

**COMMUNITY WELFARE (AMENDMENT) ACT 1989 No. 162**

**NEW SOUTH WALES**



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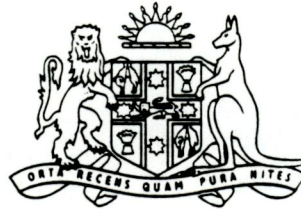
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**COMMUNITY WELFARE (AMENDMENT) ACT 1989 No. 162**

**NEW SOUTH WALES**



**Act No. 162, 1989**

An Act to amend the Community Welfare Act 1987 with respect to the employment and discipline of certain employees and offences relating to the administration and execution of the Act; and for other purposes.  
[Assented to 14 December 1989]

*Community Welfare (Amendment) 1989*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Community Welfare (Amendment) Act 1989.

**Commencement**

2. (1) This Act commences on a day or days to be appointed by proclamation, except as provided by this section.

(2) The provisions of Schedule 2, and section 3 in its application to that Schedule, commence on the date of assent to this Act.

**Amendment of Community Welfare Act 1987 No. 52**

3. The Community Welfare Act 1987 is amended as set out in Schedules 1 and 2.

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**SCHEDULE 1 - AMENDMENTS RELATING TO OFFENCES  
AND DISCIPLINE**

(Sec. 3)

(1) Section 13C:

After section 13B, insert:

**Regulations concerning employees of Community Welfare  
Employment Corporation**

13C. (1) The regulations may make provision for or with respect to the employment of persons under section 13B, including the conditions of employment and the discipline of any such persons.

(2) The regulations may provide that one or more of the following punishments may be imposed for an offence against discipline:

(a) a caution;

SCHEDULE 1 - AMENDMENTS RELATING TO OFFENCES  
AND DISCIPLINE - *continued*

- (b) a reprimand;
- (c) a fine in an amount not exceeding 5 penalty units;
- (d) reduction of salary;
- (e) demotion to a lower position;
- (f) a direction that the person resign, or be allowed to resign, within such period as may be specified in the direction;
- (g) in the case of a person employed on probation, annulment of the person's employment;
- (h) dismissal from employment.

(3) The regulations may provide that a fine imposed for an offence against discipline be deducted from the salary of the person concerned.

(4) The regulations may provide that if a person employed under section 13B:

- (a) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more; or
- (b) is convicted elsewhere than in New South Wales of an offence that, if it were committed in New South Wales, would be an offence so punishable,

the person may be dealt with as if the offence was an offence against discipline and liable to one or more of the punishments referred to in subsection (2).

(2) Sections 76A - 76C:

After section 76, insert:

**Obstruction etc. of officers**

76A. A person who wilfully hinders, obstructs, delays, assaults or threatens with violence another person in the exercise of that other person's functions under this Act is guilty of an offence.

Maximum penalty: 10 penalty units or imprisonment for 12 months, or both.

**SCHEDULE 1 - AMENDMENTS RELATING TO OFFENCES  
AND DISCIPLINE - *continued***

**Person falsely representing as an officer**

76B. A person, not being an officer, who:

- (a) assumes or uses the designation of officer or falsely represents himself or herself to be officially associated in any capacity with the Department; or
- (b) uses, for any fraudulent purpose, any designation which that person previously held in the Department,

is guilty of an offence.

Maximum penalty: 10 penalty units or imprisonment for 12 months, or both.

**False or misleading statements**

76C. A person must not, in any application under this Act or in connection with an inquiry made by an officer in relation to any such application:

- (a) make a statement; or
- (b) furnish information,

that the person knows to be false or misleading in a material particular.

Maximum penalty: 5 penalty units.

(3) **Section 78 (Regulations):**

At the end of section 78, insert:

- (2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

**SCHEDULE 2 - AMENDMENT RELATING TO APPEALS**

(Sec. 3)

**Section 53A:**

After section 53, insert:

**Parties to certain appeals**

53A. (1) An appeal to the Tribunal that may be made under the community welfare legislation against a decision of the Minister or the Director-General may be made by

SCHEDULE 2 - AMENDMENT RELATING TO  
APPEALS - *continued*

any person who believes he or she has a genuine concern in the subject-matter of the decision.

