Acts Interpretation Act 1901

No. 2, 1901

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About this compilation

This is a compilation of the *Acts Interpretation Act 1901* that shows the text of the law as amended and in force on 27 December 2011 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Presentational changes

The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act for the Interpretation of Acts of Parliament and for Shortening their Language

Part 1—Preliminary

1 Short title

This Act may be cited as the *Acts Interpretation Act 1901*.

1A Simplified outline

The following is a simplified outline of this Act:

Overview

This Act is like a dictionary and manual to use when reading and interpreting Commonwealth Acts and instruments made under Commonwealth Acts.

The definitions and many of the interpretation rules are aimed at making Commonwealth legislation shorter, less complex and more consistent in operation.

A provision of this Act is subject to a contrary intention in other Commonwealth legislation.

Structure

Part 1 provides that this Act applies to all Acts. This Act also applies to legislative instruments and other instruments made under an Act (see subsection 13(1) of the *Legislative Instruments Act 2003* and subsection 46(1) of this Act).

Part 2 contains definitions that apply across all Commonwealth legislation (for example, ***Australian citizen***, ***business day***, ***document*** and ***month***).

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Section 1A

Part 3 deals with the commencement of Commonwealth Acts. For example, section 4 allows certain powers to be exercised (like the making of appointments) between the enactment and commencement of an Act.

Part 4 deals with the amendment, repeal and expiry of Commonwealth legislation. For example, section 7 provides that the repeal of an Act does not affect any rights accrued under the Act, or any legal proceedings instituted, before the repeal.

Part 5 contains various rules for interpreting Commonwealth legislation, including:

(a) section 15A (about interpreting an Act subject to the Constitution); and

(b) section 15AA (which provides for interpreting an Act in a way that best achieves the purpose or object of the Act); and

(c) section 15AB (about using material that is not part of an Act (like explanatory memorandums and second reading speeches) in interpreting an Act); and

(d) sections 19 to 19C (which deal with references to Ministers, Departments and Secretaries of Departments and with administrative changes in the operation of the Commonwealth Government).

Part 6 deals with the service of documents on persons.

Part 7 contains rules about exercising powers and performing functions and duties under Commonwealth legislation, including:

(a) subsection 33(3) (which provides that a power to make an instrument includes the power to vary or revoke the instrument); and

(b) section 33A (about acting appointments); and

(c) sections 34AA, 34AB and 34A (about delegating powers, functions and duties).

Part 8 deals with the calculation of distance, time and age.

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Part 9 deals with the citation of Acts.

Part 10 deals with non-legislative instruments. For example, it provides that this Act applies to those instruments and that expressions in those instruments have the same meaning as in the enabling legislation.

Part 11 contains a regulation-making power.

2 Application of Act

(1) This Act applies to all Acts (including this Act).

Note: This Act also applies to legislative instruments and other instruments made under an Act: see subsection 13(1) of the *Legislative Instruments Act 2003* and subsection 46(1) of this Act.

(2) However, the application of this Act or a provision of this Act to an Act or a provision of an Act is subject to a contrary intention.

2A Binding the Crown

This Act binds the Crown in each of its capacities.

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Part 2—Definitions

2B Definitions

In any Act:

acting SES employee has the same meaning as in the *Public Service Act 1999*.

affidavit includes affirmation, declaration and promise.

appoint: see section 33AA.

APS employee has the same meaning as in the *Public Service Act 1999*.

Australia means the Commonwealth of Australia and, when used in a geographical sense, includes the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands, but does not include any other external Territory.

Note: See also section 15B.

Australian citizen has the same meaning as in the *Australian Citizenship Act 2007*.

Australian Standard: see section 2L.

business day means a day that is not a Saturday, a Sunday or a public holiday in the place concerned.

calendar month means one of the 12 months of the year.

calendar year means a period of 12 months starting on 1 January.

commencement, in relation to an Act or a provision of an Act, means the time at which the Act or provision comes into operation.

Note: See also section 3.

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Commonwealth means the Commonwealth of Australia and, when used in a geographical sense, includes the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands, but does not include any other external Territory.

Note: See also section 15B.

Consolidated Revenue Fund means the Consolidated Revenue Fund referred to in section 81 of the Constitution.

Constitution means the Constitution of the Commonwealth.

contiguous zone has the same meaning as in the *Seas and Submerged Lands Act 1973*.

continental shelf has the same meaning as in the *Seas and Submerged Lands Act 1973*.

contravene includes fail to comply with.

court exercising federal jurisdiction means any court when exercising federal jurisdiction, and includes a federal court.

court of summary jurisdiction means any justice of the peace, or magistrate of a State or Territory, sitting as a court of summary jurisdiction.

de facto partner: see section 2D.

document means any record of information, and includes:

(a) anything on which there is writing; and

(b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and

(c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; and

(d) a map, plan, drawing or photograph.

estate includes any estate, interest, charge, right, title, claim demand, lien or encumbrance at law or in equity.

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exclusive economic zone has the same meaning as in the *Seas and Submerged Lands Act 1973*.

Executive Council means the Federal Executive Council.

external Territory means a Territory, other than an internal Territory, where an Act makes provision for the government of the Territory as a Territory.

Note: See also section 15B.

federal court means the High Court or any court created by the Parliament.

financial year means a period of 12 months starting on 1 July.

foreign country means any country (whether or not an independent sovereign state) outside Australia and the external Territories.

Gazette means the *Commonwealth of Australia Gazette*.

Government Printer includes any person printing for the Government of the Commonwealth.

Note: See also section 17A.

Governor of a State: see section 16B.

Governor-General: see section 16A.

High Court means the High Court of Australia.

individual means a natural person.

insolvent under administration has the same meaning as in the *Corporations Act 2001*.

internal Territory means the Australian Capital Territory, the Northern Territory or the Jervis Bay Territory.

Jervis Bay Territory means the Territory referred to in the *Jervis Bay Territory Acceptance Act 1915*.

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justice of the peace includes a justice of the peace for a State or part of a State or for a Territory.

land includes messuages, tenements and hereditaments, corporeal and incorporeal, of any tenure or description, whatever may be the estate or interest in them.

law of the Commonwealth: see section 2H.

Magistrate: see subsections 16C(2) and (3).

Minister or ***Minister of State*** means one of the Ministers of State for the Commonwealth.

Note: See also section 19.

modifications, in relation to a law, includes additions, omissions and substitutions.

month: see section 2G.

Northern Territory means the Northern Territory of Australia.

oath includes affirmation, declaration and promise.

Parliament means the Parliament of the Commonwealth.

penalty unit, including in relation to a civil penalty provision, has the meaning given by section 4AA of the *Crimes Act 1914*.

person: see section 2C.

prescribed means prescribed by the Act or by regulations under the Act.

Proclamation means Proclamation by the Governor-General that is published in the *Gazette* or entered in the Federal Register of Legislative Instruments established under the *Legislative Instruments Act 2003*.

record includes information stored or recorded by means of a computer.

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regulations means regulations under the Act.

rules of court: see section 2K.

seat of Government means the seat of Government of the Commonwealth.

SES employee has the same meaning as in the *Public Service Act 1999*.

Sovereign: see section 16.

Standards Australia means Standards Australia Limited (ACN 087 326 690).

State means a State of the Commonwealth.

statutory declaration means a declaration made because of any Act authorising a declaration to be made otherwise than in the course of a judicial proceeding.

Stipendiary Magistrate: see subsection 16C(1).

swear includes affirm, declare and promise.

territorial sea has the same meaning as in the *Seas and Submerged Lands Act 1973*.

Territory, ***Territory of the Commonwealth***, ***Territory under the authority of the Commonwealth*** or ***Territory of Australia*** means a Territory referred to in section 122 of the Constitution.

United Kingdom means the United Kingdom of Great Britain and Northern Ireland.

writing includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form.

2C References to persons

(1) In any Act, expressions used to denote persons generally (such as "person", "party", "someone", "anyone", "no-one", "one",

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"another" and "whoever"), include a body politic or corporate as well as an individual.

(2) Express references in an Act to companies, corporations or bodies corporate do not imply that expressions in that Act, of the kind mentioned in subsection (1), do not include companies, corporations or bodies corporate.

2D References to de facto partners

For the purposes of a provision of an Act that is a provision in which de facto partner has the meaning given by this Act, a person is the ***de facto partner*** of another person (whether of the same sex or a different sex) if:

(a) the person is in a registered relationship with the other person under section 2E; or

(b) the person is in a de facto relationship with the other person under section 2F.

2E Registered relationships

For the purposes of paragraph 2D(a), a person is in a ***registered relationship*** with another person if the relationship between the persons is registered under a prescribed law of a State or Territory as a prescribed kind of relationship.

2F De facto relationships

(1) For the purposes of paragraph 2D(b), a person is in a ***de facto relationship*** with another person if the persons:

(a) are not legally married to each other; and

(b) are not related by family (see subsection (6)); and

(c) have a relationship as a couple living together on a genuine domestic basis.

(2) In determining for the purposes of paragraph (1)(c) whether 2 persons have a relationship as a couple, all the circumstances of

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their relationship are to be taken into account, including any or all of the following circumstances:

(a) the duration of the relationship;

(b) the nature and extent of their common residence;

(c) whether a sexual relationship exists;

(d) the degree of financial dependence or interdependence, and any arrangements for financial support, between them;

(e) the ownership, use and acquisition of their property;

(f) the degree of mutual commitment to a shared life;

(g) the care and support of children;

(h) the reputation and public aspects of the relationship.

(3) No particular finding in relation to any circumstance mentioned in subsection (2) is necessary in determining whether 2 persons have a relationship as a couple for the purposes of paragraph (1)(c).

(4) For the purposes of paragraph (1)(c), the persons are taken to be living together on a genuine domestic basis if the persons are not living together on a genuine domestic basis only because of:

(a) a temporary absence from each other; or

(b) illness or infirmity of either or both of them.

(5) For the purposes of subsection (1), a de facto relationship can exist even if one of the persons is legally married to someone else or is in a registered relationship (within the meaning of section 2E) with someone else or is in another de facto relationship.

(6) For the purposes of paragraph (1)(b), 2 persons are ***related by family*** if:

(a) one is the child (including an adopted child) of the other; or

(b) one is another descendant of the other (even if the relationship between them is traced through an adoptive parent); or

(c) they have a parent in common (who may be an adoptive parent of either or both of them).

For this purpose, disregard whether an adoption is declared void or has ceased to have effect.

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(7) For the purposes of subsection (6), ***adopted*** means adopted under the law of any place (whether in or out of Australia) relating to the adoption of children.

2G Months

(1) In any Act, ***month*** means a period:

(a) starting at the start of any day of one of the calendar months; and

(b) ending:

(i) immediately before the start of the corresponding day of the next calendar month; or

(ii) if there is no such day—at the end of the next calendar month.

Example 1: A month starting on 15 December in a year ends immediately before 15 January in the next year.

Example 2: A month starting on 31 August in a year ends at the end of September in that year (because September is the calendar month coming after August and does not have 31 days).

(2) In any Act, a reference to a period of 2 or more months is a reference to a period:

(a) starting at the start of a day of one of the calendar months (the ***starting month***); and

(b) ending:

(i) immediately before the start of the corresponding day of the calendar month that is that number of calendar months after the starting month; or

(ii) if there is no such day—at the end of the calendar month that is that number of calendar months after the starting month.

