

1995

**THE PARLIAMENT OF THE COMMONWEALTH OF
AUSTRALIA**

THE SENATE

INDUSTRIAL RELATIONS AND OTHER LEGISLATION AMENDMENT BILL 1995

REVISED SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments and new clauses to be moved on behalf of the Government

**(Circulated by authority of the
Minister for Industrial Relations,
the Honourable Laurie Brereton MP)**



INDUSTRIAL RELATIONS AND OTHER LEGISLATION AMENDMENT BILL 1995

(amendments and new clauses to be moved on behalf of the Government)

OUTLINE

The amendments insert new Schedules 7, 8, 9 and 10 to the bill to amend 4 Acts. (The bill is also amended to provide that these amendments commence on Royal Assent.)

Schedule 7 is an amendment to the *Australian National University Act 1991*, consequential upon the amendments to the *Remuneration Tribunal Act 1973* made by Schedule 9, to clarify that the university Council holds power to determine remuneration for its Vice-Chancellor and Deputy Vice-Chancellor.

Schedule 8 amends the *National Occupational Health and Safety Commission Act 1985* (the NOHSC Act). These amendments make it clear that it is a function of the National Occupational Health and Safety Commission (the Commission) to provide funding and staff for all aspects of the notification and assessment scheme established by the *Industrial Chemicals (Notification and Assessment) Act 1989*.

Some doubt has been expressed about the capacity of the Commission to fund and provide staff for the non occupational health and safety aspects of the notification and assessment scheme.

The proposed amendments will make it clear that the Commission does have this power by expressly so providing in the functions of the Commission.

This amendment reflects the original policy intention.

Schedule 9 amends the *Remuneration Tribunal Act 1973* to modify the Tribunal's role in relation to the remuneration of executive education offices of Commonwealth higher education institutions.

The Tribunal is currently required to fix remuneration levels for these offices:

in future the Tribunal will only be required to advise the institutions concerned upon appropriate levels of remuneration for these offices.

Schedule 10 is an amendment to the *University of Canberra Act 1989*, consequential upon the amendments to the *Remuneration Tribunal Act 1973* made by Schedule 9, to clarify that the university Council holds power to determine remuneration for its Vice-Chancellor and Deputy Vice-Chancellor.

FINANCIAL IMPACT STATEMENT

The amendments will have no significant impact on Commonwealth expenditure.

NOTES ON AMENDMENTS AND NEW CLAUSES

Amendment No.1

This amendment provides that the new clauses inserted by clause 3 and the Schedules inserted by clause 4 will commence on Royal Assent.

Amendment No.2

This amendment is consequential upon Amendment 1. As the new Schedules are to commence on Royal Assent it is necessary to exclude them from items in the bill which commence on a day or days to be fixed by Proclamation.

Amendment No.3

This provision amends the bill by inserting new clauses to effect the inclusion of Schedules 7, 8, 9 and 10 to the bill.

Amendment No.4

This amendment inserts 4 new Schedules to the bill to amend four Acts.

SCHEDULE 7 - AMENDMENT OF THE AUSTRALIAN NATIONAL UNIVERSITY ACT 1991

Schedule 7 is consequential on the amendments made by Schedule 9.

Schedule 7 amends the *Australian National University Act 1991* ("the ANU Act") to clarify that the university Council holds power to determine remuneration for its Vice-Chancellor and Deputy Vice-Chancellor.

Item 1: Repeal of section 36

Section 36 of the ANU Act provides that the Council's powers in relation to executive office holders have effect subject to the *Remuneration Tribunal Act 1973*.

Repealing section 36 is necessary to clarify that the Council has power to determine rates of remuneration for its Vice-Chancellor and Deputy Vice-Chancellor once the Remuneration Tribunal no longer performs this function.

SCHEDULE 8 - AMENDMENTS OF THE NATIONAL OCCUPATIONAL HEALTH AND SAFETY COMMISSION ACT 1985.

