



# **Commonwealth Employees' Rehabilitation and Compensation Amendment Act 1990**

**No. 68 of 1990**

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## **An Act to amend the *Commonwealth Employees' Rehabilitation and Compensation Act 1988***

*[Assented to 16 June 1990]*

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

### **Short title etc.**

1. (1) This Act may be cited as the *Commonwealth Employees' Rehabilitation and Compensation Amendment Act 1990*.

(2) In this Act, "Principal Act" means the *Commonwealth Employees' Rehabilitation and Compensation Act 1988*<sup>1</sup>.

### **Commencement**

2. (1) Sections 1 and 2 commence on the day on which this Act receives the Royal Assent.

(2) Section 3 is taken to have commenced on 1 January 1990.

(3) Subject to subsection (4), the remaining provisions of this Act commence on a day to be fixed by Proclamation.

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(4) If the provisions referred to in subsection (3) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence at the end of that period.

**Employees**

3. Section 5 of the Principal Act is amended:

- (a) by inserting in paragraph (2)(a) "or staff member" after "member";
- (b) by inserting in subsection (2) "or staff member" after "such a member".

**Former employees under 65 who are in receipt of superannuation benefits and are unable to engage in any work**

4. Section 131 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

"(1) This section applies to a former employee who:

- (a) on the commencing day, was under 65 and in receipt of a pension under a superannuation scheme; and
- (b) is not capable of engaging in any work."

**Former employees under 65 who are not in receipt of superannuation benefits and are unable to engage in any work**

5. Section 132 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

"(1) This section applies to a former employee who:

- (a) on the commencing day, was under 65 and not in receipt of a pension under a superannuation scheme; and
- (b) is not capable of engaging in any work."

6. After section 132 of the Principal Act the following section is inserted:

**Former employees under 65 who are capable of earning an amount in suitable employment**

"132A. (1) This section applies to a former employee who was under 65 on the commencing day, and who is capable of earning an amount per week in suitable employment.

"(2) Where a person to whom this section applies was in receipt of a pension under a superannuation scheme on the commencing day, then, subject to this Division, the amount of compensation payable per week to the former employee is:

- (a) the amount of compensation per week that would have been payable under section 131 if that section had applied to the former employee, less the amount per week that he or she is able to earn in suitable employment; or

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(b) the amount of compensation per week that would have been payable under section 20 if that section had applied to the former employee;  
whichever is greater.

“(3) Where a person to whom this section applies was not in receipt of a pension under a superannuation scheme on the commencing day, then, subject to this Division, the amount of compensation payable per week to the former employee is:

- (a) the amount of compensation per week that would have been payable under section 132 if that section had applied to the former employee, less the amount per week that he or she is able to earn in suitable employment; or
  - (b) the amount of compensation per week that would have been payable under section 19 if that section had applied to the former employee, less an amount equal to 5% of his or her normal weekly earnings;
- whichever is greater.

“(4) In determining, for the purposes of this section, the amount per week a former employee is able to earn in suitable employment, the Commission must have regard to the factors mentioned in paragraphs 19 (4) (a), (b), (c), (d), (e), (f) and (g) as if those paragraphs referred to the former employee.”.

**Reduction of compensation on reaching 65**

7. Section 134 of the Principal Act is amended by omitting from subsection (1) “or 132” and substituting “, 132 or 132A”.

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**NOTE**

1. No. 75, 1988, as amended. For previous amendments, see Nos. 109 and 135, 1988.

*[Minister's second reading speech made in—  
Senate on Senate on 17 May 1990  
House of Representatives on 31 May 1990]*