



Protection of the Sea (Powers of Intervention) Amendment Act 2006

No. 44, 2006

An Act to amend the *Protection of the Sea (Powers of Intervention) Act 1981*, and for other purposes

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An Act to amend the *Protection of the Sea (Powers of Intervention) Act 1981*, and for other purposes

[Assented to 22 May 2006]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Protection of the Sea (Powers of Intervention) Amendment Act 2006*.

2 Commencement

This Act commences on the day after it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Legislative Instruments Act 2003

1 Subsection 54(2) (table item 33)

Repeal the item.

Protection of the Sea (Powers of Intervention) Act 1981

2 Subsection 3(1)

Insert:

aircraft means any machine or craft that can derive support in the atmosphere from the reactions of the air.

3 Subsection 3(1)

Insert:

Australian coastal sea means:

- (a) the territorial sea of Australia; and
- (b) the sea on the landward side of the territorial sea of Australia and not within the limits of a State or the Northern Territory.

4 Subsection 3(1)

Insert:

Australian ship means:

- (a) a ship registered in Australia; or
- (b) an unregistered ship having Australian nationality.

5 Subsection 3(1)

Insert:

civil proceeding includes a civil action.

6 Subsection 3(1)

Insert:

constitutional corporation means a corporation to which paragraph 51(xx) of the Constitution applies.

7 Subsection 3(1)

Insert:

controller of a tangible asset means:

- (a) in the case of land, seabed or premises—the occupier of the land, seabed or premises; or
- (b) in the case of a facility, structure or installation—the person in charge of the facility, structure or installation; or
- (c) in the case of goods—the person in control or possession of the goods.

8 Subsection 3(1) (at the end of the definition of *Convention*)

Add “, as amended from time to time”.

9 Subsection 3(1)

Insert:

electronic communication has the same meaning as in the *Electronic Transactions Act 1999*.

10 Subsection 3(1)

Insert:

engage in conduct has the same meaning as in the *Criminal Code*.

11 Subsection 3(1)

Insert:

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

12 Subsection 3(1)

Insert:

goods has the same meaning as in the *Trade Practices Act 1974*.

13 Subsection 3(1)

Insert:

high seas means all parts of the sea to which Part VII of the UN Convention on the Law of the Sea applies.

Note: Article 86 of the UN Convention on the Law of the Sea provides that the provisions of Part VII of the Convention apply to “all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State”.

14 Subsection 3(1)

Insert:

internal waters means waters of the sea within the limits of a State or the Northern Territory. For this purpose, *sea* includes any waters within the ebb and flow of the tide.

15 Subsection 3(1) (paragraph (b) of the definition of Protocol)

Repeal the paragraph, substitute:

(b) the resolution adopted on 10 July 1996 (being the resolution a copy of whose English text is set out in Schedule 4);
and as amended from time to time.

16 Subsection 3(1)

Insert:

services has the same meaning as in the *Trade Practices Act 1974*, and includes services provided by an employee.

17 Subsection 3(1)

Insert:

ship:

- (a) when used in relation to a matter arising under, or relating to, section 8 or 9—has the same meaning as in the Convention;
or
- (b) when used in relation to a matter arising under, or relating to, section 10—has the same meaning as in the *Navigation Act 1912*.

18 Subsection 3(1)

Insert:

supply has the same meaning as in the *Trade Practices Act 1974*.

19 Subsection 3(1)

Insert:

tangible asset means:

- (a) land or seabed; or
- (b) premises; or
- (c) a facility; or
- (d) a structure; or
- (e) an installation; or
- (f) any of the following goods:
 - (i) a vessel;
 - (ii) an aircraft;
 - (iii) a vehicle;
 - (iv) an item of equipment or machinery;
 - (v) a tool;
 - (vi) any other article.

20 Subsection 3(1)

Insert:

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

21 Subsection 3(1)

Insert:

UN Convention on the Law of the Sea means the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982.

Note: The text of the Convention is set out in Australian Treaty Series 1994 No. 31. In 2006, the text of a Convention in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII Internet site (www.austlii.edu.au).

22 Section 3A

Repeal the section.

23 Subsection 4(3)

Omit “a servant”, substitute “an employee”.

