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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

STATUTE LAW REVISION BILL (NO. 2) 2006

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Attorney-General,
the Honourable Philip Ruddock MP)

STATUTE LAW REVISION BILL (NO. 2) 2006

GENERAL OUTLINE

The main purpose of this Bill is to correct technical errors that have occurred in Acts as a result of drafting and clerical mistakes. The Bill also repeals a number of Acts, and provisions of Acts, that are obsolete. The corrections and repeals are desirable in order to improve the quality of the text of Commonwealth legislation and, in particular, to facilitate the publication of consolidated versions of Acts by the Attorney-General's Department and by private publishers of legislation. None of the corrections make any change to the substance of the law.

FINANCIAL IMPACT

The Bill will have no financial impact.

Notes on clauses

Clause 1—Short title

1 Clause 1 provides for the Act to be cited as the *Statute Law Revision Act (No. 2) 2006*.

Clause 2—Commencement

2 Clause 2 provides for the commencement of the Act. Subclause 2(1) provides that each provision of the Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

3 The items in Schedule 1 amend errors in principal Acts. Generally, the commencement of each item (other than items commencing on the day the legislation receives the Royal Assent) is tied to the commencement of the provision that created the error. The effect of this is that the error is taken to have been corrected immediately after it was made.

4 In order to be clear about the location of text in the *Workplace Relations Act 1996* (WRA) that is to be amended by items in Schedule 1, the commencement of those items is tied to the commencement of Schedule 5 to the *Workplace Relations Amendment (Work Choices) Act 2005* (Work Choices Act), which renumbered the WRA. The effect of this is that the error is taken to have been corrected immediately after that Act was renumbered.

5 The items in Schedule 2 mostly amend misdescriptions in amending Acts (there are a small number of items amending other errors in amending Acts). In order to correct a misdescription it is necessary to amend the amending Act (rather than the principal Act) and to treat the correction as having occurred immediately after the time specified in the amending Act for the commencement of the misdescribed item.

6 The items in Schedule 3 repeal obsolete Acts and make consequential amendments to Acts that refer to those Acts. These items are all to commence on the day on which this Act receives the Royal Assent.

7 The items in Schedule 4 repeal obsolete references to official managers and official management. These items are all to commence on the day on which this Act receives the Royal Assent.

8 The items in Schedule 5 remove occurrences of gender-specific language from the *Customs Act 1901* and replace it with gender-neutral language. These items are all to commence on the day on which this Act receives the Royal Assent.

Clause 3—Schedule(s)

9 Clause 3 provides for the Schedules to the Act. It also provides that the Acts specified in the Schedules to the Act are amended or repealed as set out in those Schedules.

Schedule 1—Amendment of principal Acts

10 The items in Schedule 1 amend errors in principal Acts.

Item 1

11 Schedule 1 to the *Australian Crime Commission Act 2002* refers to section 219F of the *Customs Act 1901*. That reference is redundant since section 219F of the *Customs Act 1901* was repealed by item 5 of Schedule 1 to the *Surveillance Devices Act 2004*. Item 1 removes the redundant reference.

Item 2

12 Item 54 of Schedule 1 to the *Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005* repealed the only clause in Part 9 of Schedule 4 to the *Broadcasting Services Act 1992*. Since Part 9 no longer contains any provisions, the heading to that Part is redundant. Item 2 repeals the heading.

Item 3

13 Section 219AB of the *Customs Act 1901* provided for the nomination of Administrative Appeals Tribunal (AAT) members to issue warrants under section 219B of the *Customs Act 1901* for the use of listening devices. Sections 219AB and 219B of the *Customs Act 1901* were repealed by item 5 of Schedule 1 to the *Surveillance Devices Act 2004*. However, certain provisions of the *Customs Act 1901* related to sections 219AB and 219B remain. These are subsection 219ZL(4) which confers certain immunities and protections on nominated AAT members and subsection 219ZL(5) which provides for a definition of nominated AAT member. Subsections 219ZL(4) and (5) are now redundant and are repealed by item 3.

Item 4

14 Subsection 80B(1) of the *Defence Act 1903* contains an offence for the improper use of service decorations. Item 4 amends that subsection so that the text reads “A person is guilty of an offence if...”, rather than “A person if guilty of an offence if...”.

