



Census and Statistics Act 1905

No. 15, 1905

Compilation No. 9

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Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Census and Statistics Act 1905* that shows the text of the law as amended and in force on 1 October 2020 (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 Legislation 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 series page on the Legislation 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.

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 series page on the Legislation 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.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 relating to the Census and Statistics of the Commonwealth

Part I—Preliminary

1 Short title

This Act may be cited as the *Census and Statistics Act 1905*.

2 Application to external Territories

This Act extends to such external Territories as are prescribed.

3 Interpretation

In this Act, unless the contrary intention appears:

Agency has the meaning given by section 19A.

Archives means the National Archives of Australia mentioned in subsection 5(1) of the *Archives Act 1983*.

authorized officer means an officer who, by virtue of an appointment under section 16, is an authorized officer for the purposes of this Act.

Bureau means the Australian Bureau of Statistics established by the *Australian Bureau of Statistics Act 1975*.

Census day has the meaning given by section 19A.

determination means a determination made under section 13.

form means a form prepared by the Statistician under subsection 10(1).

officer means:

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- (a) a member of the staff of the Bureau referred to in subsection 16(1) of the *Australian Bureau of Statistics Act 1975*; or
- (b) a person engaged in accordance with the regulations to assist in the carrying out of the functions of the Statistician; or
- (c) a person who performs services in accordance with an arrangement made under section 16A of the *Australian Bureau of Statistics Act 1975*.

Statistician means the Australian Statistician referred to in subsection 5(2) of the *Australian Bureau of Statistics Act 1975*.

6 Arrangements with State Governments as to execution of Act

- (1) The Governor-General may enter into any arrangement with the Governor of any State providing for any matter necessary or convenient for the purpose of carrying out or giving effect to this Act and in particular for all or any of the following matters:
 - (a) the execution by State Officers of any power or duty conferred or imposed on any officer under this Act or the regulations;
 - (b) the collection by any State Department or officer of any statistical or other information required for the purpose of carrying out this Act; and
 - (c) the supplying of statistical information by any State Department or officer to the Statistician.
- (2) All State Officers executing any power or duty conferred or imposed on any officer under this Act or the regulations, in pursuance of any arrangement entered into under this section, shall for the purposes of the execution of that power or duty be deemed to be officers under this Act.

7 Undertaking of fidelity and secrecy

Every officer executing any power or duty conferred or imposed on any officer under this Act or the regulations, shall, before entering upon his or her duties or exercising any power under this Act, sign,

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in the presence of a witness, an undertaking of fidelity and secrecy
in accordance with the prescribed form.

Part II—The Census

8 Taking of Census

- (1) The Census shall be taken in the year 1981 and in every fifth year thereafter, and at such other times as are prescribed.
- (2) The Census day shall be a day appointed for that purpose by proclamation.
- (3) For the purposes of the taking of the Census, the Statistician shall collect statistical information in relation to the matters prescribed for the purposes of this section.

8A Transfer of Census information to the Archives

If:

- (a) a form is given to the Statistician or an authorised officer under section 10 in relation to the Census taken in the year 2001 or a later year; and
- (b) a person has consented, in accordance with the form, to the information contained in the form being transferred to the custody of the Archives under this section;

the Statistician must transfer the information to the custody of the Archives in a form and manner agreed by the Statistician and the Director-General of the Archives.

Part III—Statistics**9 Statistical information to be collected**

- (1) The Statistician:
 - (a) may from time to time collect such statistical information in relation to the matters prescribed for the purposes of this section as he or she considers appropriate; and
 - (b) shall, if the Minister so directs by legislative instrument, collect such statistical information in relation to the matters so prescribed as is specified in the instrument.
- (2) The Statistician shall collect such statistical information as is necessary for the purposes of the compilation and analysis, under section 12, of statistics of the number of the people of each State as on the last day of March, June, September and December in each year, but nothing in this subsection shall be taken to limit the generality of subsection (1).

Part IV—Administration

10 Forms to be filled up

- (1) The Statistician may prepare forms relating to the collection of statistical information in relation to any matter referred to in section 8 or 9.
- (2) For the purposes of section 8, the Statistician may, by notifiable instrument, require persons included in a specified class of persons to fill up and supply, in accordance with instructions contained in or accompanying a specified form, the particulars specified in that form and to cause the form so filled up to be furnished to the Statistician, or to an authorized officer, in accordance with those instructions.
- (3) For the purposes of section 8 or 9, the Statistician or an authorized officer may, either orally or in writing, request a person:
 - (a) to fill up and supply, in accordance with instructions contained in or accompanying a form, the particulars specified in that form; and
 - (b) to cause the form so filled up to be furnished to the Statistician, or to an authorized officer, in accordance with those instructions.
- (4) For the purposes of section 8 or 9, the Statistician may, by notice in writing served either personally or by post on a person, direct the person:
 - (a) to fill up and supply, in accordance with instructions contained in or accompanying a form accompanying the notice, within such period after the service of the notice, being not less than 14 days, as is specified in the notice, the particulars specified in that form; and
 - (b) to cause the form so filled up to be furnished to the Statistician, or to an authorized officer, in accordance with those instructions.

