

EXPLANATORY STATEMENT

Issued by the Authority of the Attorney-General

Acts Interpretation Act 1901

*Acts Interpretation (Substituted References – Section 19B) Amendment Order 2007
(No. 1)*

The *Acts Interpretation Act 1901* (the Act) provides rules for the interpretation of all Commonwealth Acts and addresses matters such as the interpretation of words and phrases within legislation where the meaning is obscure, out-dated or ambiguous.

The Administrative Arrangements Order sets out the legislation to be administered by each Minister and his or her Department. A general reference to a Minister, Department or Secretary in legislation means the Minister, Department or Secretary of the Department administering the legislation under the current Administrative Arrangements Order. Where Acts and instruments made under Acts refer to specific Ministers, Departments or Secretaries of Departments, these specific references may need to be altered to reflect the changes which commonly result from the making of a new Administrative Arrangements Order.

Subsections 19B(1), (2) and (3) of the Act confer on the Governor-General power to make an Order which appropriately alters all specific references contained in Acts and instruments.

Subsection 19B(1) of the *Acts Interpretation Act 1901* (the Act) provides that the Governor-General may make an order altering a reference in a provision of an Act to a particular Minister if there is no longer any such Minister.

Subsection 19B(2) of the Act provides that the Governor-General may make an order altering a reference in a provision of an Act to a particular Department if that Department has been abolished or the name of the Department has been changed.

Similarly, subsection 19B(3) of the Act provides that the Governor-General may make an order altering a reference in a provision of an Act to a particular Secretary of a Department if that office of Secretary has been abolished or the name of that office has been changed.

On 30 January 2007, the Governor-General in Council approved an amendment to the Administrative Arrangements Order, which reflected changes in the name of two Departments. The title of the Department of Immigration and Multicultural Affairs changed to the Department of Immigration and Citizenship, and the title of the Department of the Environment and Heritage changed to the Department of the Environment and Water Resources. The titles of the respective Ministers and Secretaries of the Departments were also changed.

The new Order under subsections 19B(1), (2) and (3) of the Act ensures that Ministers, Departments and Secretaries of Departments can exercise all powers

granted to them following the amendment of the Administrative Arrangements Order. The new Order also substitutes references to the Minister for and Secretary to the Department of Environment, Sport and Territories in the *Income Tax Assessment Act 1997* which had not previously been amended

The Act specifies no conditions that need to be met before the power to make the proposed Order may be exercised.

Details of the Order are set out in the Attachment.

The Order is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. However, the *Legislative Instruments Regulations 2004* provide that an instrument made under section 19B of the *Acts Interpretation Act 1901* is not subject to disallowance or sunseting.

The Order commences on the day that it is registered on the Federal Register of Legislative Instruments.

Departments affected by these changes have been consulted. External consultation was unnecessary for this legislative instrument, as this instrument is of a machinery nature only. It has no direct or substantial indirect, effect on business.

ATTACHMENT**Details of the *Acts Interpretation (Substituted References – Section 19B) Amendment Order 2007 (No. 1)***

Section 1 provides that the Order is the *Acts Interpretation (Substituted References – Section 19B) Order 2007 (No. 1)*.

Section 2 provides that the Order commences on the day it is registered on the Federal Register of Legislative Instruments.

Section 3 provides that Schedule 1 amends the *Acts Interpretation (Substituted References – Section 19B) Order 1997* (the original Order).

Schedule 1 Amendments**Amendments to Schedule 1 to the original Order**

Item [1] This item substitutes a new heading for Part 9 of Schedule 1 to the original Order. The current heading makes reference to the commencement of the *Acts Interpretation (Substituted References – Section 19B) Amendment Order 2006 (No. 1)*. The heading can now be updated to the specific date because that instrument has commenced.

Item [2] This item inserts a new Part 10 into Schedule 1 to the original Order. Clause 3 of the original Order provides for each item in a Part of Schedule 1 to substitute references to the Minister (or Ministers) mentioned in column 2 for references to the Minister (or Ministers) mentioned in column 3, wherever such references occur in a provision mentioned in column 4. New Part 10 of Schedule 1 sets out three new items and the relevant existing reference, substitute reference and affected provisions, for the machinery changes referred to in clause 3 of the original Order.