Example 1: A reference to 6 months starting on 15 December in a year is a reference to a period starting on that day and ending immediately before 15 June in the next year.

Example 2: A reference to 6 months starting on 31 October in a year is a reference to a period starting on that day and ending at the end of April in the

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next year (because April is the calendar month coming sixth after October and does not have 31 days).

2H References to law of the Commonwealth

In any Act, a reference to the law of the Commonwealth, or to a law of the Commonwealth, does not include, and is taken never to have included, a reference to a law in force in a Territory so far as the law is so in force because of an Act providing for the acceptance, administration or government of that Territory.

2J Documents commencing proceedings

A reference in a provision of an Act to any one or more of the following in connection with court proceedings:

(a) a summons;
(b) an information;
(c) a claim;
(d) a complaint;
(e) a declaration;

is taken to include a reference to any document through which proceedings may be instituted in a court.

Note: An example of such a document is a court attendance notice under the *Criminal Procedure Act 1986* of New South Wales.

2K Rules of court

(1) In any Act, ***rules of court***, in relation to any court, means rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such court.

(2) The power of the authority to make rules of court includes a power to make rules of court for the purpose of any Act which directs or authorises anything to be done by rules of court.

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2L References to Australian Standards

In any Act, a reference consisting of the words "Australian Standard" followed by the letters "AS" and a number is a reference to the standard so numbered that is published by, or on behalf of, Standards Australia.

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Part 3—Commencement of Acts

3 When Acts come into operation

If an Act or a provision of an Act is expressed to come into operation on a particular day (whether the expression "come into operation" or "commence" is used), it shall come into operation immediately on the expiration of the last preceding day.

3A Commencement of Acts

(1) This section does not apply to an Act so far as it provides for its commencement.

(2) An Act (other than an Act to alter the Constitution) commences on the 28th day after the day on which that Act receives the Royal Assent.

(3) An Act to alter the Constitution commences on the day on which that Act receives the Royal Assent.

4 Exercise of powers between enactment and commencement of Act

Application of section

(1) This section applies if an Act is enacted and at a time (the ***start time***) after its enactment the Act will confer power to make an appointment, or to make an instrument of a legislative or administrative character (including rules, regulations or by-laws), because:

(a) the Act will commence at the start time; or

(b) the Act will be amended at the start time by an Act that has been enacted and that commences at that time.

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Exercise of power before start time

(2) The power may be exercised before the start time as if the relevant commencement had occurred.

(3) Anything may be done before the start time for the purpose of enabling the exercise of the power, or of bringing the appointment or instrument into effect, as if the relevant commencement had occurred.

(4) The exercise of a power under subsection (2) does not confer a power or right or impose an obligation on a person before the relevant commencement except so far as is necessary or convenient for the purpose of:

(a) bringing the appointment or instrument into effect; or

(b) bringing the Act conferring power into operation; or

(c) making the Act conferring power fully effective at or after the start time.

(5) An appointment, or a provision of an instrument, made under subsection (2) takes effect at the start time or a later time specified in the appointment or instrument.

One instrument may rely on subsection (2) and existing power

(6) To avoid doubt, a single instrument may be made before the start time partly under subsection (2) and partly under a power already conferred by an Act.

Extended application to provisions of an Act

(7) Subsections (1) to (6) also apply in relation to a provision of an Act in the same way as they apply in relation to an Act.

6 Evidence of date of assent

The date appearing on the copy of an Act printed by the Government Printer, and purporting to be the date on which the Governor-General assented thereto, or made known the

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Sovereign's assent, shall be evidence that such date was the date on which the Governor-General so assented or made known the Sovereign's assent, and shall be judicially noticed.

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Part 4—Amendment, repeal and expiry of Acts

7 Effect of repeal or amendment of Act

No revival of other Act or part

(1) The repeal of an Act, or of a part of an Act, that repealed an Act (the ***old Act***) or part (the ***old part***) of an Act does not revive the old Act or old part, unless express provision is made for the revival.

No effect on previous operation of Act or part

(2) If an Act, or an instrument under an Act, repeals or amends an Act (the ***affected Act***) or a part of an Act, then the repeal or amendment does not:

(a) revive anything not in force or existing at the time at which the repeal or amendment takes effect; or

(b) affect the previous operation of the affected Act or part (including any amendment made by the affected Act or part), or anything duly done or suffered under the affected Act or part; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the affected Act or part; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the affected Act or part; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment.

Any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the affected Act or part had not been repealed or amended.

Note: The Act that makes the repeal or amendment, or provides for the instrument to make the repeal or amendment, may be different from,

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or the same as, the affected Act or the Act containing the part repealed or amended.

Interpretation

(3) A reference in subsection (1) or (2) to the repeal or amendment of an Act or of a part of an Act includes a reference to:

(a) a repeal or amendment effected by implication; and

(b) the expiry, lapsing or cessation of effect of the Act or part; and

(c) the abrogation or limitation of the effect of the Act or part; and

(d) the exclusion of the application of the Act or part to any person, subject-matter or circumstance.

(4) A reference in this section to a part of an Act includes a reference to any provision of, or words, figures, drawings or symbols in, an Act.

10 References to amended or re-enacted Acts

Where an Act contains a reference to a short title that is or was provided by law for the citation of another Act as originally enacted, or of another Act as amended, then:

(a) the reference shall be construed as a reference to that other Act as originally enacted and as amended from time to time; and

(b) where that other Act has been repealed and re-enacted, with or without modifications, the reference shall be construed as including a reference to the re-enacted Act as originally enacted and as amended from time to time; and

(c) if a provision of the other Act is repealed and re-enacted (including where the other Act is repealed and re-enacted), with or without modifications, a reference to the repealed provision extends to any corresponding re-enacted provision.

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10A References to amended or re-enacted laws of States and Territories

Where an Act contains a reference to a short title or other citation that is or was provided by the law of a State or Territory for the citation of a law of that State or Territory as originally enacted or made, or as amended, then:

(a) the reference shall be construed as a reference to that law as originally enacted or made and as amended from time to time; and

(b) where that law has been repealed and re-enacted or re-made, with or without modifications, the reference shall be construed as including a reference to the re-enacted or re-made law as originally enacted or made and as amended from time to time; and

(c) if a provision of that law is repealed and re-enacted or re-made (including where that law is repealed and re-enacted or re-made), with or without modifications, a reference to the repealed provision extends to any corresponding re-enacted or re-made provision.

11 Acts may be altered etc. in same session

An Act may be altered, amended or repealed in the same session of Parliament in which it was passed.

11A Inserting definitions into provisions or inserting items into lists or tables

Inserting definitions

(1) If an amending Act inserts a definition in a provision of the Act being amended, but does not specify the position in that provision where it is to be inserted, it is to be inserted in the appropriate alphabetical position, determined on a letter-by-letter basis.

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Inserting items into lists or tables

(2) If:

(a) an amending Act inserts an item into a list or table in a provision of the Act being amended, but does not specify the position in the list or table where the item is to be inserted; and

(b) immediately before the insertion, the list or table was arranged alphabetically;

the item is inserted in the appropriate alphabetical position, determined on a letter-by-letter basis.

11B Amending Act to be construed with amended Act

(1) Every Act amending another Act must be construed with the other Act as part of the other Act.

(2) If:

(a) an Act (the ***amending Act***) amends another Act (the ***principal Act***); and

(b) a provision (the ***non-amending provision***) of the amending Act does not amend the principal Act, but relates to an amendment of the principal Act made by another provision of the amending Act; and

(c) a term is used in the non-amending provision that has a particular meaning in the principal Act or in a provision of the principal Act amended or included by the amending Act;

then the term has that meaning in the non-amending provision.

Note: Subsection (2) covers, for example, application, transitional and saving items in a Schedule to an amending Act that relate to amendments of a principal Act made by other items in the Schedule.

(3) Subsection (2) does not limit subsection (1).

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Part 5—General interpretation rules

12 Every section a substantive enactment

Every section of an Act shall have effect as a substantive enactment without introductory words.

13 Material that is part of an Act

(1) All material from and including the first section of an Act to the end of:

(a) if there are no Schedules to the Act—the last section of the Act; or

(b) if there are one or more Schedules to the Act—the last Schedule to the Act;

is part of the Act.

(2) The following are also part of an Act:

(a) the long title of the Act;

(b) any Preamble to the Act;

(c) the enacting words for the Act;

(d) any heading to a Chapter, Part, Division or Subdivision appearing before the first section of the Act.

15A Construction of Acts to be subject to Constitution

Every Act shall be read and construed subject to the Constitution, and so as not to exceed the legislative power of the Commonwealth, to the intent that where any enactment thereof would, but for this section, have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

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15AA Interpretation best achieving Act's purpose or object

In interpreting a provision of an Act, the interpretation that would best achieve the purpose or object of the Act (whether or not that purpose or object is expressly stated in the Act) is to be preferred to each other interpretation.

15AB Use of extrinsic material in the interpretation of an Act

(1) Subject to subsection (3), in the interpretation of a provision of an Act, if any material not forming part of the Act is capable of assisting in the ascertainment of the meaning of the provision, consideration may be given to that material:

(a) to confirm that the meaning of the provision is the ordinary meaning conveyed by the text of the provision taking into account its context in the Act and the purpose or object underlying the Act; or

(b) to determine the meaning of the provision when:

(i) the provision is ambiguous or obscure; or

(ii) the ordinary meaning conveyed by the text of the provision taking into account its context in the Act and the purpose or object underlying the Act leads to a result that is manifestly absurd or is unreasonable.

(2) Without limiting the generality of subsection (1), the material that may be considered in accordance with that subsection in the interpretation of a provision of an Act includes:

(a) all matters not forming part of the Act that are set out in the document containing the text of the Act as printed by the Government Printer;

(b) any relevant report of a Royal Commission, Law Reform Commission, committee of inquiry or other similar body that was laid before either House of the Parliament before the time when the provision was enacted;

(c) any relevant report of a committee of the Parliament or of either House of the Parliament that was made to the Parliament or that House of the Parliament before the time when the provision was enacted;

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(d) any treaty or other international agreement that is referred to in the Act;

(e) any explanatory memorandum relating to the Bill containing the provision, or any other relevant document, that was laid before, or furnished to the members of, either House of the Parliament by a Minister before the time when the provision was enacted;

(f) the speech made to a House of the Parliament by a Minister on the occasion of the moving by that Minister of a motion that the Bill containing the provision be read a second time in that House;

(g) any document (whether or not a document to which a preceding paragraph applies) that is declared by the Act to be a relevant document for the purposes of this section; and

(h) any relevant material in the Journals of the Senate, in the Votes and Proceedings of the House of Representatives or in any official record of debates in the Parliament or either House of the Parliament.

(3) In determining whether consideration should be given to any material in accordance with subsection (1), or in considering the weight to be given to any such material, regard shall be had, in addition to any other relevant matters, to:

(a) the desirability of persons being able to rely on the ordinary meaning conveyed by the text of the provision taking into account its context in the Act and the purpose or object underlying the Act; and

(b) the need to avoid prolonging legal or other proceedings without compensating advantage.

15AC Changes to style not to affect meaning

Where:

(a) an Act has expressed an idea in a particular form of words; and

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(b) a later Act appears to have expressed the same idea in a different form of words for the purpose of using a clearer style;

the ideas shall not be taken to be different merely because different forms of words were used.