- (5) A notice referred to in subsection (4) shall set out the effect of the provisions of section 14.

11 Answering of questions

- (1) For the purposes of section 8 or 9, the Statistician or an authorized officer may, either orally or in writing, request a person to answer a question that is necessary to obtain any statistical information in relation to any matter referred to in section 8 or 9.
- (2) For the purposes of section 8 or 9, the Statistician may, by notice in writing served either personally or by post on a person, direct the person to answer, within such period after service of the notice, being not less than 14 days, as is specified in the notice, a specified question that is necessary to obtain any statistical information in relation to any matter referred to in section 8 or 9.
- (3) A notice referred to in subsection (2) shall set out the effect of the provisions of section 14.

12 Publication etc. of statistics

- (1) The Statistician shall compile and analyse the statistical information collected under this Act and shall publish and disseminate the results of any such compilation and analysis, or abstracts of those results.
- (2) The results or abstracts referred to in subsection (1) shall not be published or disseminated in a manner that is likely to enable the identification of a particular person or organization.
- (3) The Statistician may make charges for results and abstracts published and disseminated under this section.

13 Release of information

- (1) Notwithstanding anything in this Act (other than this section), the Minister may, by legislative instrument, make determinations providing for and in relation to the disclosure, with the approval in

Section 14

writing of the Statistician, of information included in a specified class of information furnished in pursuance of this Act.

- (2) Without limiting the generality of subsection (1), determinations may make provision:
- (a) as to the persons to whom the information may be disclosed;
 - (b) as to the persons, being the persons from whom the information has been obtained, whose consent is required for the disclosure of the information; and
 - (c) specifying terms and conditions subject to which the information may be disclosed, including, but without limiting the generality of the foregoing, terms and conditions as to the requiring of a person to whom the information is, or is to be, disclosed to give an undertaking, in writing with respect to the disclosure of the information by that person, including an undertaking not to disclose any of the information to any person.
- (3) Information of a personal or domestic nature relating to a person shall not be disclosed in accordance with a determination in a manner that is likely to enable the identification of that person.

14 Failure to answer questions etc.

- (1) A person commits an offence if:
- (a) the person is served a direction under subsection 10(4) or 11(2); and
 - (b) the person fails to comply with the direction.

Penalty: One penalty unit.

- (2) Subsection (1) is an offence of strict liability.

Note 1: For strict liability, see section 6.1 of the *Criminal Code*.

Note 2: A person commits an offence in respect of each day until the person complies with the direction (see section 4K of the *Crimes Act 1914*).

- (3) Subsection (1) does not apply in relation to a person's failure to answer a question, or to supply particulars, relating to the person's religious beliefs.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

15 False or misleading statements or information

A person commits an offence if:

- (a) the person:
- (i) is required, requested or directed to fill up and supply particulars under subsection 10(2), (3) or (4); or
 - (ii) is requested or directed to answer a question under subsection 11(1) or (2); and
- (b) the person makes a statement, either orally or in writing, or provides a document containing information, in connection with the requirement, request or direction; and
- (c) the person knows that the statement or information is false or misleading in a material particular.

Penalty: 10 penalty units.

16 Authorized officers

- (1) The Statistician may, by instrument in writing, appoint a specified officer, or officers included in a specified class of officers, to be an authorized officer or authorized officers, as the case may be, for the purposes of this Act.
- (2) However, the Statistician must not appoint as an authorised officer a person who performs services in accordance with an arrangement made under section 16A of the *Australian Bureau of Statistics Act 1975*.

17 Delegation

- (1) The Statistician may, by signed instrument, delegate to an officer all or any of his or her powers under this Act or any other law.

Section 18

- (1A) However, the Statistician must not delegate a power under subsection 10(2), (3) or (4) or section 11 or 18 to a person who performs services in accordance with an arrangement made under section 16A of the *Australian Bureau of Statistics Act 1975*.
- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act or that other law, as the case may be, be deemed to have been exercised by the Statistician.

18 Powers of entry

- (1) The Statistician or an authorized officer may, at all reasonable times, enter any premises included in a prescribed class of premises for the purpose of:
 - (a) supplying persons with forms;
 - (b) collecting forms that have been supplied to persons; and
 - (c) making inquiries for the purposes of this Act.
- (2) In subsection (1), *premises* means premises other than:
 - (a) a dwelling-house (including a flat or home unit); or
 - (b) a part of any other premises that is separately occupied or used for the purposes of the residence or sleeping accommodation of a person or persons.