(2) Without limiting the generality of subsection (1), an appeal against a decision concerning a child may be made by any person responsible for the child.

(3) An appeal must be made within 28 days after the making of the decision appealed against or within such longer period as the Tribunal may (whether before or after the expiration of that period) determine.

(4) The parties to an appeal to the Tribunal with respect to a decision of the Minister or the Director-General are:

- (a) the Minister or the Director-General, as the case requires; and
- (b) the person who appeals against the decision; and
- (c) any person who was entitled to, but did not, appeal against the decision, but only if that person applies to the Tribunal to be made such a party and the application is approved by the Tribunal; and
- (d) any person who would, if the decision of the Minister or the Director-General were reversed or varied, be entitled to appeal against the decision as so reversed or varied, but only if that person applies to the Tribunal to be made such a party and the application is approved by the Tribunal.

(5) The Tribunal is not required to hear or determine an appeal made by a person referred to in subsection (1) unless the Tribunal considers the person to have a genuine concern in the subject-matter of the decision to which the appeal relates.

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[*Minister's second reading speech made in -  
Legislative Council on 14 November 1989  
Legislative Assembly on 21 November 1989*]

FIRST PRINT

## COMMUNITY WELFARE (AMENDMENT) BILL 1989

NEW SOUTH WALES



### EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Community Welfare Act 1987:

- (a) to create various offences relating to the administration and execution of the Act; and
- (b) to enable certain regulations to be made relating to the employment and discipline of persons employed by the Community Welfare Employment Corporation; and
- (c) to enable the regulations to create offences.

The Bill also amends the Act by way of statute law revision in relation to appeals to the Community Welfare Appeals Tribunal.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence, with minor exceptions, on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedules of amendments.

#### SCHEDULE 1 - AMENDMENTS RELATING TO OFFENCES AND DISCIPLINE

Schedule 1 (1) inserts proposed section 13C which:

- (a) makes it clear that regulations may be made relating to the employment and discipline of persons employed by the Community Welfare Employment Corporation; and
- (b) describes the punishments which may be specified for offences against discipline under those regulations.

*Community Welfare (Amendment) 1989*

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**Schedule 1 (2)** inserts proposed sections 76A - 76C which:

- (a) prohibit the obstruction of officers who are exercising functions under the Act; and
- (b) prohibit persons from falsely representing themselves as officers of the Department of Family and Community Services; and
- (c) prohibit the making of false or misleading statements in or in connection with any application made under the Act.

**Schedule 1 (3)** amends section 78 to enable regulations to create offences punishable by a penalty not exceeding 5 penalty units.

**SCHEDULE 2 - AMENDMENT RELATING TO APPEALS**

**Schedule 2** inserts proposed section 53A which will complement provisions relating to appeals in the Act and other community welfare legislation by specifying the time in which, and making special provision concerning the parties by whom, appeals may be made to the Community Welfare Appeals Tribunal. The provision is based on former section 105 of the Children (Care and Protection) Act 1987 which was repealed when certain provisions of that Act relating to the Tribunal were transferred to the Act by the Community Welfare (Disability Services and Guardianship) Amendment Act 1987.

