



Social and Community Services Pay Equity Special Account Act 2012

No. 150, 2012 as amended

Compilation start date: 1 July 2014

Includes amendments up to: Act No. 62, 2014

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Social and Community Services Pay Equity Special Account Act 2012* as in force on 1 July 2014. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 14 August 2014.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

Uncommenced amendments

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

Provisions ceasing to have effect

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

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An Act to establish the Social and Community Services Pay Equity Special Account, and for related purposes

Part 1—Preliminary

1 Short title

This Act may be cited as the *Social and Community Services Pay Equity Special Account Act 2012*.

2 Commencement

This Act commences on the day this Act receives the Royal Assent.

3 Simplified outline

The following is a simplified outline of this Act.

- This Act establishes the Social and Community Services Pay Equity Special Account.
- Section 6 provides for annual credits of money to the Account for the 2012-13 financial year through to the 2020-21 financial year.
- Section 7 provides that a purpose of the Account is to assist certain employers in the Social, Community and Disability Services Industry to meet the costs of payments required to be made as a result of certain pay equity orders. That section sets out the other purpose of the Account.

Section 4

- Section 8 provides that amounts may be debited from the Account and credited to the COAG Reform Fund for the purpose of making grants to the States or Territories in relation to the same kind of assistance.
- This Act ceases to have effect on 30 June 2021.

4 Definitions

(1) In this Act:

Account means the Social and Community Services Pay Equity Special Account established by section 5.

COAG Reform Fund means the COAG Reform Fund established by section 5 of the *COAG Reform Fund Act 2008*.

pay equity order means:

- (a) the Social, Community and Disability Services Industry Equal Remuneration Order; or
- (b) a transitional pay equity order (Queensland).

Social, Community and Disability Services Industry Equal Remuneration Order means the order:

- (a) made by Fair Work Australia under section 302 of the *Fair Work Act 2009* on 22 June 2012; and
- (b) titled “Social, Community and Disability Services Industry Equal Remuneration Order 2012”.

transitional pay equity order (Queensland) means:

- (a) the order that, under subitem 43(1) of Schedule 3 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, is taken to have been made by Fair Work Australia under item 43 of that Schedule on 27 March 2011; or
- (b) the order that, under subitem 30A(1) of Schedule 3A to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, is taken to have been made by Fair

Work Australia under item 30A of that Schedule on
1 January 2010.

- (2) For the purposes of this Act, the order referred to in paragraph (b) of the definition of ***transitional pay equity order (Queensland)*** in subsection (1) covers, or applies to, an employer only if the Division 2B State award referred to in paragraph 30A(2)(a) of Schedule 3A to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* was derived from the *Queensland Community Services and Crisis Assistance Award—State 2008*.

Section 5

Part 2—Social and Community Services Pay Equity Special Account

5 Social and Community Services Pay Equity Special Account

- (1) The Social and Community Services Pay Equity Special Account is established by this section.
- (2) The Account is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

6 Credits to the Account

On the day mentioned in column 1 of an item in the following table, there is to be credited to the Account the amount mentioned in column 2 of that item:

Credits to the Account		
Item	Column 1 Day	Column 2 Amount to be credited
1	The day this section commences	\$69.4 million
2	1 July 2013	\$145.2 million
3	1 July 2014	\$198.5 million
4	1 July 2015	\$253.4 million
5	1 July 2016	\$309.4 million
6	1 July 2017	\$368.7 million
7	1 July 2018	\$431.4 million
8	1 July 2019	\$491.1 million
9	1 July 2020	\$554.5 million

7 Purposes of the Account

- (1) This section sets out the 2 purposes of the Account.
-

Section 7

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

- (2) A purpose of the Account is to assist employers:
- (a) who are covered by a pay equity order or to whom a pay equity order applies; and
 - (b) who are receiving funding, directly or indirectly, from the Commonwealth for the purposes of a program specified in an item in Part 1 or 2 of Schedule 1 (including that Schedule as modified by an instrument under subsection (4));
- to meet the costs of payments required to be made by the employers as a result of the order.
- (3) If:
- (a) employers are receiving, from the Commonwealth, fees for services; and
 - (b) the services are provided for the purposes of a program specified in an item in Part 1 or 2 of Schedule 2 (including that Schedule as modified by an instrument under subsection (4));
- then a purpose of the Account is to pay some or all of any increase in those fees paid to those employers, to the extent that the increase relates to one or more pay equity orders.

