

EXPLANATORY STATEMENT

ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL

ACTS INTERPRETATION ACT 1901

ACTS INTERPRETATION (SUBSTITUTED REFERENCES – SECTION 19B) AMENDMENT ORDER 2011 (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.

The purpose of the Order is to ensure that the relevant Ministers can exercise all powers granted to them under the *Migration Regulations 1994* (the Migration Regulations). The Administrative Arrangements Order implemented a number of administrative changes following the 2010 federal election, including providing for a new Minister for Tertiary Education, Skills, Jobs and Workplace Relations and a new Minister for School Education, Early Childhood and Youth. The Order substitutes the existing references to the Minister for Education, Minister for Employment and Workplace Relations, Minister for Employment Participation and Minister for Social Inclusion in the Migration Regulations to reflect these changes.

The Order amends 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.

The Order was developed in consultation with the Department of Education, Employment and Workplace Relations and the Department of Immigration and Citizenship. The Order is minor and of a machinery nature and has no direct or substantial indirect impact on business.

Details of the proposed *Acts Interpretation (Substituted References – Section 19B) Amendment Order 2011 (No. 1)*

Clause 1 provides that the Order is named the *Acts Interpretation (Substituted References – Section 19B) Amendment Order 2011 (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] substitutes a new heading for Part 13 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 2010 (No. 2)*. The heading can now be updated to the specific date (16 October 2010) because that instrument has commenced.

Item [2] inserts a new Part 14 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. The new Part 14 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 14, in a provision listed in the fourth column, is replaced by a reference to the minister listed in the third column.

Item	Existing reference	Substitute reference	Affected provisions
1	Minister for Education; or Minister for Employment and Workplace Relations; or Minister for Employment Participation; or Minister for Social Inclusion	Minister for Tertiary Education, Skills, Jobs and Workplace Relations; or Minister for School Education, Early Childhood and Youth	provisions of the <i>Migration Regulations 1994</i> ; and provisions of instruments made under those Regulations

Item [3] substitutes a new heading for Part 10 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 2010 (No. 2)*. The heading can now be updated to the specific date (16 October 2010) because that instrument has commenced.

Item [4] inserts a new heading for Part 10 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 2010 (No. 2)*. The heading can now be updated to the specific date (16 October 2010) because that instrument has commenced.