsible agency in relation to a contravention of a civil remedy provision by an Australian government or the commission of an offence by the Commonwealth: see subsection 794C(4).

underpayment amount:

- (a) in relation to a contravention of a civil remedy provision—see subsection 546A(2); and
- (b) in relation to the commission of an offence against subsection 327A(1)—see subsection 327A(7).

Voluntary Small Business Wage Compliance Code means the Voluntary Small Business Wage Compliance Code declared under subsection 327B(1).

214 At the end of subsection 37(2)

Add “, except as provided for by subsection (3)”.

215 At the end of section 37

Add:

- (3) The Crown in right of the Commonwealth is liable to be prosecuted for an offence against any of the following provisions:
 - (a) subsection 327A(1);
 - (b) a related offence provision, to the extent that the related offence provision relates to an offence against subsection 327A(1).
- (4) The Crown, in each of its capacities and to the extent the Commonwealth’s legislative power permits, is liable to be the subject of proceedings for a contravention of a civil remedy provision.

216 Section 321 (after the paragraph relating to Division 2)

Insert:

Division 2 also makes it an offence for a national system employer to fail to pay certain amounts to, on behalf of, or for the benefit of, a national system employee.

Schedule 1 Main amendments
Part 14 Wage theft

217 Before section 323

Insert:

Subdivision A—Civil remedy provisions relating to payment of wages etc.

218 Subsection 324(1) (note 1)

Omit “Division”, substitute “Subdivision”.

219 Section 327 (heading)

Omit “Division”, substitute “Subdivision”.

220 At the end of Division 2 of Part 2-9

Add:

Subdivision B—Offence for failing to pay certain amounts as required

327A Offence—failing to pay certain amounts as required

- (1) An employer commits an offence if:
- (a) the employer is required to pay an amount (a *required amount*) to, on behalf of, or for the benefit of, an employee under:
 - (i) this Act; or
 - (ii) a fair work instrument; or
 - (iii) a transitional instrument (as continued in existence by Schedule 3 to the Transitional Act); and
 - (b) the required amount is not an amount covered by subsection (2); and
 - (c) the employer engages in conduct; and
 - (d) the conduct results in a failure to pay the required amount to, on behalf of, or for the benefit of, the employee in full on or before the day when the required amount is due for payment.

Note 1: For the penalty for an offence against this subsection, see subsection (5).

Note 2: A single payment to, on behalf of, or for the benefit of, an employee in relation to a particular period may comprise more than one required amount. For example, a single payment consisting of:

- (a) a required amount referable to wages earned during the period; and
- (b) a required amount referable to paid leave taken during the period.

- (2) For the purposes of paragraph (1)(b), an amount is covered by this subsection if:
- (a) either of the following apply:
 - (i) the employee is a national system employee only because of section 30C or 30M (which extend the meaning of *national system employee*);
 - (ii) the employer is a national system employer only because of section 30D or 30N (which extend the meaning of *national system employer*); and
 - (b) the amount is:
 - (i) a contribution payable to a superannuation fund for the benefit of the employee; or
 - (ii) referable to the employee taking a period of long service leave; or
 - (iii) referable to the employee taking a period of paid leave that the employee was entitled to take by reason of being a victim of crime; or
 - (iv) referable to the employee taking a period of paid leave that the employee was entitled to take because the employee attended for service on a jury, or for emergency services duties.

Fault elements

- (3) For the purposes of subsection (1):
- (a) absolute liability applies to paragraphs (1)(a) and (b); and
 - (b) the fault element for paragraphs (1)(c) and (d) is intention.

Note 1: For *absolute liability*, see section 6.2 of the *Criminal Code*.

Note 2: For *intention*, see section 5.2 of the *Criminal Code*.

Schedule 1 Main amendments**Part 14** Wage theft

Things given or provided, and amounts required to be spent or paid, in contravention of Subdivision A

- (4) Section 327 applies for the purposes of determining whether a person commits an offence against subsection (1) of this section in the same way as it applies in proceedings for recovery of an amount payable to an employee in relation to the performance of work.

Penalty—general

- (5) An offence against subsection (1) is punishable on conviction as follows:
- (a) for an individual—by a term of imprisonment of not more than 10 years or a fine of not more than the amount determined under subsection (6), or both;
 - (b) for a body corporate—by a fine of not more than the amount determined under subsection (6).

Determining maximum fine

- (6) For the purposes of subsection (5), the amount is:
- (a) if the court can determine the underpayment amount for the offence—the greater of 3 times the underpayment amount and whichever of the following applies:
 - (i) for an individual—5,000 penalty units;
 - (ii) for a body corporate—25,000 penalty units; or
 - (b) otherwise—the following amount:
 - (i) for an individual—5,000 penalty units;
 - (ii) for a body corporate—25,000 penalty units.

Underpayment amount

- (7) The **underpayment amount** for an offence committed by an employer against subsection (1) is the difference between:
- (a) the required amount mentioned in paragraph (1)(a); and
 - (b) the amount (including a nil amount) the employer actually paid to, on behalf of, or for the benefit of, the employee on account of the required amount.

Penalty for courses of conduct

- (8) If:
- (a) a person is found guilty of committing 2 or more offences (the **aggregated offences**) against subsection (1); and
 - (b) the aggregated offences arose out of a course of conduct by the person;
- then, subject to subsections (9) and (10), the person is taken for the purposes of subsections (5) to (7) to have been found guilty of only a single offence.
- (9) Paragraph (6)(a) applies in relation to the single offence if, and only if, the court can determine the underpayment amount for any of the aggregated offences.
- (10) The underpayment amount for the single offence is taken to be the sum of each of the underpayment amounts for the aggregated offences that the court can determine.

327B The Voluntary Small Business Wage Compliance Code

- (1) The Minister may, by legislative instrument, declare a Voluntary Small Business Wage Compliance Code.
- (2) If the Fair Work Ombudsman is satisfied that a small business employer complied with the Voluntary Small Business Wage Compliance Code in relation to a failure by the employer to pay an amount to, on behalf of, or for the benefit of, an employee, the Fair Work Ombudsman must not:
 - (a) refer any conduct that resulted in the failure to the Director of Public Prosecutions or the Australian Federal Police for action in relation to a possible offence against subsection 327A(1); or
 - (b) enter into a cooperation agreement with the employer that covers any conduct that resulted in the failure.
- (3) The Fair Work Ombudsman must give the employer written notice of a decision under subsection (2).
- (4) Subsection (2) does not affect:
 - (a) the power of an inspector to institute or continue civil proceedings in relation to the conduct; or

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- (b) the power of the Fair Work Ombudsman to accept an enforceable undertaking under section 715 in relation to the conduct; or
 - (c) the power of an inspector to give a notice under section 716 in relation to the conduct; or
 - (d) any other power or function of the Fair Work Ombudsman or an inspector that is not mentioned in paragraph (2)(a) or (b) of this section.

327C Commencing proceedings for certain offences against this Act

- (1) Proceedings for an offence against:
 - (a) subsection 327A(1) (offence for failing to pay amounts as required); or
 - (b) a related offence provision, to the extent that the related offence provision relates to an offence against subsection 327A(1);
 may be commenced only by the Director of Public Prosecutions or the Australian Federal Police.
- (2) Despite anything in any other law, proceedings for an offence against a provision referred to in paragraph (1)(a) or (b) may be commenced at any time within 6 years after the commission of the offence.

221 Paragraph 682(1)(c)

Omit “any act”, substitute “any conduct”.

222 Paragraph 682(1)(c)

After “this Act”, insert “, a related offence provision”.

223 After paragraph 682(1)(d)

Insert:

- (da) to publish a compliance and enforcement policy, including guidelines relating to the circumstances in which the Fair Work Ombudsman will, or will not:
 - (i) accept or consider accepting undertakings under section 715; or

- (ii) enter or consider entering into cooperation agreements under section 717B;

224 At the end of section 682

Add:

- (3) Before publishing a compliance and enforcement policy under paragraph (1)(da), the Fair Work Ombudsman must consult with the National Workplace Relations Consultative Council about the guidelines referred to in that paragraph.

225 Paragraph 706(1)(a)

After “this Act”, insert “, a related offence provision”.

226 Subsection 711(1)

Omit “a civil remedy provision”, substitute “this Act”.

227 Paragraph 712AA(1)(a)

After “this Act”, insert “, a related offence provision”.

228 At the end of section 713

Add:

Employee records and pay slips

- (4) Subsections (2) and (3) do not apply to:
- (a) an employee record in relation to an employee that is made under section 535; or
 - (b) a copy of a pay slip created in relation to an employee.

229 Section 713A

Before “The following are not admissible”, insert “(1)”.

230 At the end of section 713A

Add:

- (2) Subsection (1) does not apply to:
- (a) an employee record in relation to an employee that is made under section 535; or

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- (b) a copy of a pay slip created in relation to an employee.

231 After Subdivision DD of Division 3 of Part 5-2

Insert:

Subdivision DE—Cooperation agreements**717A Effect of cooperation agreement**

- (1) While a cooperation agreement is in force between the Fair Work Ombudsman and a person, the Fair Work Ombudsman must not refer conduct engaged in by the person that is covered by the agreement to the Director of Public Prosecutions or the Australian Federal Police for action in relation to a possible offence.

Note: See subsection 717B(1) for the definition of *cooperation agreement*.

- (2) Subsection (1) does not prevent:
- (a) an inspector instituting or continuing civil proceedings in relation to the conduct; or
 - (b) conduct engaged in by any other person from being referred to the Director of Public Prosecutions or the Australian Federal Police for action in relation to a possible offence.

717B Entry into cooperation agreement

- (1) The Fair Work Ombudsman may enter into a written agreement (a *cooperation agreement*) with a person covering specified conduct engaged in by the person that the person has reported to the Fair Work Ombudsman as amounting to the possible commission by the person of an offence, or at least the physical elements of an offence, against either or both of the following:
- (a) subsection 327A(1) (failing to pay amounts as required);
 - (b) a related offence provision, to the extent that the offence created by the provision relates to an offence against subsection 327A(1).
- (2) The Fair Work Ombudsman must have regard to the following matters in deciding whether to enter into a cooperation agreement with a person in relation to conduct:

- (a) whether in the Fair Work Ombudsman's view the person has made a voluntary, frank and complete disclosure of the conduct, and the nature and level of detail of the disclosure;
 - (b) whether in the Fair Work Ombudsman's view the person has cooperated with the Fair Work Ombudsman in relation to the conduct;
 - (c) the Fair Work Ombudsman's assessment of the person's commitment to continued cooperation in relation to the conduct, including by way of providing the Fair Work Ombudsman with comprehensive information to enable the effectiveness of the person's actions and approach to remedying the effects of the conduct to be assessed;
 - (d) the nature and gravity of the conduct;
 - (e) the circumstances in which the conduct occurred;
 - (f) the person's history of compliance with this Act;
 - (g) any other matters prescribed by the regulations.
- (3) The regulations may prescribe matters in relation to the content of cooperation agreements.

717C When a cooperation agreement is in force

A cooperation agreement is in force:

- (a) from the time it is entered into or any later time specified in the agreement; and
- (b) until the earliest of the following:
 - (i) the Fair Work Ombudsman terminates the agreement in accordance with section 717D;
 - (ii) the person withdraws from the agreement in accordance with section 717E;
 - (iii) the expiry date (if any) specified in the agreement.

717D Termination of cooperation agreement by Fair Work Ombudsman

- (1) The Fair Work Ombudsman may terminate a cooperation agreement with a person at any time, by written notice to the person, if the Fair Work Ombudsman is satisfied that any of the following grounds exist:

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- (a) the person has contravened a term of the agreement;
 - (b) the person has, in relation to the agreement, given information or produced a document to the Fair Work Ombudsman, an inspector, or a person referred to in subsection 712AA(2) that:
 - (i) is false or misleading; or
 - (ii) for information—omits any matter or thing without which the information is misleading;
 whether the person gave the information or produced the document before the agreement was entered into or since;
 - (c) any other ground prescribed by the regulations.
- (2) If the Fair Work Ombudsman is satisfied that a ground exists for terminating a cooperation agreement with a person, the Fair Work Ombudsman may, instead of terminating the agreement, apply to the Federal Court, the Federal Circuit and Family Court of Australia (Division 2) or an eligible State or Territory Court for an order under subsection (3).
 - (3) If the court is satisfied that the ground exists, the court may make one or more of the following orders:
 - (a) an order directing the person to comply with a term of the cooperation agreement, or to give or produce correct and complete information or documents;
 - (b) an order awarding compensation for loss that a person has suffered because of matters constituting the ground for terminating the agreement;
 - (c) any other order that the court considers appropriate.

717E Withdrawal from cooperation agreement

A person that is party to a cooperation agreement with the Fair Work Ombudsman may withdraw from the agreement, but only with the consent of the Fair Work Ombudsman.

717F Variation of cooperation agreement

The parties to a cooperation agreement may vary the agreement, by mutual consent and in writing.

717G Relationship with other powers

- (1) Whether a cooperation agreement is in force in relation to particular conduct does not affect:
 - (a) the power of the Fair Work Ombudsman to accept an enforceable undertaking under section 715 in relation to the conduct; or
 - (b) the power of an inspector to give a notice under section 716 in relation to the conduct; or
 - (c) any other power or function of the Fair Work Ombudsman or an inspector that is not mentioned in subsection 717A(1).
- (2) However:
 - (a) an enforceable undertaking has no effect to the extent that it is inconsistent with a cooperation agreement; and
 - (b) a compliance notice has no effect to the extent that an action specified in the notice is inconsistent with a cooperation agreement.

This subsection has effect regardless of whether the undertaking or notice was given before or after the cooperation agreement comes into force.

232 Subsections 793(1) and (2)

After “for the purposes of this Act”, insert “(subject to subsection (3A))”.

233 After subsection 793(3)

Insert:

Exception—offence relating to failure to pay amounts

- (3A) Subsections (1) and (2) do not apply for the purposes of:
 - (a) subsection 327A(1) (offence for failing to pay amounts as required); or
 - (b) a related offence provision, to the extent that the related offence provision relates to an offence against subsection 327A(1).

Schedule 1 Main amendments**Part 14** Wage theft**234 At the end of subsection 793(4)**

Add “, other than an offence against a provision referred to in paragraph (3A)(a) or (b) of this section”.

235 After section 794

Insert:

794A Liability of Australian governments under civil remedy provisions*Scope*

- (1) This section applies for the purposes of applying a civil remedy provision, or any other provision of this Act in so far as it relates to a civil remedy provision, in relation to an Australian government.
- (2) Each of the following is an **Australian government**:
 - (a) the Commonwealth;
 - (b) a State;
 - (c) the Australian Capital Territory;
 - (d) the Northern Territory.

Conduct of Australian governments

- (3) Any conduct engaged in on behalf of an Australian government by an officer, employee or agent (an **official**) of the government within the scope of the official’s actual or apparent authority is taken, for the purposes of this Act and the procedural rules, to have been engaged in also by the government.

State of mind of Australian governments

- (4) If, for the purposes of this Act or the procedural rules, it is necessary to establish the state of mind of an Australian government in relation to particular conduct, it is enough to show:
 - (a) that the conduct was engaged in by an official of the government; and
 - (b) that the official had that state of mind.

Note: For **state of mind**, see subsection 793(3).

Determining penalty amounts for Australian governments

- (5) If an Australian government contravenes a civil remedy provision, the pecuniary penalty that government may be ordered to pay under a pecuniary penalty order is the penalty applicable to a body corporate.

Modifications

- (6) This section applies in relation to an Australian government subject to any modifications prescribed by the regulations.

*Meaning of **employee***

- (7) In this section, **employee** has its ordinary meaning.

794B Liability of the Commonwealth for certain offences

- (1) Part 2.5 of the *Criminal Code* applies in relation to the Commonwealth, for the purposes of an offence against:
- (a) subsection 327A(1) (offence for failing to pay amounts as required) of this Act; or
 - (b) a related offence provision, to the extent that the related offence provision relates to an offence against subsection 327A(1) of this Act;
- in the same way as that Part applies in relation to a body corporate.
- (2) It so applies:
- (a) as if sections 12.4 and 12.5 of the *Criminal Code* were omitted; and
 - (b) with the following modifications:
 - (i) the modifications set out in the following table (subject to subparagraph (iii));
 - (ii) such other modifications as are made necessary by the fact that criminal liability is being imposed on a body politic rather than a body corporate (subject to subparagraph (iii));
 - (iii) any modifications prescribed by the regulations.

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Part 14 Wage theft

Application of Part 2.5 of the *Criminal Code* to the Commonwealth

Item	Part 2.5 of the <i>Criminal Code</i> applies as if a reference to ...	were a reference to ...
1	a body corporate's board of directors	the governing body of the agency of the Commonwealth (the <i>relevant agency</i>) whose officer, employee or agent engaged in conduct constituting a physical element of the offence
2	a high managerial agent of a body corporate	a person who is an officer, employee or agent of the Commonwealth with duties of such responsibility that the person's conduct may fairly be assumed to represent the policy of the relevant agency
3	the corporate culture of a body corporate	one or more attitudes, policies, rules, courses of conduct or practices existing within the relevant agency or a part of the relevant agency

Determining penalty amounts for the Commonwealth

- (3) If the Commonwealth is guilty of an offence against a provision mentioned in paragraph (1)(a) or (b), the penalty to be imposed on the Commonwealth is the penalty applicable to a body corporate.

*Meaning of **employee***

- (4) In this section, **employee** has its ordinary meaning.

*Meaning of **governing body***

- (5) The **governing body** of an agency of the Commonwealth is the body, or group of members of the agency, with primary responsibility for the governance of the agency.

794C Responsible agencies for Australian governments

- (1) If proceedings are brought against:
- (a) an Australian government in relation to a contravention of a civil remedy provision of this Act; or

- (b) the Commonwealth for an offence against:
- (i) subsection 327A(1) (offence for failing to pay amounts as required); or
 - (ii) a related offence provision, to the extent that the related offence provision relates to an offence against subsection 327A(1);
- the responsible agency in relation to the contravention, or the commission of the offence, may be specified in any document initiating, or relating to, the proceedings.
- (2) The responsible agency in relation to the contravention, or the commission of the offence, is entitled to act in the proceedings and, subject to any relevant rules of court, the procedural rights and obligations of:
- (a) if paragraph (1)(a) applies—the Australian government as the respondent in the proceedings; or
 - (b) if paragraph (1)(b) applies—the Commonwealth as the accused in the proceedings;
- are conferred or imposed on the responsible agency.
- (3) With the court’s leave, the following person may change the responsible agency during the proceedings:
- (a) if paragraph (1)(a) applies—the person bringing the proceedings;
 - (b) if paragraph (1)(b) applies—the person prosecuting the offence.
- (4) The **responsible agency** in relation to a contravention of a civil remedy provision by an Australian government, or the commission of an offence by the Commonwealth, is:
- (a) for a contravention of a civil remedy provision by an Australian government—the agency of that government whose officer, employee or agent engaged in conduct constituting the contravention; or
 - (b) for the commission of an offence by the Commonwealth—the agency of the Commonwealth whose officer, employee or agent engaged in conduct constituting a physical element of the offence; or
 - (c) if the agency referred to in paragraph (a) or (b) has ceased to exist—the agency of the Australian government or the

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Commonwealth (as the case requires) that is the successor of that agency; or

- (d) if there is no responsible agency under whichever of paragraph (a) or (b) applies, or paragraph (c)—the agency of the Australian government or the Commonwealth (as the case requires) that the court declares to be the responsible agency.

- (5) This section applies in relation to:

- (a) an Australian government in relation to a contravention of a civil remedy provision; and
 (b) the Commonwealth in relation to the commission of an offence;

subject to any modifications that are prescribed by the regulations.

794D Liability of the Commonwealth to pay civil and criminal penalties

- (1) This section applies if:

- (a) the Commonwealth contravenes a civil remedy provision and a court makes a pecuniary penalty order that the Commonwealth pay all or part of a pecuniary penalty to itself; or
 (b) the Commonwealth is given an infringement notice under the regulations in relation to an alleged contravention of a civil remedy provision; or
 (c) the Commonwealth is convicted of an offence against either of the following provisions and the court imposes a pecuniary penalty on the Commonwealth in respect of the offence:
- (i) subsection 327A(1) (offence for failing to pay amounts as required);
 (ii) a related offence provision, to the extent that the related offence provision relates to an offence against subsection 327A(1).

- (2) While the Commonwealth is not liable to pay a pecuniary penalty to itself, it is the Parliament's intention that the Commonwealth should be notionally liable to pay such a penalty.

- (3) The Finance Minister may give such written directions as are necessary or convenient for carrying out or giving effect to subsection (2) and, in particular, may give directions in relation to the transfer of money from an account operated by the responsible agency under section 794C for the contravention or for the commission of the offence to another account operated by the Commonwealth.
- (4) Directions under subsection (3) have effect, and must be complied with, despite any other Commonwealth law.

Federal Court of Australia Act 1976

236 After paragraph 23AB(4)(a)

Insert:

- (ab) an indictable offence against the *Fair Work Act 2009*;

Schedule 1 Main amendments

Part 14A Amendments relating to mediation and conciliation conference orders made under section 448A of the Fair Work Act 2009

Part 14A—Amendments relating to mediation and conciliation conference orders made under section 448A of the Fair Work Act 2009

Fair Work Act 2009

236A Subsection 409(6A)

Repeal the subsection, substitute:

- (6A) Each bargaining representative who applied for a protected action ballot order for the protected action ballot for the industrial action must not have contravened any order made under section 448A (which is about mediation and conciliation conferences) that related to the protected action ballot order.

236B Subsection 411(3)

After “The employer”, insert “mentioned in subsection (2)”.

Part 16A—Right of entry—assisting health and safety representatives

Fair Work Act 2009

306A At the end of section 494

Add:

Assisting health and safety representatives

- (4) Subsection (1), and sections 495 to 498, do not apply to an official of an organisation assisting a health and safety representative on request under a provision of a State or Territory OHS law equivalent to paragraph 68(2)(g) of the *Work Health and Safety Act 2011*.
- (5) However, sections 499 to 504 do apply in relation to the official:
- (a) whether or not the official is a permit holder; and
 - (b) for the purposes of sections 499 to 502—if the official is not a permit holder, as if the official were a permit holder; and
 - (c) as if giving the assistance to the health and safety representative were authorised by this Part, or were the exercise of rights under this Part (as the case requires); and
 - (d) for the purposes of section 504—as if that section prohibited the use of information or a document obtained in giving the assistance other than for a purpose related to the exercise or performance of the powers or functions of the health and safety representative (subject to the exceptions set out in that section).

Schedule 1 Main amendments**Part 18** Application and transitional provisions

Part 18—Application and transitional provisions*Fair Work Act 2009***308** In the appropriate position in Schedule 1

Insert:

**Part 15—Amendments made by the Fair Work
Legislation Amendment (Closing
Loopholes) Act 2023****Division 1—Definitions****91** Definitions

In this Part:

amended Act means this Act as amended by the *Fair Work Legislation Amendment (Closing Loopholes) Act 2023*.

amending Act means the *Fair Work Legislation Amendment (Closing Loopholes) Act 2023*.

**Division 2—Amendments made by Part 2 of Schedule 1 to
the amending Act****92** Application—section 121

Despite the amendment made by item 28 of Part 2 of Schedule 1 to the amending Act, section 121, as in force immediately before the commencement of that item, continues to apply in relation to the termination of an employee's employment if any of the following occurred before that commencement:

- (a) the termination of the employee;
- (b) any other termination covered by that section as amended that caused the employer to become a small business employer.

Division 3—Amendments made by Part 6 of Schedule 1 to the amending Act

93 Application of amendments—regulated labour hire arrangement orders

Application of requirement to pay protected rate of pay

- (1) Section 306F of the amended Act (protected rate of pay payable to employees if a regulated labour hire arrangement order is in force) applies on and after 1 November 2024 regardless of whether any agreement resulting in the performance of work by a regulated employee is entered into before, on or after that day.

Anti-avoidance provisions apply retrospectively in relation to certain conduct and schemes

- (2) Division 4 of Part 2-7A of the amended Act (anti-avoidance) applies, on and after the introduction day, in relation to:
- (a) conduct engaged in; or
 - (b) a scheme that is entered into, begun to be carried out or carried out;
- on or after the introduction day.

- (3) In this section:

introduction day means the day on which the *Fair Work Legislation Amendment (Closing Loopholes) Bill 2023* was introduced into the Parliament.

Division 4—Amendments made by Part 7 of Schedule 1 to the amending Act

94 Application of section 149E of amended Act

- (1) Section 149E (delegates' rights terms) of the amended Act applies in relation to a modern award that is in operation on or after 1 July 2024, whether or not the award was made before that day.
- (2) However, a modern award is not invalid on or after 1 July 2024 only because it does not include a delegates' rights term.

Schedule 1 Main amendments**Part 18** Application and transitional provisions

95 FWC to vary certain modern awards

- (1) This clause applies in relation to a modern award if the award:
 - (a) is made before 1 July 2024; and
 - (b) is to be in operation on that day.
- (2) The FWC must, by 30 June 2024, make a determination varying the modern award to include a delegates' rights term.
- (3) A determination made under subclause (2) comes into operation on (and takes effect from) 1 July 2024.
- (4) Section 168 applies to a determination made under subclause (2) as if it were a determination made under Part 2-3.

