



Australian Law Reform Commission (Repeal, Transitional and Miscellaneous) Act 1996

No. 38, 1996

An Act to repeal the *Law Reform Commission Act 1973* and to deal with transitional and consequential matters arising from the repeal of that Act and the enactment of the *Australian Law Reform Commission Act 1996*, and for related purposes

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[Assented to 9 October 1996]

The Parliament of Australia enacts:

Part 1 Preliminary

Section 1

Part 1—Preliminary

1 Short title

This Act may be cited as the *Australian Law Reform Commission (Repeal, Transitional and Miscellaneous) Act 1996*.

2 Commencement

- (1) Subject to this section, this Act commences on the same day as the *Australian Law Reform Commission Act 1996*.
- (2) If the *Commonwealth Authorities and Companies Act 1996* commences on the same day as, or after, the *Australian Law Reform Commission Act 1996*, Schedule 1 commences immediately after the *Commonwealth Authorities and Companies Act 1996* commences.
- (3) If the *Commonwealth Authorities and Companies Act 1996* commences before the *Australian Law Reform Commission Act 1996*, Schedule 1 commences immediately after the *Australian Law Reform Commission Act 1996* commences.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Part 2—Transitional

4 Interpretation

In this Part, unless the contrary intention appears:

ALRC means the Australian Law Reform Commission established by the ALRC Act.

ALRC Act means the *Australian Law Reform Commission Act 1996*.

assets means any legal or equitable assets or interests in real or personal property, whether actual, contingent or prospective, and includes all rights, powers, privileges and immunities, whether actual, contingent or prospective.

commencement time means the time when this Part commences.

instrument includes a document and an oral agreement.

liabilities means all liabilities and obligations, whether actual, contingent or prospective.

LRC means the Law Reform Commission established by the LRC Act.

LRC Act means the *Law Reform Commission Act 1973*.

LRC Deputy President means the person who held office as Deputy President of the LRC immediately before the commencement time.

LRC member means a person who held office as a member of the LRC immediately before the commencement time, except the LRC President and the LRC Deputy President.

LRC President means the person who held office as President of the LRC immediately before the commencement time.

LRC staff member means a person appointed under section 22 of the LRC Act.

5 President, Deputy President and other members

- (1) The LRC President becomes the ALRC President at the commencement time.
- (2) The LRC Deputy President becomes the ALRC Deputy President at the commencement time.

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- (3) Each LRC member becomes an ALRC member at the commencement time.
- (4) A person who becomes the ALRC President or an ALRC member under this section holds that office:
 - (a) on the same terms and conditions as applied to his or her appointment as LRC President or LRC member, as the case may be, immediately before the commencement time; and
 - (b) for the unexpired part of the term of his or her appointment.
- (5) The person who becomes the ALRC Deputy President under this section holds that office:
 - (a) on the same terms and conditions as applied to his or her appointment as LRC Deputy President immediately before the commencement time; and
 - (b) for a term ending on 13 December 2000.
- (6) This section does not prevent the terms and conditions referred to in subsections (4) and (5) being varied after the commencement time.

6 Transfer of LRC staff to ALRC

- (1) Each LRC staff member becomes a member of the staff of the ALRC at the commencement time.
- (2) A person who becomes a member of the staff of the ALRC under this section:
 - (a) must be employed on terms and conditions that are not less favourable than the terms and conditions that applied to the person's employment as an LRC staff member; and
 - (b) is entitled to retain, as a member of the staff of the ALRC, all the benefits that had accrued to the person in respect of his or her employment as an LRC staff member, as if those benefits had accrued in respect of his or her employment as a member of the staff of the ALRC.
- (3) This section does not prevent terms and conditions of employment being varied after the commencement time.

7 Transfer of LRC assets and liabilities to ALRC

The assets and liabilities of the LRC become the assets and liabilities of the ALRC at the commencement time.