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FIRST PRINT

**COMMUNITY WELFARE (AMENDMENT) BILL 1989**

NEW SOUTH WALES



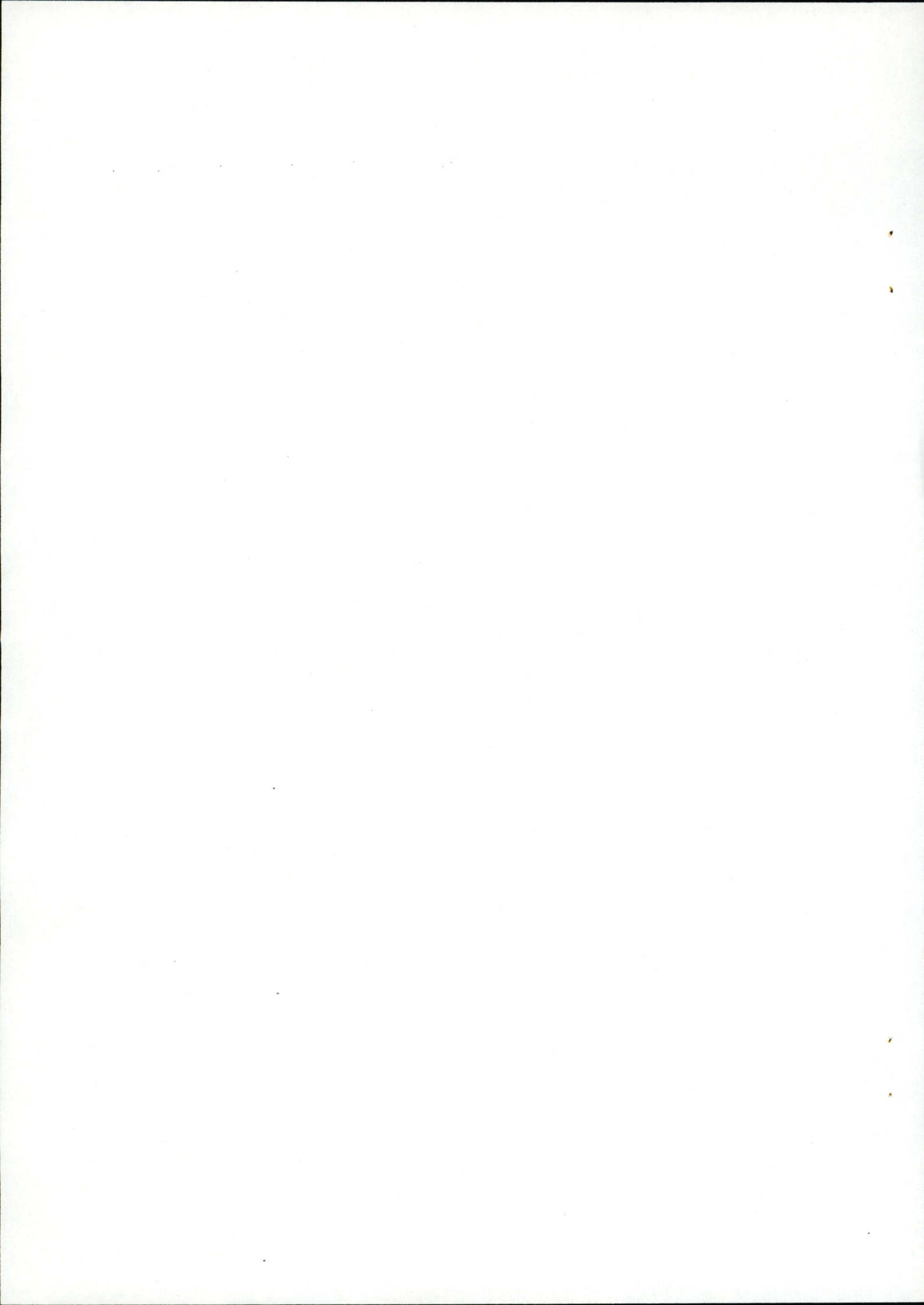
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SCHEDULE 1 - AMENDMENTS RELATING TO OFFENCES AND  
DISCIPLINE

SCHEDULE 2 - AMENDMENT RELATING TO APPEALS

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**COMMUNITY WELFARE (AMENDMENT) BILL 1989**

NEW SOUTH WALES



No. , 1989

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**A BILL FOR**

An Act to amend the Community Welfare Act 1987 with respect to the employment and discipline of certain employees and offences relating to the administration and execution of the Act; and for other purposes.

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*Community Welfare (Amendment) 1989*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Community Welfare (Amendment) Act 1989.

**Commencement**

2. (1) This Act commences on a day or days to be appointed by proclamation, except as provided by this section.

(2) The provisions of Schedule 2, and section 3 in its application to that Schedule, commence on the date of assent to this Act.