24 Subsection 5(1)

Repeal the subsection, substitute:

State/Territory laws

- (1) This Act is not intended to exclude or limit the operation of a law of a State or Territory to the extent that the law is capable of operating concurrently with this Act.
- (1A) A direction under this Act prevails over a direction (however described) under a law of a State or Territory to the extent of any inconsistency.
- (1B) Subsection (1A) does not, by implication, limit:
 - (a) the application of section 109 of the Constitution to a law of a State; or
 - (b) the application of the corresponding principle to a law of a Territory.

Commonwealth laws

- (1C) A direction under this Act prevails over a direction (however described) under another Act to the extent of any inconsistency, unless the other Act:
 - (a) is enacted after the commencement of this subsection; and
 - (b) refers specifically to a direction under this Act.

Note: The heading to section 5 is altered by omitting “**Saving of**” and substituting “**Relationship to**”.

25 Subsection 7(1)

Omit “(1)”.

26 Subsection 7(1)

Omit “either generally or as otherwise provided by the instrument of delegation,”.

27 Subsection 7(1)

Omit “, other than this power of delegation”.

28 At the end of subsection 7(1)

Add:

Note: See sections 34AA, 34AB and 34A of the *Acts Interpretation Act 1901*.

29 Subsections 7(2) and (3)

Repeal the subsections.

30 Subsection 8(1)

After “casualty” (first occurring), insert “on the high seas”.

Note: The heading to section 8 is altered by omitting “**under Convention to prevent pollution of sea by oil**” and substituting “**to prevent pollution of sea by oil—maritime casualty on the high seas**”.

31 Subsection 8(1)

Omit “on the high seas”, substitute “, whether on the high seas or elsewhere,”.

32 Subsection 8(2)

Omit “on the high seas”.

33 At the end of paragraph 8(2)(b)

Add:

; or (iv) to any other person.

34 After subsection 8(2A)

Insert:

(2B) Without limiting subparagraph (2)(b)(iv), a direction under that subparagraph may be issued to:

- (a) the owner of any other ship; or
- (b) the master of any other ship; or
- (c) the owner of a tangible asset; or
- (d) the controller of a tangible asset; or
- (e) the supplier of goods; or
- (f) a person to whom goods are being, or are proposed to be, supplied; or
- (g) the supplier of a service; or

(h) a person to whom a service is being, or is proposed to be, supplied.

(2C) The Authority must not issue a direction under subparagraph (2)(b)(iv) to the owner or master of another ship unless the other ship is:

- (a) in internal waters; or
- (b) in the Australian coastal sea; or
- (c) in the exclusive economic zone of Australia; or
- (d) an Australian ship.

35 At the end of subsection 8(4)

Add “For this purpose, those Articles are taken to extend to the taking of measures under this section elsewhere than on the high seas.”.

36 Subsection 8(6)

After “expression”, insert “(other than high seas)”.

37 Subsection 8(6)

After “used in this section”, insert “(other than paragraph (2B)(c), (d), (e), (f), (g) or (h) or (2C)(a), (b), (c) or (d))”.

38 At the end of section 8

Add:

- (7) A direction under this Act is taken to relate to a ship involved in a maritime casualty referred to in subsection (1) even if the direction is issued under subparagraph (2)(b)(iv).

39 Subsection 9(1)

After “casualty” (first occurring), insert “on the high seas”.

Note: The heading to section 9 is altered by omitting “**under Protocol to prevent pollution of sea by substances other than oil**” and substituting “**to prevent pollution of sea by substances other than oil—maritime casualty on the high seas**”.

40 Subsection 9(1)

Omit “on the high seas”, substitute “, whether on the high seas or elsewhere,”.

41 Subsection 9(2)

Omit “on the high seas”.

42 At the end of paragraph 9(2)(b)

Add:

; or (iv) to any other person.

43 After subsection 9(2A)

Insert:

(2B) Without limiting subparagraph (2)(b)(iv), a direction under that subparagraph may be issued to:

- (a) the owner of any other ship; or
- (b) the master of any other ship; or
- (c) the owner of a tangible asset; or
- (d) the controller of a tangible asset; or
- (e) the supplier of goods; or
- (f) a person to whom goods are being, or are proposed to be, supplied; or
- (g) the supplier of a service; or
- (h) a person to whom a service is being, or is proposed to be, supplied.

(2C) The Authority must not issue a direction under subparagraph (2)(b)(iv) to the owner or master of another ship unless the other ship is:

- (a) in internal waters; or
- (b) in the Australian coastal sea; or
- (c) in the exclusive economic zone of Australia; or
- (d) an Australian ship.

