

2004-2005

The Parliament of the
Commonwealth of Australia

THE SENATE

Presented and read a first time

**Acts Interpretation Amendment
(Legislative Instruments) Bill 2005**

No. , 2005

(Attorney-General)

A Bill for an Act to amend the *Acts Interpretation Act 1901*, and for related purposes

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1 **A Bill for an Act to amend the *Acts Interpretation***
2 ***Act 1901, and for related purposes***

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Acts Interpretation Amendment*
6 *(Legislative Instruments) Act 2005*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.
12

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedule 1, item 1	Immediately after the commencement of section 3 of the <i>Legislative Instruments Act 2003</i> .	1 January 2005
3. Schedule 1, items 2 to 5	Immediately after the commencement of Schedule 1 to the <i>Legislative Instruments (Transitional Provisions and Consequential Amendments) Act 2003</i> .	1 January 2005

1 Note: This table relates only to the provisions of this Act as originally
2 passed by the Parliament and assented to. It will not be expanded to
3 deal with provisions inserted in this Act after assent.

4 (2) Column 3 of the table contains additional information that is not
5 part of this Act. Information in this column may be added to or
6 edited in any published version of this Act.

7 **3 Schedule(s)**

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9 repealed as set out in the applicable items in the Schedule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

1
2 **Schedule 1—Amendment of the Acts**
3 **Interpretation Act 1901**
4

5 **1 After section 15AD**

6 Insert:

7 **15AE Legislative instruments etc.**

8 *Instruments that are described as legislative instruments*

9 (1) If a provision of a law requires or permits an instrument that is
10 described as a legislative instrument to be made, then an instrument
11 made under that provision:

12 (a) must be in writing; and

13 (b) is a legislative instrument for the purposes of the *Legislative*
14 *Instruments Act 2003*.

15 (2) However, the fact that a provision of a law requires or permits an
16 instrument that is described as a legislative instrument to be made
17 does not imply that an instrument made under that provision is or
18 must be of legislative character (within the ordinary meaning of that
19 term).

20 *Instruments that are described as not being legislative instruments*

21 (3) If a provision of a law requires or permits an instrument that is
22 described as not being a legislative instrument to be made, then an
23 instrument made under that provision is not a legislative instrument
24 for the purposes of the *Legislative Instruments Act 2003*.

25 (4) However, the fact that a provision of a law requires or permits an
26 instrument that is described as not being a legislative instrument to
27 be made does not imply that an instrument made under that
28 provision is not, or must not be, of legislative character (within the
29 ordinary meaning of that term).

1 *No inference to be drawn from express statements*

2 (5) In determining whether an instrument made under a provision of a
3 law is a legislative instrument for the purposes of the *Legislative*
4 *Instruments Act 2003*, no inference may be drawn from the fact that
5 an instrument made under another provision of that or any other law
6 is described as a legislative instrument, or as not being a legislative
7 instrument.

8 Example: In determining whether a Ministerial direction under a provision is a
9 legislative instrument, no inference may be drawn from the fact that
10 a Ministerial direction under another provision is described as being
11 a legislative instrument.

12 *Definition*

13 (6) In this section:

14 *law* means an Act or regulations or any other instrument made
15 under an Act.

16 **2 Subsection 46(1)**

17 Omit “within the meaning of”, substitute “for the purposes of”.

18 **3 Subsection 46AA(1)**

19 Omit “within the meaning of” (wherever occurring), substitute “for the
20 purposes of”.

21 **4 Paragraph 46B(1)(a)**

22 Omit “within the meaning of”, substitute “for the purposes of”.

23 **5 Subsection 46B(2)**

24 Omit “within the meaning of”, substitute “for the purposes of”.