96 Application of section 205A of amended Act

- (1) Section 205A (enterprise agreements to include delegates' rights terms etc.) of the amended Act does not apply in relation to an enterprise agreement if:
 - (a) before 1 July 2024, the employer concerned asks the employees to approve the agreement by voting for it; and
 - (b) by that vote, the employees approve the agreement; and
 - (c) the FWC approves the agreement.
- (2) In deciding, after 1 July 2024, whether to approve the agreement mentioned in subclause (1) (in that form), the FWC must disregard section 205A.

97 Application of subsections 273(6) and (7) of amended Act

- (1) Subsections 273(6) and (7) (delegates' rights terms) of the amended Act apply in relation to a workplace determination made on or after 1 July 2024.
- (2) However, a workplace determination is not invalid on or after 1 July 2024 only because it does not include a delegates' rights term.

Division 5—Amendments made by Part 14 of Schedule 1 to the amending Act**98 Offence relating to failure to pay certain amounts as required**

Subsection 327A(1) of the amended Act applies in relation to conduct that occurs after the commencement of Part 14 of Schedule 1 to the amending Act, including conduct that occurs after that commencement that is part of a course of conduct that began before that commencement.

Division 6—Amendments made by Part 14A of Schedule 1 to the amending Act**99 Application of amendments**

- (1) The amendment of subsection 409(6A) of this Act made by Part 14A of Schedule 1 to the amending Act applies in relation to industrial action to the extent that the industrial action occurs, or is to occur, on or after the commencement of that Part.
- (2) However, the amendment does not apply in relation to doing any of the following before that commencement in relation to industrial action, even if the industrial action occurs, or was to occur, on or after that commencement:
 - (a) organising the industrial action;
 - (b) threatening to engage in the industrial action;
 - (c) threatening to organise the industrial action;
 - (d) engaging in any other conduct in relation to the industrial action.
- (3) For the purposes of subsection 409(6A) of this Act, as amended by Part 14A of Schedule 1 to the amending Act, it does not matter whether a contravention of an order made under section 448A of this Act occurred before, on or after the commencement of that Part.

Schedule 2 Amendment of the Asbestos Safety and Eradication Agency Act 2013**Part 1** Main amendments

Schedule 2—Amendment of the Asbestos Safety and Eradication Agency Act 2013

Part 1—Main amendments

Asbestos Safety and Eradication Agency Act 2013

1 Title

Omit “Asbestos”, substitute “Asbestos and Silica”.

2 Section 1

Omit “*Asbestos Safety and Eradication Agency Act 2013*”, substitute “*Asbestos and Silica Safety and Eradication Agency Act 2013*”.

Note: This item amends the short title of the Act. If another amendment of the Act is described by reference to the Act’s previous short title, that other amendment has effect after the commencement of this item as an amendment of the Act under its amended short title (see section 10 of the *Acts Interpretation Act 1901*).

3 Section 2A

Repeal the section, substitute:

2A Object of this Act

The object of this Act is to establish the Asbestos and Silica Safety and Eradication Agency to lead coordinated and national action to eliminate asbestos-related diseases and silica-related diseases in Australia by:

- (a) fostering collaboration between:
 - (i) persons and bodies involved in the regulation, management and control of asbestos safety and silica safety; and
 - (ii) persons and bodies involved in dealing with issues related to asbestos-related diseases and silica-related diseases; and
- (b) supporting and monitoring the implementation of the National Strategic Plans by the Commonwealth and State, Territory and local governments; and

- (c) promoting national consistency in relation to asbestos safety, asbestos-related diseases, silica safety and silica-related diseases; and
- (d) improving the state of knowledge and awareness of issues relating to asbestos safety, asbestos-related diseases, silica safety and silica-related diseases.

4 Section 3 (definition of Agency)

Repeal the definition, substitute:

Agency means the Asbestos and Silica Safety and Eradication Agency referred to in section 6.

5 Section 3

Insert:

Asbestos and Silica Safety and Eradication Agency means the Agency referred to in section 6.

Asbestos and Silica Safety and Eradication Council means the Council referred to in section 28.

Asbestos National Strategic Plan has the meaning given by section 5A.

6 Section 3 (definition of Asbestos Safety and Eradication Council)

Repeal the definition.

7 Section 3 (definition of Chair)

Omit “Asbestos Safety and Eradication”.

8 Section 3

Insert:

Council means the Asbestos and Silica Safety and Eradication Council.

9 Section 3 (definition of Council member)

Omit “Asbestos Safety and Eradication”.

Schedule 2 Amendment of the Asbestos Safety and Eradication Agency Act 2013**Part 1** Main amendments

10 Section 3 (definition of *National Strategic Plan*)

Repeal the definition.

11 Section 3

Insert:

National Strategic Plans means the Asbestos National Strategic Plan and the Silica National Strategic Plan.

Silica National Strategic Plan has the meaning given by section 5B.

silica safety includes, but is not limited to, matters relating to awareness, education and information sharing in relation to respirable crystalline silica and products that contain silica.

12 Part 1A

Repeal the Part, substitute:

Part 1A—National Strategic Plans**5A Asbestos National Strategic Plan**

- (1) The *Asbestos National Strategic Plan* is the plan with that name that:
- (a) aims:
 - (i) to eliminate asbestos-related diseases in Australia by preventing exposure to asbestos fibres; and
 - (ii) to support workers and others who are affected by asbestos-related diseases; and
 - (b) represents a commitment to implement an agreed set of strategic actions and national targets focussing on:
 - (i) identifying asbestos and preventing exposure risks, including through prioritised safe removal and effective waste management; and
 - (ii) improving awareness of asbestos safety and asbestos-related diseases; and

- (iii) improving research and national data in relation to asbestos safety and asbestos-related diseases; and
- (iv) facilitating international collaboration in relation to asbestos safety and asbestos-related diseases; and
- (v) any other relevant priorities.

Note: The *Asbestos National Strategic Plan* is available on the Agency's website.

- (2) The plan referred to in subsection (1) represents a commitment to implement an agreed set of strategic actions and national targets focussing on the priorities referred to in subparagraphs (1)(b)(i) to (v) only if the plan has been agreed to by at least 6 of the governments of the Commonwealth and each State and Territory.

5B Silica National Strategic Plan

- (1) The *Silica National Strategic Plan* is the plan with that name that:
 - (a) aims:
 - (i) to eliminate silica-related diseases in Australia by preventing exposure to respirable crystalline silica; and
 - (ii) to support workers and others who are affected by silica-related diseases; and
 - (b) represents a commitment to implement an agreed set of strategic actions and national targets focussing on:
 - (i) eliminating or minimising exposure to respirable crystalline silica in workplaces; and
 - (ii) improving awareness of silica safety and silica-related diseases; and
 - (iii) improving research and national data in relation to silica safety and silica-related diseases; and
 - (iv) facilitating international collaboration in relation to silica safety and silica-related diseases; and
 - (v) any other relevant priorities.
- (2) The plan referred to in subsection (1) represents a commitment to implement an agreed set of strategic actions and national targets focussing on the priorities referred to in subparagraphs (1)(b)(i) to (v) only if the plan has been agreed to by at least 6 of the governments of the Commonwealth and each State and Territory.

Schedule 2 Amendment of the Asbestos Safety and Eradication Agency Act 2013**Part 1** Main amendments

13 Part 2 (heading)

Repeal the heading, substitute:

Part 2—Asbestos and Silica Safety and Eradication Agency**14 Section 6**

Repeal the section, substitute:

6 Asbestos and Silica Safety and Eradication Agency

The body known immediately before the commencement of this section as the Asbestos Safety and Eradication Agency is continued in existence with the new name, Asbestos and Silica Safety and Eradication Agency.

Note: See also section 25B of the *Acts Interpretation Act 1901*.

15 Subsection 8(1)

Repeal the subsection, substitute:

- (1) The Agency has the following functions:
 - (a) to encourage, coordinate, monitor and report on the implementation of the National Strategic Plans;
 - (b) to review, amend or replace, publish and promote the National Strategic Plans;
 - (c) to provide advice to the Minister about asbestos safety, asbestos-related diseases, silica safety and silica-related diseases;
 - (d) to collaborate with Commonwealth, State, Territory, local and other governments, agencies or bodies (including international governments, agencies and bodies) about:
 - (i) the development, implementation, review and amendment of the National Strategic Plans; and
 - (ii) asbestos safety, asbestos-related diseases, silica safety and silica-related diseases;
 - (e) to conduct, commission, monitor and promote research about asbestos safety, asbestos-related diseases, silica safety and silica-related diseases;

- (f) to raise awareness of asbestos safety, asbestos-related diseases, silica safety and silica-related diseases, including by developing and promoting materials on asbestos safety, asbestos-related diseases, silica safety and silica-related diseases;
- (g) to collect and analyse data required for measuring progress on preventing exposure to asbestos fibres, or respirable crystalline silica, and for informing evidence-based policies and strategies;
- (h) to promote consistent messages, policies and practices in relation to asbestos safety, asbestos-related diseases, silica safety and silica-related diseases;
- (i) such other functions as are conferred on the Agency by or under this Act, the rules or any other law of the Commonwealth;
- (j) to do anything incidental or conducive to the performance of any of the above functions.

16 Subsection 8(3)

Omit “performing it”, substitute “performing its”.

17 Subsection 8(3)

Omit “National Strategic Plan”, substitute “National Strategic Plans”.

17A At the end of section 8

Add:

Relationship with Financial Framework (Supplementary Powers) Act 1997

- (5) To avoid doubt, the power of the Commonwealth to spend amounts for the purposes of this section must be disregarded for the purpose of paragraph 32B(1)(a) of the *Financial Framework (Supplementary Powers) Act 1997*.

Note: The effect of this subsection is to make clear that this section does not effectively limit the operation of section 32B of the *Financial Framework (Supplementary Powers) Act 1997*. The Commonwealth has the power to make, vary or administer an arrangement or grant under that section whether the Commonwealth also has the power to spend amounts for the purposes of this section.

18 After section 8

Insert:

8A Annual reports in relation to National Strategic Plans*Annual report in relation to Asbestos National Strategic Plan*

- (1) The Agency must, before the end of 31 December in each financial year, prepare a written report relating to the progress made by the Commonwealth and State and Territory governments in implementing the Asbestos National Strategic Plan during the previous financial year. The report may also include information relating to any other matter the Agency considers relevant.
- (2) As soon as practicable after the Agency has prepared a report under subsection (1), the Agency must give a copy of the report to the following:
 - (a) the Minister who administers this Act;
 - (b) the Minister who administers the *National Health Act 1953*;
 - (c) the Minister who administers the *Environment Protection and Biodiversity Conservation Act 1999*;
 - (d) each State or Territory Minister who is responsible, or principally responsible, for matters relating to work health and safety in the State or Territory;
 - (e) each State or Territory Minister who is responsible, or principally responsible, for matters relating to health in the State or Territory;
 - (f) each State or Territory Minister who is responsible, or principally responsible, for matters relating to the protection of the environment in the State or Territory.

Annual report in relation to Silica National Strategic Plan

- (3) The Agency must, before the end of 31 December in each financial year, prepare a written report relating to the progress made by the Commonwealth and State and Territory governments in implementing the Silica National Strategic Plan during the previous financial year. The report may also include information relating to any other matter the Agency considers relevant.
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- (4) As soon as practicable after the Agency has prepared a report under subsection (3), the Agency must give a copy of the report to the following:
- (a) the Minister who administers this Act;
 - (b) the Minister who administers the *National Health Act 1953*;
 - (c) each State or Territory Minister who is responsible, or principally responsible, for matters relating to work health and safety in the State or Territory;
 - (d) each State or Territory Minister who is responsible, or principally responsible, for matters relating to health in the State or Territory.

Annual reports must be publicly available

- (5) The Agency must make each report prepared under subsection (1) or (3) publicly available.

Example: A report may be published on the Agency's website.

19 Section 12 (heading)

Omit "Asbestos Safety and Eradication".

20 Subsections 12(1), (1A) and (2)

Omit "Asbestos Safety and Eradication".

21 At the end of Division 1 of Part 3

Add:

14A CEO may obtain information

- (1) This section applies to a person if:
- (a) the CEO believes on reasonable grounds that the person has information that is relevant to the performance of any of the functions of the Agency referred to in paragraphs 8(1)(a), (b) and (g); and
 - (b) the CEO is satisfied that the information:
 - (i) is necessary for the performance of that function; and
 - (ii) is not otherwise available to the CEO.

Schedule 2 Amendment of the Asbestos Safety and Eradication Agency Act 2013**Part 1** Main amendments

- (2) The CEO may, by written notice given to the person, request the person to give to the CEO, within the period and in the manner and form specified in the notice, any such information.
- (3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.
- (4) A manner specified in a notice under subsection (2) must involve the use of a service to which paragraph 51(v) of the Constitution applies.
- (5) A person may comply with a request under subsection (2).
- (6) Subsection (5) has effect despite anything in:
 - (a) a law of the Commonwealth (other than this Act); or
 - (b) a law of a State or Territory.

22 Subsection 23A(1)

After “functions or powers”, insert “under this Act (other than section 14A which confers power on the CEO to obtain information in certain circumstances)”.

23 Paragraph 24(1)(b)

Omit “Asbestos Safety and Eradication”.

24 Part 5 (heading)

Repeal the heading, substitute:

Part 5—Asbestos and Silica Safety and Eradication Council

25 Division 1 of Part 5 (heading)

Omit “Asbestos Safety and Eradication”.

26 Section 28

Repeal the section, substitute:

28 Asbestos and Silica Safety and Eradication Council

The body known immediately before the commencement of this section as the Asbestos Safety and Eradication Council is continued in existence with the new name, Asbestos and Silica Safety and Eradication Council.

Note: See also section 25B of the *Acts Interpretation Act 1901*.

27 Section 29 (heading)

Omit “Asbestos Safety and Eradication”.

28 Subsection 29(1)

Omit “Asbestos Safety and Eradication”.

29 Paragraph 29(1)(b)

After “safety”, insert “, asbestos-related diseases, silica safety and silica-related diseases”.

30 Paragraphs 29(1)(c) and (d)

Omit “National Strategic Plan”, substitute “National Strategic Plans”.

31 Subsections 29(2), (2A) and (3)

Omit “Asbestos Safety and Eradication”.

32 Section 30 (heading)

Omit “Asbestos Safety and Eradication”.

33 Subsections 30(1) and (2)

Omit “Asbestos Safety and Eradication”.

34 Subsections 30A(1), (2) and (3)

Omit “Asbestos Safety and Eradication”.

35 Division 2 of Part 5 (heading)

Omit “Asbestos Safety and Eradication”.

36 Section 31

Omit “Asbestos Safety and Eradication”.

Schedule 2 Amendment of the Asbestos Safety and Eradication Agency Act 2013**Part 1** Main amendments

37 Paragraph 31(d)

Omit “1 member”, substitute “2 members”.

38 Paragraph 31(e)

Omit “1 member”, substitute “2 members”.

39 After paragraph 31(e)

Insert:

- (ea) 1 member who has expertise relevant to asbestos safety, asbestos-related diseases, silica safety or silica-related diseases; and

40 Subsection 32(3)

Repeal the subsection, substitute:

- (3) A person is eligible for appointment as a Council member under paragraph 31(a), (d), (e) or (f) only if the Minister is satisfied that:
 - (a) the person has knowledge or experience in one or more of the following:
 - (i) asbestos safety;
 - (ii) public health issues relating to asbestos;
 - (iii) asbestos-related diseases;
 - (iv) the representation of, or the provision of support to, persons with asbestos-related diseases and their families;
 - (v) silica safety;
 - (vi) silica-related diseases;
 - (vii) the representation of, or the provision of support to, persons with silica-related diseases and their families;
 - (viii) financial management;
 - (ix) corporate governance; or
 - (b) the person:
 - (i) has, or has had, an asbestos-related disease; or
 - (ii) has lived experience as a family member, carer or advocate in providing support to a person who has, or has had, an asbestos-related disease; or
 - (iii) has, or has had, a silica-related disease; or

- (iv) has lived experience as a family member, carer or advocate in providing support to a person who has, or has had, a silica-related disease.

41 Paragraph 40(d)

Omit “Asbestos Safety and Eradication”.

42 Division 4 of Part 5 (heading)

Omit “Asbestos Safety and Eradication”.

43 Section 41 (heading)

Omit “Asbestos Safety and Eradication”.

44 Subsection 41(1)

Omit “Asbestos Safety and Eradication”.

45 Subsection 41A(1)

Omit “Asbestos Safety and Eradication”.

46 Paragraph 41A(1)(b)

Omit “4”, substitute “6”.

47 Paragraph 41A(2)(a)

Omit “Asbestos Safety and Eradication”.

48 Sections 41B, 41C, 41D and 41E

Omit “Asbestos Safety and Eradication” (wherever occurring).

49 Subparagraph 41F(a)(ii)

Omit “Asbestos Safety and Eradication”.

50 Paragraph 41F(b)

Omit “Asbestos”, substitute “Asbestos and Silica”.

51 Subparagraph 41F(e)(iii)

Omit “Asbestos Safety and Eradication”.

Schedule 2 Amendment of the Asbestos Safety and Eradication Agency Act 2013**Part 1** Main amendments

52 Subsection 42(3)

Omit “the National Strategic Plan”, substitute “either of the National Strategic Plans”.

53 At the end of section 42

Add:

- (4) The annual operational plan is taken to be a corporate plan for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

54 Section 47

Repeal the section, substitute:

47 Review of the Agency’s role and functions

- (1) The Minister must cause a review of the Asbestos and Silica Safety and Eradication Agency’s ongoing role and functions to be conducted.
- (2) The review must:
 - (a) start 5 years after the commencement of this section; and
 - (b) be completed within 6 months.
- (3) The Minister must cause a written report about the review to be prepared.
- (4) The Minister must cause a copy of the report to be laid before each House of Parliament within 15 sitting days after the completion of the report.

Part 2—Application, saving and transitional provisions

55 Definitions

In this Part:

amended Act means the *Asbestos Safety and Eradication Agency Act 2013*, as in force after the commencement day.

commencement day means the day this Part commences.

Silica Plan agreement day means the day after the day the Silica National Strategic Plan has been agreed to by at least 6 of the governments of the Commonwealth and each State and Territory.

56 Functions of the Agency—Silica National Strategic Plan

Paragraphs 8(1)(a) and (b) and subsection 8(3) of the amended Act apply to the Asbestos and Silica Safety and Eradication Agency in relation to the Silica National Strategic Plan on and after the Silica Plan agreement day.

57 Functions of the Agency—annual report relating to implementation of Asbestos National Strategic Plan

General

- (1) Subsection 8A(1) of the amended Act applies in relation to the Asbestos and Silica Safety and Eradication Agency subject to subitems (2) and (3) of this item.

First annual report after commencement day

- (2) If the commencement day is before 1 September 2024, the first report prepared by the Asbestos and Silica Safety and Eradication Agency under subsection 8A(1) of the amended Act must:
 - (a) relate to progress made by the Commonwealth and State and Territory governments in implementing the Asbestos National Strategic Plan during the period beginning on 1 January 2024 and ending at the end of 30 June 2024; and
 - (b) be prepared before the end of 31 December 2024.

Schedule 2 Amendment of the Asbestos Safety and Eradication Agency Act 2013**Part 2** Application, saving and transitional provisions

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- (3) If the commencement day is on or after 1 September 2024, the first report prepared by the Asbestos and Silica Safety and Eradication Agency under subsection 8A(1) of the amended Act must:
- (a) relate to progress made by the Commonwealth and State and Territory governments in implementing the Asbestos National Strategic Plan during the period (the ***first reporting period***) beginning on 1 January 2024 and ending at the end of the financial year that includes the commencement day; and
 - (b) be prepared before the end of 31 December in the financial year beginning after the end of the first reporting period.
- (4) Subsections 8A(2) and (5) of the amended Act apply in relation to a report prepared under subitem (2) or (3) of this item as if the report were a report prepared under subsection 8A(1) of the amended Act.

58 Functions of the Agency—annual report relating to implementation of Silica National Strategic Plan

General

- (1) Subject to subitems (2), (3) and (4) of this item, subsections 8A(3) and (4) of the amended Act apply in relation to the Asbestos and Silica Safety and Eradication Agency on and after the Silica Plan agreement day.

First annual report after Silica Plan agreement day

- (2) If the Silica Plan agreement day is between 1 July and 31 December in a financial year (the ***first financial year***), the first report prepared by the Asbestos and Silica Safety and Eradication Agency under subsection 8A(3) of the amended Act must:
- (a) instead of relating to the matters referred to in that subsection, include information relating to:
 - (i) the matters covered by the Silica National Strategic Plan; and
 - (ii) the activities undertaken by the Commonwealth and State and Territory governments in relation to the implementation of the Silica National Strategic Plan during the period (the ***first reporting period***) beginning on the Silica Plan agreement day and ending at the end of the first financial year; and

-
- (iii) any other matter the Agency considers relevant; and
 - (b) be prepared before the end of 31 December in the financial year beginning after the end of the first reporting period.
- (3) If the Silica Plan agreement day is between 1 January and 30 June in a financial year (the **first financial year**), the first report prepared by the Asbestos and Silica Safety and Eradication Agency under subsection 8A(3) of the amended Act must:
- (a) relate to progress made by the Commonwealth and State and Territory governments in implementing the Silica National Strategic Plan during the period (the **first reporting period**) beginning on the Silica Plan agreement day and ending at the end of the next financial year after the first financial year; and
 - (b) be prepared before the end of 31 December in the financial year beginning after the end of the first reporting period.
- (4) Subsections 8A(4) and (5) of the amended Act apply in relation to a report prepared under subitem (2) or (3) of this item as if the report were a report prepared under subsection 8A(3) of the amended Act.

59 CEO of the Agency

The person holding office as the CEO of the Asbestos Safety and Eradication Agency under section 15 of the *Asbestos Safety and Eradication Agency Act 2013* immediately before the commencement day continues, on and after the commencement day, to hold office as the CEO of the Asbestos and Silica Safety and Eradication Agency:

- (a) on the terms and conditions that applied to the person immediately before the commencement day; and
- (b) for the balance of the person's term of appointment that remained immediately before the commencement day.

60 Functions of the CEO of the Agency—annual operational plan

Subsection 42(3) of the amended Act applies to the CEO of the Asbestos and Silica Safety and Eradication Agency in relation to the Silica National Strategic Plan on and after the Silica Plan agreement day.

Schedule 2 Amendment of the Asbestos Safety and Eradication Agency Act 2013**Part 2** Application, saving and transitional provisions

61 Functions of the Council—Silica National Strategic Plan

Paragraphs 29(1)(c) and (d) of the amended Act apply to the Asbestos and Silica Safety and Eradication Council in relation to the Silica National Strategic Plan on and after the Silica Plan agreement day.

62 Members of the Council

A person holding office as a member of the Asbestos Safety and Eradication Council under section 32 of the *Asbestos Safety and Eradication Agency Act 2013* immediately before the commencement day continues, on and after the commencement day, to hold office as a member of the Asbestos and Silica Safety and Eradication Council:

- (a) on the terms and conditions that applied to the person immediately before the commencement day; and
- (b) for the balance of the person's term of appointment that remained immediately before the commencement day.

Schedule 3—Amendment of the Safety, Rehabilitation and Compensation Act 1988

Part 1—Post-traumatic stress disorder

Safety, Rehabilitation and Compensation Act 1988

1 Before subsection 7(8)

Insert:

Diseases suffered by firefighters

2 At the end of section 7

Add:

Post-traumatic stress disorder suffered by certain employees

(11) If:

- (a) an employee has been diagnosed by a legally qualified medical practitioner or psychologist as suffering, or having suffered, from post-traumatic stress disorder in accordance with the diagnostic criteria in:
 - (i) the *Diagnostic and Statistical Manual of Mental Disorders*, fifth edition text revision (DSM-5-TR), published by the American Psychiatric Association in 2022; or
 - (ii) if a later edition of the *Diagnostic and Statistical Manual of Mental Disorders* is specified by the Minister by legislative instrument—that later edition of the Manual; and
- (b) at any time before symptoms of post-traumatic stress disorder became apparent, the employee:
 - (i) was employed as a first responder in accordance with subsection (13); or
 - (ii) was a member of a class of employees declared by the Minister, by legislative instrument made under

Schedule 3 Amendment of the Safety, Rehabilitation and Compensation Act 1988**Part 1** Post-traumatic stress disorder

subsection (13A), to be a class to which this subparagraph applies;

the employee's employment as a first responder or as a member of the class of employees declared under subsection (13A) is, for the purposes of this Act, taken to have contributed, to a significant degree, to the contraction of the post-traumatic stress disorder, unless the contrary is established.

- (13) For the purposes of subparagraph (11)(b)(i), an employee was employed as a first responder at a time if, at that time, the employee:
- (a) was the Commissioner of the Australian Federal Police, a Deputy Commissioner of the Australian Federal Police or an AFP employee (all within the meaning of the *Australian Federal Police Act 1979*); or
 - (b) was employed as a firefighter; or
 - (c) was employed as an ambulance officer (including as a paramedic); or
 - (d) was employed as an emergency services communications operator; or
 - (e) was a member of an emergency service (within the meaning of the *Emergencies Act 2004* (ACT)); or
 - (f) was the Australian Border Force Commissioner; or
 - (g) was an APS employee in the Australian Border Force.
- (13A) If the Minister is satisfied that the incidence of post-traumatic stress disorder among a class of employees is significantly greater than the incidence of post-traumatic stress disorder among the general public, the Minister may, by legislative instrument, declare that class of employees to be a class of employees to which subparagraph (11)(b)(ii) applies.
- (14) Subsection (11) does not limit, and is not limited by, subsections (1) and (2).