Item 1 of the new Part 10 substitutes a reference to the Minister for the Environment and Heritage in any Act or instrument, so that the reference should be read as the Minister for the Environment and Water Resources from the date the Order is registered.

Item 2 of the new Part 10 substitutes a reference to the Minister for Environment, Sport and Territories in sections 30-265, 30-275, 30-280 and 30-285 of the *Income Tax Assessment Act 1997*, so that the reference should be read as the Minister for the Environment and Water Resources from the date the Order is registered.

Item 3 of the new Part 10 substitutes a reference to the Minister for Immigration and Multicultural Affairs in any Act or instrument, so that the reference should be read as the Minister for Immigration and Citizenship from the date the Order is registered.

Amendments to Schedule 2 to the original Order

Item [3] This item substitutes a new heading for Part 5 of Schedule 2 to the original Order. The current heading makes reference to the commencement of the *Acts*

Interpretation (Substituted References – Section 19B) Amendment Order 2006 (No. 1). The heading can now be updated to the specific date because that instrument has commenced.

Item [4] This item inserts a new Part 6 into Schedule 2 to the original Order. Clause 4 of the original Order provides for each item in a Part of Schedule 2 to substitute references to the Department mentioned in column 2 for references to the Department in column 3, wherever such references occur in a provision mentioned in column 4. New Part 6 of Schedule 2 sets out three new items and the relevant existing reference, substitute reference and affected provisions, for the machinery changes referred to in clause 4 of the original Order.

Item 1 of the new Part 6 substitutes a reference to the Department of the Environment and Heritage in any Act or instrument, so that the reference should be read as the Department of the Environment and Water Resources from the date the Order is registered.

Item 2 of the new Part 6 substitutes a reference to the Department of Environment and Heritage in item 92 of Schedule 2 to the *Privacy (Private Sector) Regulations 2001*, so that the reference should be read as the Department of the Environment and Water Resources from the date the Order is registered.

Item 3 of the new Part 6 substitutes a reference to the Department of Immigration and Multicultural Affairs in any Act or instrument, so that the reference should be read as the Department of Immigration and Citizenship from the date the Order is registered.

Amendments to Schedule 3 to the original Order

Item [5] This item substitutes a new heading for Part 5 of Schedule 3 to the original Order. The current heading makes reference to the commencement of the *Acts Interpretation (Substituted References – Section 19B) Amendment Order 2006 (No. 1)*. The heading can now be updated to the specific date because that instrument has commenced.

Item [6] This item inserts a new Part 6 into Schedule 3 to the original Order. Clause 5 of the original Order provides for each item in a Part of Schedule 3 to substitute references to the Secretary mentioned in column 2 for references to the Secretary in column 3, wherever such references occur in a provision mentioned in column 4. New Part 6 of Schedule 3 sets out four new items and the relevant existing reference, substitute reference and affected provisions, for the machinery changes referred to in clause 5 of the original Order.

Item 1 of the new Part 6 substitutes a reference to the Secretary of the Department of the Environment and Heritage, or the Secretary to the Department of the Environment and Heritage in any Act or instrument, so that the reference should be read as the Secretary of the Department of the Environment and Water Resources from the date the Order is registered.

Item 2 of the new Part 6 substitutes a reference to the Secretary to the Department of Environment, Sport and Territories in section 30-60 of the *Income Tax Assessment*

Act 1997, so that the reference should be read as the Secretary of the Department of the Environment and Water Resources from the date the Order is registered.

Item 3 of the new Part 6 substitutes a reference to the Secretary to the Department of Environment, Sport and Territories in sections 30-255, 30-270, 30-280 and 30-285 of the *Income Tax Assessment Act 1997*, so that the reference should be read as the Secretary of the Department of the Environment and Water Resources from the date the Order is registered.

Item 4 of the new Part 6 substitutes a reference to the Secretary of the Department of Immigration and Multicultural Affairs, or the Secretary to the Department of Immigration and Multicultural Affairs in any Act or instrument, so that the reference should be read as the Secretary of the Department of Immigration and Citizenship from the date the Order is registered.