**Amendment of Community Welfare Act 1987 No. 52**

3. The Community Welfare Act 1987 is amended as set out in Schedules 1 and 2.

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**SCHEDULE 1 - AMENDMENTS RELATING TO OFFENCES  
AND DISCIPLINE**

(Sec. 3)

(1) Section 13C:

After section 13B, insert:

**Regulations concerning employees of Community Welfare  
Employment Corporation**

13C. (1) The regulations may make provision for or with respect to the employment of persons under section 13B, including the conditions of employment and the discipline of any such persons.

(2) The regulations may provide that one or more of the following punishments may be imposed for an offence against discipline:

(a) a caution;

SCHEDULE 1 - AMENDMENTS RELATING TO OFFENCES  
AND DISCIPLINE - *continued*

- (b) a reprimand;
- (c) a fine in an amount not exceeding 5 penalty units;
- (d) reduction of salary;
- (e) demotion to a lower position;
- (f) a direction that the person resign, or be allowed to resign, within such period as may be specified in the direction;
- (g) in the case of a person employed on probation, annulment of the person's employment;
- (h) dismissal from employment.

(3) The regulations may provide that a fine imposed for an offence against discipline be deducted from the salary of the person concerned.

(4) The regulations may provide that if a person employed under section 13B:

- (a) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more; or
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the person may be dealt with as if the offence was an offence against discipline and liable to one or more of the punishments referred to in subsection (2).

(2) Sections 76A - 76C:

After section 76, insert:

**Obstruction etc. of officers**

76A. A person who wilfully hinders, obstructs, delays, assaults or threatens with violence another person in the exercise of that other person's functions under this Act is guilty of an offence.

Maximum penalty: 10 penalty units or imprisonment for 12 months, or both.

SCHEDULE 1 - AMENDMENTS RELATING TO OFFENCES  
AND DISCIPLINE - *continued*

**Person falsely representing as an officer**

76B. A person, not being an officer, who:

- (a) assumes or uses the designation of officer or falsely represents himself or herself to be officially associated in any capacity with the Department; or
- (b) uses, for any fraudulent purpose, any designation which that person previously held in the Department,

is guilty of an offence.

Maximum penalty: 10 penalty units or imprisonment for 12 months, or both.

**False or misleading statements**

76C. A person must not, in any application under this Act or in connection with an inquiry made by an officer in relation to any such application:

- (a) make a statement; or
- (b) furnish information,

that the person knows to be false or misleading in a material particular.

Maximum penalty: 5 penalty units.

(3) Section 78 (**Regulations**):

At the end of section 78, insert:

- (2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

SCHEDULE 2 - AMENDMENT RELATING TO APPEALS

(Sec. 3)

Section 53A:

After section 53, insert:

**Parties to certain appeals**

53A. (1) An appeal to the Tribunal that may be made under the community welfare legislation against a decision of the Minister or the Director-General may be made by

SCHEDULE 2 - AMENDMENT RELATING TO APPEALS - *continued*

any person who believes he or she has a genuine concern in the subject-matter of the decision.

(2) Without limiting the generality of subsection (1), an appeal against a decision concerning a child may be made by any person responsible for the child.

(3) An appeal must be made within 28 days after the making of the decision appealed against or within such longer period as the Tribunal may (whether before or after the expiration of that period) determine.

(4) The parties to an appeal to the Tribunal with respect to a decision of the Minister or the Director-General are:

- (a) the Minister or the Director-General, as the case requires; and
- (b) the person who appeals against the decision; and
- (c) any person who was entitled to, but did not, appeal against the decision, but only if that person applies to the Tribunal to be made such a party and the application is approved by the Tribunal; and
- (d) any person who would, if the decision of the Minister or the Director-General were reversed or varied, be entitled to appeal against the decision as so reversed or varied, but only if that person applies to the Tribunal to be made such a party and the application is approved by the Tribunal.

(5) The Tribunal is not required to hear or determine an appeal made by a person referred to in subsection (1) unless the Tribunal considers the person to have a genuine concern in the subject-matter of the decision to which the appeal relates.

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