3 Application of amendments

The amendments made by this Part apply in relation to an injury, being a disease or an aggravation of a disease, that is sustained by an employee after the commencement of this Part.

Part 2—Rehabilitation assessments and examinations

Safety, Rehabilitation and Compensation Act 1988

4 Subsection 4(1)

Insert:

approved Rehabilitation Assessments and Examinations Guide
means:

- (a) the document prepared by Comcare in accordance with section 57A, titled “Guide for Arranging Rehabilitation Assessments and Requiring Examinations”, that has been approved by the Minister and is for the time being in force; or
- (b) if an instrument varying that document has been approved by the Minister—that document as so varied.

5 After subsection 36(3)

Insert:

- (3A) In deciding whether to arrange for an assessment under subsection (1) or to require an examination under subsection (3), the rehabilitation authority must comply with the approved Rehabilitation Assessments and Examinations Guide.

Note: The Guide is prepared by Comcare under section 57A.

6 After subsection 57(1)

Insert:

- (1A) In deciding whether to require an examination under subsection (1), the relevant authority must comply with the approved Rehabilitation Assessments and Examinations Guide.

Note: The Guide is prepared by Comcare under section 57A.

7 Subsection 57(6)

Repeal the subsection.

8 After section 57

Insert:

57A Guide for Arranging Rehabilitation Assessments and Requiring Examinations

- (1) Comcare must, in consultation with the Commission, prepare a written document to be called the “Guide for Arranging Rehabilitation Assessments and Requiring Examinations” (the *Guide*).
- (2) The object of the Guide is to support ethical, transparent and accountable decision-making in relation to arranging a rehabilitation assessment of an employee under subsection 36(1), or requiring an employee to undergo an examination under subsection 36(3) or 57(1), including appropriate consideration of the employee’s personal circumstances.
- (3) The Guide must:
 - (a) provide that, for the purposes of a rehabilitation assessment or examination of an employee:
 - (i) information in relation to the employee should be sought from the employee’s treating practitioner; and
 - (ii) the employee’s treating practitioner and the information (if any) provided by the treating practitioner should be relied on as much as possible before a referral is made to an independent medical practitioner, or other qualified person, in relation to the employee; and
 - (b) specify the circumstances in which it is appropriate to require an employee to undergo a rehabilitation assessment or examination; and
 - (c) specify limitations on the frequency and number of rehabilitation assessments or examinations that an employee may be required to undergo; and
 - (d) specify the qualifications of the person or, if required under section 36, the panel of persons who may conduct a rehabilitation assessment or an examination of an employee; and
 - (e) require the rehabilitation authority or the relevant authority (as the case requires) to seek, and take into account, the

views of an employee, who is required to undergo a rehabilitation assessment or examination, about the selection of the person or, if required under section 36, the panel of persons who are to conduct the rehabilitation assessment or examination; and

- (f) require that an employee who is required to undergo a rehabilitation assessment or examination be given a notice of the employee's rights relating to the rehabilitation assessment or examination.

Note 1: For the purposes of paragraph (a), an employee's treating medical practitioner may be nominated to conduct a rehabilitation assessment or examination of the employee.

Note 2: For the purposes of paragraphs (d) and (e), if a relevant authority requires an employee to undergo an examination under subsection 57(1), the examination must be conducted by one legally qualified medical practitioner nominated by the relevant authority.

- (4) The Guide may provide for any other relevant matter.
- (5) Comcare may, in consultation with the Commission, prepare a written document varying or revoking the approved Guide.
- (6) A Guide prepared under subsection (1), and a document prepared under subsection (5), must be approved by the Minister.
- (7) A Guide prepared under subsection (1) is a legislative instrument made by the Minister on the day on which the Guide is approved by the Minister.
- (8) A document prepared under subsection (5) is a legislative instrument made by the Minister on the day on which the document is approved by the Minister.

9 Subsection 60(1) (definition of *determination*)

Omit "37 or 39", substitute "37, 39 or 57".

10 Application of amendments

The amendments made by this Part apply in relation to:

- (a) a rehabilitation assessment of an employee that is arranged under subsection 36(1) of the *Safety, Rehabilitation and Compensation Act 1988*, if the assessment is conducted after the commencement of this Part (regardless of when the

Schedule 3 Amendment of the Safety, Rehabilitation and Compensation Act 1988**Part 2** Rehabilitation assessments and examinations

employee sustained the relevant injury, or when the assessment was arranged); and

- (b) an examination that an employee is required to undergo under subsection 36(3) or 57(1) of the *Safety, Rehabilitation and Compensation Act 1988*, if the examination is conducted after the commencement of this Part (regardless of when the employee sustained the relevant injury, or when the requirement to undergo the examination was made).

Schedule 4—Amendment of the Work Health and Safety Act 2011

Part 1—Industrial manslaughter

Work Health and Safety Act 2011

1 After section 30

Insert:

30A Industrial manslaughter

- (1) A person commits an offence if:
- (a) the person is:
 - (i) a person conducting a business or undertaking; or
 - (ii) an officer of a person conducting a business or undertaking; and
 - (b) the person has a health and safety duty; and
 - (c) the person intentionally engages in conduct; and
 - (d) the conduct breaches the health and safety duty; and
 - (e) the conduct causes the death of an individual; and
 - (f) the person was reckless, or negligent, as to whether the conduct would cause the death of an individual.

Note: There is no limitation period for bringing proceedings for an offence against this subsection (see subsection 232(2A)).

Penalty:

- (a) In the case of an offence committed by an individual—25 years imprisonment.
- (b) In the case of an offence committed by a body corporate—\$18,000,000.

When conduct causes death

- (2) For the purposes of subsection (1), a person's conduct **causes** a death if the conduct substantially contributes to the death.

Schedule 4 Amendment of the Work Health and Safety Act 2011**Part 1** Industrial manslaughter*No substitution of pecuniary penalty for imprisonment*

- (3) Subsection 4B(2) of the *Crimes Act 1914* does not apply in relation to an offence against subsection (1) of this section.

Alternative verdicts

- (4) If, in proceedings for an offence (the **prosecuted offence**) against subsection (1), the trier of fact:
- (a) is not satisfied that the person is guilty of the prosecuted offence; and
 - (b) is satisfied that the person is guilty of an offence (the **alternative offence**) that is a Category 1 offence or a Category 2 offence;

the trier of fact may find the person not guilty of the prosecuted offence but guilty of the alternative offence, so long as the person has been accorded procedural fairness in relation to that finding of guilt.

No limitation period in relation to alternative verdicts

- (5) For the purposes of subsection (4), it does not matter whether the proceedings mentioned in that subsection were brought at a time when, or in circumstances in which, bringing proceedings for the alternative offence would have been permitted under section 232 (limitation period for prosecutions).

2 Subsection 216(2)

Omit “for a contravention”, substitute “in relation to a contravention”.

3 At the end of subsection 216(2)

Add “or an offence against subsection 30A(1) (industrial manslaughter)”.

4 Subparagraphs 231(1)(a)(i) and (ii)

Omit “or a Category 2 offence”, substitute “, a Category 2 offence or an offence against subsection 30A(1) (industrial manslaughter)”.

5 Subsection 231(3)

Omit “a Category 1 or Category 2 offence”, substitute “a Category 1 offence, a Category 2 offence or an offence against subsection 30A(1) (industrial manslaughter)”.

6 Before subsection 232(2)

Insert:

Exceptions

7 After subsection 232(2)

Insert:

(2A) Despite subsection (1), proceedings for an offence against subsection 30A(1) (industrial manslaughter) may be brought at any time.

8 Before subsection 232(3)

Insert:

Definitions

9 Application provision

Section 30A of the *Work Health and Safety Act 2011*, as inserted by this Part, applies in relation to conduct engaged in on or after the commencement of this Part.

Schedule 4 Amendment of the Work Health and Safety Act 2011**Part 2** Category 1 offence

Part 2—Category 1 offence***Work Health and Safety Act 2011*****10 Paragraph 31(1)(b)**

Repeal the paragraph, substitute:

- (b) the person, without reasonable excuse, engages in conduct that:
 - (i) exposes an individual to whom the duty is owed to a risk of death or serious injury or illness; or
 - (ii) if the person is an officer of a person conducting a business or undertaking—exposes an individual, to whom the person conducting a business or undertaking owes a health and safety duty, to a risk of death or serious injury or illness; and

Part 3—Corporate criminal liability

Work Health and Safety Act 2011

11 Section 4

Insert:

authorised person, for a body corporate, in Division 4 of Part 13—
see section 244.

board of directors, of a body corporate, in Division 4 of Part 13—
see section 244.

fault element, in relation to an offence, has the same meaning as in
the *Criminal Code*.

physical element, in relation to an offence, has the same meaning
as in the *Criminal Code*.

12 Before subsection 12F(1)

Insert:

Application of the Crimes Act 1914

13 Before subsection 12F(2)

Insert:

Application of the Criminal Code

14 At the end of section 12F

Add:

- (4) Part 2.5 of the *Criminal Code* (which deals with corporate criminal
responsibility) does not apply to an offence against this Act.

Note: For the purposes of this Act, corporate criminal responsibility is dealt
with by Division 4 of Part 13 of this Act.

15 Section 244

Repeal the section, substitute:

Schedule 4 Amendment of the Work Health and Safety Act 2011**Part 3** Corporate criminal liability

244 Definitions

In this Division:

authorised person, for a body corporate, means an officer, employee or agent of the body corporate acting within the officer's, employee's or agent's actual or apparent authority.

board of directors, of a body corporate, means the body, whatever it is called, exercising the executive authority of the body corporate.

244A Physical elements

The conduct constituting the physical element of an offence is taken to have been engaged in by a body corporate if the conduct is engaged in by:

- (a) the body corporate's board of directors; or
- (b) one or more authorised persons for the body corporate; or
- (c) one or more persons acting at the direction of or with the express or implied agreement or consent of:
 - (i) an authorised person for the body corporate; or
 - (ii) the body corporate's board of directors.

244B Fault elements other than negligence

- (1) If it is necessary to establish that a body corporate had a state of mind in relation to a physical element of an offence, it is sufficient to show that:
 - (a) the body corporate's board of directors:
 - (i) engaged in the conduct constituting the offence and had that state of mind in relation to the physical element of the offence; or
 - (ii) expressly, tacitly or impliedly authorised or permitted the conduct constituting the offence; or
 - (b) an authorised person for the body corporate:
 - (i) engaged in the conduct constituting the offence and had that state of mind in relation to the physical element of the offence; or

-
- (ii) expressly, tacitly or impliedly authorised or permitted the conduct constituting the offence; or
 - (c) a corporate culture existed within the body corporate that directed, encouraged, tolerated or led to the conduct constituting the offence.
- (1A) For the purposes of subsection (1), having a state of mind in relation to a physical element of an offence does not include being negligent with respect to that physical element.
- Note: For how negligence applies in relation a body corporate, see section 244BA.
- (2) For the purposes of subsection (1):
- (a) paragraphs (1)(b) and (c) do not apply if the body corporate proves it took reasonable precautions to prevent the conduct constituting the offence; and
 - (b) subparagraph (1)(b)(ii) does not apply if the body corporate proves it took reasonable precautions to prevent the authorised person authorising or permitting the conduct constituting the offence.
- (3) Factors relevant to the application of paragraph (1)(c) include:
- (a) whether authority or permission to engage in the conduct constituting an offence, of the same or a similar character, had previously been given by a corporate officer of the body corporate; and
 - (b) whether the person who engaged in the conduct constituting the offence believed on reasonable grounds, or had a reasonable expectation, that a corporate officer of the body corporate would have authorised or permitted the conduct.
- (4) In this section:

corporate culture, within a body corporate, means one or more attitudes, policies, rules, courses of conduct or practices existing within the body corporate generally or in the part of the body corporate in which the relevant activity takes place.

corporate officer, of a body corporate, means an officer of the body corporate within the meaning of section 9 of the *Corporations Act 2001*.

Schedule 4 Amendment of the Work Health and Safety Act 2011**Part 3** Corporate criminal liability

244BA Negligence

- (1) The test of negligence for a body corporate is that set out in section 5.5 of the *Criminal Code*.
- (2) If:
 - (a) negligence is a fault element in relation to a physical element of an offence; and
 - (b) no individual employee, agent or officer of the body corporate has that fault element;that fault element may exist on the part of the body corporate if the body corporate's conduct is negligent when viewed as a whole (that is, by aggregating the conduct of any number of its employees, agents or officers).
- (3) Negligence may be evidenced by the fact that the prohibited conduct was substantially attributable to:
 - (a) inadequate management, control or supervision of the conduct of one or more of the body corporate's employees, agents or officers; or
 - (b) failure to provide adequate systems for conveying relevant information to relevant persons in the body corporate.

244C Mistake of fact

If mistake of fact is relevant to determining liability for an offence, a body corporate may rely on mistake of fact only if:

- (a) the employee, agent or officer of the body corporate who engaged in the conduct constituting the offence was under a mistaken but reasonable belief about facts that, had they existed, would have meant the conduct would not have constituted the offence; and
- (b) the body corporate proves it took reasonable precautions to prevent the conduct.

244D Failure to take reasonable precautions

For the purposes of subsection 244B(2) and paragraph 244C(b), a failure to take reasonable precautions may be evidenced by the fact that the conduct constituting the offence was substantially attributable to:

- (a) inadequate management, control or supervision of the conduct of one or more of the body corporate's employees, agents or officers; or
- (b) failure to provide adequate systems for conveying relevant information to relevant persons in the body corporate.

244E How this Division applies to public authorities

If a body corporate is a public authority, this Division applies in relation to the body corporate in accordance with section 251.

Schedule 4 Amendment of the Work Health and Safety Act 2011**Part 4** Commonwealth criminal liability**Part 4—Commonwealth criminal liability***Work Health and Safety Act 2011***16 Section 4**

Insert:

authorised person, for the Commonwealth, in Division 5 of Part 13—see section 245.

executive, of an agency of the Commonwealth, in Division 5 of Part 13—see section 245.

17 Section 4 (definition of officer)

Repeal the definition, substitute:

officer, of an entity, means:

- (a) if the entity is the Commonwealth—an officer of the Commonwealth within the meaning of section 247; or
- (b) if the entity is a public authority—an officer of the public authority within the meaning of section 252; or
- (c) in Division 5 of Part 13, if the entity is an agency of the Commonwealth—an officer of the agency within the meaning of section 245; or
- (d) if paragraphs (a), (b) and (c) of this definition do not apply—an officer of the entity within the meaning of section 9 of the *Corporations Act 2001* other than, if the entity is a partnership, a partner in the partnership;

but does not include, if the entity is a local authority, an elected member of the local authority acting in that capacity.

18 Section 245

Repeal the section, substitute:

245 Definitions

In this Division:

authorised person, for the Commonwealth, means an officer, employee or agent of the Commonwealth acting within the officer's, employee's or agent's actual or apparent authority.

executive, of an agency of the Commonwealth, means the person or body, whatever the person or body is called, exercising the executive authority of the agency.

officer, of an agency of the Commonwealth, means a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business or undertaking of the agency.

245A Offences and the Commonwealth—physical elements

The conduct constituting the physical element of an offence is taken to have been engaged in by the Commonwealth if the conduct is engaged in by:

- (a) the executive of an agency of the Commonwealth; or
- (b) one or more authorised persons for the Commonwealth; or
- (c) one or more persons acting at the direction of or with the express or implied agreement or consent of:
 - (i) an authorised person for the Commonwealth; or
 - (ii) the executive of an agency of the Commonwealth.

245B Offences and the Commonwealth—fault elements other than negligence

- (1) If it is necessary to establish that the Commonwealth had a state of mind in relation to a physical element of an offence, it is sufficient to show that:
 - (a) the executive of an agency of the Commonwealth:
 - (i) engaged in the conduct constituting the offence and had that state of mind in relation to the physical element of the offence; or
 - (ii) expressly, tacitly or impliedly authorised or permitted the conduct constituting the offence; or
 - (b) an authorised person for the Commonwealth:
 - (i) engaged in the conduct constituting the offence and had that state of mind in relation to the physical element of the offence; or

Schedule 4 Amendment of the Work Health and Safety Act 2011**Part 4** Commonwealth criminal liability

- (ii) expressly, tacitly or impliedly authorised or permitted the conduct constituting the offence; or
 - (c) a corporate culture existed within an agency of the Commonwealth that directed, encouraged, tolerated or led to the conduct constituting the offence.
- (1A) For the purposes of subsection (1), having a state of mind in relation to a physical element of an offence does not include being negligent with respect to that physical element.
 - Note: For how negligence applies in relation to the Commonwealth, see section 245BA.
- (2) For the purposes of subsection (1):
 - (a) paragraphs (1)(b) and (c) do not apply if the Commonwealth proves it took reasonable precautions to prevent the conduct constituting the offence; and
 - (b) subparagraph (1)(b)(ii) does not apply if the Commonwealth proves it took reasonable precautions to prevent the authorised person authorising or permitting the conduct constituting the offence.
- (3) Factors relevant to the application of paragraph (1)(c) include:
 - (a) whether authority or permission to engage in the conduct constituting an offence, of the same or a similar character, had previously been given by an officer of the agency; and
 - (b) whether the person who engaged in the conduct constituting the offence believed on reasonable grounds, or had a reasonable expectation, that an officer of the agency would have authorised or permitted the conduct.

Definitions

- (4) In this section:

corporate culture, within an agency of the Commonwealth, means one or more attitudes, policies, rules, courses of conduct or practices existing within the agency generally or in the part of the agency in which the relevant activity takes place.

245BA Offences and the Commonwealth—negligence

- (1) The test of negligence for the Commonwealth is that set out in section 5.5 of the *Criminal Code*.
- (2) If:
 - (a) negligence is a fault element in relation to a physical element of an offence; and
 - (b) no individual employee, agent or officer of the Commonwealth has that fault element;that fault element may exist on the part of the Commonwealth if the conduct of the Commonwealth is negligent when viewed as a whole (that is, by aggregating the conduct of any number of the employees, agents or officers of the Commonwealth).
- (3) Negligence may be evidenced by the fact that the prohibited conduct was substantially attributable to:
 - (a) inadequate management, control or supervision of the conduct of one or more employees, agents or officers of the Commonwealth; or
 - (b) failure to provide adequate systems for conveying relevant information to relevant persons in the Commonwealth.

245C Offences and the Commonwealth—mistake of fact

If mistake of fact is relevant to determining liability for an offence, the Commonwealth may rely on mistake of fact only if:

- (a) the employee, agent or officer of the Commonwealth who engaged in the conduct constituting the offence was under a mistaken but reasonable belief about facts that, had they existed, would have meant the conduct would not have constituted the offence; and
- (b) the Commonwealth proves it took reasonable precautions to prevent the conduct.

245D Offences and the Commonwealth—failure to take reasonable precautions

For the purposes of subsection 245B(2) and paragraph 245C(b), a failure to take reasonable precautions may be evidenced by the fact

Schedule 4 Amendment of the Work Health and Safety Act 2011**Part 4** Commonwealth criminal liability

that the conduct constituting the offence was substantially attributable to:

- (a) inadequate management, control or supervision of the conduct of one or more employees, agents or officers of the Commonwealth; or
- (b) failure to provide adequate systems for conveying relevant information to relevant persons in the Commonwealth.

245E Offences and the Commonwealth—penalties

If the Commonwealth is guilty of an offence against this Act, the penalty to be imposed on the Commonwealth is the penalty applicable to a body corporate.

Part 5—Criminal liability of public authorities

Work Health and Safety Act 2011

19 Section 251

Repeal the section, substitute:

251 Offences and public authorities

- (1) Division 4 of this Part (which deals with offences by bodies corporate) applies in relation to a public authority that is a body corporate in the same way that the Division applies in relation to any other body corporate, subject to subsection (2) of this section.
- (2) For the purposes of the application of Division 4 of this Part in relation to a public authority that is a body corporate:
 - (a) each reference in that Division to an officer of a body corporate is taken to be a reference to an officer of the public authority (within the meaning of section 252); and
 - (b) the references in paragraphs 244B(3)(a) and (b) to a corporate officer of the body corporate are taken to be references to an officer of the public authority (within the meaning of section 252).

Schedule 4 Amendment of the Work Health and Safety Act 2011

Part 6 Penalties

Part 6—Penalties**Division 1—Definitions*****Work Health and Safety Act 2011*****20 Section 4**

Insert:

category 1 monetary penalty—see clause 1 of Schedule 4.

category 2 monetary penalty—see clause 1 of Schedule 4.

category 3 monetary penalty—see clause 1 of Schedule 4.

tier A monetary penalty—see clause 2 of Schedule 4.

tier B monetary penalty—see clause 2 of Schedule 4.

tier C monetary penalty—see clause 2 of Schedule 4.

tier D monetary penalty—see clause 2 of Schedule 4.

tier E monetary penalty—see clause 2 of Schedule 4.

tier F monetary penalty—see clause 2 of Schedule 4.

tier G monetary penalty—see clause 2 of Schedule 4.

tier H monetary penalty—see clause 2 of Schedule 4.

tier I monetary penalty—see clause 2 of Schedule 4.

WHS civil penalty provision tier 1—see clause 3 of Schedule 4.

WHS civil penalty provision tier 2—see clause 3 of Schedule 4.

WHS civil penalty provision tier 3—see clause 3 of Schedule 4.

WHS civil penalty provision tier 4—see clause 3 of Schedule 4.

Division 2—Categorised monetary penalties for offences***Work Health and Safety Act 2011*****21 Subsection 31(1) (penalty)**

Repeal the penalty, substitute:

Penalty:

- (a) In the case of an individual—the category 1 monetary penalty or 15 years imprisonment or both.
- (b) In the case of a body corporate—the category 1 monetary penalty.

22 Section 32 (penalty)

Repeal the penalty, substitute:

Penalty: The category 2 monetary penalty.

23 Section 33 (penalty)

Repeal the penalty, substitute:

Penalty: The category 3 monetary penalty.

Division 3—Tier A monetary penalties for offences***Work Health and Safety Act 2011*****24 Subsections 104(1), 107(1), 108(1) and 109(1) (penalty)**

Repeal the penalty, substitute:

Penalty: The tier A monetary penalty.

25 Section 197 (penalty)

Repeal the penalty, substitute:

Penalty: The tier A monetary penalty.

Schedule 4 Amendment of the Work Health and Safety Act 2011**Part 6** Penalties

Division 4—Tier B monetary penalties for offences***Work Health and Safety Act 2011*****26 Section 41 (penalty)**

Repeal the penalty, substitute:

Penalty: The tier B monetary penalty.

27 Subsection 99(2) (penalty)

Repeal the penalty, substitute:

Penalty: The tier B monetary penalty.

28 Section 190 (penalty)

Repeal the penalty, substitute:

Penalty:

(a) In the case of an individual—the tier B monetary penalty or imprisonment for 2 years or both.

(b) In the case of a body corporate—the tier B monetary penalty.

29 Section 193 (penalty)

Repeal the penalty, substitute:

Penalty: The tier B monetary penalty.

30 Subsection 200(1) (penalty)

Repeal the penalty, substitute:

Penalty: The tier B monetary penalty.

31 Section 219 (penalty)

Repeal the penalty, substitute:

Penalty: The tier B monetary penalty.

32 Subsection 242(1) (penalty)

Repeal the penalty, substitute:

Penalty: The tier B monetary penalty.

Division 5—Tier C monetary penalties for offences

Work Health and Safety Act 2011

33 Subsections 42(1) and (2), 43(1) and (2) and 44(1) and (2) (penalty)

Repeal the penalty, substitute:

Penalty: The tier C monetary penalty.

34 Section 45 (penalty)

Repeal the penalty, substitute:

Penalty: The tier C monetary penalty.

35 Section 46 (penalty)

Repeal the penalty, substitute:

Penalty: The tier C monetary penalty.

36 Subsection 47(1) (penalty)

Repeal the penalty, substitute:

Penalty: The tier C monetary penalty.

Division 6—Tier D monetary penalties for offences

Work Health and Safety Act 2011

37 Subsections 38(1) and 39(1) (penalty)

Repeal the penalty, substitute:

Penalty: The tier D monetary penalty.

38 Subsection 52(5) (penalty)

Repeal the penalty, substitute:

Penalty: The tier D monetary penalty.

Schedule 4 Amendment of the Work Health and Safety Act 2011**Part 6** Penalties

39 Subsection 56(2) (penalty)

Repeal the penalty, substitute:

Penalty: The tier D monetary penalty.

40 Subsection 61(4) (penalty)

Repeal the penalty, substitute:

Penalty: The tier D monetary penalty.

41 Subsections 70(1) and (2), 71(2) and 72(7) (penalty)

Repeal the penalty, substitute:

Penalty: The tier D monetary penalty.

42 Subsections 79(1), (3) and (4) (penalty)

Repeal the penalty, substitute:

Penalty: The tier D monetary penalty.