15AD Examples

If an Act includes an example of the operation of a provision:

(a) the example is not exhaustive; and

(b) the example may extend the operation of the provision.

15AE Legislative instruments etc.

Instruments that are described as legislative instruments

(1) If a provision of a law requires or permits an instrument that is described as a legislative instrument to be made, then an instrument made under that provision:

(a) must be in writing; and

(b) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

(2) However, the fact that a provision of a law requires or permits an instrument that is described as a legislative instrument to be made does not imply that an instrument made under that provision is or must be of legislative character (within the ordinary meaning of that term).

Instruments that are described as not being legislative instruments

(3) If a provision of a law requires or permits an instrument that is described as not being a legislative instrument to be made, then an instrument made under that provision is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

(4) However, the fact that a provision of a law requires or permits an instrument that is described as not being a legislative instrument to

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be made does not imply that an instrument made under that provision is not, or must not be, of legislative character (within the ordinary meaning of that term).

No inference to be drawn from express statements

(5) In determining whether an instrument made under a provision of a law is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*, no inference may be drawn from the fact that an instrument made under another provision of that or any other law is described as a legislative instrument, or as not being a legislative instrument.

Example: In determining whether a Ministerial direction under a provision is a legislative instrument, no inference may be drawn from the fact that a Ministerial direction under another provision is described as being a legislative instrument.

Definition

(6) In this section:

law means an Act or regulations or any other instrument made under an Act.

15B Application of Acts in coastal sea

Coastal sea of Australia

(1) An Act is taken to have effect in, and in relation to, the coastal sea of Australia as if that coastal sea were part of Australia.

(2) A reference in an Act to Australia, or to the Commonwealth, is taken to include a reference to the coastal sea of Australia.

Coastal sea of external Territory

(3) An Act that is in force in an external Territory is taken to have effect in, and in relation to, the coastal sea of the Territory as if that coastal sea were part of the Territory.

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(3A) A reference in an Act to all or any of the external Territories (whether or not one or more particular Territories are referred to) is taken to include a reference to the coastal sea of any Territory to which the reference relates.

Definition

(4) In this section, ***coastal sea***:

(a) in relation to Australia, means:

(i) the territorial sea of Australia; and

(ii) the sea on the landward side of the territorial sea of Australia and not within the limits of a State or internal Territory;

and includes the airspace over, and the sea-bed and subsoil beneath, any such sea; and

(b) in relation to an external Territory, means:

(i) the territorial sea adjacent to the Territory; and

(ii) the sea on the landward side of the territorial sea adjacent to the Territory and not within the limits of the Territory;

and includes the airspace over, and the sea-bed and subsoil beneath, any such sea.

15C Jurisdiction of courts

Where a provision of an Act, whether expressly or by implication, authorizes a civil or criminal proceeding to be instituted in a particular court in relation to a matter:

(a) that provision shall be deemed to vest that court with jurisdiction in that matter;

(b) the jurisdiction so vested is not limited by any limits to which any other jurisdiction of the court may be subject; and

(c) in the case of a court of a Territory, that provision shall be construed as providing that the jurisdiction is vested so far only as the Constitution permits.

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16 References to the Sovereign

In any Act references to the Sovereign reigning at the time of the passing of such Act, or to the Crown, shall be construed as references to the Sovereign for the time being.

16A References to the Governor-General

Where, in an Act, the Governor-General is referred to, the reference shall be deemed to include:

(a) the person for the time being administering the Government of the Commonwealth; or

(b) where the reference occurs in or in relation to a provision conferring on the Governor-General a power or function which the Governor-General or the person administering the Government of the Commonwealth has for the time being assigned to a person as his deputy, that last-mentioned person in his capacity as deputy;

and shall be read as referring to the Governor-General, or a person so deemed to be included in the reference, acting with the advice of the Executive Council.

16B References to the Governor of a State

Where, in an Act, the Governor of a State is referred to, the reference shall be deemed to include the Governor for the time being of the State or any other person who is, for the time being, the chief executive officer or administrator of the government of the State.

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16C References to Stipendiary Magistrate and Magistrate

(1) Where, in an Act, reference is made to a Stipendiary Magistrate, the reference shall be read as including a reference to any Magistrate in respect of whose office an annual salary is payable.

(2) Where, in an Act passed after the date of commencement of this section, reference is made to a Magistrate, the reference shall be read as a reference to:

(a) a Chief, Police, Stipendiary, Resident or Special Magistrate; or

(b) any other Magistrate in respect of whose office an annual salary is payable.

(3) A reference in an Act to a ***Magistrate*** does not include a reference to a Federal Magistrate.

17A Paper or document purporting to be printed by Government Printer

For the purposes of an Act in which reference is made to a paper or document purporting to be printed by the Government Printer, the words "Government Printer of the Commonwealth", "Government Printer of the Commonwealth of Australia", "Commonwealth Government Printer" or "Government Printer of Australia" appearing on a paper or document shall be deemed to refer to the Government Printer.

18A Parts of speech and grammatical forms

In any Act where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

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18B Titles of Chairs and Deputy Chairs

Chair titles

(1) For the purposes of this section, each of the following is a ***chair title***:
  (a) Chair;
  (b) Chairperson;
  (c) Chairman;
  (d) Chairwoman.

(2) A person occupying an office that is established by an Act and that has a chair title may choose to be referred to by:
  (a) that chair title; or
  (b) another chair title; or
  (c) any other similar title.

(3) If a person occupying an office that is established by an Act and that has a chair title does not choose to be referred to by a title mentioned in subsection (2), the person may be referred to by the chair title that someone addressing the person considers appropriate.

Deputy chair titles

(4) For the purposes of this section, each of the following is a ***deputy chair title***:
  (a) Deputy Chair;
  (b) Deputy Chairperson;
  (c) Deputy Chairman;
  (d) Deputy Chairwoman.

(5) A person occupying an office that is established by an Act and that has a deputy chair title may choose to be referred to by:
  (a) that deputy chair title; or
  (b) another deputy chair title; or
  (c) any other similar title.

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(6) If a person occupying an office that is established by an Act and that has a deputy chair title does not choose to be referred to by a title mentioned in subsection (5), the person may be referred to by the deputy chair title that someone addressing the person considers appropriate.

19 Mention of Minister

Where in an Act any Minister is referred to, such reference shall be deemed to include any Minister or member of the Executive Council for the time being acting for or on behalf of such Minister.

19A References to Ministers and Departments

(1) If a provision of an Act:

(aa) refers to a Minister by using the expression "the Minister" without specifying which Minister is referred to; or

(ab) refers to a particular Minister (including where there is no longer any such Minister);

then the reference is a reference to:

(a) if, for the time being, different Ministers administer the provision in respect of different matters:

(i) if 2 or more Ministers administer the provision in respect of the relevant matter—any one of those Ministers; or

(ii) if only one Minister administers the provision in respect of the relevant matter—that Minister;

(b) if paragraph (a) does not apply and, for the time being, 2 or more Ministers administer the provision—any one of those Ministers; or

(c) if paragraphs (a) and (b) do not apply—the Minister for the time being administering the provision.

(2) Where an Act refers to a Minister, specifying the Minister merely by reference to the fact that the Minister administers a specified Act or enactment, subsection (1) applies as if references in

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paragraphs (1)(a), (b) and (c) to the provision were references to the specified Act or enactment.

(3) If a provision of an Act:

(a) refers to a Department by using the expression "the Department" without specifying which Department is referred to; or

(b) refers to a particular Department (including where there is no longer any such Department);

then the reference is a reference to:

(c) if different Ministers administer the provision in respect of different matters—the Department of State of the Commonwealth that:

(i) deals with the relevant matter; and

(ii) is administered by the Minister or Ministers administering the provision in respect of that matter; or

(d) in any other case—the Department of State of the Commonwealth that:

(i) deals with the matters to which the provision relates; and

(ii) is administered by the Minister or Ministers administering the provision.

(4) For avoidance of doubt, it is declared that where:

(a) a provision of an Act is administered by 2 or more Ministers; and

(b) by virtue of this section, the provision requires or permits anything to be done by or in relation to any one of those Ministers;

the provision shall not be taken to require or permit it to be done in any particular case by or in relation to more than one of those Ministers.

19B Reference to Minister, Department etc. where no longer any such Minister, or Department abolished etc.

(1) Where:

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(a) reference is made in a provision of an Act to a particular Minister of State;
(b) there is no longer any such Minister; and
(c) the Governor-General, by order under this section, directs that the provision, or provisions that include the provision, shall have effect:
(i) as if there were substituted for that reference a reference to a Minister or Ministers specified in the order; or
(ii) as if, in so far as the provision applies in a particular respect specified in the order, being one of several respects so specified, there were substituted for that reference a reference to a Minister or Ministers specified in the order;

the provision shall, on and after the day specified in the order (which may be a day before the order is made), have effect accordingly for all purposes, including the purpose of the making of any subsequent order under this subsection or subsection 19BA(1), other than such an order that is expressed to have effect as if the first-mentioned order had not been made.

(2) Where:
(a) reference is made in a provision of an Act to a particular Department of State of the Commonwealth;
(b) the Department has been abolished or the name of the Department has been changed; and
(c) the Governor-General, by order under this section, directs that the provision, or provisions that include the provision, shall have effect:
(i) as if there were substituted for that reference a reference to such Department as is specified in the order; or
(ii) as if, in so far as the provision applies in a particular respect specified in the order, being one of several respects so specified, there were substituted for that reference a reference to such Department as is specified in the order;

the provision shall, on and after the day specified in the order (which may be a day before the order is made), have effect

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accordingly for all purposes, including the purpose of the making of any subsequent order under this subsection or subsection 19BA(2), other than such an order that is expressed to have effect as if the first-mentioned order had not been made.

(3) Where:

(a) reference is made in a provision of an Act to a particular office, being an office of Secretary of a Department within the meaning of the *Public Service Act 1999*;

(b) the office has been abolished (whether by reason of the abolition of the Department or otherwise) or the name of the office has been changed; and

(c) the Governor-General, by order under this section, directs that the provision, or provisions that include the provision, shall have effect:

(i) as if there were substituted for that reference a reference to such office as is specified in the order; or

(ii) as if, in so far as the provision applies in a particular respect specified in the order, being one of several respects so specified, there were substituted for that reference a reference to such office as is specified in the order;

the provision shall, on and after the day specified in the order (which may be a day before the order is made), have effect accordingly for all purposes, including the purpose of the making of any subsequent order under this subsection or subsection 19BA(3), other than such an order that is expressed to have effect as if the first-mentioned order had not been made.

19BA Reference to Minister, Department etc. inconsistent with changed administrative arrangements

(1) Where:

(a) reference is made in a provision of an Act to a particular Minister of State;

(b) because of any order or appointment made by the Governor-General, there is a change in the administration of

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the provision or of provisions that include the provision or the reference to that Minister is no longer appropriate; and

(c) the Governor-General, by order under this section, directs that the provision, or provisions that include the provision, shall have effect:

(i) as if there were substituted for that reference a reference to a Minister or Ministers specified in the order; or

(ii) as if, in so far as the provision applies in a particular respect specified in the order, being one of several respects so specified, there were substituted for that reference a reference to a Minister or Ministers specified in the order;

the provision shall, on and after the day specified in the order (which may be a day before the order is made), have effect accordingly for all purposes, including the purpose of the making of any subsequent order under this subsection or subsection 19B(1), other than such an order that is expressed to have effect as if the first-mentioned order had not been made.

