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1991

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

ARTS, SPORT, ENVIRONMENT AND TOURISM

LEGISLATION AMENDMENT BILL 1991

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for the Arts, Sport,
the Environment, Tourism and Territories,
The Hon Ros Kelly MP)



**ARTS, SPORT, ENVIRONMENT AND TOURISM LEGISLATION
AMENDMENT BILL 1991**

GENERAL OUTLINE

Fifteen Acts administered by the Department of the Arts, Sport, the Environment, Tourism and Territories are amended by this Bill.

The amendments are mainly to make the administration of various Government programs more efficient and cost effective.

One measure affects a range of programs. The Bill implements for 13 statutory authorities in the Arts, sport, Environment, Tourism and Territories portfolio the Government's decision that the Remuneration Tribunal should have jurisdiction over the recreation leave entitlements of full-time office holders. Authorities in other portfolios have already been covered by the Industrial Relations Legislation Amendment Act (No. 2) 1991.

The other amendments in the Bill cover specific programs:

- . Five statutory authorities will have the value limit beyond which they need to obtain Ministerial approval for contracts and other transactions increased, generally to \$250,000: the Australia Council; Australian Film, Television and Radio School, Australian National Maritime Museum, Australian National Gallery, and National Museum of Australia.
- . An officer of the Navy will be an ex officio member of the Council of the Australian National Maritime Museum, and section 49 of the Museum Act, which exempts the Museum from taxation, will be clarified.
- . The 3 representatives of the Convocation of the Australian Film, Television and Radio School on the Council of the School will be appointed by the Council, rather than elected by the Convocation. It is becoming increasingly difficult to conduct an effective election among the thousands of members of Convocation.
- . The Protection of Movable Cultural Heritage Committee will be made able to hold meetings by conference telephone and similar methods.
- . The maximum fee that can be levied under the regulations for an export or import permit under the Hazardous Wastes (Regulation of Exports and Imports) Act 1989 will be increased from \$4,000 to \$8,000. The \$4,000 limit introduced in July 1990 was intended to enable full cost recovery but experience has shown it is insufficient.

FINANCIAL IMPLICATIONS

The amendments to the Hazardous Wastes Act will permit increased cost recovery in the issue of permits under the Act. Other parts of the Bill will streamline administration with resulting small cost savings.

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Clause 1: Short title

The Act may be cited as the *Arts, Sport, Environment, and Tourism Legislation Amendment Act 1991*.

Clause 2: Commencement

The Act will commence on the day on which it receives Royal Assent.

Clause 3: Amendments of Acts

Amendments to 14 Acts are set out in the Schedule.

The Schedule

NOTE: Contracts

In these notes, the 'value' of a contract means the amount of money required to be received or spent, or value of property required to be acquired or disposed of, by the statutory authority proposing to make the contract. A 'contract' includes any other transaction under which an authority acquires or disposes of property.

Where there are special legislative provisions for Ministerial approval of acquisitions or disposals of items in a cultural institution's collection, or items not in a collection but the special concern of the institution, e.g. works of art for the Australian National Gallery, a 'contract' involving such items must comply with the special provision.

In each case the investment of funds held by the statutory authority is dealt with by special provisions, and provided these are complied with a contract necessary to make as part of the investment, e.g. the contract governing a deposit account with a bank, does not require separate approval under the general contract limits provisions.

Amendments to:

Australia Council Act 1975

New section 12, amended subparagraph 14(2)(b)(ii), new section 19C and amended paragraph 19F(2)(b) will provide that a full-time Chairperson of the Australia Council, if one were appointed (the present Chairperson is part-time), and the General Manager, will have the recreation leave entitlements determined by the Remuneration Tribunal. Leave of absence for other reasons, and the conditions governing it, e.g. remuneration, are determined by the Minister.

Amended paragraph 34(1)(a) will increase the value of contracts which the Council may make without the specific approval of the Minister from \$100,000 to \$250,000. This accounts for several years' inflation. The limit was increased from \$50,000 to \$100,000 in the Australia Council Amendment Act 1991, but this increase is still inadequate; the \$50,000 limit had been unchanged since 1975.