43 Subsection 155(5) (penalty)

Repeal the penalty, substitute:

Penalty: The tier D monetary penalty.

44 Subsection 165(2) (penalty)

Repeal the penalty, substitute:

Penalty: The tier D monetary penalty.

45 Subsections 171(6) and 177(2) and (6) (penalty)

Repeal the penalty, substitute:

Penalty: The tier D monetary penalty.

46 Subsection 185(4) (penalty)

Repeal the penalty, substitute:

Penalty: The tier D monetary penalty.

47 Sections 188 and 189 (penalty)

Repeal the penalty, substitute:

Penalty: The tier D monetary penalty.

48 Subsections 271(2) and (4) (penalty)

Repeal the penalty, substitute:

Penalty: The tier D monetary penalty.

Division 7—Tier F monetary penalties for offences***Work Health and Safety Act 2011*****49 Subsection 38(7) (penalty)**

Repeal the penalty, substitute:

Penalty: The tier F monetary penalty.

50 Subsection 75(1) (penalty)

Repeal the penalty, substitute:

Penalty: The tier F monetary penalty.

51 Subsections 97(1) and (2) (penalty)

Repeal the penalty, substitute:

Penalty: The tier F monetary penalty.

52 Subsections 210(1) and (2) (penalty)

Repeal the penalty, substitute:

Penalty: The tier F monetary penalty.

53 Section 273 (penalty)

Repeal the penalty, substitute:

Penalty: The tier F monetary penalty.

Division 8—Tier H monetary penalties for offences***Work Health and Safety Act 2011*****54 Subsections 53(1) and (2) (penalty)**

Repeal the penalty, substitute:

Penalty: The tier H monetary penalty.

55 Subsections 57(1) and (2) (penalty)

Repeal the penalty, substitute:

Penalty: The tier H monetary penalty.

56 Subsection 74(1) (penalty)

Repeal the penalty, substitute:

Penalty: The tier H monetary penalty.

Division 9—Penalties for WHS civil penalty provisions***Work Health and Safety Act 2011*****57 Subsection 118(3) (penalty)**

Repeal the penalty (not including the heading), substitute:

Penalty: The WHS civil penalty provision tier 2.

58 Section 123 (penalty)

Repeal the penalty (not including the heading), substitute:

Penalty: The WHS civil penalty provision tier 1.

59 Sections 124 to 126, 128 and 129 (penalty)

Repeal the penalty (not including the heading), substitute:

Penalty: The WHS civil penalty provision tier 2.

60 Section 143 (penalty)

Repeal the penalty (not including the heading), substitute:

Penalty: The WHS civil penalty provision tier 2.

61 Subsection 144(1) (penalty)

Repeal the penalty (not including the heading), substitute:

Penalty: The WHS civil penalty provision tier 2.

62 Sections 145 and 146 (penalty)

Repeal the penalty (not including the heading), substitute:

Penalty: The WHS civil penalty provision tier 2.

63 Subsection 147(1) (penalty)

Repeal the penalty (not including the heading), substitute:

Penalty: The WHS civil penalty provision tier 2.

64 Section 148 (penalty)

Repeal the penalty (not including the heading), substitute:

Penalty: The WHS civil penalty provision tier 2.

65 Subsection 149(1) (penalty)

Repeal the penalty (not including the heading), substitute:

Penalty: The WHS civil penalty provision tier 4.

66 Section 150 (penalty)

Repeal the penalty (not including the heading), substitute:

Penalty: The WHS civil penalty provision tier 3.

67 Paragraphs 254(1)(a) and (2)(a)

Omit “1 or more amounts by way of monetary penalty are”, substitute
“a penalty, expressed as a WHS civil penalty provision tier, is”.

Schedule 4 Amendment of the Work Health and Safety Act 2011**Part 6** Penalties

68 Subsection 259(2)

Omit “maximum”.

69 Application provision

The amendments of the *Work Health and Safety Act 2011* made by this Division apply in relation to a contravention of a WHS civil penalty provision that occurs on or after the commencement of this Division.

Division 10—Penalties prescribed by the regulations***Work Health and Safety Act 2011*****70 Paragraph 276(3)(h)**

Repeal the paragraph, substitute:

- (h) prescribe any of the following as the penalty for an offence under the regulations:
 - (i) a tier E monetary penalty;
 - (ii) a tier F monetary penalty;
 - (iii) a tier G monetary penalty;
 - (iv) a tier H monetary penalty;
 - (v) a tier I monetary penalty; or

71 Transitional provision—existing penalty provisions

- (1) This item applies to a provision (an *existing penalty provision*) in the *Work Health and Safety Regulations 2011* if, immediately before the commencement of this Division, the provision prescribed a monetary penalty for an offence against those regulations.
- (2) Despite the amendment of paragraph 276(3)(h) of the *Work Health and Safety Act 2011* by this Division, but subject to subitem (3) of this item, an existing penalty provision continues in force on and after the commencement of this Division.
- (3) An existing penalty provision may, on or after the commencement of this Division, be repealed or amended by regulations made under section 276 of the *Work Health and Safety Act 2011*.

Division 11—Penalty amounts***Work Health and Safety Act 2011*****72 At the end of the Act**

Add:

Schedule 4—Penalty amounts**1 Monetary penalties—categories 1 to 3**

A penalty referred to in column 1 of an item of the following table, for a person referred to in the heading to another column of the table, is the amount specified in that other column of that item, as indexed under clause 4 and rounded under clause 5.

Monetary penalties—categories 1 to 3				
Item	Column 1	Column 2	Column 3	Column 4
	Kind of penalty	An individual who commits an offence as: (a) a person conducting a business undertaking; or (b) an officer of a person conducting a business undertaking	An individual who commits an offence (other than as mentioned in column 2)	A body corporate
1	the <i>category 1 monetary penalty</i>	\$3,000,000	\$1,500,000	\$15,000,000
2	the <i>category 2 monetary penalty</i>	\$418,000	\$209,000	\$2,090,000
3	the <i>category 3 monetary penalty</i>	\$140,000	\$70,000	\$700,000

Schedule 4 Amendment of the Work Health and Safety Act 2011**Part 6** Penalties**2 Monetary penalties—tiers A to I**

A penalty referred to in column 1 of an item of the following table, for a person referred to in the heading to another column of the table, is the amount specified in that other column of that item, as indexed under clause 4 and rounded under clause 5.

Monetary penalties—tiers A to I			
Item	Column 1	Column 2	Column 3
	Kind of penalty	An individual	A body corporate
1	the <i>tier A monetary penalty</i>	\$139,000	\$695,000
2	the <i>tier B monetary penalty</i>	\$70,000	\$350,000
3	the <i>tier C monetary penalty</i>	\$28,000	\$140,000
4	the <i>tier D monetary penalty</i>	\$14,000	\$70,000
5	the <i>tier E monetary penalty</i>	\$8,400	\$42,000
6	the <i>tier F monetary penalty</i>	\$7,000	\$35,000
7	the <i>tier G monetary penalty</i>	\$5,000	\$25,000
8	the <i>tier H monetary penalty</i>	\$2,800	\$14,000
9	the <i>tier I monetary penalty</i>	\$1,700	\$8,500

3 Monetary penalties—WHS civil penalty provision—tiers 1 to 4

A penalty referred to in column 1 of an item of the following table, for a person referred to in the heading to another column of the table, is the amount specified in that other column of that item, as indexed under clause 4 and rounded under clause 5.

WHS civil penalty provision—tiers 1 to 4			
Item	Column 1	Column 2	Column 3
	Kind of penalty	An individual	A body corporate
1	the <i>WHS civil penalty provision tier 1</i>	\$28,000	\$140,000
2	the <i>WHS civil penalty provision tier 2</i>	\$14,000	\$70,000
3	the <i>WHS civil penalty provision tier 3</i>	\$7,000	\$35,000
4	the <i>WHS civil penalty provision tier 4</i>	\$2,800	\$14,000

4 Indexation of penalty amounts

- (1) The amount of each monetary penalty set out in clause 1, 2 or 3 must be indexed for the year commencing on 1 July 2024, and for each subsequent year, in accordance with this clause.
- (2) The amount of a monetary penalty applying in each year is to be calculated as follows:

$$A \times \frac{B}{C}$$

where:

A is the amount of the monetary penalty set out in clause 1, 2 or 3.

B is the CPI number for the March quarter in the year immediately preceding the year for which the amount is calculated.

C is the CPI number for the March quarter of 2022.

Note: For *CPI number* and *year*, see clause 7.

- (3) If the amount of a monetary penalty calculated for a year is less than the amount that applied in the previous year, then the amount for the previous year continues to apply.

5 Rounding of penalty amounts

If, after indexation under clause 4, the amount of a monetary penalty applying in a year is:

- (a) less than \$10,000 and not a multiple of \$100:
 - (i) the amount must be rounded to the nearest \$100; and
 - (ii) an amount of \$50 is rounded down; or
- (b) more than \$10,000 and not a multiple of \$1,000:
 - (i) the amount must be rounded to the nearest \$1,000; and
 - (ii) an amount of \$500 is rounded down.

Schedule 4 Amendment of the Work Health and Safety Act 2011**Part 6** Penalties

6 Public notification of adjusted penalty amounts

As soon as practicable after publication by the Australian Statistician of the CPI number for the March quarter in a year, the regulator must, by notifiable instrument, give notice of the amount of each monetary penalty calculated under this Schedule.

7 Definitions

In this Schedule:

CPI number means the All Groups Consumer Price Index number, that is, the weighted average of the 8 Australian capital cities, published by the Australian Statistician.

year means a period of 12 months starting on 1 July.

Part 7—Tied amendments

Work Health and Safety Act 2011

73 Subsections 272A(1) and 272B(1) (penalty)

Repeal the penalty, substitute:

Penalty: The tier B monetary penalty.

Schedule 4 Amendment of the Work Health and Safety Act 2011**Part 8** Family and Injured Workers Advisory Committee**Part 8—Family and Injured Workers Advisory Committee***Work Health and Safety Act 2011***74** After Part 3 of Schedule 2

Insert:

Part 3A—Family and Injured Workers Advisory Committee**3A** Definitions for this Part

In this Part:

Advisory Committee means the Family and Injured Workers Advisory Committee established under clause 3B.*Advisory Committee member* means a member of the Advisory Committee and includes the Co-Chairs.*Co-Chair* means a Co-Chair of the Advisory Committee.*first Co-Chair* means the Co-Chair appointed in accordance with subclause 3E(5).*second Co-Chair* means the Co-Chair appointed in accordance with subclause 3E(6).*serious work-related incident* means the death of a person, or a serious injury or illness of a person, arising out of the conduct of a business or undertaking.**3B** Establishment of the Family and Injured Workers Advisory Committee

The Minister must establish a committee called the Family and Injured Workers Advisory Committee. The Advisory Committee

must be established before the end of the period of 12 months beginning on the day this Part commences.

3C Functions of the Advisory Committee

The functions of the Advisory Committee are as follows:

- (a) to give advice, and make recommendations, to the Minister about the needs of persons affected, directly or indirectly, by serious work-related incidents;
- (b) to give advice to Comcare about, and contribute to the development and review of, Comcare's policies, practices and strategies for liaising with, and providing information to, persons affected, directly or indirectly, by serious work-related incidents that arise out of the conduct of a business or undertaking by the Commonwealth, a public authority or a non-Commonwealth licensee;
- (c) to give advice to the Australian Maritime Safety Authority about, and contribute to the development and review of, the Authority's policies, practices and strategies for liaising with, and providing information to, persons affected, directly or indirectly, by serious work-related incidents that arise on a prescribed ship (within the meaning of the *Occupational Health and Safety (Maritime Industry) Act 1993*) or a prescribed unit (within the meaning of that Act) that is engaged in trade or commerce of the kind referred to in subsection 6(1) of that Act;
- (d) to give advice to the National Offshore Petroleum Safety and Environmental Management Authority about, and contribute to the development and review of, the Authority's policies, practices and strategies for liaising with, and providing information to, persons affected, directly or indirectly, by serious work-related incidents that arise:
 - (i) at a facility (within the meaning of Schedule 3 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*) located in Commonwealth waters (within the meaning of that Schedule); or
 - (ii) out of the conduct of a business or undertaking in the Commonwealth offshore area (within the meaning of the *Offshore Electricity Infrastructure Act 2021*);
- (e) such other functions as are prescribed by the regulations.

Schedule 4 Amendment of the Work Health and Safety Act 2011
Part 8 Family and Injured Workers Advisory Committee

3D Membership of the Advisory Committee

The Advisory Committee consists of the following members:

- (a) 2 Co-Chairs;
- (b) at least 3 other members.

3E Appointment of Advisory Committee members

- (1) Each Advisory Committee member is to be appointed by the Minister, by written instrument, on a part-time basis.

Note: An Advisory Committee member may be reappointed (see section 33AA of the *Acts Interpretation Act 1901*).

- (2) The instrument of appointment of an Advisory Committee member must specify whether the member is appointed as the first Co-Chair, second Co-Chair or another member.

Period of appointment

- (3) An Advisory Committee member holds office for the period specified in the member's instrument of appointment. The period must not be more than 3 years.
- (4) An Advisory Committee member is eligible for reappointment but must not hold office for a total of more than 9 years.

Eligibility for appointment as Advisory Committee member (including first Co-Chair but not including second Co-Chair)

- (5) A person is eligible for appointment as an Advisory Committee member (including the first Co-Chair, but not including the second Co-Chair) only if the Minister is satisfied that:
 - (a) the person has, or has had, a serious injury or illness that arose out of the conduct of a business or undertaking; or
 - (b) the person has lived experience as family member or carer of another person who:
 - (i) has died, if the person's death arose out of the conduct of a business or undertaking; or
 - (ii) has, or has had, a serious injury or illness that arose out of the conduct of a business or undertaking; or

Amendment of the Work Health and Safety Act 2011 **Schedule 4**
Family and Injured Workers Advisory Committee **Part 8**

- (c) the person has been affected, directly or indirectly, by a serious work-related incident suffered by another person.

Note: Examples of persons for the purposes of paragraph (c) are friends and co-workers.

Eligibility for appointment as second Co-Chair

- (6) A person is eligible for appointment as the second Co-Chair only if the Minister is satisfied that the person has relevant skills and experience in relation to trauma and group facilitation.

Additional member

- (7) Without limiting this clause, if the Advisory Committee already has at least 5 members (including the first Co-Chair and the second Co-Chair), the Minister may appoint an additional Advisory Committee member under subclause (1) who has relevant skills and experience in relation to trauma and grief.

3F Invited participants

- (1) A Co-Chair may, after consulting the other members of the Advisory Committee, invite a person, body or organisation to participate in a meeting.
- (2) A Co-Chair may terminate the invitation at any time, including during a meeting.
- (3) The participation of a person in a meeting does not make the person a member.
- (4) A person invited to participate in a meeting:
- (a) is entitled to payment of travel allowance prescribed by the regulations for the purposes of this paragraph; and
 - (b) must comply with any requirements prescribed by the regulations for the purposes of this paragraph.
- (5) Regulations made for the purposes of subclause (4) may identify a rate by reference to the rate of travelling allowance that is payable to a particular class of office holders under a determination of the Remuneration Tribunal as in force at a particular time, or as in force from time to time.

Schedule 4 Amendment of the Work Health and Safety Act 2011**Part 8** Family and Injured Workers Advisory Committee

Note: This subclause is not intended to be an exhaustive statement of the ways in which a rate could be identified.

- (6) The regulations may provide for or in relation to persons invited to participate in a meeting.

3G Acting appointments

- (1) The Minister may, by written instrument, appoint an Advisory Committee member (other than the second Co-Chair) to act as the first Co-Chair:
- (a) during a vacancy in the office of the first Co-Chair (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the first Co-Chair:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

- (2) The Minister may, by written instrument, appoint an Advisory Committee member (other than the first Co-Chair), or any other person, to act as the second Co-Chair:
- (a) during a vacancy in the office of the second Co-Chair (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the second Co-Chair:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.
- (3) A person is not eligible for appointment under subclause (2) unless the person is eligible for appointment as the second Co-Chair under subclause 3E(6).

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

Amendment of the Work Health and Safety Act 2011 **Schedule 4**
Family and Injured Workers Advisory Committee **Part 8**

- (4) The Minister may, by written instrument, appoint a person to act as an Advisory Committee member (other than a Co-Chair):
- (a) during a vacancy in the office of an Advisory Committee member (other than a Co-Chair) (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when an Advisory Committee member (other than a Co-Chair):
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.
- (5) A person is not eligible for appointment under subclause (4) unless the person is eligible for appointment as an Advisory Committee member under subclause 3E(5).

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

3H Remuneration and allowances

- (1) An Advisory Committee member is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the Advisory Committee member is to be paid the remuneration that is prescribed by the regulations.
- (2) An Advisory Committee member is to be paid the allowances that are prescribed by the regulations.
- (3) This clause has effect subject to the *Remuneration Tribunal Act 1973*.

3J Leave of absence

- (1) The Minister may grant leave of absence to a Co-Chair on the terms and conditions that the Minister determines.
- (2) A Co-Chair may grant leave of absence to an Advisory Committee member (other than a Co-Chair) on the terms and conditions that the Co-Chair determines.

Schedule 4 Amendment of the Work Health and Safety Act 2011**Part 8** Family and Injured Workers Advisory Committee

3K Disclosure of interests to the Minister

An Advisory Committee member must give written notice to the Minister of all interests, pecuniary or otherwise, that the member has or acquires and that conflict or could conflict with the proper performance of the member's functions.

3L Disclosure of interests to the Advisory Committee

- (1) An Advisory Committee member who has an interest, pecuniary or otherwise, in a matter being considered or about to be considered by the Advisory Committee must disclose the nature of the interest to a meeting of the Advisory Committee.
- (2) The disclosure must be made as soon as possible after the relevant facts have come to the Advisory Committee member's knowledge.
- (3) The disclosure must be recorded in the minutes of the meeting.

3M Resignation

- (1) An Advisory Committee member may resign the member's appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

3N Termination of appointment

- (1) The Minister may terminate the appointment of an Advisory Committee member:
 - (a) for misbehaviour; or
 - (b) if the Advisory Committee member is unable to perform the duties of the office because of physical or mental incapacity.
 - (2) The Minister may terminate the appointment of an Advisory Committee member if:
 - (a) the Advisory Committee member:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
-

- (iii) compounds with the member's creditors; or
 - (iv) makes an assignment of the member's remuneration for the benefit of the member's creditors; or
 - (b) the Advisory Committee member fails, without reasonable excuse, to comply with clause 3K or 3L (which deal with disclosure of interests).
- (3) The Minister must terminate the appointment of an Advisory Committee member if the Advisory Committee member is absent, except on leave of absence, from 3 consecutive meetings of the Advisory Committee.

3P Other terms and conditions

An Advisory Committee member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

3Q Meetings and procedures

- (1) The regulations may prescribe the procedures to be followed at, or in relation to, meetings of the Advisory Committee, including matters relating to the following:
- (a) convening meetings;
 - (b) the number of Advisory Committee members who are to constitute a quorum at a meeting;
 - (c) the selection of an Advisory Committee member to preside at a meeting in the absence of a Co-Chair;
 - (d) the manner in which questions arising at a meeting are to be decided;
 - (e) inviting persons with appropriate expertise or technical knowledge to attend meetings;
 - (f) keeping minutes of meetings.
- (2) A resolution is taken to have been passed at a meeting of the Advisory Committee if:
- (a) without meeting, a majority of Advisory Committee members indicate agreement with the resolution in accordance with the method determined by the Advisory Committee under subclause (3); and

Schedule 4 Amendment of the Work Health and Safety Act 2011**Part 8** Family and Injured Workers Advisory Committee

- (b) all Advisory Committee members were informed of the proposed resolution, or reasonable efforts had been made to inform all Advisory Committee members of the proposed resolution.
- (3) Subclause (2) applies only if the Advisory Committee:
 - (a) determines that it applies; and
 - (b) determines the method by which Advisory Committee members are to indicate agreement with resolutions.

3R Administrative support

The Secretary of the Department must ensure that the Advisory Committee has the necessary administrative and other support to enable the Advisory Committee to perform its functions efficiently and effectively.

*[Minister's second reading speech made in—
House of Representatives on 4 September 2023
Senate on 4 December 2023]*

(105/23)

EXPLANATORY STATEMENT

Issued by authority of the Minister for Employment and Workplace Relations
under section 57A of the *Safety, Rehabilitation and Compensation Act 1988*

PURPOSE AND OPERATION OF THE INSTRUMENT

The *Safety, Rehabilitation and Compensation Act 1988* (the **SRC Act**) establishes the workers' compensation and rehabilitation scheme for employees of the Commonwealth, Commonwealth authorities and licensed corporations. The SRC Act authorises:

- a rehabilitation authority in relation to an employee to arrange for the assessment of the employee's capability of undertaking a rehabilitation program (subsection 36(1)) and to require the employee to undergo an examination by the person or panel of persons making the assessment (subsection 36(3)) subject to the requirements in section 36; and
- a relevant authority in relation to an employee to require the employee to undergo an examination by one legally qualified medical practitioner nominated by the relevant authority (subsection 57(1)) subject to the requirements in section 57.

Part 2 of Schedule 3 to the *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* (the **Closing Loopholes Act**), which commenced on 14 June 2024, amended the SRC Act by:

- inserting new section 57A to provide that Comcare must, in consultation with the Safety, Rehabilitation and Compensation Commission (the **Commission**), prepare a written document to be called the 'Guide for Arranging Rehabilitation Assessments and Requiring Examinations' (the **Guide**);
- inserting a new definition in subsection 4(1) of 'approved Rehabilitation Assessments and Examinations Guide' to relevantly mean the document prepared by Comcare in accordance with section 57A that has been approved by the Minister and is for the time being in force;
- inserting new subsection 36(3A) to provide that, in deciding whether to arrange for an assessment under subsection 36(1) or to require an examination under subsection 36(3), the rehabilitation authority must comply with the approved Rehabilitation Assessments and Examinations Guide; and
- inserting new subsection 57(1A) to provide that, in deciding whether to require an examination under subsection 57(1), the relevant authority must comply with the approved Rehabilitation Assessments and Examinations Guide.

The object of the Guide is to support ethical, transparent and accountable decision-making in relation to arranging a rehabilitation assessment of an employee under subsection 36(1), or requiring an employee to undergo an examination under subsection 36(3) or 57(1), including appropriate consideration of the employee's personal circumstances (SRC Act, subsection 57A(2)).

Subsections 57A(3) and (4) of the SRC Act provide that the Guide:

- must provide that, for the purposes of a rehabilitation assessment or examination of an employee: (i) information in relation to the employee should be sought from the employee's treating practitioner; and (ii) the employee's treating practitioner and the information (if any) provided by the treating practitioner should be relied on as much as possible before a referral is made to an independent medical practitioner, or other qualified person, in relation to the employee (subsection 57A(3)(a));
- must specify the circumstances in which it is appropriate to require an employee to undergo a rehabilitation assessment or examination (subsection 57A(3)(b));
- must specify limitations on the frequency and number of rehabilitation assessments or examinations that an employee may be required to undergo (subsection 57A(3)(c));

- must specify the qualifications of the person or, if required under section 36, the panel of persons who may conduct a rehabilitation assessment or an examination of an employee (subsection 57A(3)(d));
- must require the rehabilitation authority or the relevant authority (as the case requires) to seek, and take into account, the views of an employee, who is required to undergo a rehabilitation assessment or examination, about the selection of the person or, if required under section 36, the panel of persons who are to conduct the rehabilitation assessment or examination (subsection 57A(3)(e));
- must require that an employee who is required to undergo a rehabilitation assessment or examination be given a notice of the employee's rights relating to the rehabilitation assessment or examination (subsection 57A(3)(f)); and
- may provide for any other relevant matter (subsection 57A(4)).

The Guide is a legislative instrument made by the Minister on the day on which it is approved by the Minister (SRC Act, subsection 57A(6) and (7)).

The purpose of the *Safety, Rehabilitation and Compensation Act 1988 – Guide for Arranging Rehabilitation Assessments and Requiring Examinations 2024* (the **Instrument**) is to bring into existence the first edition of the Guide as required by section 57A of the SRC Act. The Guide appears at Schedule 1 to the Instrument. An explanation of each section of the Instrument including Schedule 1 is included in Attachment A.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

A Statement of Compatibility with Human Rights has been completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*, which appears at Attachment B.

CONSULTATION

Consultation in accordance with statutory precondition

Subsection 57A(1) of the SRC Act provides that Comcare must, in consultation with the Commission, prepare the Guide.

The Commission is a part-time body, which meets at least 4 times per year, and Comcare is legislatively required to provide support and guidance to the Commission in carrying out its functions. Comcare consulted with the Commission on the development of the Guide through providing members of the Commission with specific information such as the discussion paper and draft Guide (outlined below) and regular email updates were provided to the Commission via Comcare's weekly update. A final update was provided at the Commission's in-person meeting on 19 April 2024. At that meeting, the members confirmed they considered the Commission was sufficiently consulted on the Guide and no further consultation was required prior to seeking the Minister's approval.