(2) Where:

(a) reference is made in a provision of an Act to a particular Department of State of the Commonwealth;

(b) by virtue of administrative arrangements ordered by the Governor-General, there is a change in the matters dealt with by the Department but the name of the Department is not changed; and

(c) the Governor-General, by order under this section, directs that the provision, or provisions that include the provision, shall have effect:

(i) as if there were substituted for that reference a reference to such Department as is specified in the order; or

(ii) as if, in so far as the provision applies in a particular respect specified in the order, being one of several respects so specified, there were substituted for that reference a reference to such Department as is specified in the order;

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the provision shall, on and after the day specified in the order (which may be a day before the order is made), have effect accordingly for all purposes, including the purpose of the making of any subsequent order under this subsection or subsection 19B(2), other than such an order that is expressed to have effect as if the first-mentioned order had not been made.

(3) Where:

(a) reference is made in a provision of an Act to a specified office, being an office of Secretary of a Department within the meaning of the *Public Service Act 1999*;

(b) by virtue of administrative arrangements ordered by the Governor-General, there is a change in the matters dealt with by the Department but the name of the office is not changed; and

(c) the Governor-General, by order under this section, directs that the provision, or provisions that include the provision, shall have effect:

(i) as if there were substituted for that reference a reference to such office as is specified in the order; or

(ii) as if, in so far as the provision applies in a particular respect specified in the order, being one of several respects so specified, there were substituted for that reference a reference to such office as is specified in the order;

the provision shall, on and after the day specified in the order (which may be a day before the order is made), have effect accordingly for all purposes, including the purpose of the making of any subsequent order under this subsection or subsection 19B(3), other than such an order that is expressed to have effect as if the first-mentioned order had not been made.

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19BAA Application of sections 19B and 19BA where Department abolished and Department with same name established

Where a Department of State of the Commonwealth is abolished and, immediately after its abolition, a Department with the same name as the abolished Department is established:

(a) the first-mentioned Department shall, for the purposes of section 19B, be deemed not to have been abolished; and

(b) that Department and the other Department shall, for the purposes of section 19BA, be deemed to be the same Department.

19BB Revocation of orders made under sections 19B and 19BA

(1) The Governor-General may, by order under this section, revoke, in whole or in part, an order made under section 19B or 19BA.

(2) Where an order under section 19B or 19BA in force in relation to a provision of an Act is revoked by an order under subsection (1), in whole or with respect to that provision, the provision has effect on and after the day specified in the order under subsection (1) (which may be a day before that order is made) as if the revoked order had not been made in relation to that provision.

19BC Orders under sections 19B, 19BA and 19BB to be published in *Gazette*

Where an order is made by the Governor-General under section 19B, 19BA or 19BB, the Minister shall cause a copy of the order to be published in the *Gazette*.

19BD Validity of acts done by Ministers

If a Minister purports to exercise a power or perform a function or duty that is conferred or imposed on another Minister by an Act, the exercise of that power or the performance of that function or duty is not invalid merely because the power, function or duty is conferred or imposed on the other Minister.

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19C References in agreements to a Department, Minister, officer or body

(1) Where an agreement is or has been entered into, either before or after the commencement of this section, by or on behalf of the Commonwealth and, after the date of the agreement, the functions of a Department of State of the Commonwealth in relation to the administration of matters to which the agreement relates (in this section referred to as ***the former Department***) are or have been allotted to another Department (in this section referred to as ***the new Department***):

(a) any reference in the agreement to a Minister administering the former Department shall be read as a reference to a Minister administering the new Department or to a member of the Executive Council acting for the time being for him and on his behalf;

(b) any reference in the agreement to the former Department shall be read as a reference to the new Department; and

(c) any reference in the agreement to an officer or body of persons shall be read as a reference to:

(i) any other officer or body for the time being exercising the powers or performing the functions of the first-mentioned officer or body; or

(ii) an officer or body specified, by order, by a Minister administering the new Department.

(2) In this section:

officer includes an APS employee.

20 Mention of an officer in general terms

Where in an Act any person holding or occupying a particular office or position is mentioned or referred to in general terms, such mention or reference shall be deemed to include all persons who at any time hold or occupy for the time being, or perform for the time being the duties of, the office or position.

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21 Office etc. means office etc. of the Commonwealth

(1) In any Act:

(a) references to any officer or office shall be construed as references to such officer or office in and for the Commonwealth; and

(b) references to localities jurisdictions and other matters and things shall be construed as references to such localities jurisdictions and other matters and things in and of the Commonwealth.

(2) In this section:

office includes a position occupied by an APS employee.

officer includes an APS employee.

23 Rules as to gender and number

In any Act:

(a) words importing a gender include every other gender; and

(b) words in the singular number include the plural and words in the plural number include the singular.

25A Production of records kept in computers etc.

Where a person who keeps a record of information by means of a mechanical, electronic or other device is required by or under an Act to produce the information or a document containing the information to, or make a document containing the information available for inspection by, a court, tribunal or person, then, unless the court, tribunal or person otherwise directs, the requirement shall be deemed to oblige the person to produce or make available for inspection, as the case may be, a writing that reproduces the information in a form capable of being understood by the court, tribunal or person, and the production of such a writing to the court, tribunal or person constitutes compliance with the requirement.

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25B Alterations of names and constitutions

(1) Where an Act alters the name of a body (whether or not the body is incorporated) or alters the name of an office, then:

(a) the body or office continues in existence under the new name so that its identity is not affected; and

(b) in any Act, in any instrument under an Act, in any award or other industrial determination or order or any industrial agreement, in any other order (whether executive, judicial or otherwise), in any contract, in any pleading in, or process issued in connection with, any legal or other proceedings or in any other instrument, a reference to the body or the office under the former name shall, except in relation to matters that occurred before the alteration took place, be construed as a reference to the body or the office under the new name.

(1A) Where a law of a State or Territory alters the name of a body (whether or not incorporated) or of an office, then a reference in an Act or an instrument made under an Act to the body or office under the former name is to be construed, except in relation to matters that occurred before the alteration, as a reference to the body or office under the new name.

(2) Where an Act alters the constitution of a body (whether or not the body is incorporated), then:

(a) the body continues in existence as newly constituted so that its identity is not affected;

(b) the alteration does not affect any functions, powers, property, rights, liabilities or obligations of the body;

(c) the alteration does not affect any legal or other proceedings instituted or to be instituted by or against the body, and any legal or other proceedings that might have been continued or commenced by or against the body as previously constituted may be continued or commenced by or against the body as newly constituted; and

(d) the alteration does not affect any investigation or inquiry being or proposed to be undertaken by any tribunal, authority or person into any action taken or practice engaged in by the

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body before the alteration took place, and any investigation or inquiry that might have been continued or commenced into any such action or practice may be continued or commenced as if the action had been taken or the practice had been engaged in by the body as newly constituted.

(3) In this section:

office includes a position occupied by an APS employee.

25C Compliance with forms

Where an Act prescribes a form, then strict compliance with the form is not required and substantial compliance is sufficient.

25D Content of statements of reasons for decisions

Where an Act requires a tribunal, body or person making a decision to give written reasons for the decision, whether the expression "reasons", "grounds" or any other expression is used, the instrument giving the reasons shall also set out the findings on material questions of fact and refer to the evidence or other material on which those findings were based.

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Part 6—Service of documents

28A Service of documents

(1) For the purposes of any Act that requires or permits a document to be served on a person, whether the expression "serve", "give" or "send" or any other expression is used, then the document may be served:

(a) on a natural person:

(i) by delivering it to the person personally; or

(ii) by leaving it at, or by sending it by pre-paid post to, the address of the place of residence or business of the person last known to the person serving the document; or

(b) on a body corporate—by leaving it at, or sending it by pre-paid post to, the head office, a registered office or a principal office of the body corporate.

Note: The *Electronic Transactions Act 1999* deals with giving information in writing by means of an electronic communication.

(2) Nothing in subsection (1):

(a) affects the operation of any other law of the Commonwealth, or any law of a State or Territory, that authorizes the service of a document otherwise than as provided in that subsection; or

(b) affects the power of a court to authorize service of a document otherwise than as provided in that subsection.

29 Meaning of service by post

(1) Where an Act authorizes or requires any document to be served by post, whether the expression "serve" or the expression "give" or "send" or any other expression is used, then the service shall be deemed to be effected by properly addressing, prepaying and posting the document as a letter and, unless the contrary is proved,

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to have been effected at the time at which the letter would be delivered in the ordinary course of post.

(2) This section does not affect the operation of section 160 of the *Evidence Act 1995*.

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Part 7—Powers, functions and duties

33 Exercise of powers and performance of functions or duties

Powers, functions and duties may be exercised or must be performed as the occasion requires

(1) Where an Act confers a power or function or imposes a duty, then the power may be exercised and the function or duty must be performed from time to time as occasion requires.

*Meaning of **may***

(2A) Where an Act assented to after the commencement of this subsection provides that a person, court or body may do a particular act or thing, and the word "may" is used, the act or thing may be done at the discretion of the person, court or body.

Powers, functions and duties of bodies not affected by membership vacancies

(2B) Where an Act confers a power or function, or imposes a duty, on a body, whether incorporated or unincorporated, the exercise of the power or the performance of the function or duty is not affected merely because of a vacancy or vacancies in the membership of the body.

Power to make instrument includes power to vary or revoke etc. instrument

(3) Where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

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(3AA) If a condition (the ***ongoing condition***):

(a) must be satisfied before the making, granting or issuing of an instrument; and

(b) is capable of ceasing to be satisfied after the making, granting or issuing of the instrument;

subsection (3) has effect, in relation to the repeal, rescission or revocation of the instrument, as if the reference to like conditions (to the extent that the reference relates to the ongoing condition) were a reference to the ongoing condition ceasing to be satisfied.

Example: A Minister may give a person a written permission if, among other things, the Minister is satisfied the person is of good character.

This condition is capable of ceasing to be satisfied after the giving of the permission.

The Minister may repeal, rescind or revoke the permission in the like manner if the Minister ceases to be satisfied that the person is of good character.

Scope of powers in respect of matters

(3A) Where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) with respect to particular matters (however the matters are described), the power shall be construed as including a power to make, grant or issue such an instrument with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.

(3AB) If an Act confers on a person or authority the power to make an instrument (except a legislative instrument or a rule of court):

(a) specifying, declaring or prescribing a matter; or

(b) doing anything in relation to a matter;

then, in exercising the power, the person or authority may identify the matter by reference to a class or classes of matters.

Note: This provision has a parallel, in relation to legislative instruments, in section 13 of the *Legislative Instruments Act 2003*.

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(3AC) For the purposes of subsections (3A) and (3AB), ***matter*** includes thing, person and animal.

(3B) Where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall not be taken, by implication, not to include the power to make provision for or in relation to a particular aspect of a matter by reason only that provision is made by the Act in relation to another aspect of that matter or in relation to another matter.

Power to make appointment to an office or place

(4) Where an Act confers upon any person or authority a power to make appointments to any office or place, the power shall be construed as including a power to appoint a person to act in the office or place until:

(a) a person is appointed to the office or place; or

(b) the expiration of 12 months after the office or place was created or became vacant, as the case requires;

whichever first happens, and as also including a power to remove or suspend any person appointed, and to appoint another person temporarily in the place of any person so suspended or in place of any sick or absent holder of such office or place.

