

EXPLANATORY STATEMENT

Statutory Rules 1989 No 241

**Maternity Leave (Commonwealth Employees)
Regulations (Amendment)**

**(Issued by the Authority of the
Minister for Industrial Relations)**

Section 15 of the Maternity Leave (Commonwealth Employees) Act 1973 (the Act) provides:

"The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act".

Subsection 3(1) of the Act defines "prescribed authority". Under section 5 of the Act, employees of a "prescribed authority" may be brought by regulation within the maternity leave arrangements provided under the Act.

The definition of "prescribed authority" includes:

- (a) a body corporate (other than an incorporated company, society or association) that is incorporated for a public purpose by a law of the Commonwealth or of a Territory (other than the Northern Territory) and is declared by the regulations to be a body corporate in relation to which this Act applies;
- (b) an unincorporated body that is established for a public purpose by a law of the Commonwealth or of a Territory (other than the Northern Territory) and is declared by the regulations to be an unincorporated body in relation to which this Act applies; or
- (c) a company that:
 - (i) is incorporated under a law of the Commonwealth or a law in force in a State or Territory;
 - (ii) is a trading corporation, or a financial corporation, within the meaning of paragraph 51(20) of the Constitution; and
 - (iii) is declared by the regulations to be a body corporate to which this Act applies.

Section 12 of the Snowy Mountains Engineering Corporation (Conversion into Public Company) Act 1989 amended the enabling legislation of the Snowy Mountains Engineering Corporation (the Snowy Mountains Engineering Corporation Act 1970) by deeming the Corporation to be a company registered under the Companies Act 1981 by the name of Snowy Mountains Engineering Corporation Limited (SMEC Limited). This took effect from 1 July 1989.

On conversion into a public company, SMEC Limited ceased to be a "prescribed authority" for the purposes of paragraph (a) of the definition of "prescribed authority".

Statutory Rules 1989 No 148, amongst other things, provided that only employees of the Snowy Mountains Engineering Corporation who were transferred to SMEC Limited on 1 July 1989 came under the Act. Other employees engaged from 1 July 1989 are excluded.

The Board of SMEC Limited now considers that it would be more appropriate for all employees of SMEC Limited to be covered by the Maternity Leave (Commonwealth Employees) Act 1973.

Accordingly, further amendments to the Maternity Leave (Commonwealth Employees) Regulations (the Regulations) have now been made. Regulation 4 of the Regulations now provides a mechanism for declaring companies to be bodies corporate to which paragraph (c) of the definition of "prescribed authority" in subsection 3(1) of the Act applies.

Accordingly, existing paragraphs (c) and (d) of Regulation 4 of the Regulations have been omitted. These referred specifically to OTC Limited, ANL Limited and SMEC Limited. A new paragraph (c) has been substituted. This provides (regulation 2 of the Statutory Rules) that a company specified in Schedule 2A of the Regulations is a body corporate for the purposes of the definition of "prescribed authority".

Schedule 2A is inserted by Regulation 4 of the Statutory Rules. Schedule 2A refers to ANL Limited, OTC Limited and Snowy Mountains Engineering Corporation Limited.

Regulation 6 of the Regulations required consequential amendments (which are made by Regulation 3 of the Statutory Rules).

It was also necessary to omit from existing Schedule 3 to the Regulations the reference to persons who were transferred from the Snowy Mountains Engineering Corporation to SMEC Limited. This was achieved by omitting item 69.

In combination with the other amendments to the Regulations this ensures that all employees of SMEC Limited are covered by the Act.

The amendments take effect from the date of gazettal.