Bodies/groups/individuals consulted

Comcare also consulted with employee representatives (including the Australian Council of Trade Unions, the Community and Public Sector Union, and United Firefighters Union of Australia), employer representatives (including Commonwealth agencies, licensees, and the Safety, Rehabilitation and Compensation Licensee Association), and various bodies with expertise (including the Australian Rehabilitation Providers Association, Australian Medical Association, the Royal Australian College of General Practitioners, the Royal Australasian College of Physicians, the Australian Lawyers Alliance, and the Law Council of Australia). In addition, Comcare consulted with the Department of Employment and Workplace Relations.

Method and purpose of consultation

Stakeholder feedback informed the development of the Guide. Prior to preparation of a draft of the Guide, Comcare sought views from stakeholders, including those listed above, as to content of the Guide through a discussion paper. The discussion paper included an Appendix A entitled ‘*Response Form: Discussion questions for stakeholder consultation*’, which sought direct comment from stakeholders with reference to the matters set out at subsection 57A(3) of the SRC Act. The discussion paper was distributed via targeted direct electronic communication (email) to Comcare stakeholders. Consultation on the discussion paper occurred from 29 January to 29 February 2024. Comcare received 46 written responses to the discussion paper.

Comcare again consulted with stakeholders following completion of an initial draft of the Guide. The Comcare website provided news banners, a draft of the Guide and a document entitled ‘*Overview of Consultation Draft*’, which provided an outline of the provisions contained within the proposed Guide. A feedback form was also made available which allowed stakeholders to provide feedback on the draft Guide. Targeted direct electronic communication (email) was also sent to Comcare stakeholders seeking comment on the draft Guide. Consultation on the draft Guide was open from 28 March to 18 April 2024. Comcare received 30 written responses to the draft Guide.

Issues raised in consultation and outcomes

Feedback received through consultation generally sought for the Guide to be:

- written in plain English;
- supportive of improved decision-making and claims management processes; and
- easily interpreted and applied by decision-makers and claims managers.

A significant concern identified by stakeholders was that the Guide should not operate to cause delay in rehabilitation and claims processes. In particular, stakeholders were concerned to ensure that the Guide did not prevent decision-makers from complying with amendments made to the *Safety, Rehabilitation and Compensation Regulations 2019* by the *Safety, Rehabilitation and Compensation Amendment (Period for Decision-making) Regulations 2023*, which prescribes the periods for determining claims for compensation under section 14 of the SRC Act and deciding requests for reconsideration of determinations under section 62 of the SRC Act.

While acknowledging the statutory purpose of the Guide, stakeholders requested that the Guide be drafted so it may be capable of operating in dispute resolution environments, such as where an application for merits review by the Administrative Appeals Tribunal (soon to be the Administrative Review Tribunal) is made in accordance with section 64 of the SRC Act.

In preparing the Guide, Comcare had regard to the views of practitioners in the medical and rehabilitation fields concerning timeframes for the preparation and provision of information sought by decision-makers.

Where appropriate, Comcare has incorporated feedback received during the consultation processes into the Instrument.

COLLECTION, USE AND DISCLOSURE OF PERSONAL INFORMATION (PRIVACY)

As required by subsection 57A(2) of the SRC Act, the Guide requires appropriate consideration of the employee’s personal circumstances as part of decision-making in relation to arranging a rehabilitation assessment or requiring an employee to undergo an examination.

As required by paragraph 57A(3)(a) of the SRC Act, the Guide provides that a rehabilitation authority or relevant authority should request information from an employee’s treating practitioner in particular circumstances. Any information provided in accordance with the request should be relied on as much as possible in making certain decisions.

As required by paragraph 57A(3)(c) of the SRC Act, the Guide provides for limitations on the frequency and number of rehabilitation and medical examinations. The Guide provides that the 6-month interval does not apply in specific circumstances, which include a recommendation by the employee's treating practitioner for an examination or a change in the employee's circumstances (see subsections 6(3) and 12(3) of Schedule 1 to the Instrument for the full list).

As required by paragraph 57A(3)(e) of the SRC Act, the Guide provides that a rehabilitation authority or relevant authority is to seek, and take into account, the views of an employee about the selection of the person(s) who are to conduct a rehabilitation assessment or examination.

Where reasonable and practicable, Comcare collects information about an employee directly from the employee. However, Comcare may also collect personal information from someone other than the employee with the employee's express consent, or if it is required or authorised to do so by or under an Australian law. Comcare holds all its records in accordance with the provisions of the *Archives Act 1983* and relevant records authorities. Comcare is required to comply with the *Privacy Act 1988* (including the Australian Privacy Principles), *Privacy Amendment (Notifiable Data Breaches) Act 2017* and the Australian Government Agencies Privacy Code. Comcare also has a Privacy Policy, available on Comcare's website.

COMMENCEMENT

The Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Instrument, including the Guide appearing at Schedule 1 to this Instrument, is to commence on the day after the Instrument is registered.

Authority: section 57A of the
Safety, Rehabilitation and Compensation Act 1988

Attachment A

NOTES ON SECTIONS

In these notes on sections, the following abbreviations are used:

Abbreviation	Definition
Acts Interpretation Act	<i>Acts Interpretation Act 1901</i>
Closing Loopholes Act	<i>Fair Work Legislation Amendment (Closing Loopholes) Act 2023</i>
Guide	<i>Guide for Arranging Rehabilitation Assessments and Requiring Examinations set out in Schedule 1 to the Instrument</i>
Instrument	<i>Safety, Rehabilitation and Compensation Act 1988 – Guide for Arranging Rehabilitation Assessments and Requiring Examinations 2024</i>
Legislation Act	<i>Legislation Act 2003</i>
SRC Act	<i>Safety, Rehabilitation and Compensation Act 1988</i>

Section 1 – Name

- Section 1 provides that the title of the instrument is the *Safety, Rehabilitation and Compensation Act 1988 – Guide for Arranging Rehabilitation Assessments and Requiring Examinations 2024*.

Section 2 – Commencement

- Section 2 provides that the Instrument commences on the day after the Instrument is registered on the Federal Register of Legislation. For example, if the Instrument is registered on 2 September 2024, the Instrument would commence on 3 September 2024.

Section 3 – Authority

- Section 3 provides that the Instrument is made under section 57A of the SRC Act. Section 57A is inserted into the SRC Act by Part 2 of Schedule 3 to the Closing Loopholes Act.

Section 4 – Definitions

- The introductory note to section 4 lists several expressions used in the Instrument that are defined in the SRC Act. Subsection 13(1)(b) of the Legislation Act relevantly provides that, if enabling legislation confers on a person the power to make a legislative instrument, then, unless the contrary intention appears, expressions used in any instrument so made have the same meaning as in the enabling legislation as in force from time to time.
- Section 4 defines the following additional terms used in the Instrument.

‘Application date’

- The term ***application date*** means the date that is 6 weeks after the date on which the Instrument commenced in accordance with section 2. For example, if the Instrument commenced on 3 September 2024, the application date would be 15 October 2024.

'Approved Rehabilitation Assessments and Examinations Guide'

7. The term **approved Rehabilitation Assessments and Examinations Guide** and **this Guide** means the Guide for Arranging Rehabilitation Assessments and Requiring Examinations set out in Schedule 1 to the Instrument.

'Assessor', 'medical practitioner', 'other health professional', 'other qualified person', 'panel'

8. The term **assessor** means a **medical practitioner** or **other qualified person**.
9. The term **medical practitioner** means a person who is registered with the Australian Health Practitioner Regulation Agency as a medical practitioner and is to be interpreted consistently with the term 'legally qualified medical practitioner' in the SRC Act. The note to this definition provides that the term 'legally qualified medical practitioner', which is not defined in the SRC Act, appears in subsection 4(1) in the definition of 'medical treatment', subsection 4(13) and sections 7, 15, 16, 36, 54, 57 and 126 of the SRC Act. The note further provides that the term 'legally qualified medical practitioner' does not include a psychologist, which is covered by the term **other health professional**.
10. The term **other health professional** means a person, other than a **medical practitioner**, who is qualified by their training or registration under the law of a State or Territory providing for the registration for a specific profession, and registered with the Australian Health Practitioner Regulation Agency or a member of the relevant professional association. This captures health professionals, such as psychologists and occupational therapists, who do not meet the definition of **medical practitioner**.
11. The term **other qualified person** means a person, other than a **medical practitioner**, and otherwise has the same meaning as 'suitably qualified person' in the SRC Act. The note to this definition provides that the term 'suitably qualified person', which is not defined in the SRC Act, appears in section 36 of the SRC Act.
12. The term **panel** means a panel comprising two or more **assessors**.

'Employee's circumstances'

13. The term **employee's circumstances** is defined broadly to encompass various matters relevant to the employee's rights, entitlements and obligations under the SRC Act. The definition is not intended to be exhaustive. Paragraph (k) of the definition confirms that the circumstances of an employee include any other relevant matter.
- (a) Before the rehabilitation authority arranges a **rehabilitation assessment**, the rehabilitation authority must consider whether it has sufficient information regarding the following matters to the extent the matters may be relevant to the employee's rehabilitation: the **employee's circumstances**; or any change in the **employee's circumstances**; or any relevant matter specified in the **Guidelines for Rehabilitation Authorities** (Schedule 1, subsection 2(1)).
- (b) Similarly, before the employee is required to undergo a **rehabilitation examination** or a **medical examination**, the rehabilitation authority or the relevant authority, as the case may be, must consider whether it has information regarding the following matters: the **employee's circumstances**; or any change in the **employee's circumstances**; or the employee's capability of undertaking a rehabilitation program (Schedule 1, subsections 3(1) and 9(1)).
- (c) An employee shall not be required to undergo more than one **rehabilitation examination** or **medical examination** in respect of the **injury** more frequently than at 6-month

intervals, where each interval commences the day after the last day on which the last examination took place (Schedule 1, subsections 6(1) and 12(1)). That minimum interval does not apply in relation to a *rehabilitation examination* or *medical examination* if, among other things, there has been a change in the *employee's circumstances* (Schedule 1, paragraphs 6(3)(d) and 12(3)(d)).

14. The term *employee's circumstances*, in relation to an employee who suffers an *injury*, includes:
- (a) the *injury*;
 - (b) any other medical condition, however described, suffered by the employee before, during or after the *injury*;
 - (c) the employee's need or claimed need for medical treatment;
 - (d) the employee's capacity for work or claimed incapacity for work;
 - (e) the employee's impairment or claimed impairment; the employee's non-economic loss or claimed non-economic loss;
 - (f) the employee's need or claimed need for any alterations, modifications or aids or appliances;
 - (g) the employee's need or claimed need for household services or attendant care services; any suitable employment for the employee including the availability of such employment;
 - (h) the employee's personal circumstances; and
 - (i) any other relevant matter.
15. See the next paragraph for the meaning of the term *injury*.

'Injury'

16. The term *injury*, in relation to an employee, is defined to mean an 'injury' (within the meaning of the SRC Act: see subsection 4(3), and sections 5A and 123A) suffered by the employee in respect of which compensation is payable under the SRC Act. It is also defined to mean a medical condition, however described, that is the subject of a claim made by or on behalf of the employee, or a notice under section 53 of the SRC Act but is not yet the subject of a claim. The appropriate meaning of the term *injury* is to be determined by reference to the context in which the term appears in the Instrument.
17. In Part 2 of Schedule 1 to the Instrument, the term *injury* has an extended meaning and includes a reference to the effects of the injury. The effects of the injury include, for example: the need for medical treatment in relation to the injury; the incapacity for work or impairment resulting from the injury; the need for household services or attendant care services as a result of the injury; the non-economic loss resulting from the injury or impairment; and the need for any alterations, modifications or aids or appliances as a result of the impairment.

'Guidelines for Rehabilitation Authorities'

18. The term *Guidelines for Rehabilitation Authorities* means the guidelines, if any, issued by Comcare in accordance with section 41 of the SRC Act to rehabilitation authorities in relation to the performance or exercise by those authorities of their functions or powers under Part III of the SRC Act, and as in force from time to time.

'Independent medical practitioner', 'treating practitioner'

19. The term ***independent medical practitioner***, in relation to an employee, means a ***medical practitioner*** other than a ***treating practitioner***.
20. The term ***treating practitioner***, in relation to an employee, means a ***medical practitioner*** or ***other health professional*** who is primarily responsible for the clinical management of the employee's ***injury***. For example, this could be the employee's treating general practitioner, treating specialist or treating psychologist.
21. See above for the meaning of the terms ***injury***, ***medical practitioner*** and ***other health professional***.

'Medical examination'

22. The term ***medical examination*** means an examination arranged by a relevant authority that an employee is required to undergo in accordance with subsection 57(1) of the SRC Act.
 - (a) Subsection 57(1) provides that, where a notice has been given to a relevant authority under section 53 in relation to an employee, or an employee has made a claim for compensation under section 54, the relevant authority may require the employee to undergo an examination by one legally qualified medical practitioner nominated by the relevant authority.
 - (b) Subsection 57(1A) provides that, in deciding whether to require an examination under subsection 57(1), the relevant authority must comply with the ***approved Rehabilitation Assessments and Examinations Guide***.

'Day', 'month'

23. The term ***day*** means calendar day, unless otherwise specified in the Instrument.
24. The term ***month*** has the meaning given in section 2G of the Acts Interpretation Act.
 - (a) Subsection 2G(2) of the Acts Interpretation Act and subsection 13(1) of the Legislation Act relevantly provide that, in any Act (which includes a legislative instrument), subject to a contrary intention, a reference to a period of 2 or more months is a reference to a period: starting at the start of a day of one of the calendar months (the ***starting month***); and ending: (i) immediately before the start of the corresponding day of the calendar month that is that number of calendar months after the starting month; or (ii) if there is no such day—at the end of the calendar month that is that number of calendar months after the starting month.
 - (b) Example 1: A reference to 6 months starting on 15 December in a year is a reference to a period starting on that day and ending immediately before 15 June in the next year.
 - (c) Example 2: A reference to 6 months starting on 31 October in a year is a reference to a period starting on that day and ending at the end of April in the next year (because April is the calendar month coming sixth after October and does not have 31 days).

'Rehabilitation assessment'

25. The term ***rehabilitation assessment*** means an assessment of an employee's capability of undertaking a rehabilitation program arranged by a rehabilitation authority in accordance with subsection 36(1) of the SRC Act.

- (a) Subsection 36(1) provides that, where an employee suffers an ‘injury’ (within the meaning of the SRC Act: see subsection 4(3), and sections 5A and 123A) resulting in an incapacity for work or an impairment, the rehabilitation authority may at any time, and shall on the written request of the employee, arrange for the assessment of the employee’s capability of undertaking a rehabilitation program.
- (b) Subsection 36(3A) relevantly provides that, in deciding whether to arrange for an assessment under subsection 36(1), the rehabilitation authority must comply with the ***approved Rehabilitation Assessments and Examinations Guide***.

‘*Rehabilitation examination*’

26. The term ***rehabilitation examination*** means a ***rehabilitation assessment*** and examination arranged by a rehabilitation authority that an employee is required to undergo in accordance with subsection 36(3) of the SRC Act.
- (a) Subsection 36(3) provides that the rehabilitation authority may require the employee to undergo an examination by the person or panel of persons making the assessment.
 - (b) Subsection 36(3A) relevantly provides that, in deciding whether to require an examination under subsection 36(3), the rehabilitation authority must comply with the ***approved Rehabilitation Assessments and Examinations Guide***.
 - (c) Subsection 36(8) provides that, where an examination is carried out, the person or persons who carried out the examination shall give to the rehabilitation authority a written assessment of the employee’s capability of undertaking a rehabilitation program, specifying, where appropriate, the kind of program which he or she is capable of undertaking and containing any other information relating to the provision of a rehabilitation program for the employee that the rehabilitation authority may require.

‘*SRC Act*’, ‘*SRC Regulations*’

27. The term ***SRC Act*** means the *Safety, Rehabilitation and Compensation Act 1988*.
28. The term ***SRC Regulations*** means the *Safety, Rehabilitation and Compensation Regulations 2019*. Section 10 of the Acts Interpretation Act and subsection 13(1) of the Legislation Act relevantly provide, in effect, that where an Act (which includes a legislative instrument) contains a reference to a short title of another Act (such as the *Safety, Rehabilitation and Compensation Regulations 2019*), then:
- (a) the reference shall be construed as a reference to that other Act as originally enacted and as amended from time to time; and
 - (b) where that other Act has been repealed and re-enacted, with or without modifications, the reference shall be construed as including a reference to the re-enacted Act as originally enacted and as amended from time to time.

‘*Support person*’

29. The term ***support person*** means, in relation to a rehabilitation examination or medical examination, any person who accompanies the employee during part or all of the examination for the sole purpose of providing emotional support to the employee during the examination. A person who is proposed to accompany the employee during an examination for any additional or other reason would not be covered by this definition.

‘Workplace rehabilitation provider’

30. The term **workplace rehabilitation provider** has the same meaning as ‘approved program provider’ in the SRC Act. The term ‘approved program provider’ is defined in subsection 4(1) of the SRC Act to mean a person or body approved under section 34F or 34H as a rehabilitation program provider and includes a person or body so approved whose approval is renewed under section 34L.

Section 5 – Approved Guide

31. Section 5 provides that the Guide prepared by Comcare in accordance with section 57A of the SRC Act, which is set out in Schedule 1 to the Instrument, is approved for the purposes of the SRC Act.
32. The first note to section 5 provides that, in deciding whether to arrange for an assessment under subsection 36(1) or to require an examination under subsection 36(3) of the SRC Act, the rehabilitation authority must comply with the Guide. The note refers the reader to subsection 36(3A) of the SRC Act.
33. The second note to section 5 provides that, in deciding whether to require an examination under subsection 57(1) of the SRC Act, the relevant authority must comply with the Guide. The note refers the reader to subsection 57(1A) of the SRC Act.

Section 6 – Application of the Approved Guide

34. Section 6 provides for the application of the Guide.
35. Paragraph 6(1)(a) provides that the Guide applies in relation to a rehabilitation assessment if the assessment is the subject of a determination made under subsection 36(1) of the SRC Act on or after the application date, regardless of when the employee sustained the injury.
36. Paragraph 6(1)(b) provides that the Guide applies in relation to a rehabilitation examination if the examination is the subject of a determination made under subsection 36(3) of the SRC Act on or after the application date, regardless of when the employee sustained the injury.
37. Paragraph 6(1)(c) provides that the Guide applies in relation to a medical examination if the examination is the subject of a determination made under subsection 57(1) of the SRC Act on or after the application date, regardless of when the employee sustained the injury.
38. **Application date** is defined in section 4 to mean the date that is 6 weeks after the date on which the Instrument commences. This is to allow decision makers to continue to make determinations under subsection 36(1), 36(6) or 57(1) of the SRC Act after the commencement of the Guide, but to provide a period of time to allow any necessary operational changes to implement the requirements in the Guide. It is intended to avoid a situation where it is said that a determination under subsection 36(1), 36(3) or 57(1) made the day after the commencement of the Instrument (for example) is improperly made due to failure to comply with the Guide.
39. Subsection 6(2) provides that, subject to subsection 6(3), both the Guide and the Guidelines for Rehabilitation Authorities apply in relation to rehabilitation assessments and rehabilitation examinations.
40. The note to subsection 6(2) provides that a rehabilitation authority shall comply with the Guidelines for Rehabilitation Authorities. The note refers the reader to subsection 41(2) of the SRC Act.

41. Subsection 6(3) provides an exception to subsection 6(2) and provides that, if there is an inconsistency between the Guide and the Guidelines for Rehabilitation Authorities, and the inconsistency is such that the Guide and the Guidelines for Rehabilitation Authorities cannot be applied at the same time, the Guide takes precedence over the Guidelines for Rehabilitation Authorities to the extent of the inconsistency.

Schedule 1 – Guide for Arranging Rehabilitation Assessments and Requiring Examinations

42. The following references to provisions are references to the provisions of Schedule 1 to the Instrument unless otherwise stated.

Part 1 – Rehabilitation assessments and rehabilitation examinations

Section 1 – Application of this Part

43. Section 1 provides that Part 1 is made for the purposes of section 57A of the SRC Act and applies in relation to rehabilitation assessments and rehabilitation examinations of an employee who suffers an injury resulting in an incapacity for work or an impairment.
44. If the rehabilitation authority *requires* the employee to undergo a rehabilitation assessment, the authority must comply with sections 2 to 7. Note that the rehabilitation authority only requires the employee to undergo a rehabilitation assessment if the authority requires the employee to undergo an examination as part of the assessment. That situation is reflected in the definition of *rehabilitation examination*.
45. If the rehabilitation authority arranges a rehabilitation assessment without requiring the employee to undergo an examination as part of the assessment, the authority is only required to comply with sections 2 and 4.
46. Failure to substantively comply with the requirements of Part 1 for the purpose of making a determination under section 36 of the SRC Act may be a relevant consideration if the determination is the subject of a request for reconsideration under section 38 or 62 of the SRC Act, whichever applies.

Section 2 – Arranging rehabilitation assessments

47. Section 2 outlines the steps the rehabilitation authority must take, and the matters the rehabilitation authority must consider before arranging a rehabilitation assessment.
48. Subsection 2(1) provides that, before the rehabilitation authority arranges a rehabilitation assessment, the rehabilitation authority must consider whether it has sufficient information regarding the following matters to the extent the matters may be relevant to the employee's rehabilitation:
- (a) the employee's circumstances; or
 - (b) any change in the employee's circumstances; or
 - (c) any relevant matter specified in the Guidelines for Rehabilitation Authorities.
49. Compliance with subsection 2(1) is mandatory for all rehabilitation authorities.

Illustrative scenarios

Scenario one

An employee has recently suffered an injury and there has been no prior assessment of the employee's capability of undertaking a rehabilitation program. A delegate of the rehabilitation authority (**delegate**) reviews the case file for any material relevant to the employee's ability to undertake a rehabilitation program. The delegate considers there to be insufficient information regarding the employee's potential rehabilitation and considers that further information is needed. Accordingly, the delegate should request that information from the employee's treating practitioner.

Scenario two

The employee has previously undergone a rehabilitation examination. Since then, the employee's capacity for work has increased and the treating practitioner has provided updated rehabilitation information. The delegate reviews the information on the case file and considers there to be sufficient information regarding the change in the employee's circumstances such that they do not need to seek additional information from the employee's treating practitioner before arranging a further assessment (desk top assessment) of the employee's capability of undertaking a rehabilitation program.

Information to be sought from employee's treating practitioner

50. Subsection 2(2) provides that, if, in the opinion of the rehabilitation authority, there is insufficient or inconsistent information regarding a matter specified in subsection 2(1), to the extent the matter is relevant to the employee's rehabilitation, the rehabilitation authority should:
 - (a) request, verbally or in writing, the employee's treating practitioner to provide information regarding that matter; and
 - (b) specify that the information must be provided to the rehabilitation authority in writing; and
 - (c) specify a date being not less than 14 days after the date of the request for the information to be provided by the employee's treating practitioner.
51. While paragraph 2(2)(a) provides that a rehabilitation authority's request to the treating practitioner for information may be made verbally, it will be generally preferable for the request to be made in writing. It may be acceptable in some cases for the request to be made verbally, for example, during a rehabilitation case conference or telephone conversation between the treating practitioner and rehabilitation authority. Where a verbal request for information is made, the request should be recorded in writing (for example, in a file note) and/or confirmed in writing (for example, via email), consistent with best practice case management procedures.
52. Notwithstanding that a request for information may be made verbally by a rehabilitation authority, paragraph 2(2)(b) requires that the response from the treating practitioner be in writing, and the rehabilitation authority should advise the treating practitioner of this requirement. Importantly, the information requested and provided in accordance with subsection 2(2) need only address the matter(s) in relation to which there is insufficient or inconsistent information.
53. Paragraph 2(2)(c) provides that a request to the treating practitioner for information should specify a date for the information to be provided, being a date not less than 14 days after the date of the request. Given a comprehensive written response from the treating practitioner will not be required in most cases, the timeframe for complying should also be minimal.
54. In most cases, where the rehabilitation authority is satisfied there is insufficient or inconsistent information regarding a matter specified in subsection 2(1), to the extent the matter is relevant

to the employee's rehabilitation, it is expected that the rehabilitation authority will seek information from the employee's treating practitioner. However, it may be appropriate in exceptional circumstances (for example, emergencies, the treating practitioner is no longer practicing, genuinely time-limited rehabilitation opportunities, or to comply with work health and safety duties) for the rehabilitation authority to not seek information from the employee's treating practitioner.