Provided that where the power of such person or authority to make any such appointment is only exercisable upon the recommendation or subject to the approval or consent of some other person or authority, such power to make an appointment to act in an office or place or such power of removal shall only be exercisable upon the recommendation or subject to the approval or consent of such other person or authority.

Power to make instrument prescribing penalties

(5) Where an Act confers a power to make, grant or issue an instrument (including rules, regulations or by-laws) prescribing penalties not exceeding a specified amount or imprisonment for a specified period, that limitation on the penalties that may be

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prescribed does not prevent the instrument from requiring the making of a statutory declaration.

33AA Power to appoint includes power to reappoint

If an Act confers on a person or body a power to make an appointment, the power is taken to include a power of reappointment.

33AB Validity of things done under appointments under Acts

Anything done by or in relation to a person purporting to act under an appointment (including an acting appointment) under an Act is not invalid merely because:

(a) for any appointment—the occasion for the appointment had not arisen; or

(b) for any appointment—there was a defect or irregularity in connection with the appointment; or

(c) for any appointment—the appointment had ceased to have effect; or

(d) for an acting appointment—the occasion to act had not arisen or had ceased.

33A Acting in offices or positions

Acting appointments

(1) Where a provision of an Act (other than subsection 33(4) of this Act) confers on a person or body (in this section called the ***appointer***) a power to appoint a person (in this section called the ***appointee***) to act in a particular office, then, except so far as the Act otherwise provides, the following paragraphs apply in relation to an appointment made under the provision:

(a) the appointment may be expressed to have effect only in the circumstances specified in the instrument of appointment;

(b) the appointer may:

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(i) determine the terms and conditions of the appointment, including remuneration and allowances; and

(ii) terminate the appointment at any time;

(ba) where the appointment is to act in a vacant office, the appointee must not continue to act in the office for more than 12 months;

(c) where the appointee is acting in an office other than a vacant office and the office becomes vacant while the appointee is acting, then, subject to paragraph (a), the appointee may continue so to act until:

(i) the appointer otherwise directs;

(ii) the vacancy is filled; or

(iii) a period of 12 months from the day of the vacancy ends;

whichever happens first;

(d) the appointment ceases to have effect if the appointee resigns in writing delivered to the appointer;

(e) while the appointee is acting in the office:

(i) the appointee has and may exercise all the powers, and shall perform all the functions and duties, of the holder of the office; and

(ii) that or any other Act applies in relation to the appointee as if the appointee were the holder of the office.

Acting by operation of law

(2) If a provision of an Act provides for a person to act in a particular office (without the need for an appointment), then, except so far as the Act otherwise provides, while the person is acting in the office:

(a) the person has and may exercise all the powers, and must perform all the functions and duties, of the holder of the office; and

(b) the Act or any other Act applies in relation to the person as if the person were the holder of the office.

(3) Anything done by or in relation to a person purporting to act in the office mentioned in subsection (2) is not invalid merely because the occasion to act had not arisen or had ceased.

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Definition

(4) In this section:

office includes a position occupied by an APS employee.

33B Participation in meetings by telephone etc.

(1) This section applies to a body (whether or not incorporated) established by an Act if the Act requires or permits meetings of the members of the body to be held.

(2) The body may permit its members to participate in a meeting, or all meetings, by:

(a) telephone; or

(b) closed-circuit television; or

(c) any other means of communication.

(3) A member who participates in a meeting under a permission under subsection (2) is taken to be present at the meeting and to form part of any quorum for the meeting.

(4) The members of a body participating in a meeting for which a permission under subsection (2) is in effect may all participate by a means of communication referred to in that subsection.

(5) A meeting for which a permission under subsection (2) is in effect may be held at 2 or more places at the same time.

34 Power to hear and determine a matter includes power to receive evidence and examine witnesses etc.

Any court, Judge, justice of the peace, officer, commissioner, arbitrator, or other person authorized by law, or by consent of parties, to hear and determine any matter, shall have authority to receive evidence and examine witnesses and to administer an oath or affirmation to all witnesses legally called before them respectively.

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34AAA Exercise of powers etc. by holders etc. of offices or positions

If an Act confers a power or function or imposes a duty on a person holding or occupying an office or position as such, then the power may be exercised or the function or duty must be performed by the person for the time being holding or occupying the office or position.

34AAB Minister may authorise others to perform functions or duties or exercise powers on his or her behalf

(1) A Minister (the ***authorising Minister***) who administers (whether alone or jointly with one or more other Ministers) an Act or a provision of an Act may authorise:

(a) a Minister who does not administer the Act or provision; or

(b) a member of the Executive Council who is not a Minister;

to act on behalf of the authorising Minister in the performance of functions or duties, or the exercise of powers, that the authorising Minister may perform or exercise under the Act or provision.

(2) An authorisation under subsection (1) in relation to an Act or a provision of an Act extends to the performance of functions or duties, or the exercise of powers, that the authorising Minister may perform or exercise under an instrument (including a regulation, rule or Proclamation) having effect under or for the purposes of the Act or provision.

(3) Subject to subsection (4), an authorisation under subsection (1) may be expressed:

(a) to have effect only during a period or periods, or during the existence of a circumstance or circumstances, referred to in the authorisation; or

(b) to take effect immediately, or at a time referred to in the authorisation, and afterwards to continue to have effect until another person is appointed to the office held by the authorising Minister.

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(4) An authorisation under subsection (1) may be revoked at any time by the authorising Minister.

(5) An authorisation under subsection (1), and the revocation of such an authorisation, must be in writing.

(6) This section does not affect the giving, under a power existing apart from this section, of an authorisation to a Minister or other member of the Executive Council to act on behalf of another Minister.

34AA Delegation to persons holding, occupying or performing the duties of an office or position

Where an Act confers power to delegate a function, duty or power, then the power of delegation shall not be construed as being limited to delegating the function, duty or power to a specified person but shall be construed as including a power to delegate the function, duty or power to any person from time to time holding, occupying, or performing the duties of, a specified office or position, even if the office or position does not come into existence until after the delegation is given.

34AB Effect of delegation

General

(1) Where an Act confers power on a person or body (in this section called the ***authority***) to delegate a function, duty or power:

(a) the delegation may be made either generally or as otherwise provided by the instrument of delegation;

(b) the powers that may be delegated do not include that power to delegate;

(c) a function, duty or power so delegated, when performed or exercised by the delegate, shall, for the purposes of the Act, be deemed to have been performed or exercised by the authority;

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(d) a delegation by the authority does not prevent the performance or exercise of a function, duty or power by the authority; and

(e) if the authority is not a person, section 34A applies as if it were.

Addition of functions, duties or powers

(2) If:

(a) a person (the ***delegator***) or body (also the ***delegator***) delegates all the person's or body's functions, duties or powers under an Act, or a provision of an Act, to another person or body; and

(b) the Act is amended to give the delegator one or more additional functions, duties or powers under the Act or provision; and

(c) the delegation is in force immediately before the amendment takes effect;

then, on and after the amendment taking effect, the delegation is taken to include the additional functions, duties or powers.

Alteration of functions, duties or powers

(3) If:

(a) a person or body delegates one or more of the person's or body's functions, duties or powers under an Act, or a provision of an Act, to another person or body; and

(b) the Act is amended to alter the scope of one or more of those functions, duties or powers under the Act or provision; and

(c) the delegation is in force immediately before the amendment takes effect;

then, on and after the amendment taking effect, the delegation is taken to include the functions, duties or powers as altered.

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34A Exercise of powers and performance of functions or duties that depend upon the opinion etc. of delegates

If:

(a) under an Act, a person's exercise of a power, or a person's performance of a function or duty, is dependent upon the person's opinion, belief or state of mind in relation to a matter; and

(b) that power, function or duty has been delegated under that or any other Act;

the delegate may exercise that power, or may perform that function or duty, upon the delegate's opinion, belief or state of mind in relation to that matter.

34B Presentation of papers to the Parliament

(1) Where, by an Act or a law of a Territory, provision is made requiring or permitting the presentation (however expressed) of a paper to the Parliament or to both Houses, or to each or either House, of the Parliament, it is sufficient compliance with the provision, in relation to a House, if:

(a) the paper is presented in that House in accordance with the rules or orders of the House or, if, under the rules or orders of the House, papers are deemed to be presented to the House if they are delivered to the Clerk of the House and recorded in the records of the proceedings of the House, the paper is so delivered and recorded;

(b) where the provision provides for a specified person to present the paper or to cause the paper to be presented—that person, or any other person who could by virtue of this Act or of any other Act, or of a law of a Territory, act in the place of that person, makes or causes to be made, as the case may be, the presentation or the delivery of the paper referred to in the last preceding paragraph; and

(c) where the provision specifies a period within which the paper is to be presented—the presentation, or the delivery and

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recording, of the paper referred to in paragraph (a) takes place within that period.

(1A) For the purposes of an Act or a law of a Territory that refers to papers presented (however the presentation is described) to the Parliament or to both Houses, or to each or either House, of the Parliament:

(a) presentation of a paper in a House of the Parliament in accordance with the rules or orders of the House; or

(b) if, under the rules or orders of a House of the Parliament, papers are to be deemed to be presented to the House if they are delivered to the Clerk of the House and recorded in the records of the proceedings of the House—such a delivery and recording of a paper;

shall be deemed to have been presentation of the paper to that House, as described in that Act or law, effected or caused by the person who so presented or delivered the paper or caused the paper to be so presented or delivered.

(2) In this section, ***paper*** includes:

(a) an ordinance, rule, regulation or by-law;

(b) a report; and

(c) any other document or instrument whatsoever.

34C Periodic reports

(1) In this section:

periodic report means a regular report relating to:

(a) the activities, operations, business or affairs of a person; or

(b) the administration, operation or working of an Act or part of an Act;

during a particular period that ends on or after 30 June 1983.

person includes a body corporate, office, commission, authority, committee, tribunal, board, institute, organization or other body however described.

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(2) Where an Act requires a person to furnish a periodic report to a Minister but does not specify a period within which the report is to be so furnished, that person shall furnish the report to the Minister as soon as practicable after the end of the particular period to which the report relates and, in any event, within 6 months after the end of that particular period.

(3) Where an Act requires a person to furnish a periodic report to a Minister for presentation to the Parliament but does not specify a period within which the report is to be so presented, that Minister shall cause a copy of the periodic report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which he receives the report.

(4) Where this or any other Act requires a person to furnish a periodic report to a Minister within a specified period and that person is of the opinion that it will not be reasonably possible to comply with the requirement, that person may, within the specified period, apply to the Minister for an extension of the period, and, where he does so apply, he shall furnish to the Minister a statement in writing explaining why, in that person's opinion, it will not be reasonably possible to comply with the requirement.

(5) A Minister may, on application under subsection (4), grant such extension as he considers reasonable in the circumstances.

(6) Notwithstanding subsection (2) and the provisions of any other Act, where a Minister grants an extension pursuant to an application under subsection (4):

(a) the Minister shall cause to be laid before each House of the Parliament, within 3 sitting days of that House after the day on which he grants the extension, a copy of the statement furnished pursuant to subsection (4) in respect of the application together with a statement specifying the extension granted and his reasons for granting the extension;

(b) the person who made the application shall furnish the periodic report to the Minister within the period as so extended; and

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(c) the Minister shall cause a copy of the periodic report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which he receives the report.