44 At the end of subsection 9(4)

Add “For this purpose, those Articles of the Convention as applying by virtue of Article II of the Protocol are taken to extend to the taking of measures under this section elsewhere than on the high seas.”.

45 Subsection 9(6)

After “expression” (first occurring), insert “(other than high seas)”.

46 Subsection 9(6)

After “used in this section”, insert “(other than paragraph (2B)(c), (d), (e), (f), (g) or (h) or (2C)(a), (b), (c) or (d))”.

47 At the end of section 9

Add:

- (7) A direction under this Act is taken to relate to a ship involved in a maritime casualty referred to in subsection (1) even if the direction is issued under subparagraph (2)(b)(iv).

48 Subsection 10(1)

After “This section”, insert “(other than subsections (3B) and (3C))”.

Note: The heading to section 10 is altered by omitting “**otherwise than under Convention or Protocol to prevent pollution of sea by oil or noxious substances**” and substituting “**to prevent pollution of sea by oil or noxious substances—general powers**”.

49 Paragraph 10(1)(a)

Repeal the paragraph, substitute:

- (a) any ship in internal waters, where:
- (i) the ship is a ship in relation to which Australia has relevant international rights or obligations, whether arising under an international convention, treaty or otherwise; or
 - (ii) the ship is engaged in trade or commerce between Australia and a place or places outside Australia; or
 - (iii) the ship is engaged in trade or commerce between 2 places outside Australia; or
 - (iv) the ship is engaged in trade or commerce among the States; or
 - (v) the ship is engaged in trade or commerce within a Territory, between a State and a Territory or between 2 Territories; or
 - (vi) the ship is engaged in operations incidental to trade or commerce referred to in subparagraph (ii), (iii), (iv) or (v); or
 - (vii) the ship is owned, operated, managed or controlled by a constitutional corporation; or
 - (viii) the ship is demised or sub-demised to, or in the exclusive possession of, a constitutional corporation; or

- (ix) the beneficial interest in the ship is vested in a constitutional corporation; and

50 After paragraph 10(1)(b)

Insert:

- (ba) any ship in the exclusive economic zone of Australia; and

51 At the end of paragraph 10(3)(b)

Add:

- ; or (iv) to any other person.

52 After subsection 10(3A)

Insert:

- (3B) Without limiting subparagraph (3)(b)(iv), a direction under that subparagraph may be issued to:
 - (a) the owner of any other ship; or
 - (b) the master of any other ship; or
 - (c) the owner of a tangible asset; or
 - (d) the controller of a tangible asset; or
 - (e) the supplier of goods; or
 - (f) a person to whom goods are being, or are proposed to be, supplied; or
 - (g) the supplier of a service; or
 - (h) a person to whom a service is being, or is proposed to be, supplied.
- (3C) The Authority must not issue a direction under subparagraph (3)(b)(iv) to the owner or master of another ship unless the other ship is:
 - (a) in internal waters; or
 - (b) in the Australian coastal sea; or
 - (c) in the exclusive economic zone of Australia; or
 - (d) an Australian ship.

53 Subsections 10(6) and (7)

Repeal the subsections, substitute:

- (6) A direction under this Act is taken to relate to a ship referred to in subsection (2) even if the direction was issued under subparagraph (3)(b)(iv).

54 Subsection 10(8) (definition of *Australian coastal sea*)

Repeal the definition.

55 Subsection 10(8)

Insert:

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

56 Subsection 10(8) (definition of *internal waters*)

Repeal the definition.

57 Subsection 10(8) (definition of *noxious substance*)

Repeal the definition, substitute:

noxious substance means a substance other than oil.

58 Subsection 10(8) (definition of *ship*)

Repeal the definition.

59 Subsection 10(8)

Insert:

substance other than oil has the same meaning as in the Protocol.

60 Subsection 11(1)

Omit all the words from and including “A direction” to and including “may require or prohibit.”, substitute:

A direction under this Act issued in relation to a ship (the *first ship*) covered by either of the following paragraphs:

- (aa) a ship involved in a maritime casualty referred to in subsection 8(1) or 9(1);
- (ab) a ship referred to in subsection 10(2);

may require the doing of any act or thing with respect to the first ship or the first ship's cargo, or prohibit the doing of any such act or thing and, without limiting the generality of the foregoing, may:

61 Paragraph 11(1)(a)

Before "the" (first occurring), insert "require or prohibit".

