

EXPLANATORY STATEMENT

Select Legislative Instrument 2011 No. 96

Issued by the authority of the Special Minister of State for the Public Service and Integrity

Long Service Leave (Commonwealth Employees) Act 1976

*Long Service Leave (Commonwealth Employees) Amendment Regulations
2011 (No. 1)*

The *Long Service Leave (Commonwealth Employees) Act 1976* (the Act) makes provision for long service leave in respect of employees of the Commonwealth.

Section 26 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 10 of the Act provides that 'Government Service' means employment by the Commonwealth, subject to certain exceptions. One exception is where a person is a Principal Executive Officer within the meaning of the *Remuneration Tribunals Act 1973*. Sub Section 10(6)(ab) of the Act specifically excludes a period of employment as a Principal Executive Officer from being recognised as prior 'Government Service' for long service leave purposes except where a Principal Executive Officer is prescribed for inclusion.

The purpose of these Regulations is to recognise a period of employment as a Principal Executive Officer (other than those Principal Executive Officers who are the Chief Executives of Government Business Enterprises) for the purposes of Sub Section 10(6)(ab) of the Act.

The Regulations include transitional provisions that provide for prior service as a Principal Executive Officer at any time before or after the commencement of the Regulation to be recognised as service that counts towards a long service leave entitlement, provided that at commencement of the regulation, the person is employed in a qualifying service for the purposes of the Act.

Details of the Regulations are set out in the Attachment.

Consultation in relation to these specific regulations was undertaken by the Australian Public Service Commission with the Department of Education Employment and Workplace Relations and the Remuneration Tribunal as part of the legislative development process.

An assessment was made under the guidelines issued by the Office of Best Practice Regulation, which indicated that a Regulation Impact Statement was not required.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commence on the day after they are registered.

Details of the *Long Service Leave (Commonwealth Employees) Amendment Regulations 2011 (No. 1)*

Regulation 1 – Name of Regulations

Regulation 1 provides that the title of the Regulations is the *Long Service Leave (Commonwealth Employees) Amendment Regulations 2011 (No. 1)*.

Regulation 2 – Commencement

Regulation 2 provides for the Regulations to commence on the day after they are registered.

Regulation 3 - Amendment of *Long Service Leave (Commonwealth Employees) Regulations 1957*

Regulation 3 provides that the *Long Service Leave (Commonwealth Employees) Regulations 1957* (the Principal Regulations) are to be amended as set out in Schedule 1.

Schedule 1 Amendments

These amendments amend the *Long Service Leave (Commonwealth Employees) Regulations 1957* to recognise certain Principal Executive Officers (within the meaning of *Remuneration Tribunals Act 1973*) for the purposes of the *Long Service Leave (Commonwealth Employees) Act 1976*.

Item [1] – Regulation

Item 1 inserts Regulation 9.

Regulation 9(1) provides that a Principal Executive Officer (other than a Chief Executive of a GBE) is prescribed for paragraph 10(6)(ab) of the Act.

Regulation 9(2) provides that for subsection 7(2) of the Act the previous employment of a Principal Executive Officer in Government Service must be taken into account for the purposes of section 11 of the Act.

Regulation 9(3) includes transitional provisions that provide for prior service as a PEO at any time before or after the commencement of the Regulation to be recognised as service that counts towards a long service leave entitlement, provided that at commencement of the Regulation, the person is employed in a qualifying service for the purposes of the Act.

Regulation 9(4) provides that GBE has the same meaning as in section 5 of the *Commonwealth Authorities and Companies Act 1997*.