19 Secrecy

- (1) A person commits an offence if:
 - (a) the person is, or has been, the Statistician or an officer; and
 - (b) the person, either directly or indirectly, divulges or communicates to another person (other than the person from whom the information was obtained) any information given under this Act.

Penalty: 120 penalty units or imprisonment for 2 years, or both.

- (2) Subsection (1) does not apply if the person divulges or communicates the information:
 - (a) in accordance with a determination under section 13; or

(b) for the purposes of this Act.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

- (3) A person commits an offence if:
- (a) the person gives an undertaking of a kind mentioned in paragraph 13(2)(c), in relation to information disclosed to the person in accordance with a determination; and
 - (b) the person fails to comply with the undertaking.

Penalty: 120 penalty units or imprisonment for 2 years, or both.

19A Non-disclosure of Census information

Non-disclosure of Census information to Agencies

- (1) A person who is or has been the Statistician or an officer must not, at any time during the period of 99 years beginning on the Census day for a Census:
- (a) be required to divulge or communicate to an Agency any information that is contained in a form that is given to the Statistician or an authorised officer under section 10 in relation to that Census; or
 - (b) voluntarily give such information to an Agency;
- other than in accordance with this Act.

Non-disclosure of Census information to a court or tribunal

- (2) A person who is or has been the Statistician or an officer must not, at any time during the period of 99 years beginning on the Census day for a Census:
- (a) be required to divulge or communicate to a court or tribunal any information contained in a form that is given to the Statistician or an authorised officer under section 10 in relation to that Census; or
 - (b) voluntarily give such information in evidence in proceedings before a court or tribunal.

Section 19B

Definitions

- (3) In this Act:

Agency has the meaning given by section 7 of the *Public Service Act 1999*.

Census day, for a Census, means the day appointed, under subsection 8(2), as the Census day for that Census.

19B Former officers

- (1) This section applies if, at a particular time before 5 December 1999, a person was a member of the staff of the Bureau referred to in subsection 16(1) of the *Australian Bureau of Statistics Act 1975* as in force at that time.
- (2) For the purposes of sections 19 and 19A, the person is taken to have been an officer at that time.

Note: 5 December 1999 is the day on which subsection 16(1) of the *Australian Bureau of Statistics Act 1975* was amended by the *Public Employment (Consequential and Transitional) Amendment Act 1999*.

20 Prosecution of offences

- (1) An offence against this Act, other than an offence against section 19, shall be prosecuted summarily.
- (2) Notwithstanding that an offence against section 19 is expressed by this Act to be an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.
- (3) Where, in accordance with subsection (2), a court of summary jurisdiction convicts a person of an offence against section 19, the penalty that the court may impose is imprisonment for a period not exceeding 12 months or a fine not exceeding 20 penalty units, or both.

21 Continuing offences

Where under subsection 10(4) or 11(2) an act or thing is required to be done within a particular period or before a particular time, the obligation to do that act or thing continues, notwithstanding that that period has expired or that time has passed, until that act or thing is done.

22 Joinder of charges and penalties for certain offences

- (1) Charges against the same person for any number of offences against section 14 may be joined in the same information or complaint if those offences relate to a failure to do the same act or thing.
- (2) If a person is convicted of 2 or more offences referred to in subsection (1), being offences related to a failure to do the same act or thing, the court may impose one penalty in respect of both or all of those offences, but that penalty shall not exceed the sum of the maximum penalties that could be imposed if a penalty were imposed in respect of each offence separately.

27 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters and things which, by this Act, are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act and in particular for prescribing penalties not exceeding 5 penalty units for offences against the regulations.

Endnotes

Endnote 1—About the endnotes

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 the amendment to be made. If, despite the misdescription, the amendment can

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Census and Statistics Act 1905	15, 1905	8 Dec 1905	8 Dec 1905	
Census and Statistics Act 1920	33, 1920	11 Oct 1920	11 Oct 1920	—
Census and Statistics Act 1930	18, 1930	21 July 1930	21 July 1930	—
Census and Statistics Act 1938	17, 1938	5 July 1938	5 July 1938 (s 2)	—
Census and Statistics Act 1946	74, 1946	14 Dec 1946	11 Jan 1947	—
Census and Statistics Act 1949	34, 1949	12 July 1949	12 July 1949 (s 2)	—
Statute Law Revision (Decimal Currency) Act 1966	93, 1966	29 Oct 1966	First and Second Sch: 1 Dec 1966 (s 2(1))	—
Statute Law Revision Act 1973	216, 1973	19 Dec 1973	s 9(1), 10, Sch 1 and 2: 31 Dec 1973 (s 2)	s 9(1) and 10
Census and Statistics Amendment Act 1977	15, 1977	28 Feb 1977	s 3–7 and 9: 28 Feb 1977 (s 2)	s 9
Census and Statistics Amendment Act 1981	48, 1981	25 May 1981	s 1, 2 and 4: 25 May 1981 (s 2(1)) Remainder: 30 June 1981 (s 2(2))	—
Census and Statistics Amendment Act (No. 2) 1981	177, 1981	8 Dec 1981	s 4–12: 1 Mar 1983 (s 2 and gaz 1983, No S36)	s 12
Census and Statistics Amendment Act 1985	195, 1985	16 Dec 1985	13 Jan 1986	—