Items 5 and 6

15 Both paragraph (a) of the definition of *relevant offence* in subsection 16(2) of the *Export Market Development Grants Act 1997* and paragraph 78(1)(a) of that Act refer to “subsection 229(3) of the *Corporations Act 2001*”.

16 Subsection 229(3) of the old *Corporations Law* provided for the automatic disqualification of a person from managing a corporation if found guilty of certain offences. Item 1 of Schedule 1 to the *Corporate Law Economic Reform Program Act 1999* repealed and substituted Chapters 2D and 2E of the old *Corporations Law* and subsection 229(3) consequently became subsection 206B(1) of the *Corporations Law*. Subsection 206B(1) of the *Corporations Law* was later re-enacted as subsection 206B(1) of the *Corporations Act 2001*. Items 5 and 6 correct the out-of-date cross-references in the *Export Market Development Grants Act 1997* so that they refer instead to subsection 206B(1) of the *Corporations Act 2001*.

Item 7

17 Paragraph 101(1)(ba) of the *Export Market Development Grants Act 1997* empowers the Minister to determine guidelines to be complied with by the Chief Executive Officer (CEO) in determining whether goods are made in Australia for the purposes of paragraph 24(a) and subparagraphs 37(1)(c)(i) and (g)(i) of that Act. However, paragraph 37(1)(b) also requires consideration of whether goods are made in Australia. Note 2 at the end of subsection 37(1) indicates that each time the question whether goods are made in Australia is relevant under that subsection, regard is to be had to the guidelines determined under paragraph 101(1)(ba). Item 7 amends paragraph 101(1)(ba) to include the missing reference to paragraph 37(1)(b).

Item 8

18 Item 198 of Schedule 2 to the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000* repealed the only section in Division 7 of Part 8 of the *Export Market Development Grants Act 1997*. Since Division 7 no longer contains any provisions, the heading to that Division is now redundant. Item 8 repeals the heading.

Item 9

19 The first subsection in section 10G of the *Family Law Act 1975* is not numbered. Item 9 numbers that subsection “(1)”.

Item 10

20 The text in section 12A of the *Family Law Act 1975* is numbered “(1)”. However, because the section is not divided into subsections, the numbering is unnecessary. Item 10 removes the “(1)”

Item 11

21 Subsection 93D(1) of the *Federal Magistrates Act 1999* incorrectly provides for the CEO of the Federal Magistrates Court to authorise an officer or staff member of the Family Court to provide family counselling under the *Family Law Act 1975*. Officers and staff members of the Family Court can already be authorised by the CEO of the Family Court to provide family counselling under subsection 38BD(1) of the *Family Law Act 1975*. Item 11 amends subsection 93D(1) of the *Federal Magistrates Act 1999* to provide for the CEO of the Federal Magistrates Court to authorise an officer or staff member of the Federal Magistrates Court to provide such counselling.

Item 12

22 There is no “the” before “*Family Law Act 1975*” in subsection 93D(1) of the *Federal Magistrates Act 1999*. Item 12 inserts the “the”.

Item 13

23 Subsection 10(5) of the *Food Standards Australia New Zealand Act 1991* contains a definition of *sanitary or phytosanitary measure*. The second sentence in subsection 10(4) of

that Act refers to “sanitary and phytosanitary measures”. Item 13 amends the second sentence so that it correctly refers to the defined term.

Item 14

24 Subparagraph 58PB(4)(c)(v) of the *Fringe Benefits Tax Assessment Act 1986* refers to the “*Retirement Savings Account Act 1997*”. This should be a reference to the “*Retirement Savings Accounts Act 1997*”. Item 14 corrects that reference.

Item 15

25 The first subsection in section 106Y of the *Higher Education Funding Act 1988* is not numbered. Item 15 numbers that subsection “(1)”.

Item 16

26 The definition of **holder, RSA and RSA provider** in subsection 202DJ(2) of the *Income Tax Assessment Act 1936* refers to the “*Retirement Savings Account Act 1997*”. This should be a reference to the “*Retirement Savings Accounts Act 1997*”. Item 16 corrects that reference.

Item 17

27 Subsection 73F(2) of the *Life Insurance Act 1995* refers to a life company not being able “to meets” its obligations. Item 17 corrects this grammatical error.