(7) Where this or any other Act requires a person to furnish a periodic report to a Minister within a specified period or an extension of that period under this section and that person fails to do so:

(a) that person shall, not later than 14 days after the end of that specified period or extension, as the case may be, furnish to the Minister a statement in writing explaining why the report was not furnished as required; and

(b) the Minister shall cause a copy of the statement to be laid before each House of the Parliament within 3 sitting days of that House after the day on which he receives the statement.

(8) This section does not apply in relation to the Australian Security Intelligence Organisation, the Australian Secret Intelligence Service or the Office of National Assessments.

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Part 8—Distance, time and age

35 Measurement of distance

In the measurement of any distance for the purposes of any Act, that distance shall be measured in a straight line on a horizontal plane.

36 Calculating time

(1) A period of time referred to in an Act that is of a kind mentioned in column 1 of an item in the following table is to be calculated according to the rule mentioned in column 2 of that item:

Calculating periods of time

Item	Column 1 If the period of time:	Column 2 then the period of time:
1	is expressed to occur between 2 days	includes both days.
2	is expressed to begin at, on or with a specified day	includes that day.
3	is expressed to continue until a specified day	includes that day.
4	is expressed to end at, on or with a specified day	includes that day.
5	is expressed to begin from a specified day	does not include that day.
6	is expressed to begin after a specified day	does not include that day.
7	is expressed to end before a specified day	does not include that day.

Example 1: If a claim may be made between 1 September and 30 November, a claim may be made on both 1 September and 30 November.

Example 2: If a permission begins on the first day of a financial year, the permission is in force on that day.

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Example 3: If a licence continues until 31 March, the licence is valid up to and including 31 March.

Example 4: If a person's right to make submissions ends on the last day of a financial year, the person may make submissions on that day.

Example 5: If a variation of an agreement is expressed to operate from 30 June, the variation starts to operate on 1 July.

Example 6: If a decision is made on 2 August and a person has 28 days after the day the decision is made to seek a review of the decision, the 28-day period begins on 3 August.

Example 7: If a person must give a notice to another person at any time during the period of 7 days before the day a proceeding starts and the proceeding starts on 8 May, the notice may be given at any time during the 7-day period starting on 1 May and ending on 7 May.

(2) If:

(a) an Act requires or allows a thing to be done; and

(b) the last day for doing the thing is a Saturday, a Sunday or a holiday;

then the thing may be done on the next day that is not a Saturday, a Sunday or a holiday.

Example: If a person has until 31 March to make an application and 31 March is a Saturday, the application may be made on Monday 2 April.

(3) In this section:

holiday, in relation to the time for doing a thing, means:

(a) a day that is a public holiday in the place in which the thing is to be or may be done; and

(b) if the thing is to be or may be done at a particular office or other place—a day on which the place or office is closed for the whole day.

37 Expressions of time

Where in an Act any reference to time occurs, such time shall, unless it is otherwise specifically stated, be deemed in each State or part of the Commonwealth to mean the legal time in that State or part of the Commonwealth.

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37A Attainment of particular age

For the purposes of any Act, the time at which a person attains a particular age expressed in years is the commencement of the relevant anniversary of the date of the birth of that person.

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Part 9—Citation of Acts

38 Reference to Acts

(1) An Act passed by the Parliament of the Commonwealth may be referred to by the word "Act" alone.

(2) An Act passed by the Parliament of the United Kingdom may be referred to by the term "Imperial Act".

(3) An Act passed by the Parliament of a State may be referred to by the term "State Act".

(4) An Act passed by the legislature of a Territory may be referred to by the term "Territory Act".

39 Numbering of Acts

The Acts passed in each secular year shall be numbered in regular arithmetical series, beginning with the number 1, in the order in which the Governor-General assents thereto, or makes known the Sovereign's assent thereto.

40 Citation of Acts

(1) In any Act, instrument, or document:

(a) any Act may be cited by its short title, or by reference to the secular year in which it was passed and its number; and

(b) any Imperial Act may be cited by its short title (if any) or in such other manner as is sufficient in an Imperial Act; and

(c) any State Act may be cited by a reference to the State by the Parliament whereof the Act was passed, together with such mode of reference as is sufficient in Acts passed by such Parliament; and

(d) any Territory Act may be cited by a reference to the Territory by whose legislature the Act was passed, together with such

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mode of reference as is sufficient in Acts passed by that legislature.

(2) Any enactment may be cited by reference to the part, section, subsection, or other division of the Act, Imperial Act, State Act or Territory Act, in which the enactment is contained.

40A References to the new corporations and ASIC legislation

(1) A reference in an Act to:

(a) an Act, or regulations or another instrument, that is part of the new corporations legislation or the new ASIC legislation; or

(b) a provision, or group of provisions, of such an Act, regulations or other instrument;

is taken to include a reference to:

(c) the corresponding part, provision or provisions of the old corporations legislation or the old ASIC legislation; and

(d) any relevant earlier law.

(2) Subsection (1) does not apply to:

(a) a reference in an Act that is part of the new corporations legislation or the new ASIC legislation; or

(b) a reference in the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*; or

(c) a reference that identifies an Act that is part of the new corporations legislation or the new ASIC legislation as an Act to be amended; or

(d) a reference in a provision that applies an Act that is part of the new corporations legislation or the new ASIC legislation, or a provision or group of provisions, of such an Act to a particular matter (whether with or without modification).

(3) Subsection (1) has effect:

(a) subject to an express provision to the contrary in the Act concerned; and

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(b) subject to regulations made for the purposes of subsection (5).

(4) For the purposes of this section:

(a) the question whether a part, provision or provisions of the old corporations legislation ***corresponds*** to a part, provision or provisions of the new corporations legislation is to be determined in the same way as it is determined for the purposes of Part 10.1 of the *Corporations Act 2001*; and

(b) the question whether a part, provision or provisions of the old ASIC legislation ***corresponds*** to a part, provision or provisions of the new ASIC legislation is to be determined in the same way as it is determined for the purposes of Part 16 of the *Australian Securities and Investments Commission Act 2001*.

(5) The regulations may provide that subsection (1) does not apply in relation to a particular reference, or class of references, in an Act.

(6) In this section:

new ASIC legislation has the same meanings as in Part 16 of the *Australian Securities and Investments Commission Act 2001*.

new corporations legislation has the same meanings as in Part 10.1 of the *Corporations Act 2001*.

old ASIC legislation has the same meanings as in Part 16 of the *Australian Securities and Investments Commission Act 2001*.

old corporations legislation has the same meanings as in Part 10.1 of the *Corporations Act 2001*.

relevant earlier law, in relation to a provision of the old corporations legislation, or the old ASIC legislation, means a law that was:

(a) a corresponding previous law (as defined for the purposes of that provision or provisions that included that provision); or

(b) a relevant previous law (as defined for the purposes of that provision or provisions that included that provision).

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Part 10—Non-legislative instruments and resolutions

46 Construction of instruments

(1) If a provision confers on an authority the power to make an instrument that is neither a legislative instrument for the purposes of the *Legislative Instruments Act 2003* nor a rule of court, then:

(a) this Act applies to any instrument so made as if it were an Act and as if each provision of the instrument were a section of an Act; and

(b) expressions used in any instrument so made have the same meaning as in the enabling legislation as in force from time to time; and

(c) any instrument so made is to be read and construed subject to the enabling legislation as in force from time to time, and so as not to exceed the power of the authority.

(2) If any instrument so made would, but for this subsection, be construed as being in excess of the authority's power, it is to be taken to be a valid instrument to the extent to which it is not in excess of that power.

Note: This provision has a parallel, in relation to legislative instruments, in section 13 of the *Legislative Instruments Act 2003*.

46AA Prescribing matters by reference to other instruments

(1) If legislation authorises or requires provision to be made in relation to any matter in an instrument that is neither a legislative instrument for the purposes of the *Legislative Instruments Act 2003* nor a rule of court, that instrument may make provision in relation to that matter:

(a) by applying, adopting or incorporating, with or without modification, the provisions of any Act, or of any disallowable legislative instrument for the purposes of the

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Legislative Instruments Act 2003, as in force at a particular time or as in force from time to time; or

(b) subject to subsection (2), by applying, adopting or incorporating, with or without modification, any matter contained in any other instrument or writing as in force or existing at the time when the first-mentioned instrument takes effect.

(2) The instrument may not make provision in relation to that matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

Note: This provision has a parallel, in relation to legislative instruments, in section 14 of the *Legislative Instruments Act 2003*.

46B Disallowable non-legislative instruments

(1) This section applies to instruments:

(a) that are neither legislative instruments for the purposes of the *Legislative Instruments Act 2003* nor rules of court; and

(b) that are made under a provision of an Act or legislative instrument (the ***enabling provision***); and

(c) that are expressly declared by the enabling provision or by another provision of the Act or instrument to be disallowable instruments for the purposes of this section.

(2) An instrument to which this section applies that is made on or after the commencing day for the purposes of the *Legislative Instruments Act 2003*, or a particular provision of such an instrument, takes effect from:

(a) the day specified in the instrument for the purposes of the commencement of the instrument or provision; or

(b) the day and time specified in the instrument for the purposes of the commencement of the instrument or provision; or

(c) the day, or day and time, of the commencement of an Act, or of a provision of an Act, or of the occurrence of an event, that

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is specified in the instrument for the purposes of the commencement of the instrument or provision; or

(d) in any other case—the first moment of the day next following the day of notification under subsection (5).

(3) An instrument to which this section applies, or a provision of such an instrument, has no effect if, apart from this subsection, it would take effect before the date of its notification under subsection (5) and as a result:

(a) the rights of a person (other than the Commonwealth or an authority of the Commonwealth) as at the date of notification would be affected so as to disadvantage that person; or

(b) liabilities would be imposed on a person (other than the Commonwealth or an authority of the Commonwealth) in respect of anything done or omitted to be done before the date of notification.

(4) The effect of subsections (2) and (3) on an instrument is subject to any contrary provision for commencement of the instrument in the enabling legislation for the instrument if the enabling legislation is an Act or a provision of an Act.

(5) An instrument to which this section applies must be notified in the *Gazette* and, if the instrument is not so notified by being published in full in the *Gazette*, a notice in the *Gazette* of the instrument's having been made, and of the place or places where copies of it can be purchased, is sufficient compliance with that requirement.

(6) If a notice of the making of an instrument is published in accordance with subsection (5), copies of the instrument must, at the time of publication of the notice or as soon as practicable thereafter, be made available for purchase at the place, or at each of the places, specified in the notice.

(7) If, on the day of publication of a notice referred to in subsection (5), there are no copies of the instrument to which the notice relates available for purchase at the place, or at one or more of the places, specified in the notice, the Minister administering the enabling provision must cause to be laid before each House of the

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Parliament, within 15 sitting days of that House after that day, a statement that copies of the instrument were not so available and the reason why they were not so available.

(8) Failure to comply with a requirement of subsection (6) or (7) in relation to any instrument does not constitute a failure to comply with subsection (5).

(9) A copy of an instrument to which this section applies must be laid before each House of the Parliament not later than 6 sitting days of that House after the instrument is made and, for that purpose, must be delivered to the House by the person or body authorised to make the instrument.

(10) If a copy of an instrument is not laid before each House of the Parliament in accordance with subsection (9), it thereupon ceases to have effect.

