Western Australia

Taxation (Staff Arrangements) Act 1969

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Western Australia

Taxation (Staff Arrangements) Act 1969

An Act relating to the employment in the Public Service of the State of certain employees of the Commonwealth in connection with taxation and associated activities, and for incidental and other purposes.

1. Short title

This Act may be cited as the *Taxation (Staff Arrangements) Act 1969* [1].

2. Interpretation

In this Act, unless the contrary intention appears —

Commonwealth employee means a person who —

(a) is employed either permanently or temporarily in the Commonwealth Service; and

(b) is performing duties in the Commonwealth Taxation Office [2] in a position located in Western Australia;

the Commonwealth Employees' Furlough Act means the *Commonwealth Employees' Furlough Act 1943-1968* [3] of the Parliament of the Commonwealth;

the Commonwealth Service means the Public Service of the Commonwealth constituted under the provisions of the *Public Service Act 1922-1968* [4] of the Parliament of the Commonwealth and includes persons temporarily employed under that Act;

the Public Service of Western Australia means the Public Service as defined by section 3 of the *Public Sector Management Act 1994*.

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[Section 2 amended by No. 32 of 1994 s. 17(a).]

3. Incorporation with Public Sector Management Act

The provisions of this Act relating to the appointment of persons to, or the employment of persons in, the Public Service of Western Australia are incorporated and shall be read as one with the *Public Sector Management Act 1994*.

[Section 3 amended by No. 32 of 1994 s. 17(b).]

4. Election by Commonwealth employees

(1) The chief executive officer may request a Commonwealth employee to elect, by writing addressed to the chief executive officer, within the period of 28 days after being so requested or within such further period as the chief executive officer allows, to be appointed to, or engaged for employment in, the Public Service of Western Australia.

(2) A request under this section shall include particulars of the proposed appointment or employment.

[Section 4 amended by No. 32 of 1994 s. 17(c).]

5. Appointment of Commonwealth employees

(1) Where a Commonwealth employee to whom a request is made under section 4, not being a person employed in a temporary capacity, elects, in accordance with that section, to be appointed under this Act, chief executive officer is, by force of this section, empowered to appoint that employee under section 64 of the *Public Sector Management Act 1994*.

(2) Such an appointment shall be without examination and without probation.

[Section 5 amended by No. 32 of 1994 s. 17(d) and (e).]

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6. Employment of temporary Commonwealth employees

(1) Where a Commonwealth employee to whom a request is made under section 4, being a person employed in a temporary capacity, elects, within the period of 28 days of being so requested or within such further period as the chief executive officer allows, to be engaged under this Act, the chief executive officer is, by force of this section, empowered to engage that employee for temporary employment in the Public Service of Western Australia.

(2) The provisions of the *Public Sector Management Act 1994* apply in relation to the employment of such an employee.

[Section 6 amended by No. 32 of 1994 s. 17(f) and (g).]

7. Rate of remuneration

(1) Subject to this section and to Parts 5 and 6 of the *Public Sector Management Act 1994* and to any law providing for a reduction in the remuneration payable to officers and temporary employees of the Public Service of Western Australia generally, the gross rate of remuneration of a Commonwealth employee appointed or engaged under this Act shall, while he continues in the Public Service of Western Australia, be not less favourable than that to which, in the opinion of the chief executive officer, he was entitled as such a Commonwealth employee immediately before his appointment or engagement under this Act.

(2) For the purposes of this section, ***remuneration*** means salary or pay, and includes such allowances as, in the opinion of the chief executive officer, should be regarded as having formed part of the salary or pay of the officer or temporary employee immediately before his appointment or engagement under this Act, and where the officer or temporary employee would, if he had continued to be a Commonwealth employee, have been entitled to any increment or increments, also means any such increment or increments at the rate or rates payable immediately before his appointment or engagement under this Act.

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(3) Nothing in subsection (2) shall be construed as entitling a person appointed under this Act to be paid an increase of remuneration with respect to an increment referred to in that subsection on a date earlier than the date on which that person would have become entitled to the increment if he had continued to be a Commonwealth employee.

[Section 7 amended by No. 32 of 1994 s. 17(h), (i) and (j).]

8. Accrued recreation leave

A Commonwealth employee appointed or engaged under this Act preserves his eligibility for the grant of leave of absence for recreation which had accrued immediately prior to his being so appointed or engaged.

9. Preservation of sick leave credits

(1) A Commonwealth employee shall, upon his being appointed or engaged under this Act, be credited with the eligibility for sick leave for which he was eligible immediately prior to his being so appointed or engaged.