Item 18

28 The word “contravene” is misspelt in subsection 151(5) of the *Life Insurance Act 1995*. Item 18 corrects this error.

Item 19

29 When it commences, item 5 of Schedule 1 to the *Occupational Health and Safety (Commonwealth Employment) Amendment Act 2006* will insert a definition of **registered organisation** into subsection 5(1) of the *Occupational Health and Safety (Commonwealth Employment) Act 1991*. Paragraph (a) of that definition refers to an organisation within the meaning of “Schedule 1B” to the WRA.

30 Schedule 1B to the WRA was renumbered as “Schedule 1” by item 2 of Schedule 5 to the Work Choices Act. Since the Occupational Health and Safety (Commonwealth Employment) Amendment Bill 2006 was before the Parliament when Schedule 5 to the Work Choices Act commenced, the renumbering provisions in that Schedule could not update the reference in the Bill to Schedule 1B.

31 Item 19 will amend the definition of **registered organisation** immediately after it is inserted so that it correctly refers to Schedule 1 rather than Schedule 1B.

Item 20

32 The definition of *retirement savings account* in subsection 9(1) of the *Social Security Act 1991* refers to the “*Retirement Savings Account Act 1997*”. This should be a reference to the “*Retirement Savings Accounts Act 1997*”. Item 20 corrects that reference.

Item 21

33 There is no closing parenthesis after the word “Act” in paragraph 1061JG(1)(c) of the *Social Security Act 1991*. Item 21 inserts a closing parenthesis.

Item 22

34 Paragraph 156(1)(d) of the *Social Security (Administration) Act 1999* refers to subsection 156(5) of that Act. However, that reference is redundant because subsection 156(5) of the *Social Security (Administration) Act 1999* was repealed by item 42 of Schedule 3 to the *A New Tax System (Family Assistance and Related Measures) Act 2000*. Item 22 removes the redundant reference.

Items 23 and 24

35 Clause 12 of Schedule 3 to the *Social Security (Administration) Act 1999* deals with the situation where a member of the Social Security Appeals Tribunal (SSAT) is unavailable to complete a review of a decision. Paragraph 12(1)(c) refers to the situation where the Executive Director does not give a direction under “clause 7” reconstituting the SSAT for the purposes of the review. Paragraph 12(1)(d) refers to the rehearing of the proceeding by the SSAT as constituted in accordance with the directions of the Executive Director under “clause 11”. However, the power to make directions constituting and reconstituting the SSAT is found in clause 10. Items 23 and 24 amend paragraphs 12(1)(c) and (d) so that they refer to directions under clause 10 and not directions under clause 7 or 11.

Item 25

36 Paragraph 12-80(a) in Schedule 1 to the *Taxation Administration Act 1953* refers to the “*Retirement Savings Account Act 1997*”. This should be a reference to the “*Retirement Savings Accounts Act 1997*”. Item 25 corrects that reference.

Item 26

37 The definition of *retirement savings account* in subsection 5J(1) of the *Veterans’ Entitlements Act 1986* refers to the “*Retirement Savings Account Act 1997*”. This should be a reference to the “*Retirement Savings Accounts Act 1997*”. Item 26 corrects that reference.

Item 27

38 Item 9 of Schedule 20 to the *Workplace Relations and Other Legislation Amendment Act 1996* repealed subsections 17(1A) and (1B) of the WRA (as in force at that time), but did not remove the references to those subsections from subsection 17(2) (as then in force). Section 17 was renumbered as section 72 on the commencement of Schedule 5 to the Work Choices

Act. Item 27 removes the references to subsections (1A) and (1B) from subsection 72(2) as in force after the commencement of that Schedule.

Item 28

39 The text of paragraph 180(2)(b) of the WRA should read “the skills or qualifications of employees” not “the skills or qualifications or employees”. Item 28 corrects this error.

Item 29

40 The text in section 639 of the WRA is numbered “(1)”. However, because the section is not divided into subsections, the numbering is not necessary. Item 29 removes the “(1)”.