(11) Unless the law otherwise provides, Part 5 of the *Legislative Instruments Act 2003*, other than sections 38, 39, 40 and 44, applies in relation to an instrument to which this section applies as if:

(aa) the reference in section 37 of the *Legislative Instruments Act 2003* to registered were omitted, and the note to that section were repealed; and

(a) references to legislative instruments or to a legislative instrument were references to an instrument to which this section applies; and

(b) references to enabling legislation were references to the enabling provision; and

(c) references to repeal were references to revocation; and

(ca) references to registered were references to made; and

(cb) references to subsection 38(1) of the *Legislative Instruments Act 2003* were references to subsection (9) of this section; and

(cc) references to subsection 38(3) of the *Legislative Instruments Act 2003* were references to subsection (10) of this section; and

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(d) references in subsection 45(2) of the *Legislative Instruments Act 2003* to another legislative instrument included references to a provision of another non-legislative instrument made under the enabling provision.

47 Construction of resolutions

Where any resolution is or has been passed by either House of the Parliament in purported pursuance of any Act, then the resolution shall be read and construed subject to the Constitution and to the Act under which it purports to have been passed, to the intent that where the resolution would, but for this section, have been construed as being in excess of authority, it shall nevertheless be a valid resolution to the extent to which it is not in excess of authority.

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Part 11—Regulations

51 Regulations

The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

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can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and "(md not incorp)" is added to the amendment history.

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Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

C[x] = Compilation No. x

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

underlining = whole or part not commenced or to be commenced

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Acts Interpretation Act 1901	2, 1901	12 July 1901	12 July 1901	
Acts Interpretation Act 1916	4, 1916	30 May 1916	s 2: 30 May 1916	—
Acts Interpretation Act 1918	8, 1918	11 June 1918	11 June 1918	—
Acts Interpretation Act 1930	23, 1930	14 Aug 1930	s 3: 27 Oct 1930 (s 3(2) and gaz 1930, p 2093) s 4-6: 14 Aug 1930	—
Acts Interpretation Act 1932	24, 1932	30 May 1932	s 2, 5: 30 May 1932	—
Acts Interpretation Act 1937	10, 1937	27 Aug 1937	s 4-14: 11 Oct 1937 (s 2 and gaz 1937, p 1695)	s 14
Acts Interpretation Act 1941	7, 1941	4 Apr 1941	s 5: 3 Sept 1939 (s 5(2)) Remainder: 4 Apr 1941 (s 2)	—
Defence (Transitional Provisions) Act 1947	78, 1947	11 Dec 1947	s 7: 1 Jan 1948 (s 2(2))	—
Acts Interpretation Act 1948	79, 1948	17 Dec 1948	14 Jan 1949	—
Statute Law Revision Act 1950	80, 1950	16 Dec 1950	s 16, First Sch: 31 Dec 1950 (s 2)	s 16
Acts Interpretation Act 1957	69, 1957	5 Dec 1957	5 Dec 1957 (s 2)	—
Acts Interpretation Act 1963	19, 1963	28 May 1963	25 June 1963	s 6

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Acts Interpretation Act 1964	52, 1964	30 May 1964	27 June 1964	—
Statute Law Revision (Decimal Currency) Act 1966	93, 1966	29 Oct 1966	First Sch: 1 Dec 1966 (s 2(1))	—
Acts Interpretation Act 1973	79, 1973	19 June 1973	s 4(2): 1 July 1973 (gaz 1973, No 79) Remainder: 19 June 1973	—
Statute Law Revision Act 1973	216, 1973	19 Dec 1973	s 9(1) and sch 1: 31 Dec 1973 (s 2)	s 9(1)
Acts Citation Act 1976	37, 1976	26 May 1976	s 3 and 4: 1 July 1976 (s 2)	—
Acts Interpretation Amendment Act 1976	144, 1976	6 Dec 1976	s 3, 4, 5(1), 6, 7, 8(1), (2), 9 and sch: 6 Dec 1976 (s 2(1)) s 5(2): 1 July 1977 (s 2(2) and gaz 1977, No S122)	s 3(2), 8(2)
Acts Interpretation Amendment Act 1978	35, 1978	12 June 1978	12 June 1978 (s 2)	—
Acts Interpretation Amendment Act 1980	1, 1980	1 Mar 1980	1 Jan 1980 (s 2)	—
Statute Law Revision Act 1981	61, 1981	12 June 1981	Sch 1: 12 June 1981 (s 2(1))	—
Statute Law (Miscellaneous Amendments) Act (No. 1) 1982	26, 1982	7 May 1982	s 4: 4 June 1982 (s 2(12))	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Statute Law (Miscellaneous Amendments) Act (No. 2) 1982	80, 1982	22 Sept 1982	s 263: 4 June 1982 (s 2(11))	—
Statute Law (Miscellaneous Amendments) Act (No. 2) 1982	80, 1982	22 Sept 1982	s 16: 22 Sept 1982 (s 2(1))	—
Statute Law (Miscellaneous Provisions) Act (No. 1) 1983	39, 1983	20 June 1983	Sch 1: 18 July 1983 (s 2(1))	—
Acts Interpretation Amendment Act 1984	27, 1984	15 May 1984	12 June 1984	s 2, 12(2) and 13(2)
as amended by				
Statute Law (Miscellaneous Provisions) Act (No. 2) 1984	165, 1984	25 Oct 1984	s 2(32): 25 Oct 1984 (s 2(2)) s 6(1): 22 Nov 1984 (s 2(1)) Sch 1: 12 June 1984 (s 2(3))	s 2(32) and 6(1)
Public Service Reform Act 1984	63, 1984	25 June 1984	s 151(9) and Sch 4: 1 July 1984 (s 2(4) and gaz 1984, No S245)	s 151(9)
as amended by				
Statute Law (Miscellaneous Provisions) Act (No. 2) 1984	165, 1984	25 Oct 1984	s 2(32): 25 Oct 1984 (s 2(2)) s 6(1): 22 Nov 1984 (s 2(1)) Sch 1: 1 July 1984 (s 2(21)(b))	s 2(32) and 6(1)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law (Miscellaneous Provisions) Act (No. 1) 1984	72, 1984	25 June 1984	s 5(1) and Sch: 23 July 1984 (s 2(1))	s 5(1)
Statute Law (Miscellaneous Provisions) Act (No. 2) 1985	193, 1985	16 Dec 1985	s 5, 16 and Sch 1: 16 Dec 1985 (s 2(1))	s 5 and 16
Administrative Arrangements Act 1987	92, 1987	18 Sept 1987	s 4-8: 24 July 1987 (s 2(2))	—
Crimes Legislation Amendment Act 1987	120, 1987	16 Dec 1987	s 75(2) and Sch 5: 1 Mar 1989 (s 2(1) and gaz 1989, No S54)	s 75(2)
Statute Law (Miscellaneous Provisions) Act 1987	141, 1987	18 Dec 1987	s 5(1) and Sch 1: 18 Dec 1987 (s 2(1))	s 5(1)
Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988	99, 1988	2 Dec 1988	s 4-7: 2 Dec 1988 (s 2)	—
Law and Justice Legislation Amendment Act 1988	120, 1988	14 Dec 1988	s 4 and 5: 14 Dec 1988 (s 2(1))	—
Crimes Legislation Amendment Act 1989	108, 1989	30 June 1989	s 4: 30 June 1989 (s 2(1))	—
Corporations Legislation Amendment Act 1990	110, 1990	18 Dec 1990	s 16: 1 Jan 1991 (s 2(2) and gaz 1990, No S335)	—
Law and Justice Legislation Amendment Act 1990	115, 1990	21 Dec 1990	Sch: 21 Dec 1990 (s 2(1))	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Law and Justice Legislation Amendment Act 1991	136, 1991	12 Sept 1991	Sch: 10 Oct 1991 (s 2(1))	—
Territories Law Reform Act 1992	104, 1992	30 June 1992	Sch 4: 1 July 1992 (s 2(3))	—
Law and Justice Legislation Amendment Act 1994	84, 1994	23 June 1994	s 3 and 5: 23 June 1994 (s 2(1))	s 3
Evidence (Transitional Provisions and Consequential Amendments) Act 1995	3, 1995	23 Feb 1995	s 14: 23 Feb 1995 (s 2(1)) s 15 and sch: 18 Apr 1995 (s 2(2), (13))	s 14
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Sch 2 (items 136, 137): 1 Jan 1998 (s 2(2))	—
Financial Sector Reform (Amendments and Transitional Provisions) Act 1998	54, 1998	29 June 1998	Sch 18 (item 40): 1 July 1998 (s 2(2)(p))	—
Acts Interpretation Amendment Act 1998	125, 1998	21 Dec 1998	21 Dec 1998 (s 2)	Sch 1 (items 2, 5, 7)
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (items 33-40): 5 Dec 1999 (s 2(1), (2))	—
Corporate Law Economic Reform Program Act 1999	156, 1999	24 Nov 1999	Sch 12 (items 1, 2, 26, 27): 24 Nov 2000 (s 2(4))	—
Australian Security Intelligence Organisation Legislation Amendment Act 1999	161, 1999	10 Dec 1999	Sch 3 (items 1, 2): 10 Dec 1999 (s 2(2))	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Federal Magistrates (Consequential Amendments) Act 1999	194, 1999	23 Dec 1999	Sch 2: 23 Dec 1999 (s 2(1))	—
Corporations (Repeals, Consequentials and Transitionals) Act 2001	55, 2001	28 June 2001	Sch 3 (items 9, 10): 15 July 2001 (s 2(1), (3))	—
Intelligence Services (Consequential Provisions) Act 2001	153, 2001	1 Oct 2001	Sch 3 (item 1): 29 Oct 2001 (s 2)	—
Statute Law Revision Act 2002	63, 2002	3 July 2002	Sch 1 (item 1): 21 Dec 1990 (s 2(1) item 2)	—
Acts Interpretation Amendment (Court Procedures) Act 2003	46, 2003	26 June 2003	7 July 2003 (s 2)	Sch 1 (item 2)
Legislative Instruments Act 2003	139, 2003	17 Dec 2003	Sch 1: 1 Jan 2005 (s 2(1) item 3)	—
Legislative Instruments (Transitional Provisions and Consequential Amendments) Act 2003	140, 2003	17 Dec 2003	s 4 and Sch 1 (items 3-7): 1 Jan 2005 (s 2(1) items 2, 3)	s 4
Financial Framework Legislation Amendment Act 2005	8, 2005	22 Feb 2005	s 4 and Sch 1 (items 1, 70): 22 Feb 2005 (s 2(1) items 1, 2)	s 4
Acts Interpretation Amendment (Legislative Instruments) Act 2005	133, 2005	15 Nov 2005	Sch 1 (items 1-5): 1 Jan 2005 (s 2(1) items 2, 3) Remainder: 15 Nov 2005 (s 2(1) item 1)	—
Statute Law Revision Act 2008	73, 2008	3 July 2008	Sch 1 (item 2): 1 Jan 2005 (s 2(1) item 3)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008	134, 2008	4 Dec 2008	Sch 2 (item 1): 4 Dec 2008 (s 2(1) item 3)	—
Evidence Amendment Act 2008	135, 2008	4 Dec 2008	Sch 3 (item 6): 4 Dec 2009 (s 2(1) item 3)	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 1 (items 1-110) and Sch 3 (item 1-9, 11): 27 Dec 2011 (s 2(1) items 2, 12)	Sch 3 (items 1-9, 11)