Rehabilitation assessments without examination

55. Subsection 2(3) provides that the rehabilitation authority should rely on the employee's treating practitioner and the information (if any) provided by the treating practitioner in accordance with subsection 2(2) as much as possible before arranging a rehabilitation assessment by an independent medical practitioner, other qualified person or panel.
- (a) The phrase 'as much as possible' is taken from subparagraph 57A(3)(a)(ii) of the SRC Act and, consistent with the object of the Guide (to support ethical, transparent and accountable decision-making in relation to arranging rehabilitation assessments), requires the rehabilitation authority to use its best endeavours.
 - (b) If the treating practitioner provides information before the specified date, the rehabilitation authority should proceed with arranging the rehabilitation assessment as soon as reasonably practicable.
 - (c) If the treating practitioner does not provide any information by the specified date, the rehabilitation authority may proceed with arranging the rehabilitation assessment. If the treating practitioner provides some or all of the requested information after a referral is made to the independent medical practitioner, other qualified person or panel, the rehabilitation authority may take that information into account but is not required to rely on that information.
56. In most cases, the rehabilitation authority should rely on the employee's treating practitioner and the information provided by the treating practitioner, to the extent the information provided is relevant to the employee's rehabilitation and the request made in accordance with subsection 2(2).
57. Subsection 2(4) provides that the circumstances in which it is appropriate for the rehabilitation authority to arrange for a rehabilitation assessment, without requiring the employee to undergo an examination, are where:
- (a) in the opinion of the rehabilitation authority, there is sufficient information regarding the matters specified in subsection 2(1), to the extent the matters are relevant to the employee's rehabilitation, such that an examination of the employee is not required; and
 - (b) it is consistent with any obligation or function of the rehabilitation authority to arrange for the assessment, re-assessment or periodic monitoring of the employee's capability of undertaking a rehabilitation program.
58. Examples of obligations or functions of the kind covered by paragraph 2(4)(b) are those found in the SRC Act (for example, sections 40, 36 and 108E) and under work health and safety laws, public governance, performance and accountability laws, administration of public service laws, and employment laws, to extent those laws apply to the rehabilitation authority.
59. The note to subsection 2(4) provides that, where an employee suffers an 'injury' (within the meaning of the SRC Act: see subsection 4(3), and sections 5A and 123A) resulting in an incapacity for work or an impairment, the rehabilitation authority shall, on the written request of the employee, arrange for the assessment of the employee's capability of undertaking a

rehabilitation program. The note refers the reader to subsection 36(1) of the SRC Act. The rehabilitation authority is still required to comply with the Guide in these circumstances.

60. Subsection 7(2) provides that, for the avoidance of doubt, Part 1 (including section 2) does not require the rehabilitation authority to require the employee to undergo a rehabilitation examination.
61. Subsection 7(3) relevantly provides that, for the avoidance of doubt, Part 1 (including section 2) does not prevent the rehabilitation authority from arranging a rehabilitation assessment by: the employee's treating practitioner; or a panel comprising the treating practitioner and one or more independent medical practitioners or other qualified persons as are nominated by the rehabilitation authority.

Section 3 – Requiring rehabilitation examinations

62. Section 3 specifies the circumstances in which it is appropriate for a rehabilitation authority to require an employee to undergo a rehabilitation examination and outlines the steps the rehabilitation authority must or should take. This section does not apply to rehabilitation assessments where the employee is not required to undergo an examination as part of the assessment.
63. Subsection 3(1) provides that the circumstances in which it is appropriate for the rehabilitation authority to require the employee to undergo a rehabilitation examination are where:
 - (a) the rehabilitation authority has complied with subsection 2(1) (that is, the rehabilitation authority has considered whether it has sufficient information regarding the matters specified in that subsection to the extent those matters may be relevant to the employee's rehabilitation) and subsection 2(2) (that is, the rehabilitation authority has requested the employee's treating practitioner to provide certain information in accordance with the requirements of that subsection); and
 - (b) in the opinion of the rehabilitation authority, there is still insufficient or inconsistent information regarding the matters specified in subsection 2(1), to the extent the matters are relevant to the employee's rehabilitation, such that an examination of the employee is required; and
 - (c) it is consistent with any obligation or function of the rehabilitation authority to require the employee to undergo an examination, re-examination or periodic monitoring of the employee's capability of undertaking a rehabilitation program.
64. Examples of obligations or functions of the kind covered by paragraph 3(1)(c) are those found in the SRC Act (for example, sections 40, 36 and 108E) and under work health and safety laws, public governance, performance and accountability laws, administration of public service laws, and employment laws, to extent those laws apply to the rehabilitation authority.
65. It may be relevant when considering the obligations or functions of the kind covered by paragraph 3(1)(c), on a case-by-case basis, whether it is appropriate to:
 - (a) require the employee to travel long distances to be examined by an assessor or panel if there is a suitably qualified assessor or panel closer to the employee's place of residence;
 - (b) require the employee to see a different assessor if a previous assessor is suitably qualified and available to examine the employee within a reasonable timeframe, particularly if the employee has expressed a preference to be examined by the earlier assessor.

Views to be sought from employee

66. Subsection 3(2) provides that, before the rehabilitation authority requires the employee to undergo a rehabilitation examination, the rehabilitation authority must:
- (a) request, verbally or in writing, the views of the employee, including the reason for those views, about the matters specified in subsection 3(3); and
 - (b) specify that the employee's views must be provided to the rehabilitation authority by a date being not less than 3 business days after the date of the request.
67. While paragraph 3(2)(a) provides that a rehabilitation authority's request to the employee for views may be made verbally, it will be generally preferable for the request to be made in writing. Where a verbal request for information is made, the request should be recorded in writing (for example, in a file note) and/or confirmed in writing (for example, via email), consistent with best practice case management procedures.
68. Paragraph 3(2)(b) provides that a request to the employee for views should specify a date for the information to be provided, being a date not less than 3 business days after the date of the request. If the employee requires more time, for example, to consult their treating practitioner or other professional adviser, it may be appropriate for the rehabilitation authority to grant the employee a reasonable amount of time to undertake that consultation.
69. Subsection 3(3) provides that the following matters are specified for the purposes of subsection 3(2):
- (a) the selection of the assessor or panel who is to conduct the rehabilitation examination; and
 - (b) whether the employee requires a support person; and
 - (c) any other relevant matter that should be considered by the rehabilitation authority before it requires the employee to undergo the rehabilitation examination.
70. The example in relation to paragraph 3(3)(c) notes that the employee might provide their views about their medical restrictions, geographical location and gender, and any language or communication barriers. The example is not intended to be exhaustive, and the employee may identify other relevant matters to be considered by the rehabilitation authority before it requires the employee to undergo the rehabilitation examination.
71. Paragraph 3(4)(a) provides that the rehabilitation authority must take into account the views of the employee (if any) provided by the employee in accordance with subsection 3(2).
- (a) If the employee provides their views by the specified date, the rehabilitation authority must take the employee's views into account. That means that the employee's views must be considered as part of all relevant considerations, which could include the qualifications of the assessor or panel, the location of the assessor or panel, whether a telehealth examination is appropriate, and the cost of a particular assessor or panel. However, the Guide does not limit the views that the employee may provide.
 - (b) The rehabilitation authority does not need to wait until the specified date to proceed with requiring the rehabilitation examination if the employee provides their views at any time before the specified date. This prevents unnecessary delays relating to decisions about an employee's rehabilitation.

- (c) If the employee does not provide their views by the specified date, the rehabilitation authority may proceed with requiring the employee to undergo the rehabilitation examination. If the employee provides their views after the rehabilitation authority has selected the assessor or panel, the rehabilitation authority may take that information into account but is not required to take the employee's views into account.
 - (d) However, if the views expressed by the employee at any time would support a reasonable excuse for the employee not attending or undergoing the examination, the rehabilitation authority should take those views into account. See subsection 36(4) of the SRC Act, which provides, in effect, that the obligation on the employee to undergo the examination is subject to a reasonable excuse.
72. Paragraph 3(4)(b) provides that the rehabilitation authority should rely on the employee's treating practitioner and the information (if any) provided by the treating practitioner in accordance with subsection 2(2) as much as possible before requiring the employee to undergo a rehabilitation examination by an independent medical practitioner, other qualified person or panel.
- (a) The phrase 'as much as possible' is taken from subparagraph 57A(3)(a)(ii) of the SRC Act and, consistent with the object of the Guide (to support ethical, transparent and accountable decision-making in relation to requiring an employee to undergo an examination under subsection 36(3) of the SRC Act), requires the rehabilitation authority to use its best endeavours.
 - (b) If the treating practitioner provides information before the specified date, the rehabilitation authority should proceed with arranging the rehabilitation examination as soon as reasonably practicable.
 - (c) If the treating practitioner does not provide any information by the specified date, the rehabilitation authority may proceed with requiring the employee to undergo the rehabilitation examination. If the treating practitioner provides some or all of the requested information after a referral is made to the independent medical practitioner, other qualified person or panel, the rehabilitation authority may take that information into account but is not required to rely on that information.
73. In most cases, the rehabilitation authority should rely on the employee's treating practitioner and the information provided by the treating practitioner, to the extent the information provided by the treating practitioner is relevant to the employee's rehabilitation and the request made in accordance with subsection 2(2).
74. Subsection 3(5) provides that, before the rehabilitation authority requires the employee to undergo a rehabilitation examination, the rehabilitation authority must advise the employee that they may have a support person accompany the employee during part or all of the examination.
- (a) Some assessors or panels may be unable to accommodate a support person during part of the examination (for example, if certain tests require the employee to be in isolation) or all of the examination (for example, if public health directions or other applicable laws apply to limit the number of people in a room). If that is the case, the rehabilitation authority should ensure the employee is aware of any potential limitations when advising the employee in accordance with subsection 3(5).
75. Compliance with subsections 3(2) and (5), and paragraph 3(4)(a), is mandatory for a rehabilitation authority who intends to require the employee to undergo a rehabilitation examination.

Illustrative scenarios**Scenario three**

A delegate of the rehabilitation authority (**delegate**) confers with the employee to discuss their rehabilitation needs and the need for a rehabilitation examination. The delegate explains that the rehabilitation authority has a panel arrangement with a third-party service provider that it may use when selecting an assessor. The delegate asks the employee if they have any views on the selection of the assessor who will conduct the examination.

The employee may express a variety of views about the assessor (but is not required to do so) including:

- the assessor's gender;
- the location of the assessor's practice;
- a preference for the same or a different assessor as a prior examination;
- a preference for a telehealth consultation;
- any other views that may be relevant to the employee's attendance or participation in the examination.

The delegate may either:

- document the employee's views or that the employee did not express any views about the selection of the assessor who is to conduct the examination (this should be confirmed in writing such as via an email); or
- ask the employee to respond with their views in writing by a specified date being not less than 3 business days after the date of the request (this should be confirmed in writing such as via an email).

The delegate must take into account the employee's views, if any are provided before the specified date, when making a decision on which rehabilitation assessor to nominate from the panel. The delegate should document their reasons for that decision.

Note: In this scenario, the term 'panel' has its ordinary meaning.

Scenario four

The delegate identifies an 'other qualified person' or an independent medical practitioner who has qualifications relevant to the employee's injury and who is available to provide their services at a reasonable cost. The delegate confers with the employee to discuss the examination, setting out the reasons why the particular assessor has been proposed and asks the employee for their views on the selection of the assessor, to be provided within 3 business days.

The employee provides their views via email 1 business day after the request, which the delegate considers in deciding which assessor to nominate and records the reasons for that decision. Where the employee provides their views before the specified date, the rehabilitation authority may proceed to require the employee to undergo the rehabilitation examination without waiting until after the specified date.

Scenario five

The delegate confers with the employee with a choice of several assessors who have qualifications relevant to the employee's injury, who are available to provide their services at a reasonable cost. The delegate explains the reasons for the proposed selection and asks for the employee's views on the selection of the assessors. The employee requests 5 business days to provide their views to allow them to consult with their treating practitioner, which the delegate grants.

The employee provides their views during a subsequent telephone call with the delegate 6 business days after the request, which the delegate may (but does not have to) consider in deciding which assessor to nominate and must record the reasons for that decision.

Section 4 – Qualifications of assessors

76. Section 4 provides that, before the rehabilitation authority arranges a rehabilitation assessment or requires the employee to undergo a rehabilitation examination by an assessor, whether separately or as a member of a panel, the rehabilitation authority must be reasonably satisfied that the assessor:
- (a) in the case of an other qualified person—is a workplace rehabilitation provider (that is, a person or body approved under section 34F or 34H of the SRC Act as a rehabilitation program provider including a person or body so approved whose approval is renewed under section 34L of the SRC Act) or has the equivalent qualifications of a workplace rehabilitation provider; or
 - (b) in any other case—is a medical practitioner (that is, a person who is registered with the Australian Health Practitioner Regulation Agency as a medical practitioner) who is qualified, by their training or registration, to assess the employee’s injury.
77. Compliance with section 4 is mandatory for all rehabilitation authorities.

Section 5 – Notice requirements

78. Section 5 contains additional notice requirements in relation to a rehabilitation examination of the employee. These are additional notice requirements because the usual notice requirements in section 38 or 61 of the SRC Act, whichever applies, do not require the notice to address the employee’s rights and obligations relating to the examination.
79. The additional notice requirements in this section do not apply to a rehabilitation assessment where the employee is not required to undergo an examination as part of the assessment. However, the usual notice requirements in section 38 or 61 of the SRC Act, whichever applies, continue to apply to a rehabilitation assessment where the employee is not required to undergo an examination as part of the assessment.
80. Subsection 5(1) provides that, as soon as practicable after a rehabilitation authority makes a determination requiring the employee to undergo a rehabilitation examination by an assessor or panel (that is, a determination under subsection 36(3) of the SRC Act), the rehabilitation authority must give the employee a notice of the employee’s rights and obligations relating to the examination. This is in addition to the usual notice requirements in section 38 or 61 of the SRC Act, whichever applies.
81. The first note to section 5 provides that the requirements for notifying determinations under section 36 are contained in section 38 (for a rehabilitation authority other than a relevant authority) or section 61 (for a rehabilitation authority that is a relevant authority) of the SRC Act.
- (a) Section 38 of the SRC Act relevantly provides that the notice shall be in writing and set out: the terms of the determination; the reasons for the determination; and a statement to the effect that the employee may, if dissatisfied with the determination, request Comcare for a review of the determination under section 38.
 - (b) Section 61 of the SRC Act relevantly provides that the notice shall be in writing and set out: the terms of the determination; the reasons for the determination; and a statement to

the effect that the employee may, if dissatisfied with the determination, request a reconsideration of the determination under subsection 62(2).

82. The second note to section 5 provides that the employee has rights and obligations under sections 36 of the SRC Act, and under either section 38 or 62 of the SRC Act. The notice of rights and obligations under section 5 should include reference to and describe the effect of these sections.
- (a) The employee is able to refuse to undergo a rehabilitation examination without sanction but only if the employee has a reasonable excuse to do so. Subsection 36(4) of the SRC Act provides that, where an employee refuses or fails, without reasonable excuse, to undergo an examination in accordance with a requirement, or in any way obstructs such an examination, the employee's rights to compensation under the SRC Act, and to institute or continue any proceedings under the SRC Act in relation to compensation, are suspended until the examination takes place. However, subsection 36(4) does not operate to suspend the employee's right to compensation for the cost of medical treatment that is payable under section 16 (SRC Act, subsection 36(4A)). Where an employee's right to compensation is suspended under subsection 36(4), compensation is not payable in respect of the period of the suspension (SRC Act, subsection 36(7)).
 - (b) The employee has a right of reimbursement of reasonable expenses incurred in relation to the rehabilitation examination. Subsection 36(5) of the SRC Act provides that the relevant authority shall pay the cost of conducting any examination of an employee and is liable to pay to the employee an amount equal to the amount of the expenditure reasonably incurred by the employee in making a necessary journey in connection with the examination or remaining, for the purpose of the examination, at a place to which the employee has made a journey for that purpose. In deciding questions arising under subsection 36(5), a relevant authority shall have regard to the matters in subsection 36(6).
 - (c) The employee has a right to request a review of a determination that the employee is required to undergo a rehabilitation examination. Subsection 38(2) of the SRC Act provides that an employee in respect of whom a determination under section 36 is made by a rehabilitation authority (other than a relevant authority) may, by notice in writing given to Comcare, request Comcare to review the determination. A request shall: set out the reasons for the request; and be given to Comcare within 30 days after the day on which the determination first came to the notice of the employee, or within such further period (if any) as Comcare, either before or after the expiration of that period, allows (SRC Act, subsection 38(3)).
 - (d) The employee (if employed by a licensee) has a right to request reconsideration of a determination that the employee is required to undergo a rehabilitation examination. Subsections 60(1) and 62(2) of the SRC Act provide, in effect, that a request to a determining authority (that is, in relation to a determination, the person who made the determination) to reconsider a determination made by it under section 36 may be made by the claimant (that is, a person in respect of whom a determination is made). A request for reconsideration of a determination shall: set out the reasons for the request; and be given to the determining authority within 30 days after the day on which the determination first came to the notice of the person making the request, or within such further period (if any) as the determining authority, either before or after the expiration of that period, allows (SRC Act, subsection 62(3)).
83. Subsection 5(2) provides that the notice required by subsection 5(1) must also include the rehabilitation authority's reasons for:
- (a) accepting or not accepting, whether in whole or part, the views of the employee (if any) provided by the employee in accordance with subsection 3(2); and

- (b) relying on or not relying on, whether in whole or part, the employee's treating practitioner and the information (if any) provided by the treating practitioner in accordance with subsection 2(2).
84. Subsection 5(3) provides that, if the rehabilitation authority makes a determination requiring the employee to undergo a rehabilitation examination by a medical practitioner, or a panel comprising one or more medical practitioners, the notice required by subsection 5(1) must be given to the employee:
- (a) at least 14 days before the date of the rehabilitation examination; or
 - (b) if the employee has agreed to a notice period of less than 14 days—a period before the date of the rehabilitation examination being not less than the notice period agreed to by the employee.
85. It is generally preferable that an employee's agreement to a period specified in paragraph 5(3)(b) should be confirmed in writing by the employee. If there is a verbal agreement for a notice period of less than 14 days, the agreement should be recorded in writing (for example, in a file note) and/or confirmed in writing (for example, via email), consistent with best practice case management procedures.
86. Compliance with section 5 is mandatory for a rehabilitation authority who has required an employee to undergo a rehabilitation examination.

Section 6 – Limitations on frequency and number of rehabilitation examinations

87. Section 6 limits the frequency and number of rehabilitation examinations of an employee in respect of the injury. This section does not apply to rehabilitation assessments where the employee is not required to undergo an examination as part of the assessment.
88. Subsection 6(1) provides that the employee shall not be required to undergo more than one rehabilitation examination in respect of the injury more frequently than at 6-month intervals, where each interval commences the day after the last day on which the last examination took place (the **minimum interval**).
89. Subsection 6(2) provides that the minimum interval *only* applies in relation to a rehabilitation examination if: the employee undergoes the examination; and the employee does not in any way obstruct the examination; and the support person (if any) does not in any way obstruct the examination. For example, if the employee is unable to attend an examination (for whatever reason), the rehabilitation authority may choose to reschedule the examination and require the employee to undergo the rescheduled examination as soon as reasonably practicable.
90. Subsection 6(3) provides that the minimum interval *does not apply* in relation to a rehabilitation examination in certain specified circumstances. If any of the circumstances arise, the rehabilitation authority may require the employee to undergo a rehabilitation examination (in accordance with the Guide) within the minimum interval.
91. Paragraph 6(3)(a) provides that the minimum interval does not apply if the employee has made a written request for a rehabilitation assessment in accordance with subsection 36(1) of the SRC Act during the minimum interval.
92. Paragraph 6(3)(b) provides that the minimum interval does not apply if the employee's treating practitioner has recommended a rehabilitation assessment during the minimum interval.

93. Paragraph 6(3)(c) provides that the minimum interval does not apply if an earlier rehabilitation assessment recommended a further examination or re-examination by a specific date or after a specific period, and the date is, or the period ends, during the minimum interval.
94. Paragraph 6(3)(d) provides that the minimum interval does not apply if there has been a change in the employee's circumstances. For example, if:
- (a) there is an improvement or deterioration in the employee's injury affecting their need for medical treatment, household services or attendant care services; or
 - (b) there is an improvement or deterioration in the employee's injury, or any other medical condition suffered by the employee, affecting their capacity for work; or
 - (c) there is an improvement or deterioration in the impairment resulting from the employee's injury affecting their capability of undertaking a rehabilitation program or their need for aids or appliances; or
 - (d) the employee relocates their place of residence affecting the availability of suitable employment.
95. Paragraph 6(3)(e) provides that the minimum interval does not apply if the injury requires multidisciplinary medical treatment and:
- (a) it is not reasonably practicable for a single assessor or panel to address all the matters that are the subject of paragraph 3(1)(b); and
 - (b) it is appropriate for the rehabilitation authority to require the employee to undergo more than one rehabilitation examination, with a different assessor or panel, during the minimum interval.
96. For example, some back injuries affect the bones and muscles, and the nervous system, and require treatment from multiple medical disciplines (such as an orthopaedic surgeon, a neurosurgeon, a urologist and/or a pain specialist).
97. Paragraph 6(3)(f) provides that the minimum interval does not apply if the assessor or panel nominated by the rehabilitation authority to conduct the rehabilitation examination fails, for any reason, to provide a written assessment of the employee's capability of undertaking a rehabilitation program within: the timeframe specified by the rehabilitation authority as part of the arrangement; or such additional timeframe allowed by the rehabilitation authority.
98. Paragraph 6(3)(g) provides that the minimum interval does not apply if a request for reconsideration of any determination is made in accordance with section 38 or 62 of the SRC Act and: in the opinion of Comcare or the relevant authority, as the case may be, there is insufficient or inconsistent information regarding any matter relevant to the reasons for the request; and a reviewable decision has not yet been made in relation to the request.
99. Paragraph 6(3)(h) provides that the minimum interval does not apply if an application for review of any reviewable decision is made in accordance with section 64 of the SRC Act and: in the opinion of the person or body who made the reviewable decision, there is insufficient or inconsistent information regarding any matter relevant to the review; and a final decision has not yet been made in relation to the review. Section 64 of the SRC Act provides that applications may be made to the Administrative Appeals Tribunal (soon to be the Administrative Review Tribunal).

Section 7 – Other relevant matters

100. Subsection 7(1) provides that, nothing in Part 1 is to be construed so as to require a rehabilitation authority to comply with Part 1 separately or sequentially. That is, the rehabilitation authority may comply with the requirements of Part 1 at the same time or by the same conduct.
101. An example to subsection 7(1) provides that the rehabilitation authority may seek information from the employee's treating practitioner at the same time as, or before or after, seeking views from the employee.
102. Subsection 7(2) provides that, for the avoidance of doubt, Part 1 does not require the rehabilitation authority to require the employee to undergo a rehabilitation examination. The rehabilitation authority may consider it appropriate to arrange a rehabilitation assessment without an examination at any time, subject to sections 2 and 4.
103. Subsection 7(3) provides that, for the avoidance of doubt, Part 1 does not prevent the rehabilitation authority from arranging a rehabilitation assessment, or requiring the employee to undergo a rehabilitation examination, by: the employee's treating practitioner; or a panel comprising the treating practitioner and one or more independent medical practitioners or other qualified persons as are nominated by the rehabilitation authority.
104. Subsection 7(4) provides that the rehabilitation authority must keep a record of the views of the employee (if any) provided by the employee in accordance with subsection 3(2) for the period required by any law that applies to the record or records of that kind.
105. Subsection 7(5) provides that, if the rehabilitation authority makes a determination requiring the employee to undergo a rehabilitation examination, the rehabilitation authority must provide the assessor's or panel's report of the examination to certain persons in accordance with the Guidelines for Rehabilitation Authorities.
- (a) At the time the Instrument commenced, the Guidelines for Rehabilitation Authorities relevantly provided (at subsection 8(4)): *'If the rehabilitation authority receives a written rehabilitation assessment under section 36 of the Act, it must provide a copy of that written rehabilitation assessment to: (a) the employee; or (b) the employee's medical practitioner and/or other health professional, where the employee's medical condition necessitates the rehabilitation assessment first being released to that person; and (c) the relevant authority'*.
 - (b) The reference in subsection 8(4) of the Guidelines for Rehabilitation Authorities to *'a written rehabilitation assessment under section 36 of the Act'* includes the assessor's or panel's report of the examination.
 - (c) The reference in subsection 8(4) of the Guidelines for Rehabilitation Authorities to *'the employee's medical practitioner'* may be read as a reference to the employee's treating practitioner where that practitioner is a medical practitioner.

Part 2 – Medical examinations

Section 8 – Application of this Part

106. Section 8 provides that Part 2 is made for the purposes of section 57A of the SRC Act and applies in relation to medical examinations of an employee who suffers an injury, or claims to suffer an injury, and where the relevant authority considers that it is reasonable and necessary to obtain further medical evidence.
107. Subsection 8(2) provides that, in Part 2, a reference to an *injury* includes a reference to the effects of the injury. The effects of the injury include, for example: the need for medical

treatment in relation to the injury; the incapacity for work or impairment resulting from the injury; the need for household services or attendant care services as a result of the injury; the non-economic loss resulting from the injury or impairment; and the need for any alterations, modifications or aids or appliances as a result of the impairment.

108. If the relevant authority requires the employee to undergo a medical examination, the authority must comply with sections 9 to 13.
109. Failure to substantively comply with the requirements of Part 2 for the purpose of making a determination under section 57 of the SRC Act may be a relevant consideration if the determination is the subject of a request for reconsideration under section 62 of the SRC Act.

Section 9 – Requiring medical examinations

110. Section 9 specifies the circumstances in which it is appropriate for a relevant authority to require an employee to undergo a medical examination and outlines the steps the relevant authority must or should take.
111. Subsection 9(1) provides that, before the relevant authority requires the employee to undergo a medical examination, the relevant authority must consider whether it has sufficient information regarding the following matters:
 - (a) the employee’s circumstances; or
 - (b) any change in the employee’s circumstances; or
 - (c) the employee’s capability of undertaking a rehabilitation program.
112. The note to subsection 9(1) provides that paragraph 9(1)(c) may be relevant where, for example, a relevant authority has an obligation or function in relation to a matter concerning a claim for compensation under Division 3 of Part II (concerning injuries resulting in incapacity for work) or section 39 (concerning alterations, modifications or aids or appliances) of the SRC Act.