62 Paragraph 11(1)(a)

Before "ship" (wherever occurring), insert "first".

63 At the end of paragraph 11(1)(a)

Add "or".

64 Paragraph 11(1)(b)

Before "the" (first occurring), insert "require or prohibit".

65 Paragraph 11(1)(b)

Before "ship", insert "first".

66 At the end of paragraph 11(1)(b)

Add "or".

67 Paragraph 11(1)(c)

Before "the" (first occurring), insert "require or prohibit".

68 Paragraph 11(1)(c)

Before "ship" (wherever occurring), insert "first".

69 Paragraph 11(1)(c)

Before "ship's", insert "first".

70 At the end of paragraph 11(1)(c)

Add "or".

71 Paragraph 11(1)(d)

Before "the" (first occurring), insert "require or prohibit".

72 Paragraph 11(1)(d)

Before "ship" (wherever occurring), insert "first".

73 At the end of paragraph 11(1)(d)

Add “or”.

74 Paragraph 11(1)(e)

Before “the” (first occurring), insert “require or prohibit”.

75 Paragraph 11(1)(e)

Before “ship’s”, insert “first”.

76 Paragraph 11(1)(f)

Before “the” (first occurring), insert “require or prohibit”.

77 Paragraph 11(1)(f)

Before “ship” (wherever occurring), insert “first”.

78 At the end of subsection 11(1)

Add:

- ; or (g) require another ship to be made available for purposes in connection with unloading, receiving, treating, storing or disposing of any of the first ship’s cargo; or
- (h) require another ship to be made available for purposes in connection with repairing, piloting, towing, berthing or securing the first ship; or
- (i) require:
 - (i) the movement of another ship; or
 - (ii) the removal of another ship from a place or area; where the movement or removal facilitates unloading, receiving, treating, storing or disposing of any of the first ship’s cargo; or
- (j) require:
 - (i) the movement of another ship; or
 - (ii) the removal of another ship from a place or area; where the movement or removal facilitates repairing, piloting, towing, berthing or securing the first ship; or
- (k) prohibit:
 - (i) the movement of another ship; or
 - (ii) the removal of another ship from a place or area;

where the movement or removal is likely to impede or interfere with unloading, receiving, treating, storing or disposing of any of the first ship's cargo; or

(l) prohibit:

- (i) the movement of another ship; or
- (ii) the removal of another ship from a place or area;

where the movement or removal is likely to impede or interfere with repairing, piloting, towing, berthing or securing the first ship; or

(m) require a tangible asset (other than a ship) to be made available for purposes in connection with unloading, receiving, treating, storing or disposing of any of the first ship's cargo; or

(n) require a tangible asset (other than a ship) to be made available for purposes in connection with repairing, piloting, towing, berthing or securing the first ship; or

(o) require:

- (i) the movement of a tangible asset (other than a ship); or
- (ii) the removal of a tangible asset (other than a ship) from a place or area;

where the movement or removal facilitates unloading, receiving, treating, storing or disposing of any of the first ship's cargo; or

(p) require:

- (i) the movement of a tangible asset (other than a ship); or
- (ii) the removal of a tangible asset (other than a ship) from a place or area;

where the movement or removal facilitates repairing, piloting, towing, berthing or securing the first ship; or

(q) prohibit:

- (i) the movement of a tangible asset (other than a ship); or
- (ii) the removal of a tangible asset (other than a ship) from a place or area;

where the movement or removal is likely to impede or interfere with unloading, receiving, treating, storing or disposing of any of the first ship's cargo; or

(r) prohibit:

- (i) the movement of a tangible asset (other than a ship); or

-
- (ii) the removal of a tangible asset (other than a ship) from a place or area;
where the movement or removal is likely to impede or interfere with repairing, piloting, towing, berthing or securing the first ship; or
 - (s) require a specified place to be treated as a place of refuge for the first ship; or
 - (t) require the supply of services by way of, or in connection with:
 - (i) unloading, receiving, treating, storing or disposing of any of the first ship's cargo; or
 - (ii) repairing, piloting, towing, berthing or securing the first ship; or
 - (u) require the temporary release of contractual obligations, where the fulfilment of those obligations is likely to impede or interfere with the carrying out of any other direction under this Act that relates to the first ship.