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Endnote 4—Amendment history

Provision affected	How affected
Part 1	
Part I heading	ad No 52, 1964
	rep No 46, 2011
Part 1 heading	ad No 46, 2011
Heading preceding s 1	rep No 52, 1964
s 1A	ad No 46, 2011
s 2	rs No 10, 1937
	am No 37, 1976
	rs No 46, 2011
s 2A	ad No 24, 1932
	rep No 10, 1937
	ad No 52, 1964
	rep No 216, 1973
	ad No 46, 2011
Part 2	
Part 2	ad No 46, 2011
s 2B	ad No 46, 2011
s 2C	ad No 46, 2011
s 2D	ad No 46, 2011
s 2E	ad No 46, 2011
s 2F	ad No 46, 2011
s 2G	ad No 46, 2011
s 2H	ad No 46, 2011
s 2J	ad No 46, 2011
s 2K	ad No 46, 2011
s 2L	ad No 46, 2011
Part 3	
Part II heading	ad No 52, 1964

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Endnote 4—Amendment history

Provision affected	How affected
	rep No 46, 2011
Part 3 heading	ad No 46, 2011
Heading preceding s 3	rep No 52, 1964
s 3	am No 27, 1984; No 141, 1987; No 46, 2011
s 3A	ad No 46, 2011
s 4	rs No 144, 1976
	am No 115, 1990; No 63, 2002; No 140, 2003
	rs No 46, 2011
s 5	am No 10, 1937; No 144, 1976
	rep No 46, 2011
s 6	am No 46, 2011
Part 4	
Part III heading	ad No 52, 1964
	rep No 46, 2011
Part 4 heading	ad No 46, 2011
Heading preceding s 7	rep No 52, 1964
s 7	rs No 46, 2011
s 8	rep No 46, 2011
s 8A	ad No 27, 1984
	rep No 46, 2011
s 8B	ad No 27, 1984
	rep No 46, 2011
s 8C	ad No 27, 1984
	rep No 46, 2011
s 9	rep No 46, 2011
s 10	rs No 37, 1976
	am No 46, 2011
s 10A	ad No 4, 1916
	rep No 37, 1976
	ad No 27, 1984
	am No 46, 2011

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Endnote 4—Amendment history

Provision affected	How affected
s 11	rs No 46, 2011
s 11A	ad No 46, 2011
s 11B	ad No 46, 2011
Part 5	
Part IV heading	ad No 52, 1964
	rep No 46, 2011
Part 5 heading	ad No 46, 2011
Heading preceding s 12	rep No 52, 1964
s 13	am No 1, 1980
	rs No 46, 2011
s 14	rep No 46, 2011
s 14A	ad No 141, 1987
	rep No 46, 2011
s 14B	ad No 141, 1987
	rep No 46, 2011
s 15	rep No 46, 2011
s 15A	ad No 23, 1930
	rs No 10, 1937
s 15AA	ad No 61, 1981
	am No 27, 1984
	rs No 46, 2011
s 15AB	ad No 27, 1984
s 15AC	ad No 141, 1987
s 15AD	ad No 141, 1987
	rs No 46, 2011
s 15AE	ad No 133, 2005
s 15B	ad No 144, 1976
	am No 46, 2011
s 15C	ad No 27, 1984
	am No 46, 2011
Part V heading	ad No 52, 1964

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Provision affected	How affected
	rep No 46, 2011
Heading preceding s 16	rep No 52, 1964
s 16	am No 46, 2011
s 16A	ad No 69, 1957
	am No 46, 2011
s 16B	ad No 69, 1957
	am No 46, 2011
s 16C	ad No 79, 1973
	am No 194, 1999; No 46, 2011
s 17	am No 23, 1930; No 10, 1937; No 80, 1950; No 69, 1957; No 79, 1973; No 216, 1973; No 144, 1976; No 80, 1982; No 92, 1987; No 104, 1992; No 152, 1997; No 140, 2003; No 8, 2005
	rep No 46, 2011
s 17AA	ad No 146, 1999
	rep No 46, 2011
s 17A	ad No 79, 1973
	am No 144, 1976
s 18	am No 216, 1973
	rep No 46, 2011
s 18A	ad No 144, 1976
	am No 46, 2011
s 18B	ad No 141, 1987
	am No 120, 1988
	rs No 152, 1997; No 46, 2011
s 18C	ad No 125, 1998
	rep No 46, 2011
s 19	am No 8, 1918; No 125, 1998
s 19A	ad No 23, 1930
	am No 24, 1932
	rs No 10, 1937
	am No 7, 1941

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Endnote 4—Amendment history

Provision affected	How affected
	rep No 144, 1976
	ad No 92, 1987
	am No 125, 1998; No 46, 2011
s 19B	ad No 7, 1941
	rs No 144, 1976
	am No 63, 1984; No 92, 1987; No 146, 1999; No 46, 2011
s 19BA	ad No 144, 1976
	am No 35, 1978; No 63, 1984; No 92, 1987; No 125, 1998; No 146, 1999; No 73, 2008; No 46, 2011
s 19BAA	ad No 144, 1976
s 19BB	ad No 144, 1976
	am No 46, 2011
s 19BC	ad No 144, 1976
	am No 35, 1978
s 19BD	ad No 46, 2011
s 19C	ad No 78, 1947
	am No 92, 1987; No 146, 1999
s 20	am No 27, 1984; No 46, 2011
s 21	am No 146, 1999; No 46, 2011
s 22	am No 144, 1976; No 39, 1983; No 27, 1984; No 193, 1985; No 115, 1990
	rep No 46, 2011
s 22A	ad No 134, 2008
	rep No 46, 2011
s 22B	ad No 134, 2008
	rep No 46, 2011
s 22C	ad No 134, 2008
	rep No 46, 2011
s 23	rs No 27, 1984
	am No 46, 2011
s 24	am No 7, 1941; No 93, 1966; No 144, 1976; No 27, 1984

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Provision affected	How affected
	rep No 120, 1987
s 25	rs No 27, 1984
	am No 108, 1989
	rep No 46, 2011
s 25A	ad No 27, 1984
s 25B	ad No 27, 1984
	am No 136, 1991; No 146, 1999; No 46, 2011
s 25C	ad No 27, 1984
	am No 46, 2011
s 25D	ad No 27, 1984
s 25E	ad No 27, 1984
	rep No 46, 2011
Part 6	
Part VI heading	ad No 52, 1964
	rep No 46, 2011
Part 6 heading	ad No 46, 2011
Heading preceding s 26	rep No 52, 1964
s 26	am No 10, 1937; No 80, 1950; No 216, 1973; No 27, 1984; No 194, 1999
	rep No 46, 2011
s 27	am No 193, 1985; No 120, 1987
	rep No 46, 2011
s 27A	ad No 46, 2003
	rep No 46, 2011
s 28	rep No 46, 2011
s 28A	ad No 27, 1984
	am No 46, 2011
s 29	am No 3, 1995; No 46, 2011
s 30	am No 10, 1937; No 216, 1973; No 144, 1976
	rep No 120, 1987
s 31	rep No 52, 1964

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Endnote 4—Amendment history

Provision affected	How affected
Part 7	
Part VII heading	ad No 52, 1964
	rep No 46, 2011
Part 7 heading	ad No 46, 2011
s 32	am No 23, 1930
	rep No 10, 1937
Heading preceding s 33	rep No 52, 1964
s 33	am No 7, 1941; No 27, 1984; No 141, 1987; No 146, 1999; No 46, 2011
s 33AA	ad No 46, 2011
s 33AB	ad No 46, 2011
s 33A	ad No 141, 1987
	am No 120, 1988; No 115, 1990; No 146, 1999; No 46, 2011
s 33B	ad No 136, 1991
	am No 46, 2011
s 34	am No 46, 2011
s 34AAA	ad No 46, 2011
s 34AAB	ad No 46, 2011
s 34AA	ad No 27, 1984
	am No 84, 1994; No 46, 2011
s 34AB	ad No 141, 1987
	am No 46, 2011
s 34A	ad No 78, 1947
	am No 72, 1984
	rs No 46, 2011
s 34B	ad No 19, 1963
	am No 52, 1964; No 144, 1976
s 34C	ad No 39, 1983
	am No 161, 1999; No 153, 2001
Part 8	
Part VIII heading	ad No 52, 1964

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Provision affected	How affected
	rep No 46, 2011
Part 8 heading	ad No 46, 2011
Heading preceding s 35	rep No 52, 1964
s 35	am No 46, 2011
s 36	am No 79, 1948
	rs No 46, 2011
s 37	am No 46, 2011
s 37A	ad No 46, 2011
Part 9	
Part IX heading	ad No 52, 1964
	rep No 46, 2011
Part 9 heading	ad No 46, 2011
Heading preceding s 38	rep No 52, 1964
s 38	am No 46, 2011
s 39	am No 144, 1976; No 46, 2011
s 40	am No 19, 1963; No 135, 2008; No 46, 2011
s 40A	ad No 110, 1990
	am No 54, 1998; No 156, 1999
	rs No 55, 2001
Part X heading	ad No 52, 1964
	rep No 120, 1987
Part X	rep No 120, 1987
Heading preceding s 41	ad No 10, 1937
	rep No 52, 1964
s 41	ad No 10, 1937
	rep No 120, 1987
s 42	ad No 10, 1937
	am No 144, 1976
	rep No 120, 1987
s 43	ad No 10, 1937
	am No 144, 1976

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Endnote 4—Amendment history

Provision affected	How affected
	rep No 120, 1987
s 44	ad No 10, 1937
	rep No 120, 1987
s 45	ad No 10, 1937
	rep No 120, 1987
s 45A	ad No 27, 1984
	rep No 120, 1987
s 45B	ad No 27, 1984
	rep No 120, 1987
Part 10	
Part XI heading	ad No 52, 1964
	rs No 140, 2003
	rep No 46, 2011
Part 10 heading	ad No 46, 2011
Heading preceding s 46	ad No 10, 1937
	rep No 52, 1964
s 46	ad No 10, 1937
	am No 27, 1984; No 115, 1990
	rs No 140, 2003
	am No 133, 2005; No 46, 2011
s 46A	ad No 141, 1987
	am No 99, 1988; No 115, 1990; No 3, 1995
	rep No 140, 2003
s 46AA	ad No 140, 2003
	am No 133, 2005; No 46, 2011
s 46B	ad No 140, 2003
	am No 139, 2003; No 133, 2005
s 47	ad No 10, 1937
	am No 46, 2011
Part 11	
Part XII heading	ad No 52, 1964

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Provision affected	How affected
	rep No 46, 2011
Part 11 heading	ad No 46, 2011
Heading preceding s 48	ad No 10, 1937
	rep No 52, 1964
s 48	ad No 10, 1937
	am No 80, 1950; No 19, 1963; No 144, 1976; No 26, 1982; No 141, 1987; No 99, 1988; No 115, 1990
	rep No 140, 2003
s 48A	ad No 99, 1988
	rep No 140, 2003
s 48B	ad No 99, 1988
	rep No 140, 2003
s 49	ad No 10, 1937
	am No 19, 1963; No 144, 1976; No 99, 1988
	rep No 140, 2003
s 49A	ad No 52, 1964
	rep No 140, 2003
s 50	ad No 10, 1937
	rep No 140, 2003
s 51	ad No 55, 2001

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