Instrument modifying Schedule 1 or 2

- (4) The Minister may, by written instrument, modify Schedule 1 or 2 in one or more of the following ways:
- (a) adding an item that specifies a program;
 - (b) omitting an item that specifies a program;
 - (c) omitting and substituting an item that specifies a program;
 - (d) varying an item that specifies a program.
- (5) An instrument made under subsection (4) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the instrument.

Note: See section 9 for disallowance of an instrument made under subsection (4).

Section 8

8 COAG Reform Fund

- (1) The Minister may, by writing, direct that a specified amount is to be:
 - (a) debited from the Account; and
 - (b) credited to the COAG Reform Fund;on a specified day.
- (2) The direction must be expressed to be given in order to enable the specified amount to be debited from the COAG Reform Fund for the purpose of making a specified grant of financial assistance to a State or Territory.
- (3) A grant specified under subsection (2) must be a grant of financial assistance in relation to assisting employers:
 - (a) who are covered by a pay equity order or to whom a pay equity order applies; and
 - (b) who are receiving funding from a State or Territory because of another grant of financial assistance:
 - (i) that is to the State or Territory and that is made under an agreement specified in an item in Part 1 of Schedule 3 (including that Schedule as modified by an instrument under subsection (7)); or
 - (ii) that is to the State or Territory under Part 3 of the *Federal Financial Relations Act 2009* and that is a payment specified in an item in Part 2 of Schedule 3 (including that Schedule as modified by an instrument under subsection (7));to meet the costs of payments required to be made by the employers as a result of the order.
- (4) Two or more directions under subsection (1) may be set out in the same document.

Debit from the COAG Reform Fund

- (5) The Treasurer must ensure that, as soon as practicable after an amount is credited to the COAG Reform Fund under subsection (1), in relation to making a grant of financial assistance

specified under subsection (2) to a State or Territory, the COAG Reform Fund is debited for the purposes of making that grant.

Direction is not a legislative instrument

- (6) A direction under subsection (1) is not a legislative instrument.

Instrument modifying Schedule 3

- (7) The Minister may, by written instrument, modify Schedule 3 in one or more of the following ways:
- (a) adding an item that specifies an agreement or payment;
 - (b) omitting an item that specifies an agreement or payment;
 - (c) omitting and substituting an item that specifies an agreement or payment;
 - (d) varying an item that specifies an agreement or payment.
- (8) An instrument made under subsection (7) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the instrument.

Note: See section 9 for disallowance of an instrument made under subsection (7).

Part 3—Other matters

9 Disallowance of instruments

Scope

- (1) This section applies to an instrument under subsection 7(4) or 8(7).

Disallowance

- (2) Either House of Parliament may, following a motion on notice, pass a resolution disallowing the instrument. To be effective, the resolution must be passed within 5 sitting days of the House after the copy of the instrument was tabled in the House under section 38 of the *Legislative Instruments Act 2003*.
- (3) If neither House passes such a resolution, the instrument takes effect on the day immediately after the last day on which such a resolution could have been passed.
- (4) If a House of Parliament passes a resolution under subsection (2) disallowing an instrument made under subsection 7(4) or 8(7), this Act does not prevent the Minister from making another instrument under subsection 7(4) or 8(7).

10 Sunset provision

This Act ceases to have effect on 30 June 2021.

Schedule 1—Programs

Note: See subsection 7(2).

Part 1—Programs in the Financial Framework (Supplementary Powers) Regulations 1997

Attorney-General's Department

- 402.001 Justice Services
- 402.005 Payments for the provision of community legal services
- 402.008 Family Relationships Services Program
- 402.009 Payments under the Indigenous Justice Program
- 402.010 Payments for the provision of Family Violence Prevention Legal Services for Indigenous Australia

Department of Education, Employment and Workplace Relations

- 407.034 Youth Attainment and Transitions National Partnership

Department of Families, Housing, Community Services and Indigenous Affairs

- 410.001 Family Support
- 410.002 Housing Assistance and Homelessness Prevention
- 410.004 Financial Management
- 410.005 Community Investment
- 410.009 Targeted Community Care
- 410.011 Services and Support for People with Disability
- 410.012 Support for Carers
- 410.015 Gender Equality for Women