8 LRC instruments

- (1) Each LRC instrument continues to have effect according to its tenor after the commencement time as if a reference in the instrument to the LRC were a reference to the ALRC.
- (2) In this section:
LRC instrument means an instrument in operation immediately before the commencement time:
 - (a) to which the LRC is a party; or
 - (b) which was given to, or in favour of, the LRC; or
 - (c) in which a reference is made to the LRC; or
 - (d) under which any right or liability accrues, or may accrue, to the LRC.

9 Pending proceedings

If, immediately before the commencement time, the LRC was a party to proceedings pending or existing in any court or tribunal, the ALRC is substituted for the LRC in the proceedings at the commencement time, and has the same rights and obligations in the proceedings as the LRC had.

10 Continuation of references, directions and requirements

- (1) A reference by the Attorney-General to the LRC under the LRC Act that had not been finally dealt with by the LRC immediately before the commencement time continues to have effect after that time as if it had been made to the ALRC under the ALRC Act.
- (2) A direction by the Attorney-General to the LRC given under a provision of the LRC Act and in force immediately before the commencement time continues to have effect after that time as if it had been given to the ALRC under the equivalent provision of the ALRC Act.
- (3) If, immediately before the commencement time, the LRC had not complied with a requirement made by a House of the Parliament, or by a Committee of either House or both Houses, under section 9 of the LRC Act, the requirement continues to have effect after that time as if it had been made under section 26 of the ALRC Act.

11 Regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or

Part 2 Transitional

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- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, regulations may be made in relation to transitional matters arising out of the abolition of the LRC and its replacement by the ALRC, or otherwise arising out of the enactment of this Act, the ALRC Act or the *Commonwealth Authorities and Companies Act 1996*.

Schedule 1—Amendment of the Australian Law Reform Commission Act 1996

1 At the end of subsection 5(2)

Add:

Note: The *Commonwealth Authorities and Companies Act 1996* applies to the Commission. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of executive officers.

2 Paragraph 17(2)(b)

Repeal the paragraph, substitute:

- (b) the member fails, without reasonable excuse, to comply with section 21 of the *Commonwealth Authorities and Companies Act 1996* or section 39 of this Act.

3 After subsection 17(3)

Insert:

- (3A) If the Attorney-General is satisfied that the members who comprise the Board (except the President) have, without reasonable excuse, failed to comply with subsection 13(3) of the *Commonwealth Authorities and Companies Act 1996*, or with paragraph 16(1)(a) or (b) of that Act, the Attorney-General may terminate the appointment of some or all of those members.

4 Subsection 17(4)

Omit “(2) and (3)”, substitute “(2), (3) and (3A)”.

5 At the end of section 26

Add:

- (4) This section does not affect the application of section 28 of the *Commonwealth Authorities and Companies Act 1996* in relation to the Commission.

6 At the end of section 31

Add:

- (2) This section has effect subject to the *Commonwealth Authorities and Companies Act 1996*.

7 Section 33

Repeal the section.

8 Subsection 39(1)

Omit "direct or indirect pecuniary", substitute "material personal".

9 Subsection 39(4)

Omit "direct or indirect pecuniary", substitute "material personal".

10 Subsections 45(3), (4) and (5)

Repeal the subsections.

11 At the end of section 47

Add:

- (2) Subsection (1) does not prevent the investment of surplus money of the Commission under section 18 of the *Commonwealth Authorities and Companies Act 1996*.

12 Section 48

Repeal the section.

Schedule 2—Amendment or repeal of other Acts

Administrative Appeals Tribunal Act 1975

1 At the end of paragraphs 49(1)(a) and (b)

Add “and”.

2 Paragraph 49(1)(c)

Repeal the paragraph, substitute:

- (c) the President of the Australian Law Reform Commission established by the *Australian Law Reform Commission Act 1996*; and

Law Reform Commission Act 1973

3 The whole of the Act

Repeal the Act.

*[Minister's second reading speech made in—
House of Representatives on 20 June 1996
Senate on 10 September 1996]*