



Aboriginal Affairs (Arrangements with the States) Act 1973

Act No. 115 of 1973 as amended

This compilation was prepared on 27 October 2000
taking into account amendments up to Act No. 111 of 1982

The text of any of those amendments not in force
on that date is appended in the Notes section

Prepared by the Office of Legislative Drafting,
Attorney-General's Department, Canberra

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An Act providing for Arrangements with the States with respect to Aboriginal Affairs

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:

1 Short title [see Note 1]

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

2 Commencement [see Note 1]

This Act shall come into operation on the day on which it receives the Royal Assent.

3 Interpretation

(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.

4 Incorporation with Public Service Act

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.

5 Arrangements with States

- (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 subsection (1), an arrangement under that subsection 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 Notice to State employees of right to elect to be employed in Australian Public Service

- (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:
 - (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 subsection (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 subsection (1) shall include particulars of the proposed appointment or employment.

7 Appointment to Australian Public Service of State employees

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(1)(a) and (c) of that Act) appoint him accordingly.

8 Temporary employment in Australian Public Service of State employees

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

9 Rate of remuneration

- (1) Subject to this section, the provisions of Division 6 of Part III of the Public Service Act relating to the reduction in, or suspension of, remuneration payable to an officer, the *Commonwealth Employees (Redeployment and Retirement) Act 1979* 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.
- (2) Where, by virtue of subsection (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 of the regulations under the Public Service Act, and of the determinations in force under subsection 9(7A) or section 82D of that Act that are applicable to him, relating to increments of salary.
- (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.

10 Prior service reckoned as service in Australian Public Service

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.

11 Accrued recreation leave

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.

12 Special conditions of employment

- (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.

Table of Acts**Notes to the *Aboriginal Affairs (Arrangements with the States) Act 1973*****Note 1**

The *Aboriginal Affairs (Arrangements with the States) Act 1973* as shown in this compilation comprises Act No. 115, 1973 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Aboriginal Affairs (Arrangements with the States) Act 1973</i>	115, 1973	26 Oct 1973	26 Oct 1973	
<i>Public Service Acts Amendment Act 1982</i>	111, 1982	5 Nov 1982	S. 88: Royal Assent (a)	—

Act Notes

- (a) The *Aboriginal Affairs (Arrangements with the States) Act 1973* was amended by section 88 only of the *Public Service Acts Amendment Act 1982*, subsection 2(1) of which provides that section 88 shall come into operation on Royal Assent.

Table of Amendments

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ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted	
Provision affected	How affected
S. 7.....	am. No. 111, 1982
S. 9.....	am. No. 111, 1982