Department of Health and Ageing

- 415.003 Drug strategy

Schedule 1 Programs

Part 1 Programs in the Financial Framework (Supplementary Powers) Regulations
1997

415.017 Home support

415.034 Mental health

Department of Immigration and Citizenship

417.002 Grants for community settlement services

Department of the Prime Minister and Cabinet

420.001 Domestic Policy

Part 2—Other programs

***Department of Families, Housing, Community Services and
Indigenous Affairs***

- 1 Programs referred to in paragraph 142A(1)(b) of the *Aboriginal
and Torres Strait Islander Act 2005*

Schedule 2—Programs

Note: See subsection 7(3).

Part 1—Programs in the Financial Framework (Supplementary Powers) Regulations 1997

Department of Immigration and Citizenship

- 417.003 Humanitarian settlement services
- 417.005 Supervision and welfare for unaccompanied humanitarian minors
- 417.012 Payments to the Australian Red Cross Society for the Asylum
Seeker Assistance Scheme
- 417.016 Compliance Resolution, Community Care and Assistance
- 417.017 Onshore Detention Network—Community and Detention Services

Department of Veterans' Affairs

- 430.007 Joint Venture Day Clubs

Part 2—Other programs

Department of Veterans' Affairs

- 1 Medical and Other Treatment Services provided under Part V of the *Veterans' Entitlements Act 1986*
- 2 Treatment and Other Services provided under Chapter 6 of the *Military Rehabilitation and Compensation Act 2004*
- 3 Treatment and Other Services provided under Part 2 of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006*

Schedule 3—Grants of financial assistance

Note: See subsection 8(3).

Part 1—Agreements

- 1 National Partnership Agreement Supporting National Mental Health Reform
- 2 National Partnership Agreement on Transitioning Responsibilities for Aged Care and Disability Services
- 3 National Partnership Agreement on Homelessness
- 4 National Partnership Agreement on Health Services, Implementation Plan for the National Perinatal Depression Initiative
- 5 Review Agreement in relation to the provision of financial assistance by the Commonwealth of Australia to Victoria for The Home and Community Care Program
- 6 Review Agreement in relation to the provision of financial assistance by the Commonwealth of Australia to Western Australia for The Home and Community Care Program

Part 2—Payments

- 1 National Affordable Housing Specific Purpose Payment
- 2 National Disability Specific Purpose Payment

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history
Endnote 5—Uncommenced amendments
Endnote 6—Modifications
Endnote 7—Misdescribed amendments
Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

Abbreviation key—Endnote 2

The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

Uncommenced amendments—Endnote 5

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.

Modifications—Endnote 6

If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

Misdescribed amendments—Endnote 7

An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

Miscellaneous—Endnote 8

Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	pres = present
am = amended	prev = previous
c = clause(s)	(prev) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	Reg = Regulation/Regulations
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expired or ceased to have effect	rep = repealed
hdg = heading(s)	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
mod = modified/modification	Sdiv = Subdivision(s)
No = Number(s)	SLI = Select Legislative Instrument
o = order(s)	SR = Statutory Rules
Ord = Ordinance	Sub-Ch = Sub-Chapter(s)
orig = original	SubPt = Subpart(s)
par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)	

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Social and Community Services Pay Equity Special Account Act 2012	150, 2012	8 Nov 2012	8 Nov 2012 (s 2)	
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 12 (items 133–136) and Sch 14 (items 1–4): 1 July 2014 (s 2(1) items 6, 14)	Sch 14 (items 1– 4)

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Pt 2	
s 5	am No 62, 2014
Note to s 7(1).....	rs No 62, 2014
Sch 1	
Pt 1	
hdg to Pt 1.....	am No 62, 2014
Sch 2	
Pt 1	
hdg to Pt 1.....	am No 62, 2014

Endnote 5—Uncommenced amendments [none]

Endnote 5—Uncommenced amendments [none]

Endnote 6—Modifications [none]

Endnote 7—Misdescribed amendments [none]

Endnote 8—Miscellaneous [none]