Australian Film Commission Act 1975

New section 18 and amended subparagraph 23(2)(b)(iii) will provide that a full-time member of the Board of the Commission, if one were appointed (all present members are part-time), will have the recreation leave entitlements determined by the Remuneration Tribunal. Leave of absence for other reasons, and the conditions governing it, e.g. remuneration, are determined by the Minister.

Australian Film, Television and Radio School Act 1973

Amended paragraphs 8(1)(e) and (8)(8)(b) will provide that the 3 members of the School's Council of 9 who represent the Convocation of the School are to be appointed by the Council, rather than elected every years by the members of Convocation. The School is 18 years old and Convocation now has over 1,000 members; the election process has become unworkable, with only 172 members voting in the most recent election in February 1989.

New section 17 and amended paragraph 29(1)(b) will provide that a full-time member of the School's Council (at present the only full-time member is the Director of the School), will have the recreation leave entitlements determined by the Remuneration Tribunal. Leave of absence for other reasons, and the conditions governing it, e.g. remuneration, are determined by the Council.

Amended paragraphs 40(1)(a) and (b) will increase the value of contracts which the Council of the School may make without the specific approval of the Minister from \$50,000 to \$250,000. This accounts for several years' inflation. The \$50,000 limit had been unchanged since 1973. A higher limit than is set out in the Act remains able to be set by regulation.

Australian National Maritime Museum Act 1990

Subsection 3(1), paragraphs 17(1)(b) and (c), subsections 17(2) and (5), paragraphs 17(6)(a) and (b), and sections 19 and 20 are amended to provide that one of the part-time members of the Museum's Council will be an officer of the Navy appointed by the Chief of Naval Staff.

Amended paragraph 10(4)(b) will increase the value of material in the national maritime collection which the Museum's Council may dispose of without the Minister's approval from \$10,000 to \$20,000.

New section 34 and amended paragraph 36(2)(b) will provide that the Director of the Museum will have the recreation leave entitlements determined by the Remuneration Tribunal. Leave of absence for other reasons, and the conditions governing it, e.g. remuneration, are determined by the Council if the absence is less than 5 working days, otherwise by the Minister.

Amended paragraphs 47(1)(a) and (b) will increase the value of contracts which the Council may make without the specific approval of the Minister from \$100,000 to \$250,000. The \$100,000 limit has been found inappropriate, especially in view of the high costs associated with even routine maintenance and overheads at the Museum's premises in Sydney. A higher limit than is set out in the Act remains able to be set by regulation.

Section 49 is repealed, and a new section is substituted, to make clearer the Museum's tax exemption. The Museum is not subject to taxation under any Commonwealth, State or Territory law. In particular, the Museum's transactions in respect of goods for use, not sale, are not subject to sales tax.

Australian Sports Commission Act 1989

New sections 14 and 35 are inserted in the Act to provide that the full-time member of the Commission, if one were appointed (at present all members are part-time), and the Executive Director of the Commission, will have the recreation leave entitlements determined by the Remuneration Tribunal. Leave of absence for other reasons, and the conditions governing it,

e.g. remuneration, are determined by the Minister for a full-time Chairperson, the Chairperson for another full-time member of the Commission, and the Commission for the Executive Director.

Australian Sports Drug Agency Act 1990

Amended subsection 33(2), and new subsections 33(3), (4) and (5) will provide that the Chief Executive of the Agency will have the recreation leave entitlements determined by the Remuneration Tribunal. Leave of absence for other reasons, and the conditions governing it, e.g. remuneration, are determined by the Chairperson, who must inform the Minister if the Chief Executive is to be absent for more than 4 continuous weeks.

Australian Tourist Commission Act 1987

Amended section 18 and paragraph 21(2)(d), and new section 36 will provide that a full-time Chairperson of the Commission, if one were appointed (at present the Chairperson is part-time), and the Managing Director of the Commission, will have their recreation leave entitlements determined by the Remuneration Tribunal. Leave of absence for other reasons, and the conditions governing it, e.g. remuneration, are determined by the Minister for a full-time Chairperson. The Chairperson may grant the Managing Director such leave on such conditions, if any, as are determined by the Board with the Minister's approval.