Item 30

41 Item 33 of Schedule 16 to the *Workplace Relations and Other Legislation Amendment Act 1996* repealed Division 2 of Part XIV of the WRA. That Division used to contain provisions relating to the Industrial Relations Court of Australia. It contained sections 365 and 366 which dealt with the payment of salaries to the judges of that Court. Section 358 of the WRA provided for the Consolidated Revenue Fund to be appropriated to the extent necessary for payment of amounts under sections 365 and 366. The *Workplace Relations and Other Legislation Amendment Act 1996* did not remove the references to sections 365 and 366 in section 358 of the WRA when it repealed Division 2 of Part XIV.

42 Section 358 of the WRA was renumbered as section 843 on the commencement of Schedule 5 to the Work Choices Act. Item 30 removes the incorrect references to sections 365 and 366 from section 843.

Item 31

43 The note at the end of subsection 25(1) of Schedule 1 to the WRA states that in order for an organisation to comply with that Schedule, its rules must not be contrary to that Act and refers to “paragraph 142(a)” of that Schedule. It is paragraph 142(1)(a) of that Schedule that specifies that requirement. Item 31 corrects the incorrect cross-reference in the note.

Item 32

44 Subsection 164A(1) of Schedule 1 to the WRA contains a reference to “subsection 4”. The “4” is not in parentheses. Item 32 inserts the parentheses.

Item 33

45 The text in section 361 of Schedule 1 to the WRA is numbered “(1)”. However, because the section is not divided into subsections, the numbering is not necessary. Item 33 removes the “(1)”.

46 Prior to the commencement of item 358 of Schedule 1 to the Work Choices Act, the clauses in Schedule 1 to the WRA did not have headings. Item 358 amended Schedule 1 to the WRA (since renumbered as Schedule 2) by repealing clause 2 of that Schedule and

substituting clauses 2 to 5, with headings to those clauses. This left clause 1 without a heading. The margin note following item 33 inserts a heading to clause 1.

Item 34

47 Paragraph 82(2)(a) of Schedule 6 to the WRA has a comma before the “and” at the end of that paragraph, rather than a semi-colon. Item 34 replaces the comma with a semi-colon.

Items 35 and 36

48 Schedule 6 to the WRA deals with transitional arrangements for parties bound by federal awards. Clause 82 of that Schedule preserves the effect, during a transitional period, of declarations made before the commencement of Schedule 1 to the Work Choices Act that a term of an award be a common rule in Victoria. Clause 83 of Schedule 6 to the WRA preserves the effect, during a transitional period, of declarations made before the commencement of Schedule 1 to the Work Choices Act that a variation of a term of an award that is a common rule in Victoria is not binding on certain organisations or persons.

49 The effect of section 142B of the WRA, as in force before the commencement of Schedule 1 to the Work Choices Act, was that the Minister could apply for a review of such declarations by a Full Bench of the Australian Industrial Relations Commission under section 109 of the WRA, as in force at that time. Under subsection 109(4), the Commission had the same powers following a hearing on a review as it had following a hearing on an appeal under section 45 as then in force, which included quashing an order or decision.

50 When paragraph 82(3)(b) and subclause 83(2) were first enacted they said that the provisions continuing the effect of the declarations had effect “subject to subsection 45(7) (including that subsection as applied by subsection 109(4).” However, section 109 was repealed by Schedule 1 to the Work Choices Act and remade in substantially the same form as section 44L (since renumbered as section 114). Another section 109 (since renumbered as section 449), dealing with the object and overview of a Division dealing with secret ballots on proposed protected action, was inserted in its place. The reference in paragraph 82(3)(b) and subclause 83(2) to “subsection 109(4)” should have been to subsection 44L(4) (or subsection 114(4) as it has since been renumbered). Items 35 and 36 remove the references to subsection 449(4) and replace them with references to subsection 114(4).

Item 37

51 Section 109 of the WRA, as in force before the commencement of Schedule 1 to the Work Choices Act, provided for the Minister to apply for a review by a Full Bench of the Australian Industrial Relations Commission of an order made by a member of the Commission. Section 142B of the WRA, as then in force, provided for section 109 to apply to a common rule declaration under Division 5 of Part VI as then in force, as if it were an order of the Commission. Subsection 493A(2), as then in force, extended the operation of section 142B for common rule declarations made in relation to Victoria.