Schedule 8 amends the *National Occupational Health and Safety Commission Act 1985* (the NOHSC Act).

Item 1: Insert new subsection 8(2A)

This item inserts a new subsection 8(2A) in the NOHSC Act.

Section 8 sets out the functions of the National Occupational Health and Safety Commission (the Commission).

New subsection 8(2A) is inserted to make it clear that the Commission can fund and provide staff for the administration of all aspects of the national system of notification and assessment of industrial chemicals established by the *Industrial Chemicals (Notification and Assessment) Act 1989*, including those relating to non-occupational health and safety matters.

SCHEDULE 9 - AMENDMENTS OF THE REMUNERATION TRIBUNAL ACT 1973

This Schedule amends the *Remuneration Tribunal Act 1973* ("the RT Act") in relation to the Remuneration Tribunal's role in determining salary levels for executive education offices (Vice-Chancellors, Deputy Vice-Chancellors, Principals and Deputy Principals) of Commonwealth higher education institutions (the Australian National University, the Australian Maritime College, and the University of Canberra).

The RT Act currently requires the Tribunal to determine the level of remuneration payable for executive education offices.

Item 1: Repeal and replacement of subsection 5(2)

Subsection 5(2) of the RT Act provides it is a function of the Tribunal to advise statutory corporations, government business enterprises and other employing bodies upon the terms and conditions (including remuneration and allowances) on which principal executive offices are to be held.

Proposed replacement subsection 5(2) adds to this a requirement that the Tribunal advise the Australian National University, the University of Canberra and the Australian Maritime College upon the terms and conditions (including remuneration and allowances) on which executive education offices are to be held.

Item 2: Subsection 5(3)

This is a consequential amendment to ensure that in providing advice under subsection 5(2), the Tribunal has regard to superannuation entitlements of the holders of executive education offices.

Item 3: Repeal of subsection 7(2A)

This is a consequential amendment to remove an existing requirement upon the Tribunal to inquire into and determine the rate of salary payable to a person holding an executive education office.

Item 4: Continuance of existing determinations

This is a transitional provision. It separately provides that existing determinations of the Tribunal regarding executive education offices continue in force until such time as the Council of an institution makes a replacement determination.

Item 5: Repeal of subsection 7(3D)

This amendment is consequential on item 3 of this Schedule.

Subsection 7(3D) gives the Tribunal power to determine that the rate of salary payable to the holder of an executive education office is equivalent to the holder of another office. This will not be relevant when the Tribunal ceases to make determinations in respect of executive education offices.

Item 6: Amendment of subsection 7(4)

This amendment is consequential on item 3 of this Schedule and removes a reference to determinations made by the Tribunal under section 7(2A).

Item 7: Repeal of paragraph 7(9)(acc)

This amendment is consequential on item 3 of this Schedule.

The requirement for Commonwealth higher institutions to pay salaries of executive education offices out of funds lawfully available for this purpose will not be relevant when the Tribunal ceases to make determinations in respect of these offices.

Item 8: Amendment of paragraph 8(1)(b)

This amendment is consequential on item 3 of this Schedule.

The requirement for the Tribunal to make annual determinations in respect of executive education offices will not be relevant when the Tribunal ceases to make determinations in respect of these offices.

SCHEDULE 10 - AMENDMENT OF THE UNIVERSITY OF CANBERRA ACT 1989

Schedule 10 is consequential on the amendments made by Schedule 9.

Schedule 10 amends the *University of Canberra Act 1989* ("the UCAN Act") to clarify that the university Council holds power to determine remuneration for its Vice-Chancellor and Deputy Vice-Chancellor.

Item 1: Repeal of section 26

Section 26 of the UCAN Act provides that the Council's powers in relation to executive office holders have effect subject to the RT Act.

Repealing section 26 is necessary to clarify that the Council has power to determine rates of remuneration for its Vice-Chancellor and Deputy Vice-Chancellor once the Remuneration Tribunal no longer performs this function.