Information to be sought from employee’s treating practitioner

113. Subsection 9(2) provides that, if, in the opinion of the relevant authority, there is insufficient or inconsistent information regarding a matter specified in subsection 9(1), the relevant authority should:
 - (a) request in writing the employee’s treating practitioner to provide information regarding that matter; and
 - (b) specify that the information must be provided to the relevant authority in writing; and
 - (c) specify a date being not less than 14 days after the date of the request for the information to be provided by the employee’s treating practitioner.
114. The information requested and provided in accordance with subsection 9(2) need only address the matter(s) in relation to which there is insufficient or inconsistent information.
115. Subsection 9(2)(c) provides that a request to the treating practitioner for information should specify a date for the information to be provided, being a date not less than 14 days after the date of the request.
116. In most cases, where the relevant authority is satisfied there is insufficient or inconsistent information regarding a matter specified in subsection 9(1), it is expected that the relevant

authority will seek information from the employee's treating practitioner. However, it may be appropriate in exceptional circumstances (for example, emergencies, the treating practitioner is no longer practicing, genuinely time-limited medical treatment opportunities, or to comply with work health and safety duties) for the relevant authority to not seek information from the employee's treating practitioner.

117. The note to subsection 9(2) provides that the effect of a request made in accordance with subsection 9(2) is that subsection 11A(3) of the SRC Regulations will apply and the period in which days are not counted for determining a claim will start on the day the relevant authority requests the further evidence and end on the day the relevant authority receives the report, if: the employee's treating practitioner is a medical practitioner; and the claim is a claim for compensation under section 14 of the SRC Act. The note refers the reader to item 5 of the table in section 11A of the SRC Regulations.
118. Subsection 9(3) provides that the relevant authority should rely on the employee's treating practitioner, and the information (if any) provided by the treating practitioner in accordance with subsection 9(2), as much as possible before requiring the employee to undergo a medical examination by an independent medical practitioner.
- (a) The phrase 'as much as possible' is taken from subparagraph 57A(3)(a)(ii) of the SRC Act and, consistent with the object of the Guide (to support ethical, transparent and accountable decision-making in relation to requiring an employee to undergo an examination under subsection 57(1) of the SRC Act), requires the relevant authority to use its best endeavours.
 - (b) If the treating practitioner provides information before the specified date, the relevant authority should proceed with requiring the employee to undergo the medical examination as soon as reasonably practicable. This prevents unnecessary delays relating to decisions about an employee's claim.
 - (c) If the treating practitioner does not provide any information by the specified date, the relevant authority may proceed with requiring the employee to undergo the medical examination. If the treating practitioner provides some or all of the requested information after a referral is made to the independent medical practitioner, the relevant authority may take that information into account but is not required to rely on that information.
119. In most cases, the relevant authority should rely on the employee's treating practitioner and the information provided by the treating practitioner, to the extent the information provided is relevant to the request made in accordance with subsection 9(2).
120. Subsection 9(4) provides that the circumstances in which it is appropriate for the relevant authority to require the employee to undergo a medical examination are where:
- (a) the relevant authority has complied with subsection 9(1) (that is, the relevant authority has considered whether it has sufficient information regarding the matters specified in that subsection) and subsection 9(2) (that is, the relevant authority has requested the employee's treating practitioner to provide certain information in accordance with the requirements of that subsection); and
 - (b) in the opinion of the relevant authority, there is still insufficient or inconsistent information regarding the matters specified in subsection 9(1) such that an examination is required; and
 - (c) it is consistent with any obligation or function of the relevant authority to require the employee to undergo an examination, re-examination or periodic monitoring of the injury.

121. Examples of obligations or functions of the kind covered by paragraph 9(4)(c) are those found in the SRC Act (for example, sections 14 and 108E) and under work health and safety laws, public governance, performance and accountability laws, administration of public service laws, and employment laws, to extent those laws apply to the relevant authority.
122. It may be relevant when considering the obligations or functions of the kind covered by paragraph 9(4)(c), on a case-by-case basis, whether it is appropriate to:
- (a) require the employee to travel long distances to be examined by a medical practitioner if there is a suitably qualified assessor closer to the employee's place of residence;
 - (b) require the employee to see a different medical practitioner if a previous medical practitioner is suitably qualified and available to examine the employee within a reasonable timeframe, particularly if the employee has expressed a preference to be examined by the earlier medical practitioner.

Views to be sought from employee

123. Subsection 9(5) provides that, before the relevant authority requires the employee to undergo a medical examination, the relevant authority must:
- (a) request, verbally or in writing, the views of the employee, including the reasons for those views, about the matters specified in subsection 9(6); and
 - (b) specify that the employee's views must be provided to the relevant authority by a date being not less than 3 business days after the date of the request.
124. While paragraph 9(5)(a) provides that a relevant authority's request to the employee for views may be made verbally, it will be generally preferable for the request to be made in writing. Where a verbal request for information is made, the request should be recorded in writing (for example, in a file note) and/or confirmed in writing (for example, via email), consistent with best practice claims management procedures.
125. Subsection 9(5)(b) provides that a request to the employee for views should specify a date for the information to be provided, being a date not less than 3 business days after the date of the request. If the employee requires more time, for example, to consult their treating practitioner or other professional adviser, it may be appropriate for the relevant authority to grant the employee a reasonable amount of time to undertake that consultation.
126. Subsection 9(6) provides that the following matters are specified for the purposes of subsection 9(5):
- (a) the selection of the medical practitioner who is to conduct the medical examination; and
 - (b) whether the employee requires a support person; and
 - (c) any other relevant matter that should be considered by the relevant authority before it requires the employee to undergo the medical examination.
127. The example in relation to paragraph 9(6)(c) notes that the employee might provide their views about their medical restrictions, geographical location and gender, and any language or communication barriers. The example is not intended to be exhaustive, and the employee may identify other relevant matters to be considered by the relevant authority before it requires the employee to undergo the medical examination.
128. Subsection 9(7) provides that the relevant authority must take into account the views of the employee (if any) provided by the employee in accordance with subsection 9(5).

- (a) If the employee provides their views by the specified date, the relevant authority must take the employee's views into account. That means that the employee's views must be considered as part of all relevant considerations, which could include the qualifications of the medical practitioner, the location of the medical practitioner, whether a telehealth examination is appropriate, and the cost of a particular medical practitioner. However, the Guide does not limit the views that the employee may provide.
- (b) The relevant authority does not need to wait until the specified date to proceed with requiring the medical examination if the employee provides their views at any time before the specified date.
- (c) If the employee does not provide their views by the specified date, the relevant authority may proceed with requiring the employee to undergo the medical examination. If the employee provides their views after the relevant authority has selected the medical practitioner, the relevant authority may take that information into account but is not required to take the employee's views into account.
- (d) However, if the views expressed by the employee at any time would support a reasonable excuse for the employee not attending or undergoing the examination, the relevant authority should take those views into account. See subsection 57(2) of the SRC Act, which provides, in effect, that the obligation on the employee to undergo the examination is subject to a reasonable excuse.
129. Subsection 9(8) provides that, before the relevant authority requires the employee to undergo a medical examination, the relevant authority must advise the employee that they may have a support person accompany the employee during part or all of the examination.
- (a) Some medical practitioners may be unable to accommodate a support person during part of the examination (for example, if certain tests require the employee to be in isolation) or all of the examination (for example, if public health directions or other applicable laws apply to limit the number of people in a room). If that is the case, the relevant authority should ensure the employee is aware of any potential limitations when advising the employee in accordance with subsection 9(8).
130. Compliance with subsections 9(5), (7) and (8) is mandatory for a relevant authority who intends to require the employee to undergo a medical examination.

Illustrative scenarios

Scenario six

A delegate of the relevant authority (**delegate**) confers with the employee to discuss the need for a medical examination. The delegate explains that the relevant authority has a panel arrangement with a third-party service provider that it may use when selecting a medical practitioner. The delegate asks the employee if they have any views on the selection of the medical practitioner who will conduct the examination.

The employee may express a variety of views about the medical practitioner (but is not required to do so) including:

- the medical practitioner's gender;
- the location of the medical practitioner's practice;
- a preference for the same or a different medical practitioner as a prior examination;
- a preference for a telehealth consultation;
- any other views that may be relevant to the employee's attendance or participation in the examination.

The delegate may either:

- document the employee's views or that the employee did not express any views about the selection of the medical practitioner who is to conduct the examination (this should be confirmed in writing such as via an email); or
- ask the employee to respond with their views in writing by a specified date being not less than 3 business days after the date of the request (this should be confirmed in writing such as via an email).

The delegate must take into account the employee's views, if any are provided before the specified date, when making a decision on which medical practitioner to nominate from the panel. The delegate should document their reasons for that decision.

Note: In this scenario, the term 'panel' has its ordinary meaning.

Scenario seven

The delegate identifies an independent medical practitioner who has qualifications relevant to the employee's injury and who is available to provide their services at a reasonable cost. The delegate confers with the employee to discuss the examination, setting out the reasons why the particular medical practitioner has been proposed and asks the employee for their views on the selection of the medical practitioner, to be provided within 3 business days.

The employee provides their views via email 1 business day after the request, which the delegate considers in deciding which medical practitioner to nominate and records the reasons for that decision. Where the employee provides their views before the specified date, the relevant authority may proceed to require the employee to undergo the medical examination without waiting until after the specified date.

Scenario eight

The delegate confers with the employee with a choice of several medical practitioners who have qualifications relevant to the employee's injury, who are available to provide their services at a reasonable cost. The delegate explains the reasons for the proposed selection and asks for the employee's views on the selection of one of the medical practitioners. The employee requests 5 business days to provide their views to allow them to consult with their treating practitioner, which the delegate grants.

The employee provides their views during a subsequent telephone call with the delegate 6 business days after the request, which the delegate may (but does not have to) consider in deciding which medical practitioner to nominate and must record the reasons for that decision.

Section 10 – Qualifications of medical practitioners

131. Section 10 provides that, before the relevant authority requires the employee to undergo a medical examination by a person, the relevant authority must be reasonably satisfied that the person:
- (a) is a medical practitioner (that is, a person who is registered with the Australian Health Practitioner Regulation Agency as a medical practitioner); and
 - (b) qualified, by their training or registration, to assess the employee's injury.
132. Compliance with section 10 is mandatory for all relevant authorities.

Section 11 – Notice requirements

133. Section 11 contains additional notice requirements in relation the medical examination of the employee. These are additional notice requirements because the usual notice requirements in section 61 of the SRC Act do not require the notice to address the employee’s rights and obligations relating to the examination.
134. Subsection 11(1) provides that, as soon as practicable after a relevant authority makes a determination requiring the employee to undergo a medical examination (that is, a determination under subsection 57(1) of the SRC Act), the relevant authority must give the employee a notice of the employee’s rights and obligations relating to the examination. This is in addition to the usual notice requirements in section 61 of the SRC Act.
135. The first note to subsection 11(1) provides that the requirements for notifying determinations under section 57 are contained in section 61 of the SRC Act. Section 61 relevantly provides that the notice shall be in writing and set out:
- (a) the terms of the determination;
 - (b) the reasons for the determination; and
 - (c) a statement to the effect that the employee may, if dissatisfied with the determination, request a reconsideration of the determination under subsection 62(2) of the SRC Act.
136. The second note to subsection 11(1) provides that the employee has rights and obligations under sections 57 and 62 of the SRC Act. The notice of rights and obligations under subsection (1) should include reference to and describe the effect of these sections.
- (a) The employee is able to refuse to undergo a medical examination without sanction but only if the employee has a reasonable excuse to do so. Subsection 57(2) of the SRC Act provides that, where an employee refuses or fails, without reasonable excuse, to undergo an examination, or in any way obstructs an examination, the employee’s rights to compensation under the SRC Act, and to institute or continue any proceedings under the SRC Act in relation to compensation, are suspended until the examination takes place. Where an employee’s right to compensation is suspended under subsection 57(2), compensation is not payable in respect of the period of the suspension (SRC Act, subsection 57(5)).
 - (b) The employee has a right of reimbursement of reasonable expenses incurred in relation to the medical examination. Subsection 57(3) of the SRC Act provides that the relevant authority shall pay the cost of conducting any examination required under section 57 and is liable to pay to the employee an amount equal to the amount of the expenditure reasonably incurred by the employee in making a necessary journey in connection with the examination or remaining, for the purpose of the examination, at a place to which the employee has made a journey for that purpose. The matters to which the relevant authority is to have regard in deciding questions arising under subsection 57(3) include: the means of transport available to the employee for the journey; the route or routes by which the employee could have travelled; and the accommodation available to the employee (SRC Act, subsection 57(4)).
 - (c) The employee has a right to request reconsideration of a determination requiring the employee to undergo a medical examination. Subsections 60(1) and 62(2) of the SRC Act provide, in effect, that a request to a determining authority (that is, in relation to a determination, the person who made the determination) to reconsider a determination made by it under section 57 may be made by the claimant (that is, a person in respect of whom a determination is made). A request for reconsideration of a determination shall: set out the reasons for the request; and be given to the determining authority within

30 days after the day on which the determination first came to the notice of the person making the request, or within such further period (if any) as the determining authority, either before or after the expiration of that period, allows (SRC Act, subsection 62(3)).

137. The third note to subsection 11(1) provides that the effect of a notice given in accordance with section 11 is that subsection 11A(3) of the SRC Regulations will apply and the period in which days are not counted for determining a claim will start on the day the relevant authority gives the employee the notice and end on the day the relevant authority receives the results of the medical examination.
138. Subsection 11(2) provides that the notice required by subsection 11(1) must also include the relevant authority's reasons for:
- (a) accepting or not accepting, whether in whole or part, the views of the employee (if any) provided by the employee in accordance with subsection 9(5); and
 - (b) relying on or not relying on, whether in whole or part, the employee's treating practitioner and the information (if any) provided by the treating practitioner in accordance with subsection 9(2).
139. Subsection 11(3) provides that, if the relevant authority makes a determination requiring the employee to undergo a medical examination, the notice required by subsection 11(1) must be given to the employee:
- (a) at least 14 days before the date of the medical examination; or
 - (b) if the employee has agreed to a notice period of less than 14 days—a period before the date of the medical examination being not less than the notice period agreed to by the employee.
140. It is generally preferable that an employee's agreement to a period specified in paragraph 11(3)(b) should be confirmed in writing by the employee. If there is a verbal agreement for a notice period of less than 14 days, the agreement should be recorded in writing (for example, in a file note) and/or confirmed in writing (for example, via email), consistent with best practice claims management procedures.
141. Compliance with section 11 is mandatory for a relevant authority who has required an employee to undergo a medical examination.

Section 12 – Limitations on frequency and number of medical examinations

142. Section 12 limits the frequency and number of medical examinations of an employee in respect of the injury.
143. Subsection 12(1) provides that the employee shall not be required to undergo more than one medical examination in respect of the injury more frequently than at 6-month intervals, where each interval commences the day after the last day on which the last examination took place (the **minimum interval**).
144. Subsection 12(2) provides that the minimum interval *only* applies in relation to a medical examination if: the employee undergoes the examination; and the employee does not in any way obstruct the examination; and the support person (if any) does not in any way obstruct the examination. For example, if the employee is unable to attend an examination (for whatever reason), the relevant authority may choose to reschedule the examination and require the employee to undergo the rescheduled examination as soon as reasonably practicable.

145. Subsection 12(3) provides that the minimum interval *does not apply* in relation to a medical examination in certain specified circumstances. If any of the circumstances arise, the relevant authority may require the employee to undergo a medical examination (in accordance with the Guide) within the minimum interval.
146. Paragraph 12(3)(a) provides that the minimum interval does not apply if the employee has requested a medical examination during the minimum interval.
147. Paragraph 12(3)(b) provides that the minimum interval does not apply if the employee's treating practitioner has recommended a medical examination during the minimum interval.
148. Paragraph 12(3)(c) provides that the minimum interval does not apply if a medical practitioner, following an earlier medical examination, recommended a further examination or re-examination by a specific date or after a specific period, and the date is, or the period ends, during the minimum interval.
149. Paragraph 12(3)(d) provides that the minimum interval does not apply if there has been a change in the employee's circumstances. For example, if:
- (a) there is an improvement or deterioration in the employee's injury affecting their need for medical treatment, household services or attendant care services; or
 - (b) there is an improvement or deterioration in the employee's injury, or any other medical condition suffered by the employee, affecting their capacity for work; or
 - (c) there is an improvement or deterioration in the impairment resulting from the employee's injury affecting their capability of undertaking a rehabilitation program or their need for aids or appliances; or
 - (d) the employee relocates their place of residence affecting the availability of suitable employment.
150. Paragraph 12(3)(e) provides that the minimum interval does not apply if the injury requires multidisciplinary medical treatment and:
- (a) it is not reasonably practicable for a single medical practitioner to address all the matters that are the subject of paragraph 9(4)(b); and
 - (b) it is appropriate for the relevant authority to require the employee to undergo more than one medical examination, with a different medical practitioner, during the minimum interval.
151. For example, some back injuries affect the bones and muscles, and the nervous system, and require treatment from multiple medical disciplines (such as an orthopaedic surgeon, a neurosurgeon, a urologist and/or a pain specialist).
152. Paragraph 12(3)(f) provides that the minimum interval does not apply if the medical practitioner nominated by the relevant authority to conduct the medical examination fails, for any reason, to provide a written report of the examination within: the timeframe specified by the relevant authority as part of the arrangement; or such additional timeframe allowed by the relevant authority.
153. Paragraph 12(3)(g) provides that the minimum interval does not apply if a request for reconsideration of any determination is made in accordance with section 62 of the SRC Act and: in the opinion of the relevant authority there is insufficient or inconsistent information

regarding any matter relevant to the reasons for the request; and a reviewable decision has not yet been made in relation to the request.

154. Paragraph 12(3)(h) provides that the minimum interval does not apply if an application for review of any reviewable decision is made in accordance with section 64 of the SRC Act and: in the opinion of the person or body who made the reviewable decision, there is insufficient or inconsistent information regarding any matter relevant to the review; and a final decision has not yet been made in relation to the review. Section 64 of the SRC Act provides that applications may be made to the Administrative Appeals Tribunal (soon to be the Administrative Review Tribunal).

Section 13 – Other relevant matters

155. Subsection 13(1) provides that, nothing in Part 2 is to be construed so as to require a relevant authority to comply with Part 2 separately or sequentially. That is, the relevant authority may comply with the requirements of Part 2 at the same time or by the same conduct.
156. An example to subsection 13(1) provides that the relevant authority may seek information from the employee's treating practitioner at the same time as, or before or after, seeking views from the employee.
157. Subsection 13(2) provides that, for the avoidance of doubt, Part 2 does not: require the relevant authority to require the employee to undergo a medical examination; or prevent the relevant authority from requiring the employee to undergo a medical examination by the employee's treating practitioner if that practitioner is a medical practitioner.
158. Subsection 13(3) provides that the relevant authority must keep a record of the views of the employee (if any) provided by the employee in accordance with subsection 9(5) for the period required by any law that applies to the record or records of that kind.
159. Subsection 13(4) provides that, if the relevant authority makes a determination requiring the employee to undergo a medical examination, the relevant authority must provide the medical practitioner's report of the examination to the employee, or the employee's nominated representative or the employee's treating practitioner. A nominated representative is any person who the employee has lawfully nominated as their representative, including a legal representative.

Attachment B

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Safety, Rehabilitation and Compensation Act 1988 – Guide for Arranging Rehabilitation Assessments and Requiring Examinations 2024

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

Overview of the Instrument

The *Safety, Rehabilitation and Compensation Act 1988* (the **SRC Act**) establishes the workers' compensation and rehabilitation scheme for employees of the Commonwealth, Commonwealth authorities and licensed corporations. The SRC Act authorises relevant decision-makers to arrange rehabilitation assessments and require rehabilitation examinations and medical examinations, subject to the provisions in sections 36 and 57 of that Act.

Pursuant to section 57A of the SRC Act, which commenced operation on 14 June 2024, Comcare must, in consultation with the Safety, Rehabilitation and Compensation Commission, prepare a Guide for Arranging Rehabilitation Assessments and Requiring Examinations (the **Guide**). The object of the Guide is to support ethical, transparent and accountable decision-making in relation to arranging a rehabilitation assessment of an employee, or requiring an employee to undergo an examination, including appropriate consideration of the employee's personal circumstances. Section 57A further provides that the Guide:

- must provide that, for the purposes of a rehabilitation assessment or examination of an employee, information in relation to the employee should be sought from the employee's treating practitioner, and the employee's treating practitioner and the information (if any) provided by the treating practitioner should be relied on as much as possible before a referral is made to an independent medical practitioner, or other qualified person, in relation to the employee;
- must specify the circumstances in which it is appropriate to require an employee to undergo a rehabilitation assessment or examination;
- must specify limitations on the frequency and number of rehabilitation assessments or examinations that an employee may be required to undergo;
- must specify the qualifications of the person or, if required under section 36, the panel of persons who may conduct a rehabilitation assessment or an examination of an employee;
- must require the relevant decision-maker to seek, and take into account, the views of an employee, who is required to undergo a rehabilitation assessment or examination, about the selection of the person or, if required under section 36, the panel of persons who are to conduct the rehabilitation assessment or examination;
- must require that an employee who is required to undergo a rehabilitation assessment or examination be given a notice of the employee's rights relating to the rehabilitation assessment or examination; and
- may provide for any other relevant matter.

The purpose of this Instrument is to bring into existence the first edition of the Guide as required by section 57A of the SRC Act. The Guide appears at Schedule 1 to this Instrument.

Human rights implications

This Instrument engages the following rights:

Right to work

This Instrument engages the right to work as set out in Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights (the **ICESCR**).

Article 6 of the ICESCR provides for the right to work, which includes the right of everyone to the opportunity to gain their living by work which they freely choose or accept. Article 7 of the ICESCR provides for the right to enjoyment of just and favourable conditions of work, fair wages and a decent living.

The SRC Act ensures the protection of injured employees including by way of conferring rights for an employee to submit a claim for compensation and to have their entitlement to rehabilitation or compensation determined. The SRC Act provides the means by which a relevant decision-maker may investigate and assess an employee's claim, including by way of a rehabilitation assessment, a rehabilitation examination or a medical examination. This Instrument provides the means by which a relevant decision-maker is to arrange such assessments or examinations in an ethical, transparent and accountable manner.

This Instrument puts in place a number of protections for employees during the workers' compensation claims process, including by requiring the views of the employee to be sought, requiring the employee's treating practitioner to be consulted and limiting the number of rehabilitation or medical examinations which may be required. Decisions under sections 36 and 57 of the SRC Act may be subject to internal reconsideration and then external merits review by the Administrative Appeals Tribunal (soon to be the Administrative Review Tribunal).

To the extent this Instrument supports the access by employees to work and economic support after they suffer a work-related injury, including by access to compensation and vocational rehabilitation, the Instrument promotes the right to work.

Right to social security

This Instrument engages the right to social security as set out in Article 9 of ICESCR.

Article 9 of the ICESCR provides for the right of everyone to social security, including social insurance. General Comment 19 by the Committee on Economic, Social and Cultural Rights sets out the essential elements of the right to social security, including that '*States parties should ... ensure the protection of workers who are injured in the course of employment or other productive work*'.¹ Workers' compensation is analogous to social insurance in that it provides for payment of wages and medical costs to employees for injuries occurring as a result of their employment.

As noted above, the SRC Act provides the means by which a relevant decision-maker may investigate and assess an employee's claim, including by way of a rehabilitation assessment, rehabilitation examination or medical examination. This Instrument provides the means by which a relevant decision-maker is to arrange such assessments or examinations in an ethical, transparent and accountable manner. As such, this Instrument promotes the right to social security.

Right to an adequate standard of living

This Instrument engages the right to an adequate standard of living as set out in Article 11 of the ICESCR.

Article 11 of the ICESCR provides for the right to an adequate standard of living including adequate food, clothing and housing, and to the continuous improvement of living conditions. As noted above,

¹ Committee on Economic, Social and Cultural Rights, *General Comment 19: The Right to Social Security (art. 9)*, U.N. Doc E/C.12/GC/19 (2008), [17].

the SRC Act provides the means by which a relevant decision-maker may investigate and assess an employee's claim, including by way of a rehabilitation assessment, rehabilitation examination or medical examination. This Instrument provides the means by which a relevant decision-maker is to arrange such assessments or examinations in an ethical, transparent and accountable manner. As such, this Instrument promotes the right to an adequate standard of living.

Conclusion

This Instrument is compatible with human rights because it promotes the protection of human rights.

Senator the Hon Murray Watt
Minister for Employment and Workplace Relations



Safety, Rehabilitation and Compensation Act 1988 – Guide for Arranging Rehabilitation Assessments and Requiring Examinations 2024

I, Senator the Hon Murray Watt, Minister for Employment and Workplace Relations, make the following instrument.

Dated 5 September 2024

Murray Watt
Minister for Employment and Workplace Relations

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1 Name

This instrument is the *Safety, Rehabilitation and Compensation Act 1988 – Guide for Arranging Rehabilitation Assessments and Requiring Examinations 2024*.