52 Clause 88 of Schedule 6 provides that if an application by the Minister for a review of a common rule declaration for Victoria was made before the commencement of Schedule 1 to the Work Choices Act, that application would continue to be dealt with under the WRA as in force before the commencement of the Work Choices Act. Item 37 inserts the word

“repealed” before the reference to subsection 109(1) to make it clear that clause 88 is referring to subsection 109(1) as in force before the commencement of the Work Choices Act.

Item 38

53 Paragraphs 91(a) and (b) of Schedule 6 to the WRA refer to “subclause 105(1)”. However, clause 105 of Schedule 6 is not divided into subclauses. Item 38 corrects those references.

Item 39

54 Paragraph 107A(e) of Schedule 6 to the WRA provides that, for the purposes of that Schedule, Part 16 (Freedom of association) of that Act applies, to the extent possible, as if a notional section were inserted after section 783. Schedule 5 of the Work Choices Act did not apply in relation to the notional section, so it was not renumbered by that Schedule. Item 39 renumbers the notional section to be inserted after section 783 as section 783A.

Item 40

55 Clause 20 of Schedule 7 to the WRA provides that section 494 of that Act applies in relation to a pre-reform AWA as if it were an AWA. However, section 494 of the WRA does not apply to AWAs—it applies in relation to collective agreements and workplace determinations. It is section 495 of the WRA that deals with the taking of industrial action following the coming into operation of an AWA. Item 40 replaces the reference in paragraph 20(b) of Schedule 7 to “section 494” with a reference to “section 495”.

Item 41

56 Clause 22 of Schedule 8 to the WRA deals with coercing a person to agree, or not to agree, to terminate or approve the termination of a preserved State agreement. Subclause 22(3) of Schedule 8 provides that certain provisions in Division 10 of Part VIB of the WRA, as in force immediately before the commencement of Schedule 1 to the Work Choices Act, apply in relation to a contravention of subclause 22(1) of Schedule 8 as if it were a contravention of subsection 170CN(1) as in force at that time. The reference to “subsection 170CN(1)” should be a reference to “subsection 170NC(1)”, which is the provision of the WRA that dealt with coercion of persons to make, vary or terminate certified agreements prior to the commencement of Schedule 1 to the Work Choices Act. Item 41 corrects this reference.

Schedule 2—Amendment of amending Acts

57 The items in Schedule 2 mostly amend misdescriptions in amending Acts (there are a small number of items amending other errors in amending Acts).

Item 1

58 Item 82 of Schedule 2 to the *Audit (Transitional and Miscellaneous) Amendment Act 1997* misdescribed text in the *Aboriginal Councils and Associations Act 1976* that was to be

omitted and substituted by that item. Instead of referring to “and the examiner’s report”, item 82 referred to “and examiner’s report”. Item 1 corrects that misdescription of text.

Items 2 to 4

59 Items 5, 7 and 9 of the commencement table in section 2 of the *Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005* refer to the commencement of the *Postal Industry Ombudsman Act 2005*. At the time the *Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005* was enacted, the *Postal Industry Ombudsman Bill 2005* was still before the Parliament. However, the *Postal Industry Ombudsman Act 2006* was not enacted until 2006. Items 2 to 4 amend table items 5, 7 and 9 of the commencement table in section 2 of the *Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005* so that they refer to the “*Postal Industry Ombudsman Act 2006*”.

Item 5

60 Item 3 of Schedule 3 to the *Child Support Legislation Amendment (Reform of the Child Support Scheme—Initial Measures) Act 2006* misdescribed text in the *Child Support (Assessment) Act 1989* that was to be omitted and substituted by that item. Item 3 is no longer required since item 8 of this Bill will give effect to the correction that item 3 sought to make. Item 3 is consequently repealed.

Item 6

61 Before the commencement of item 135 of Schedule 1 to the *Customs Tariff Amendment Act (No. 5) 2001*, the last paragraph in Note 4 to Chapter 30 of Schedule 3 to the *Customs Tariff Act 1995* was headed “(h)”. Item 35 repealed paragraph (g) and substituted paragraphs (g), (h), (ij) and (k) but left the existing paragraph (h). Consequently, there are now two paragraphs headed“(h)”. Item 6 repeals and substitutes item 135 to ensure that the original paragraph (h) is repealed.