(2) In addition to sick leave credited by virtue of subsection (1), a Commonwealth employee appointed or engaged under this Act shall be credited with the periods of sick leave prescribed by the *Public Sector Management Act 1994* and the regulations made thereunder, on each anniversary date of the day on which he last became eligible to receive an entitlement of such leave as a Commonwealth employee.

[Section 9 amended by No. 32 of 1994 s. 17(k).]

10. Long service leave

(1) Notwithstanding the provisions of the *Public Sector Management Act 1994*, a Commonwealth employee, upon being appointed or engaged under this Act, shall be credited with a period of long service leave equal to the period of furlough for which he was eligible immediately prior to his being so appointed or engaged, together with any *pro rata* furlough based

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on his service as a Commonwealth employee but for which he was not, immediately prior to his being so appointed or engaged, yet eligible, and shall then commence to accrue long service leave either —

(a) in accordance with the conditions and provisions of the Commonwealth Employees' Furlough Act, if he elects in writing to that effect within 3 months of his being so appointed or engaged; or

(b) in accordance with the provisions of the *Public Sector Management Act 1994*,

from the date of his appointment or engagement under this Act, but nothing in this subsection entitles a Commonwealth employee appointed or engaged under this Act to be credited with long service leave in respect of any period of furlough for or with respect to which he has received, or receives by reason of his ceasing to be a Commonwealth employee, any payment or other benefit under the Commonwealth Employees' Furlough Act.

(2) Where a Commonwealth employee —

(a) was, immediately prior to his becoming such an employee, employed in the Public Service of Western Australia; and

(b) upon becoming such a Commonwealth employee had his eligibility for furlough in the Commonwealth Service determined under the Commonwealth Employees' Furlough Act by reference to his period of continuous service in the Public Service of Western Australia preceding his so becoming a Commonwealth employee,

the chief executive officer may, if he is satisfied that all the circumstances of the case so warrant it, determine that, in addition to receiving benefits under subsection (1) in accordance with his election, the employee is entitled to be credited with the amount by which the period of his accrued long service leave, including any *pro rata* long service leave, as at the day

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immediately preceding the day on which he so became a Commonwealth employee exceeded the period of furlough with which he was so credited under the provisions of the Commonwealth Employees' Furlough Act upon his so becoming a Commonwealth employee.

[Section 10 amended by No. 32 of 1994 s. 17(l) and (m).]

[11. *Repealed by No. 1 of 1995 s. 35.]*

12. Elections by Commonwealth employees to contribute to State Superannuation Fund

(1) In this section and in sections 13, 13A and 14, unless the contrary intention appears —

Commonwealth contributor means a Commonwealth employee who —

(a) was, immediately before his appointment or engagement under this Act, a contributor for units of pension under the provisions of the Commonwealth Superannuation Act;

(b) elects in writing in accordance with the provisions of this section to receive the benefits under this section applicable to Commonwealth contributors,

but does not include a Commonwealth pensioner as defined by section 13;

Commonwealth pension in relation to a Commonwealth contributor, means the amount of pension expressed as a rate per annum that the Commonwealth contributor would have been entitled to receive under the Commonwealth Superannuation Act if, on the date immediately prior to his being appointed or engaged under this Act, he had attained his selected retiring age with respect to the units of pension for which he had contributed under that Act;

Commonwealth pension contribution in relation to a Commonwealth contributor, means the amount of the contributions, expressed as a rate per fortnight, which a

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Commonwealth contributor was paying as contributions for units of pension under the Commonwealth Superannuation Act immediately before his appointment or engagement under this Act, but does not include any contributions so paid in respect of reserve units of pension;

Commonwealth Superannuation Act means the *Superannuation Act 1922-1969* of the Parliament of the Commonwealth;

Commonwealth Superannuation Board means the Superannuation Board constituted by the Commonwealth *Superannuation Act 1922-1969*;

the State Act means the *Superannuation and Family Benefits Act 1938* [5].

(2) The provisions of this section and of sections 13, 13A and 14 of this Act are incorporated with and shall be read as one with the State Act.

(3) A Commonwealth contributor may, subject to subsections (4) and (5), elect in writing in a form approved by and addressed to the Board within one month of his being appointed or engaged under this Act to become a contributor to the Fund in accordance with the provisions of this section.

(4) Where a Commonwealth contributor elects under subsection (3) and has, at the time of so electing, received from the Commonwealth Superannuation Board any refund of contributions made by him as a contributor under the Commonwealth Superannuation Act, his election shall not be valid unless at the time that he so elects he pays to the Board an amount equal to any refund so made less any amount included in that refund which represents a refund of contributions paid and interest thereon in respect of reserve units of pension.