2 Commencement

This instrument commences on the day after the instrument is registered on the Federal Register of Legislation.

3 Authority

This instrument is made under section 57A of the *Safety, Rehabilitation and Compensation Act 1988*.

4 Definitions

Note: A number of expressions used in this instrument are defined in the SRC Act, including the following:

- (a) attendant care services (subsection 4(1));
- (b) claim (subsection 4(1));
- (c) Comcare (subsection 4(1));
- (d) determination (subsections 38(1), 60(1));
- (e) employee (section 5);
- (f) household services (subsection 4(1));
- (g) impairment (subsection 4(1));
- (h) incapacity for work (subsection 4(9));
- (i) medical treatment (subsection 4(1));
- (j) non-economic loss (subsection 4(1));
- (k) rehabilitation authority (subsection 4(1));
- (l) rehabilitation program (subsection 4(1));
- (m) relevant authority (subsection 4(1));
- (n) reviewable decision (subsection 60(1));
- (o) suitable employment (subsection 4(1)).

In this instrument:

application date means the date that is 6 weeks after the date on which this instrument commenced in accordance with section 2.

approved Rehabilitation Assessments and Examinations Guide and ***this Guide*** mean the Guide for Arranging Rehabilitation Assessments and Requiring Examinations set out in Schedule 1 to this instrument.

assessor means a ***medical practitioner*** or ***other qualified person***.

day, unless otherwise specified, means calendar day.

employee's circumstances, in relation to an employee who suffers an ***injury***, includes:

- (a) the ***injury***;

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- (b) any other medical condition, however described, suffered by the employee before, during or after the *injury*;
 - (c) the employee's need or claimed need for medical treatment;
 - (d) the employee's capacity for work or claimed incapacity for work;
 - (e) the employee's impairment or claimed impairment;
 - (f) the employee's non-economic loss or claimed non-economic loss;
 - (g) the employee's need or claimed need for any alterations, modifications or aids or appliances;
 - (h) the employee's need or claimed need for household services or attendant care services;
 - (i) any suitable employment for the employee including the availability of such employment;
 - (j) the employee's personal circumstances; and
 - (k) any other relevant matter.

Guidelines for Rehabilitation Authorities means the guidelines, if any, issued by Comcare in accordance with section 41 of the SRC Act to rehabilitation authorities in relation to the performance or exercise by those authorities of their functions or powers under Part III of the SRC Act, and as in force from time to time.

independent medical practitioner, in relation to an employee, means a *medical practitioner* other than a *treating practitioner*.

injury, in relation to an employee, means:

- (a) an 'injury' (within the meaning of the SRC Act) suffered by the employee in respect of which compensation is payable under the SRC Act; or
- (b) a medical condition, however described, that is the subject of a claim made by or on behalf of the employee; or
- (c) a medical condition, however described, that is the subject of a notice under section 53 of the SRC Act but is not yet the subject of a claim;

as the case requires.

Note: For the term 'injury' (within the meaning of the SRC Act), see subsection 4(3), and sections 5A and 123A, of the SRC Act.

medical examination means an examination arranged by a relevant authority that an employee is required to undergo in accordance with subsection 57(1) of the SRC Act.

medical practitioner means a person who is registered with the Australian Health Practitioner Regulation Agency as a medical practitioner and is to be interpreted consistently with the term 'legally qualified medical practitioner' in the SRC Act.

Note: The term 'legally qualified medical practitioner', which is not defined in the SRC Act, appears in subsection 4(1) in the definition of 'medical treatment', subsection 4(13) and sections 7, 15, 16, 36, 54, 57 and 126 of that Act. The term 'legally qualified medical practitioner' does not include a psychologist, which is covered by the term *other health professional*.

month has the meaning given in section 2G of the *Acts Interpretation Act 1901*.

other health professional means a person, other than a **medical practitioner**, who is:

- (a) qualified by their training or registration under the law of a State or Territory providing for the registration for a specific profession; and
- (b) registered with the Australian Health Practitioner Regulation Agency or a member of the relevant professional association.

other qualified person means a person, other than a **medical practitioner**, and otherwise has the same meaning as ‘suitably qualified person’ in the SRC Act.

Note: The term ‘suitably qualified person’, which is not defined in the SRC Act, appears in section 36 of that Act.

panel means a panel comprising two or more **assessors**.

rehabilitation assessment means an assessment of an employee’s capability of undertaking a rehabilitation program arranged by a rehabilitation authority in accordance with subsection 36(1) of the SRC Act.

rehabilitation examination means a **rehabilitation assessment** and examination arranged by a rehabilitation authority that an employee is required to undergo in accordance with subsection 36(3) of the SRC Act.

SRC Act means the *Safety, Rehabilitation and Compensation Act 1988*.

SRC Regulations means the *Safety, Rehabilitation and Compensation Regulations 2019*.

support person means, in relation to a rehabilitation examination or medical examination, any person who accompanies the employee during part or all of the examination for the sole purpose of providing emotional support to the employee during the examination.

treating practitioner, in relation to an employee, means a **medical practitioner** or **other health professional** who is primarily responsible for the clinical management of the employee’s **injury**.

workplace rehabilitation provider has the same meaning as ‘approved program provider’ in the SRC Act.

5 Approved Rehabilitation Assessments and Examinations Guide

The Guide prepared by Comcare in accordance with section 57A of the SRC Act, which is set out in Schedule 1 to this instrument, is approved for the purposes of the SRC Act.

Note 1: In deciding whether to arrange for an assessment under subsection 36(1) or to require an examination under subsection 36(3) of the SRC Act, the rehabilitation authority must comply with this Guide (SRC Act, subsection 36(3A)).

Note 2: In deciding whether to require an examination under subsection 57(1) of the SRC Act, the relevant authority must comply with this Guide (SRC Act, subsection 57(1A)).

6 Application of approved Rehabilitation Assessments and Examinations Guide

- (1) This Guide applies in relation to:
 - (a) a rehabilitation assessment if the assessment is the subject of a determination made under subsection 36(1) on or after the application date; and
 - (b) a rehabilitation examination if the examination is the subject of a determination made under subsection 36(3) on or after the application date; and
 - (c) a medical examination if the examination is the subject of a determination made under subsection 57(1) on or after the application date;regardless of when the employee sustained the injury.

- (2) Subject to subsection (3), both this Guide and the Guidelines for Rehabilitation Authorities apply in relation to rehabilitation assessments and rehabilitation examinations.

Note: A rehabilitation authority shall comply with the Guidelines for Rehabilitation Authorities (SRC Act, subsection 41(2)).

- (3) However, if there is an inconsistency between this Guide and the Guidelines for Rehabilitation Authorities, and the inconsistency is such that this Guide and the Guidelines for Rehabilitation Authorities cannot be applied at the same time, this Guide takes precedence over the Guidelines for Rehabilitation Authorities to the extent of the inconsistency.

Schedule 1—Guide for Arranging Rehabilitation Assessments and Requiring Examinations

Part 1—Rehabilitation assessments and rehabilitation examinations

1 Application of this Part

This Part is made for the purposes of section 57A of the SRC Act and applies in relation to rehabilitation assessments and rehabilitation examinations of an employee who suffers an injury resulting in an incapacity for work or an impairment.

2 Arranging rehabilitation assessments

- (1) Before the rehabilitation authority arranges a rehabilitation assessment, the rehabilitation authority must consider whether it has sufficient information regarding the following matters to the extent the matters may be relevant to the employee's rehabilitation:
 - (a) the employee's circumstances; or
 - (b) any change in the employee's circumstances; or
 - (c) any relevant matter specified in the Guidelines for Rehabilitation Authorities.

Information to be sought from employee's treating practitioner

- (2) If, in the opinion of the rehabilitation authority, there is insufficient or inconsistent information regarding a matter specified in subsection (1), to the extent the matter is relevant to the employee's rehabilitation, the rehabilitation authority should:
 - (a) request, verbally or in writing, the employee's treating practitioner to provide information regarding that matter; and
 - (b) specify that the information must be provided to the rehabilitation authority in writing; and
 - (c) specify a date being not less than 14 days after the date of the request for the information to be provided by the employee's treating practitioner.

Rehabilitation assessments without examination

- (3) The rehabilitation authority should rely on the employee's treating practitioner and the information (if any) provided by the treating practitioner in accordance with subsection (2) as much as possible before arranging a rehabilitation assessment by an independent medical practitioner, other qualified person or panel.
- (4) The circumstances in which it is appropriate for the rehabilitation authority to arrange for a rehabilitation assessment, without requiring the employee to undergo an examination, are where:

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- (a) in the opinion of the rehabilitation authority, there is sufficient information regarding the matters specified in subsection (1), to the extent the matters are relevant to the employee's rehabilitation, such that an examination of the employee is not required; and
 - (b) it is consistent with any obligation or function of the rehabilitation authority to arrange for the assessment, re-assessment or periodic monitoring of the employee's capability of undertaking a rehabilitation program.

Note: Where an employee suffers an 'injury' (within the meaning of the SRC Act) resulting in an incapacity for work or an impairment, the rehabilitation authority shall, on the written request of the employee, arrange for the assessment of the employee's capability of undertaking a rehabilitation program (SRC Act, subsection 36(1)).

3 Requiring rehabilitation examinations

- (1) The circumstances in which it is appropriate for the rehabilitation authority to require the employee to undergo a rehabilitation examination are where:
 - (a) the rehabilitation authority has complied with subsections 2(1) and 2(2); and
 - (b) in the opinion of the rehabilitation authority, there is still insufficient or inconsistent information regarding the matters specified in subsection 2(1), to the extent the matters are relevant to the employee's rehabilitation, such that an examination of the employee is required; and
 - (c) it is consistent with any obligation or function of the rehabilitation authority to require the employee to undergo an examination, re-examination or periodic monitoring of the employee's capability of undertaking a rehabilitation program.

Views to be sought from employee

- (2) Before the rehabilitation authority requires the employee to undergo a rehabilitation examination, the rehabilitation authority must:
 - (a) request, verbally or in writing, the views of the employee, including the reasons for those views, about the matters specified in subsection (3); and
 - (b) specify that the employee's views must be provided to the rehabilitation authority by a date being not less than 3 business days after the date of the request.
- (3) The following matters are specified for the purposes of subsection (2):
 - (a) the selection of the assessor or panel who is to conduct the rehabilitation examination; and
 - (b) whether the employee requires a support person; and
 - (c) any other relevant matter that should be considered by the rehabilitation authority before it requires the employee to undergo the rehabilitation examination.

Example: For the purposes of paragraph (3)(c), any other matter might include the employee's medical restrictions, geographical location and gender, and any language or communication barriers.

- (4) The rehabilitation authority:
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- (a) must take into account the views of the employee (if any) provided by the employee in accordance with subsection (2); and
 - (b) should rely on the employee's treating practitioner and the information (if any) provided by the treating practitioner in accordance with subsection 2(2) as much as possible before requiring the employee to undergo a rehabilitation examination by an independent medical practitioner, other qualified person or panel.

Support person

- (5) Before the rehabilitation authority requires the employee to undergo a rehabilitation examination, the rehabilitation authority must advise the employee that they may have a support person accompany the employee during part or all of the examination.

4 Qualifications of assessors

Before the rehabilitation authority arranges a rehabilitation assessment or requires the employee to undergo a rehabilitation examination by an assessor, whether separately or as a member of a panel, the rehabilitation authority must be reasonably satisfied that the assessor:

- (a) in the case of an other qualified person:
 - (i) is a workplace rehabilitation provider; or
 - (ii) has the equivalent qualifications of a workplace rehabilitation provider; or
- (b) in any other case—is a medical practitioner who is qualified, by their training or registration, to assess the employee's injury.

5 Notice requirements

- (1) As soon as practicable after a rehabilitation authority makes a determination requiring the employee to undergo a rehabilitation examination by an assessor or panel, the rehabilitation authority must give the employee a notice of the employee's rights and obligations relating to the examination.

Note 1: The requirements for notifying determinations under section 36 are contained in section 38 (for a rehabilitation authority other than a relevant authority) or section 61 (for a rehabilitation authority that is a relevant authority) of the SRC Act.

- (a) Section 38 relevantly provides that the notice shall be in writing and set out: the terms of the determination; the reasons for the determination; and a statement to the effect that the employee may, if dissatisfied with the determination, request Comcare for a review of the determination under section 38.
- (b) Section 61 relevantly provides that the notice shall be in writing and set out: the terms of the determination; the reasons for the determination; and a statement to the effect that the employee may, if dissatisfied with the determination, request a reconsideration of the determination under subsection 62(2).

Note 2: The employee has rights and obligations under section 36 and either section 38 or 62 of the SRC Act.

- (2) The notice required by subsection (1) must also include the rehabilitation authority's reasons for:

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- (a) accepting or not accepting, whether in whole or part, the views of the employee (if any) provided by the employee in accordance with subsection 3(2); and
 - (b) relying on or not relying on, whether in whole or part, the employee's treating practitioner and the information (if any) provided by the treating practitioner in accordance with subsection 2(2).
- (3) If the rehabilitation authority makes a determination requiring the employee to undergo a rehabilitation examination by a medical practitioner, or a panel comprising one or more medical practitioners, the notice required by subsection (1) must be given to the employee:
- (a) at least 14 days before the date of the rehabilitation examination; or
 - (b) if the employee has agreed to a notice period of less than 14 days—a period before the date of the rehabilitation examination being not less than the notice period agreed to by the employee.

6 Limitations on frequency and number of rehabilitation examinations

- (1) The employee shall not be required to undergo more than one rehabilitation examination in respect of the injury more frequently than at 6-month intervals, where each interval commences the day after the last day on which the last examination took place.
- (2) The minimum interval specified in subsection (1) only applies in relation to a rehabilitation examination if:
 - (a) the employee undergoes the examination; and
 - (b) the employee does not in any way obstruct the examination; and
 - (c) the support person (if any) does not in any way obstruct the examination.
- (3) The minimum interval specified in subsection (1) does not apply in relation to a rehabilitation examination if:
 - (a) where the employee has made a written request for a rehabilitation assessment in accordance with subsection 36(1) of the SRC Act—the request is made during the minimum interval specified in subsection (1); or
 - (b) where the employee's treating practitioner has recommended a rehabilitation assessment—the recommendation is made during the minimum interval specified in subsection (1); or
 - (c) where an earlier rehabilitation assessment recommended a further examination or re-examination by a specific date or after a specific period—the date is, or the period ends, during the minimum interval specified in subsection (1); or
 - (d) there has been a change in the employee's circumstances; or
 - (e) where the injury requires multidisciplinary medical treatment:
 - (i) it is not reasonably practicable for a single assessor or panel to address all the matters that are the subject of paragraph 3(1)(b); and
 - (ii) it is appropriate for the rehabilitation authority to require the employee to undergo more than one rehabilitation examination, with a

-
- different assessor or panel, during the minimum interval specified in subsection (1); or
- (f) the assessor or panel nominated by the rehabilitation authority to conduct the rehabilitation examination fails, for any reason, to provide a written assessment of the employee's capability of undertaking a rehabilitation program within:
 - (i) the timeframe specified by the rehabilitation authority as part of the arrangement; or
 - (ii) such additional timeframe allowed by the rehabilitation authority; or
 - (g) a request for reconsideration of any determination is made in accordance with section 38 or 62 of the SRC Act and:
 - (i) in the opinion of Comcare or the relevant authority, as the case may be, there is insufficient or inconsistent information regarding any matter relevant to the reasons for the request; and
 - (ii) a reviewable decision has not yet been made in relation to the request; or
 - (h) an application for review of any reviewable decision is made in accordance with section 64 of the SRC Act and:
 - (i) in the opinion of the person or body who made the reviewable decision, there is insufficient or inconsistent information regarding any matter relevant to the review; and
 - (ii) a final decision has not yet been made in relation to the review.

7 Other relevant matters

- (1) Nothing in this Part is to be construed so as to require a rehabilitation authority to comply with this Part separately or sequentially. That is, the rehabilitation authority may comply with the requirements of this Part at the same time or by the same conduct.

Example: The rehabilitation authority may seek information from the employee's treating practitioner at the same time as, or before or after, seeking views from the employee.
- (2) For the avoidance of doubt, this Part does not require the rehabilitation authority to require the employee to undergo a rehabilitation examination.
- (3) For the avoidance of doubt, this Part does not prevent the rehabilitation authority from arranging a rehabilitation assessment, or requiring the employee to undergo a rehabilitation examination, by:
 - (a) the employee's treating practitioner; or
 - (b) a panel comprising the treating practitioner and one or more independent medical practitioners or other qualified persons as are nominated by the rehabilitation authority.

Record keeping

- (4) The rehabilitation authority must keep a record of the views of the employee (if any) provided by the employee in accordance with subsection 3(2) for the period required by any law that applies to the record or records of that kind.

Provision of report

- (5) If the rehabilitation authority makes a determination requiring the employee to undergo a rehabilitation examination, the rehabilitation authority must provide the assessor's or panel's report of the examination to certain persons in accordance with the Guidelines for Rehabilitation Authorities.

Part 2—Medical examinations**8 Application of this Part**

- (1) This Part is made for the purposes of section 57A of the SRC Act and applies in relation to medical examinations of an employee who suffers an injury, or claims to suffer an injury, and where the relevant authority considers that it is reasonable and necessary to obtain further medical evidence.
- (2) In this Part, a reference to an *injury* includes a reference to the effects of the injury.

9 Requiring medical examinations

- (1) Before the relevant authority requires the employee to undergo a medical examination, the relevant authority must consider whether it has sufficient information regarding the following matters:
- (a) the employee's circumstances; or
 - (b) any change in the employee's circumstances; or
 - (c) the employee's capability of undertaking a rehabilitation program.

Note: Paragraph (1)(c) may be relevant where, for example, a relevant authority has an obligation or function in relation to a matter concerning a claim for compensation under Division 3 of Part II (concerning injuries resulting in incapacity for work) or section 39 (concerning alterations, modifications or aids or appliances) of the SRC Act.

Information to be sought from employee's treating practitioner

- (2) If, in the opinion of the relevant authority, there is insufficient or inconsistent information regarding a matter specified in subsection (1), the relevant authority should:
- (a) request in writing the employee's treating practitioner provide information regarding that matter; and
 - (b) specify that the information must be provided to the relevant authority in writing; and
 - (c) specify a date being not less than 14 days after the date of the request for the information to be provided by the employee's treating practitioner.

Note: The effect of a request made in accordance with subsection (2) is that subsection 11A(3) of the SRC Regulations will apply and the period in which days are not counted for determining a claim will start on the day the relevant authority requests the further evidence and end on the day the relevant authority receives the report, if:

- (a) the employee's treating practitioner is a medical practitioner; and
- (b) the claim is a claim for compensation under section 14 of the SRC Act.

See item 5 of the table in section 11A of the SRC Regulations.

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- (3) The relevant authority should rely on the employee's treating practitioner and the information (if any) provided by the treating practitioner in accordance with subsection (2) as much as possible before requiring the employee to undergo a medical examination by an independent medical practitioner.
 - (4) The circumstances in which it is appropriate for the relevant authority to require the employee to undergo a medical examination are where:
 - (a) the relevant authority has complied with subsections 9(1) and (2); and
 - (b) in the opinion of the relevant authority, there is still insufficient or inconsistent information regarding the matters specified in subsection 9(1) such that an examination is required; and
 - (c) it is consistent with any obligation or function of the relevant authority to require the employee to undergo an examination, re-examination or periodic monitoring of the injury.

Views to be sought from employee

- (5) Before the relevant authority requires the employee to undergo a medical examination, the relevant authority must:
 - (a) request, verbally or in writing, the views of the employee, including the reasons for those views, about the matters specified in subsection (6); and
 - (b) specify that the employee's views must be provided to the relevant authority by a date being not less than 3 business days after the date of the request.
- (6) The following matters are specified for the purposes of subsection (5):
 - (a) the selection of the medical practitioner who is to conduct the medical examination; and
 - (b) whether the employee requires a support person; and
 - (c) any other relevant matter that should be considered by the relevant authority before it requires the employee to undergo the medical examination.

Example: For the purposes of paragraph (6)(c), any other matter might include the employee's medical restrictions, geographical location and gender, and any language or communication barriers.

- (7) The relevant authority must take into account the views of the employee (if any) provided by the employee in accordance with subsection (5).

Support person

- (8) Before the relevant authority requires the employee to undergo a medical examination, the relevant authority must advise the employee that they may have a support person accompany the employee during part or all of the examination.

10 Qualifications of medical practitioners

Before the relevant authority requires the employee to undergo a medical examination by a person, the relevant authority must be reasonably satisfied that the person is:

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- (a) a medical practitioner; and
 - (b) qualified, by their training or registration, to assess the employee's injury.

11 Notice requirements

- (1) As soon as practicable after a relevant authority makes a determination requiring the employee to undergo a medical examination, the relevant authority must give the employee a notice of the employee's rights and obligations relating to the examination.

Note 1: The requirements for notifying determinations under section 57 are contained in section 61 of the SRC Act. Section 61 relevantly provides that the notice shall be in writing and set out: the terms of the determination; the reasons for the determination; and a statement to the effect that the employee may, if dissatisfied with the determination, request a reconsideration of the determination under subsection 62(2).

Note 2: The employee has rights and obligations under sections 57 and 62 of the SRC Act.

Note 3: The effect of a notice given in accordance with this section is that subsection 11A(3) of the SRC Regulations will apply and the period in which days are not counted for determining a claim will start on the day the relevant authority gives the employee the notice and end on the day the relevant authority receives the results of the medical examination. See item 1 of the table in section 11A of the SRC Regulations.

- (2) The notice required by subsection (1) must also include the relevant authority's reasons for:
 - (a) accepting or not accepting, whether in whole or part, the views of the employee (if any) provided by the employee in accordance with subsection 9(5); and
 - (b) relying on or not relying on, whether in whole or part, the employee's treating practitioner and the information (if any) provided by the treating practitioner in accordance with subsection 9(2).
- (3) The notice required by subsection (1) must be given to the employee:
 - (a) at least 14 days before the date of the medical examination; or
 - (b) if the employee has agreed to a notice period of less than 14 days—a period before the date of the medical examination being not less than the notice period agreed to by the employee.

12 Limitations on frequency and number of medical examinations

- (1) The employee shall not be required to undergo more than one medical examination in respect of the injury more frequently than at 6-month intervals, where each interval commences the day after the last day on which the last examination took place.
- (2) The minimum interval specified in subsection (1) only applies in relation to a medical examination if:
 - (a) the employee undergoes the examination; and
 - (b) the employee does not in any way obstruct the examination; and
 - (c) the support person (if any) does not in any way obstruct the examination.

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- (3) The minimum interval specified in subsection (1) does not apply in relation to a medical examination if:
- (a) where the employee has requested a medical examination—the request is made during the minimum interval specified in subsection (1); or
 - (b) where the employee’s treating practitioner has recommended a medical examination—the recommendation is made during the minimum interval specified in subsection (1); or
 - (c) where a medical practitioner, following an earlier medical examination, recommended a further examination or re-examination by a specific date or after a specific period—the date is, or the period ends, during the minimum interval specified in subsection (1); or
 - (d) there has been a change in the employee’s circumstances; or
 - (e) where the injury requires multidisciplinary medical treatment:
 - (i) it is not reasonably practicable for a single medical practitioner to address all the matters that are the subject of paragraph 9(4)(b); and
 - (ii) it is appropriate for the relevant authority to require the employee to undergo more than one medical examination, with a different medical practitioner, during the minimum interval specified in subsection (1); or
 - (f) the medical practitioner nominated by the relevant authority to conduct the medical examination fails, for any reason, to provide a written report of the examination within:
 - (i) the timeframe specified by the relevant authority as part of the arrangement; or
 - (ii) such additional timeframe allowed by the relevant authority; or
 - (g) a request for reconsideration of any determination is made in accordance with section 62 of the SRC Act and:
 - (i) in the opinion of the relevant authority there is insufficient or inconsistent information regarding any matter relevant to the reasons for the request; and
 - (ii) a reviewable decision has not yet been made in relation to the request; or
 - (h) an application for review of any reviewable decision is made in accordance with section 64 of the SRC Act and:
 - (i) in the opinion of the person or body who made the reviewable decision, there is insufficient or inconsistent information regarding any matter relevant to the review; and
 - (ii) a final decision has not yet been made in relation to the review.

13 Other relevant matters

- (1) Nothing in this Part is to be construed so as to require a relevant authority to comply with this Part separately or sequentially. That is, the relevant authority may comply with the requirements of this Part at the same time or by the same conduct.

Example: The relevant authority may seek information from the employee’s treating practitioner at the same time as, or before or after, seeking views from the employee.

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- (2) For the avoidance of doubt, this Part does not:
- (a) require the relevant authority to require the employee to undergo a medical examination; or
 - (b) prevent the relevant authority from requiring the employee to undergo a medical examination by the employee's treating practitioner if that practitioner is a medical practitioner.

Record keeping

- (3) The relevant authority must keep a record of the views of the employee (if any) provided by the employee in accordance with subsection 9(5) for the period required by any law that applies to the record or records of that kind.

Provision of report

- (4) If the relevant authority makes a determination requiring the employee to undergo a medical examination, the relevant authority must provide the medical practitioner's report of the examination to the employee, or the employee's nominated representative or the employee's treating practitioner.