

Aboriginal Affairs (Arrangements with the States) Act 1973

No. 115 of 1973

AN ACT

**Providing for Arrangements with the States with respect
to Aboriginal Affairs.**

[Assented to 26 October 1973]

WHEREAS by reason of an amendment made to the Constitution in the year 1967, certain powers to make laws for the benefit of the Aboriginal people of Australia in the States became vested in the Parliament:

AND WHEREAS the Australian Government, after consultation with the Governments of the States, proposes that those powers and other relevant powers be used to promote legislative and executive action under which the Australian Government will assume increased responsibilities for the development of the Aboriginal people of Australia including responsibilities for the planning, co-ordination and financing of such activities as are designed to promote the economic, social and cultural advancement of that people and are at present the responsibility of the States and their authorities:

AND WHEREAS by reason of the foregoing it is necessary to make provision for enabling persons employed by the States to be appointed to the Australian Public Service and at the same time for permitting

persons in the Australian Public Service to hold offices, and perform functions, under the laws of the States relating to Aboriginal affairs:

BE IT THEREFORE ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

Short title. 1. This Act may be cited as the *Aboriginal Affairs (Arrangements with the States) Act 1973*.

Commence-
ment. 2. This Act shall come into operation on the day on which it receives the Royal Assent.

Interpre-
tation. 3. (1) In this Act, unless the contrary intention appears—
 “ Australian Public Service ” means the Service constituted under the Public Service Act;
 “ Board ” means the Public Service Board constituted under the Public Service Act;
 “ employed ”, in relation to the Australian Public Service, means employed under Division 10 of Part III of the Public Service Act, and “ employment ” and “ employee ” shall be construed accordingly;
 “ Public Service Act ” means the *Public Service Act 1922–1973*;
 “ State employee ” means a person who—
 (a) is employed by a State, by a Minister of the Crown of a State or by an authority of a State; or
 (b) is the holder of an office that is established by or under a law of a State,
 and performs duties concerned with Aboriginal affairs.

(2) For the purposes of this Act, a person who, with the authority of the Board given under section 8, is employed in the Australian Public Service shall be taken to be engaged under this Act.

Incorporation with
Public Service Act. 4. The provisions of this Act relating to the appointment of persons to, and the employment of persons in, the Australian Public Service are incorporated and shall be read as one with the Public Service Act.

Arrangements with
States. 5. (1) The Governor-General may enter into an arrangement with the Governor of a State with respect to Aboriginal affairs.

(2) Without limiting the generality of sub-section (1), an arrangement under that sub-section may provide for—

- (a) the transfer of State employees to the Australian Public Service;
- (b) the appointment of officers of the Australian Public Service to offices under the laws of the State concerned relating to Aboriginal affairs;
- (c) the performance of functions under the laws of the State concerned relating to Aboriginal affairs by officers of, and employees in, the Australian Public Service; and

- (d) the assumption by the Australian Government of responsibilities of the State concerned and its authorities relating to Aboriginal affairs.

(3) Notwithstanding section 91 of the Public Service Act, an officer of the Australian Public Service may, in pursuance of an arrangement under this section, accept or continue to hold a position as a State employee.

6. (1) For the purpose of giving effect to an arrangement entered into under section 5, the Board may, by notice in writing addressed to a person who is a State employee—

Notice to State employees of right to elect to be employed in Australian Public Service.

- (a) inform the person that he may elect to be appointed to the Australian Public Service; or
(b) inform the person that he may elect to be employed in the Australian Public Service in the Department of Aboriginal Affairs.

(2) An election in pursuance of a notice given under sub-section (1) shall be in writing addressed to the Board and shall be delivered to the Secretary of the Board within the period of twenty-one days after the date of the notice or within such further period as the Board, within that period of twenty-one days, allows.

(3) A notice under sub-section (1) shall include particulars of the proposed appointment or employment.

7. Where a person elects, in pursuance of a notice given under section 6, to be appointed to the Australian Public Service, the Board may (notwithstanding anything contained in the Public Service Act, except in paragraphs 34 (a), (c) and (d) of that Act) appoint him accordingly.

Appointment to Australian Public Service of State employees.

8. (1) Where a person elects, in pursuance of a notice given under section 6, to be employed in the Australian Public Service in the Department of Aboriginal Affairs, the Board may authorize his employment accordingly.

Temporary employment in Australian Public Service of State employees.

(2) Sub-sections 82 (1) and (2) of the Public Service Act do not apply in relation to any employment authorized by the Board under sub-section (1).

9. (1) Subject to this section and to sections 20, 55, 56, 62 and 67 of the Public Service Act and to any law providing for a reduction in the remuneration payable to officers of the Australian Public Service generally, the rate of remuneration of a State employee appointed or engaged under this Act shall, while he continues in the Australian Public Service, be not less favourable than that to which, in the opinion of the Board, he would have been entitled in respect of the normal position which he occupied as a State employee immediately before his appointment or engagement under this Act.

Rate of remuneration.

(2) Where, by virtue of sub-section (1), the remuneration to which a person is entitled would or might be increased by reason of an increment of salary in respect of the normal position which he occupied as a State

employee, his entitlement to the increase is subject to the provisions which, under sub-sections 31 (4), (5) and (6) of the Public Service Act, apply to increments of salary referred to in sub-section 31 (1) of that Act.

(3) In this section, “remuneration” means salary or pay and includes such allowances as, in the opinion of the Board, should be regarded as having formed part of the salary or pay of the officer or employee in his normal position as a State employee.

Prior service
reckoned as
service in
Australian
Public
Service.

10. Where a State employee is appointed or engaged under this Act and his service in the Australian Public Service is continuous with permanent service or temporary service, as the case may be, of that employee in the Public Service of a State (including any service deemed under the law of the State to have been continuous service) that service in the Public Service of the State shall be reckoned, for the purposes of the Public Service Act, as service in the Australian Public Service.

Accrued
recreation
leave.

11. A person appointed or engaged under this Act preserves his eligibility for the grant of leave of absence for recreation that had accrued immediately prior to his being so appointed or engaged.

Special
conditions of
employment.

12. (1) For the purpose of ensuring that the conditions of employment of a person appointed or engaged under this Act are, as far as possible, as favourable as those which, in the opinion of the Board, he enjoyed as a State employee, the Board may, notwithstanding anything in the Public Service Act or in any other law—

- (a) determine any conditions of employment that are to apply to him; or
- (b) determine that an allowance is payable to him as compensation, or both.

(2) In this section, “conditions of employment” includes conditions relating to salary, pay or allowances, but does not include conditions relating to superannuation.