(5) Where a Commonwealth contributor who elects under subsection (3) receives, after he so elects, a refund of the kind referred to in subsection (4), his election shall cease to be valid for the purposes of this section and be deemed to have been of

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no effect if, at the expiration of 7 days after receiving that refund he fails to pay to the Board the amount of that refund less any amount included in that refund which represents a refund of contributions paid and interest thereon in respect of reserve units of pension.

(6) The Board shall —

(a) cause any amounts paid to it under subsections (4) and (5) to be remitted to the Treasury to be credited to the Consolidated Account; and

(b) repay to any Commonwealth employee whose election under subsection (3) ceases to be valid pursuant to subsection (5), any contributions made by him to the Fund pursuant to this section.

(7) Where the Board receives an election duly made by a Commonwealth contributor under subsection (3), it shall determine —

(a) the Commonwealth pension applicable to the Commonwealth contributor; and

(b) the number of units of pension under the State Act for which the Commonwealth contributor would be required to contribute in order to be eligible for pension under that Act at a rate equal to, or approximately equal to but not less than, the Commonwealth pension so determined,

and the Commonwealth contributor may apply and contribute for the number of units of pension under the State Act so determined in relation to him, and those units shall be so contributed for as to produce a full pension at the same age as the age at which he would have received full pension in respect of the Commonwealth units for which he was previously contributing under the Commonwealth Superannuation Act.

(8) The contributions that a Commonwealth contributor is required to make to the Fund in respect of units of pension for which he contributes under subsection (7) shall be —

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(a) the contributions that any contributor for those units under the State Act would be required to make under that Act if, when he commenced to contribute for those units, he were the same age as the Commonwealth contributor; or

(b) contributions equal to those he was making under the Commonwealth Superannuation Act immediately before he ceased to make contributions under that Act prior to being appointed or engaged under this Act,

whichever is less, and where in relation to any Commonwealth contributor, the amount of contributions which he is required to pay to the Fund is the amount referred to in paragraph (b), there shall be credited to the Fund and charged to the Consolidated Account the amount by which the amount of those contributions is less than the contributions that the Commonwealth contributor would, but for this subsection, have been required to make to the Fund in respect of those units.

(9) Any service by a Commonwealth employee in the Commonwealth Service prior to his appointment or engagement under this Act shall be deemed for the purposes of the State Act, to be service within the meaning of section 6(1) of the State Act.

(10) Where a Commonwealth contributor who has made a valid election under subsection (3), or the dependants of such a contributor, becomes or become, as the case may be, entitled to a refund of contributions under the State Act —

(a) there shall be paid to him or to them, as the case may be, in addition to the amount of the refund to which he is or they are so entitled under the State Act, an amount to be charged to the Consolidated Account equal to the amount which he paid to the Board under subsection (4) or subsection (5), as the case may be, in order to make that valid election; and

(b) there shall be paid by the Board and credited to the Consolidated Account an amount equal to the aggregate of any amounts previously credited to the Fund and

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charged to the Consolidated Account pursuant to subsection (8) with respect to that Commonwealth contributor.

[Section 12 amended by No. 20 of 1970 s. 2; No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 77 of 2006 s. 4.]

13. Provisions re Commonwealth employees already entitled to Commonwealth pension

(1) In this section ***Commonwealth pensioner*** means a Commonwealth employee who —

(a) has attained the age of 60 years before being appointed or engaged under this Act;

(b) had contributed under the Commonwealth Superannuation Act for units of pension entitling him to a full pension on attaining the age of 60 years; and

(c) elects under the Commonwealth Superannuation Act, upon resigning, to receive a refund of contributions in lieu of a pension in respect of those units under that Act and within 7 days of receiving the refund pays the amount of the refund less any part thereof which represents a refund of contributions paid, and interest thereon in respect of reserve units of pension, to the Board to be dealt with in the manner provided by section 12(6)(a) of this Act.

(2) Where a Commonwealth pensioner ceases to be employed under the provisions of the *Public Sector Management Act 1994*, he is entitled to receive from the Board a pension equal to, or approximately equal to, but not less than, the pension which he would have been entitled to receive under the provisions of the Commonwealth Superannuation Act as in force on the date he ceased to be a Commonwealth employee had he remained in the Commonwealth Service in lieu of being appointed or engaged under this Act and had resigned or retired from the Commonwealth Service on the same date as that on which he

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ceases to be so employed under the provisions of the *Public Sector Management Act 1994*.