79 At the end of paragraph 12(a)

Add "or".

80 At the end of section 12

Add:

- ; or (d) in the case of a direction to the owner of a tangible asset (other than a ship)—may be addressed to the owner of the tangible asset without specifying the name of the owner, or any of the owners, of the tangible asset; or
- (e) in the case of a direction to the controller of a tangible asset (other than a ship)—may be addressed to the controller of the tangible asset without specifying the name of the controller, or any of the controllers, of the tangible asset.

81 Section 14

Before "Where", insert "(1)".

82 At the end of section 14

Add:

- (2) If there is more than one owner of a tangible asset (other than a ship), a direction under this Act issued to the owner of the tangible

asset has effect, for the purposes of this Act, as a direction issued to each of the owners of the tangible asset.

- (3) If there is more than one controller of a tangible asset (other than a ship), a direction under this Act issued to the controller of the tangible asset has effect, for the purposes of this Act, as a direction issued to each of the controllers of the tangible asset.

Note: The heading to section 14 is altered by inserting “or tangible asset” after “ship”.

83 Subsection 17(1)

Repeal the subsection, substitute:

Service of directions on the owner, master or salvor of a ship

- (1) A direction under this Act to any of the following persons:
- (a) the owner of a ship;
 - (b) the master of a ship;
 - (c) the salvor in possession of a ship;
- is to be served on the person in accordance with subsections (2) to (7) and, for the purposes of section 19, is taken to have been issued to the person at the time when it is served on the person in accordance with subsections (2) to (7).

84 At the end of section 17

Add:

Service of directions on persons other than the owner, master or salvor of a ship

- (8) A direction under this Act to a person other than:
- (a) the owner of a ship; or
 - (b) the master of a ship; or
 - (c) the salvor in possession of a ship;
- is to be served on the person in accordance with subsection (9) or (10) and, for the purposes of section 19, is taken to have been issued to the person:
- (d) if paragraph (9)(d) applies—at the time when it is served on the person in accordance with section 28A of the *Acts Interpretation Act 1901*; or

-
- (e) if paragraph (9)(e) applies—at the time of receipt of the electronic communication (see section 14 of the *Electronic Transactions Act 1999*); or
 - (f) if paragraph (10)(d) applies—at the time when it is served on the person in accordance with that paragraph; or
 - (g) if paragraph (10)(e) applies—at the time of receipt of the electronic communication (see section 14 of the *Electronic Transactions Act 1999*).

Note: See also section 29 of the *Acts Interpretation Act 1901*.

(9) Service of a direction under this Act on a person other than:

- (a) the owner of a ship; or
- (b) the master of a ship; or
- (c) the salvor in possession of a ship;

may, in a case where the person is an individual or a body corporate, be effected:

- (d) in accordance with section 28A of the *Acts Interpretation Act 1901*; or
- (e) by sending the contents of the direction to the person by means of an electronic communication.

(10) Service of a direction under this Act on a person other than:

- (a) the owner of a ship; or
- (b) the master of a ship; or
- (c) the salvor in possession of a ship;

may, in a case where the person is a body politic, be effected:

- (d) by leaving it at, or sending it by pre-paid post to, an office of a department or agency of the body politic; or
- (e) by sending the contents of the direction to the person, or to a representative of the person, by means of an electronic communication.

85 After section 17

Insert:

17A Liability for acts and omissions

Minister

- (1) Criminal or civil proceedings do not lie against:

- (a) the Minister; or
- (b) a delegate of the Minister;

because of an act done or omitted to be done in the exercise of any power conferred on the Minister by or under this Act.

Authority

- (2) Criminal or civil proceedings do not lie against:

- (a) the Authority; or
- (b) a member of the Authority; or
- (c) a member of the staff of the Authority; or
- (d) a delegate of the Authority;

because of an act done or omitted to be done in the exercise of any power conferred on the Authority by or under this Act.

Persons specified in directions under this Act

- (3) If a person was specified in a direction under this Act as mentioned in paragraph 11(2)(a) or (b), criminal or civil proceedings do not lie against the person because of an act done or omitted to be done in the exercise of any power conferred on the person by or under the direction.

