

## **EXPLANATORY STATEMENT**

### **ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL**

#### *ACTS INTERPRETATION ACT 1901*

#### *ACTS INTERPRETATION (SUBSTITUTED REFERENCES – SECTION 19B) AMENDMENT ORDER 2010 (NO. 1)*

The *Acts Interpretation Act 1901* (the Act) provides rules for the interpretation of all Commonwealth Acts and addresses matters such as interpreting references to ministers, departments or secretaries of departments.

A general reference to a minister, department or secretary in a provision of an Act or instrument made under an Act means the minister, department or secretary of the department administering the legislation for the time being. Where provisions of Acts and instruments made under Acts refer to particular ministers, departments or secretaries of departments by title, these specific references may need to be altered to reflect new administrative arrangements.

Section 19B of the Act confers on the Governor-General power to make orders which appropriately alter all specific references contained in provisions of Acts.

Subsection 19B (1) 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.

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.

The purpose of the proposed Order is to ensure that ministers, departments and secretaries can exercise all powers granted to them following amendments to the Administrative Arrangements Order.

On 26 February 2010, the Prime Minister announced a number of administrative changes:

- the Department of Climate Change became the Department of Climate Change and Energy Efficiency
- the Minister for Climate Change and Water became the Minister for Climate Change, Energy Efficiency and Water, and
- the Minister for the Environment, Heritage and the Arts became the Minister for Environment Protection, Heritage and the Arts.

An Order under section 19B of the Act is required to amend the *Acts Interpretation (Substituted References – Section 19B) Order 1997*.

Details of the Order are set out in the Attachment.

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

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

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

Departments affected by the Order have been consulted. Further consultation was unnecessary for this legislative instrument as it is of a machinery nature only. The Order has no direct or substantial indirect effect on business.

**ATTACHMENT****Details of the *Acts Interpretation (Substituted References – Section 19B) Amendment Order 2010 (No. 1)***

**Clause 1** provides that the Order is named the *Acts Interpretation (Substituted References – Section 19B) Order 2010 (No. 1)*.

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

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

**Amendments to the original Order**

**Item [1]** inserts a new Part 12 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 12 of Schedule 1 sets out a new item and the relevant existing reference, substitute reference and affected provisions, for the machinery changes referred to in clause 3 of the original Order.

As shown in the table below, a reference to the minister listed in the second column of Part 12, in a provision listed in the fourth column, is replaced by a reference to the minister listed in the third column.

<b>Item</b>	<b>Existing reference</b>	<b>Substitute reference</b>	<b>Affected provisions</b>
1	Minister for the Environment, Heritage and the Arts	Minister for Environment Protection, Heritage and the Arts	all provisions
2	Minister for Climate Change and Water	Minister for Climate Change, Energy Efficiency and Water	all provisions
3	Minister for the Arts, Sport, the Environment and Territories	Minister for Environment Protection, Heritage and the Arts	section 13 of the <i>Natural Resources Management (Financial Assistance) Act 1992</i>

**Item [2]** inserts a new Part 9 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 mentioned in column 3, wherever such references occur in a provision mentioned in column 4. New Part 9 of Schedule 2 sets out a new item and the relevant existing reference, substitute reference and affected provisions, for the machinery changes referred to in clause 4 of the original Order.

As shown in the table below, a reference to the department listed in the second column of Part 9, in a provision listed in the fourth column, is replaced by a reference to the department listed in the third column.

Item	Existing reference	Substitute reference	Affected provisions
1	Department of Climate Change	Department of Climate Change and Energy Efficiency	all provisions

**Item [3]** substitutes a new heading for Part 8 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 2008 (No. 2)*. The heading can now be updated to the specific date because that instrument has commenced.

**Item [4]** inserts a new Part 9 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 mentioned in column 3, wherever such references occur in a provision mentioned in column 4. New Part 9 of Schedule 3 would set out a new item and the relevant existing reference, substitute reference and affected provisions, for the machinery changes referred to in clause 5 of the original Order.

As shown in the table below, a reference to the secretary listed in the second column of Part 9, in a provision listed in the fourth column, is replaced by a reference to the secretary listed in the third column.

Item	Existing reference	Substitute reference	Affected provisions
1	Secretary to the Department of Climate Change	Secretary to the Department of Climate Change and Energy Efficiency	all provisions