Environment Protection (Alligator Rivers Region) Act 1978

New section 11 and amended paragraph 13(2)(d) will provide that the Supervising Scientist for the Alligator Rivers Region will have the recreation leave entitlements determined by the Remuneration Tribunal. Leave of absence for other reasons, and the conditions governing it, e.g. remuneration, are determined by the Minister.

Great Barrier Reef Marine Park Act 1975

New section 13 and amended paragraph 16(2)(b) will provide that the Chairman of the Great Barrier Reef Marine Park Authority will have the recreation leave entitlements determined by the Remuneration Tribunal. Leave of absence for other reasons, and the conditions governing it, e.g. remuneration, are determined by the Minister.

Hazardous Wastes (Regulation of Exports and Imports) Act 1990

Amended section 32 will increase from \$4,000 to \$8,000 the limit of fees which the regulations may fix for applications and notices in relation to export and import permits under the Act. The section ensures that the fees fixed will be reasonably related to the Commonwealth's expenses in administering the Act, and cannot be of a level that would amount to taxation.

National Gallery Act 1975

New section 28 and amended paragraph 29(2)(b) will provide that the Director of the Gallery will have the recreation leave entitlements determined by the Remuneration Tribunal. Leave of absence for other reasons, and the conditions governing it, e.g. remuneration, are determined by the Minister.

Amended paragraphs 38(1)(b) and (c) will increase the value of contracts which the Council of the Gallery may make without the specific approval of the Minister from \$100,000 to \$250,000 in the case of the acquisition of any property, right or privilege, other than a work of art, and from \$50,000 to \$250,000 in the case of the disposal of any property, right or privilege, other than a work of art. This accounts for several years' inflation. The \$100,000 limit has been unchanged since 1973, the \$50,000 limit since 1975. In the case of acquisitions of works of art, the limit remains \$450,000, set in 1985. The disposal of works of art as specified in section 9 is not affected by these amendments. In all cases a higher limit than is set out in the Act remains able to be set by regulation.

National Library Act 1960

New section 17B will provide that the Director-General of the Library will have the recreation leave entitlements determined by the Remuneration Tribunal. Leave of absence for other reasons, and the conditions governing it, e.g. remuneration, are determined by the Minister, or the Council acting with the Minister's authority.

National Museum of Australia Act 1980

Amended paragraphs 9(4)(b) and 9A(3)(b) will increase the value beyond which historical material, both within and outside the national collection, may be disposed of by the Council of the Museum without the Minister's approval, from \$5,000 to \$20,000. This accounts for several years' inflation. The \$5,000 limit has been unchanged since 1980.

New section 26 and amended paragraph 27(2)(b) will provide that the Director of the Museum will have the recreation leave entitlements determined by the Remuneration Tribunal. Leave of absence for other reasons, and the conditions governing it, e.g. remuneration, are determined by the Minister.

Amended paragraphs 37(1)(a) and (b) will increase the value of contracts which the Council of the Museum may make without the specific approval of the Minister from \$100,000 in the case of acquisitions of historical material, and \$50,000 in other cases, to \$250,000. This accounts for several years' inflation. The current limits have been unchanged since 1980. In all cases a higher limit than is set out in the Act remains able to be set by regulation.

National Parks and Wildlife Conservation Act 1975

New section 26 and amended paragraph 28(2)(b) will provide that the Director of National Parks and Wildlife will have the recreation leave entitlements determined by the Remuneration Tribunal. Leave of absence for other reasons, and the conditions governing it, e.g. remuneration, are determined by the Minister.

Protection of Movable Cultural Heritage Act 1986

New section 21A will provide that the National Cultural Heritage Committee will be able to regulate the conduct of its meetings as it considers appropriate, and in particular to permit members to participate in meetings by telephone, closed circuit television, or any other method of communication the Committee determines, rather than physical attendance.