Persons subject to directions under this Act

- (4) If a direction under this Act is or was issued to a person, criminal or civil proceedings do not lie against the person because of an act done or omitted to be done in compliance with the direction.
- (5) Subsection (4) does not apply to a proceeding under the *Protection of the Sea (Civil Liability) Act 1981*.
- (6) Subsection (4) does not apply to the extent to which it is inconsistent with an international agreement to which Australia is a party.

Compensation for acquisition of property

- (7) This section does not apply to a proceeding under section 22.

Varied direction

- (8) A reference in this section to a *direction under this Act* must, in the case of a direction that has been varied by a further direction issued under section 15, be construed as a reference to the direction as so varied by that further direction.

Application

- (9) Subsections (1), (2), (3) and (4) do not apply to an act done, or omitted to be done, before the commencement of this section.

17B Expenses of compliance with certain directions under Act may be recovered from owner of ship

- (1) If:
- (a) a person is or was subject to a direction under this Act; and
 - (b) the direction relates to:
 - (i) a ship involved in a maritime casualty referred to in subsection 8(1) or 9(1); or
 - (ii) a ship referred to in subsection 10(2); and
 - (c) the person is not the owner, or one of the owners, of the ship; and
 - (d) the person incurs a reasonable expense in complying with the direction; and
 - (e) the direction requires the supply of a service to the owner of the ship; and
 - (f) apart from this section, the owner of the ship is not liable to pay the amount of the expense to the person;
- the amount of the expense is a debt due to the person:
- (g) if there is only one owner of the ship—by the owner of the ship; or
 - (h) if there are 2 or more owners of the ship—jointly and severally by the owners of the ship.
- (2) A debt due under subsection (1) may be recovered in:
- (a) the Federal Court of Australia; or
 - (b) any other court of competent jurisdiction.

- (3) Subsection (1) does not apply to the extent to which it is inconsistent with an international agreement to which Australia is a party.

Varied direction

- (4) A reference in this section to a *direction under this Act* must, in the case of a direction that has been varied by a further direction issued under section 15, be construed as a reference to the direction as so varied by that further direction.

Application

- (5) Subsection (1) does not apply to a direction issued before the commencement of this section.

86 Subsections 18(1) and (2)

Omit “section 17”, substitute “subsections 17(2) to (7)”.

Note: The heading to section 18 is altered by adding at the end “, or change in ownership of tangible asset”.

87 Section 18 (penalty)

Repeal the penalty.

88 At the end of section 18

Add:

- (3) If a direction under this Act issued to the owner of a tangible asset (other than a ship) is served in accordance with subsection 17(9) or (10) and a change in the ownership of the tangible asset subsequently occurs while the direction is in force, the person who was the owner at the time the notice was served:
- (a) must immediately notify any new owner of the tangible asset of the existence and contents of the direction; and
 - (b) must immediately notify the Authority, in accordance with the regulations, of the change in the ownership of the tangible asset and give the Authority such particulars of the change as are prescribed for the purposes of this subsection.
- (4) A person commits an offence if:
- (a) a person is subject to a requirement under subsection (1), (2) or (3); and

- (b) the person engages in conduct; and
- (c) the person's conduct breaches the requirement.

Penalty: 50 penalty units.

89 Subsections 19(1), (2) and (3)

Repeal the subsections, substitute:

- (1) A person commits an offence if:
 - (a) a person is subject to a direction under this Act; and
 - (b) the person engages in conduct; and
 - (c) the person's conduct breaches the direction.

Penalty: 2,000 penalty units or imprisonment for 5 years, or both.

90 Subsection 19(4)

Omit "Subject to subsection (5), it", substitute "It".

91 Paragraph 19(4)(a)

Omit "contravention of, or non-compliance with,", substitute "breach of".

92 At the end of paragraph 19(4)(a)

Add "or".

93 Subsection 19(5)

Omit "the contravention of, or non-compliance with,".

94 Subsection 21(1)

Repeal the subsection.

95 Subsection 21(2)

Omit "(2)" (first occurring).

96 Subsection 21(2) (note)

Omit "matters in subsections (1) and (2)", substitute "matter in this section".

97 Section 22

Repeal the section, substitute:

22 Compensation for acquisition of property

- (1) If the operation of this Act would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in:
 - (a) the Federal Court of Australia; or
 - (b) any other court of competent jurisdiction;for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.
- (3) In this section:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

98 Section 24

Repeal the section.

*[Minister's second reading speech made in—
House of Representatives on 29 March 2006
Senate on 11 May 2006]*

(22/06)