(3) There shall be credited to the Fund and charged to the Consolidated Account amounts equal to any amounts paid by way of pension by the Board under subsection (2).

[Section 13 amended by No. 6 of 1993 s. 11; No. 32 of 1994 s. 17(n); No. 49 of 1996 s. 64; No. 77 of 2006 s. 4.]

13A. Certain Commonwealth employees may elect to contribute to Provident Account

(1) A Commonwealth employee who was immediately before his appointment or engagement under this Act, a contributor to the Provident Account established under Part V of the Commonwealth Superannuation Act may, subject to subsections (2) and (3) of this section, elect in writing in a form approved by and addressed to the Board within one month of his being appointed or engaged, to become a contributor under Division 3 of Part VA of the State Act to the Provident Account.

(2) Where a Commonwealth employee elects under subsection (1) and has, at the time of so electing, received any payment made to him under section 85 of the Commonwealth Superannuation Act, his election shall not be valid unless at the time that he so elects he pays to the Provident Account an amount equal to the amount so paid to him under section 85 of that Act.

(3) Where a Commonwealth employee who elects under subsection (1) receives, after he so elects, any payment undo section 85 of the Commonwealth Superannuation Act, his election shall cease to be valid for the purposes of this section and be deemed to have been of no effect if, at the expiration of 7 days after receiving that payment, he fails to pay the amount thereof to the Provident Account.

(4) Any amount paid to the Provident Account by a Commonwealth employee pursuant to subsection (2) or subsection (3) of this section shall, notwithstanding anything contained in Division 3

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of Part VA of the State Act, be deemed to be contributions made by him as a contributor for the purposes of that Division.

[Section 13A inserted by No. 20 of 1970 s. 3.]

14. Application of s. 12 to 14, etc.

(1) The provisions of section 35 of the State Act do not apply in relation to a Commonwealth contributor who has made a valid election under section 12 of this Act.

(2) A Commonwealth employee shall not be regarded as a "former employee" for the purposes of section 32A of the State Act, irrespective of whether he elects to receive the benefits applicable to him under section 12 or 13, as the case may be, of this Act.

(3) The Consolidated Account is hereby appropriated to the extent necessary for the purposes of sections 12 and 13.

(4) The provisions of this section and of sections 12, 13 and 13A have effect notwithstanding anything to the contrary contained in the State Act.

[Section 14 amended by No. 20 of 1970 s. 4; No. 6 of 1993 s. 11; No. 77 of 2006 s. 4.]

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Notes

[1] This is a compilation of the *Taxation (Staff Arrangements) Act 1969* and includes the amendments made by the other written laws referred to in the following table [1a]. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
Taxation (Staff Arrangements) Act 1969	108 of 1969	25 Nov 1969	25 Nov 1969
Taxation (Staff Arrangements) Act Amendment Act 1970	20 of 1970	8 May 1970	8 May 1970
Financial Administration Legislation Amendment Act 1993 s. 11	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
Acts Amendment (Public Sector Management) Act 1994 s. 17	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and *Gazette* 30 Sep 1994 p. 4948)
Industrial Legislation Amendment Act 1995 s. 35	1 of 1995	9 May 1995	1 Jan 1996 (see s. 2(2) and *Gazette* 24 Nov 1995 p. 5389)
Financial Legislation Amendment Act 1996 s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
Reprint 1: The *Taxation (Staff Arrangements) Act 1969* as at 13 May 2005 (includes amendments listed above)			
Financial Legislation Amendment and Repeal Act 2006 s. 4	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and *Gazette* 19 Jan 2007 p. 137)

[1a] On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

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Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 75 [6]	43 of 2000	2 Nov 2000	To be proclaimed (see s. 2(2))

[2] Now known as the Australian Taxation Office.

[3] Repealed by the *Long Service Leave (Commonwealth Employees) Act 1976* s. 3(1) of the Commonwealth (No. 192 of 1976).

[4] Repealed by the *Public Employment (Consequential and Transitional) Amendment Act 1999* s. 3 of the Commonwealth (No. 146 of 1999).

[5] Repealed by the *State Superannuation Act 2000*.

[6] On the date as at which this compilation was prepared, the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 75 had not come into operation. It reads as follows:

"

75. Various provisions repealed

The provisions listed in the Table to this section are repealed.

Table of provisions repealed

Act	Provision
.....	.....
Taxation (Staff Arrangements) Act 1969	ss. 12 to 14
.....	.....

".

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