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Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law (Miscellaneous Provisions) Act 1988	38, 1988	3 June 1988	s 5(1) and Sch 1: 3 June 1988 (s 2(1))	s 5(1)
Census Information Legislation Amendment Act 2000	30, 2000	19 Apr 2000	Sch 1 (items 4–6): 19 Apr 2000 (s 2)	—
Statistics Legislation Amendment Act 2003	106, 2003	21 Oct 2003	Sch 1 (items 4–8, 11): 21 Oct 2003 (s 2)	Sch 1 (item 11)
Census Information Legislation Amendment Act 2006	10, 2006	23 Mar 2006	Sch 1 (items 7–10) and Sch 2: 20 Apr 2006 (s 2(1) item 2)	—
Norfolk Island Legislation Amendment Act 2015	59, 2015	26 May 2015	Sch 3: 27 May 2015 (s 2(1) item 7)	—
Statute Update Act 2016	61, 2016	23 Sept 2016	Sch 1 (items 76, 77): 21 Oct 2016 (s 2(1) item 1)	—
Treasury Laws Amendment (2019 Measures No. 3) Act 2020	64, 2020	22 June 2020	Sch 3 (items 164–166, 325, 326): 1 Oct 2020 (s 2(1) item 6)	Sch 3 (items 325, 326)

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part I	
Part I heading.....	rs No 177, 1981
s 2	rep No 216, 1973 ad No 195, 1985 am No 59, 2015
s 3	am No 33, 1920; No 15, 1977; No 48, 1981; No 177, 1981; No 30, 2000; No 106, 2003; No 10, 2006
Part II heading.....	rep No 177, 1981
s 4	rep No 15, 1977
s 5	am No 216, 1973 rep No 177, 1981
s 6	am No 38, 1988
s 7	am No 33, 1920; No 38, 1988
Part II	
Part III heading	rep No 177, 1981
Part II heading.....	ad No 177, 1981
s 8	am No 18, 1930; No 15, 1977; No 177, 1981
s 8A.....	ad No 30, 2000 am No 10, 2006
Part III	
Part III heading	ad No 177, 1981
s 9	rs No 177, 1981 am No 38, 1988; No 64, 2020
Part IV	
Part IV heading.....	ad No 177, 1981
s 10	am No 33, 1920 rs No 177, 1981 am No 64, 2020

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 11	am No 93, 1966; No 48, 1981 rs No 177, 1981
s 12	am No 74, 1946 rs No 177, 1981 am No 38, 1988
s 13	am No 33, 1920; No 48, 1981 rs No 177, 1981 am No 38, 1988; No 10, 2006
s 14	am No 93, 1966; No 48, 1981 rs No 177, 1981 am No 195, 1985; No 38, 1988 rs No 10, 2006
s 15	am No 33, 1920; No 93, 1966; No 48, 1981 rs No 177, 1981 am No 38, 1988 rs No 10, 2006
s 15A.....	ad No 33, 1920 rep No 177, 1981
Part IV heading	rep No 177, 1981
s 16	am No 17, 1938; No 15, 1977 rs No 177, 1981 am No 106, 2003
s 17	am No 17, 1938 rs No 34, 1949 am No 93, 1966; No 48, 1981 rs No 177, 1981; No 38, 1988 am No 106, 2003
s 18	am No 93, 1966 rs No 216, 1973 am No 48, 1981 rs No 177, 1981

Endnote 4—Amendment history

Provision affected	How affected
s 19	am No 93, 1966; No 48, 1981 rs No 177, 1981 am No 38, 1988 rs No 10, 2006
s 19A.....	ad No 30, 2000 rs No 10, 2006
s 19B.....	ad No 106, 2003
s 20	am No 34, 1949; No 15, 1977 rs No 177, 1981 am No 10, 2006; No 61, 2016
Part V heading	rep No 177, 1981
s 21	rs No 177, 1981
s 22	am No 33, 1920; No 93, 1966; No 48, 1981 rs No 177, 1981
s 23	am No 93, 1966 rep No 48, 1981
s 24	am No 33, 1920 rs No 34, 1949 am No 93, 1966; No 48, 1981 rep No 177, 1981
s 25	rep No 48, 1981
s 26	am No 93, 1966; No 48, 1981 rep No 177, 1981
s 27	am No 33, 1920; No 93, 1966; No 177, 1981; No 61, 2016