Item 7

62 Item 7 of Schedule 19 to the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005* purported to insert text in Module C after point 1068-B4 of the *Social Security Act 1991*. Point 1068-B4 is in fact in Module B and there is no Module C. Item 7 makes certain the location of the text to be inserted by omitting the reference to Module C and replacing it with a reference to Module B.

Item 8

63 Items 38 and 39 of Schedule 8 to the *Family Law Amendment (Shared Parental Responsibility) Act 2006* misdescribed certain cross-references in the *Child Support (Assessment) Act 1989* that were to be omitted and substituted by those items. Item 8 repeals and substitutes those items so that the location of the amendments becomes clear and to ensure that the correct cross-references are inserted.

Item 9

64 Items 1 and 3 of Schedule 9 to the *Family Law Amendment (Shared Parental Responsibility) Act 2006* were misdescribed. They should say “substitute” rather than “subsection”. Item 9 repeals those items because items 1 and 3 of Schedule 12 to the *Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Act 2006* carry out the amendments that those items were to have effected.

Item 10

65 Item 79 of Schedule 1 to the *Maritime Transport Security Amendment Act 2005* purports to insert the word “facility” after the second occurrence of “ship₂” in section 26 of the *Maritime Transport and Offshore Facilities Security Act 2003*. However, there is only one occurrence of the word “ship” followed by a comma in that section. Item 10 amends item 79 to make it clear that “facility” is to be inserted after that occurrence of “ship₂”.

Item 11

66 Item 3 of Schedule 2 to the *Occupational Health and Safety (Commonwealth Employment) Amendment Act 2006* (2006 Act) purports to repeal items 89 to 132 of Schedule 1 to the *Employment, Workplace Relations and Small Business Legislation Amendment (Application of Criminal Code) Act 2001* (2001 Act). It had been intended only to repeal the items in that Act that amended the *Occupational Health and Safety (Commonwealth Employment) Amendment Act 2001*, which were items 89 to 97 of Schedule 1. The last item in that series (item 97) repeals and substitutes items 131 and 132 of Schedule 1 to the 2001 Act. In drafting the 2006 Act, substitute item 132 was mistaken for the last amending item amending the 2001 Act. Item 11 therefore repeals and substitutes the heading to item 3 of Schedule 2 to the 2006 Act, so that the last item to be repealed is item 97, rather than item 132, of the 2001 Act.

Items 12 and 13

67 Subsection 12(3) of the *Protection of the Sea Legislation Amendment Act 1986* purported to amend section 394 of the *Navigation Act 1912*. Section 14 of the *Protection of the Sea Legislation Amendment Act 1986* purported to amend section 424B of the *Navigation Act 1912*. These amending provisions were to commence on a date to be fixed by proclamation. However, sections 394 and 424B of the *Navigation Act 1912* were repealed by sections 5 and 7 of the *Transport Legislation Amendment Act 1988* before the amending provisions could be proclaimed. Subsection 12(3) and section 14 are therefore redundant and are repealed by items 12 and 13.

Item 14

68 The commencement of item 20 of Schedule 1 to the *Statute Law Revision Act 2006* is dealt with by table item 12 of the commencement table in section 2 of that Act. Table item 35 is supposed to deal with the commencement of item 20 of Schedule 2 to that Act, but it incorrectly refers to item 20 of Schedule 1. Item 14 corrects this error.

Item 15

69 Item 92 of Schedule 1 to the *Telecommunications (Interception) Amendment Act 2006* (the amending Act) repealed the heading to Part VI of the *Telecommunications (Interception and Access) Act 1979* (the principal Act) and substituted a heading to Part 2-5 of the principal Act. That item commenced on 13 June 2006. Item 2 of Schedule 5 to the amending Act purports to repeal Division 1 of Part VI of the principal Act. Because item 92 of Schedule 1 to the amending Act commenced before item 2, the heading for item 2 is now misdescribed. Item 15 amends the heading to item 2 of Schedule 5 to the amending Act to ensure that Division 1 of Part 2-5 of the principal Act is repealed.

Item 16

70 Paragraph (a) of item 50 of Part H of Schedule 1 to the *Transport Legislation Amendment Act 1995* misdescribed text in subsection 329B(1) of the *Navigation Act 1912* that was to be omitted and substituted by that paragraph. Instead of referring to “sections 321, 323 and 324” paragraph (a) refers to “sections 321, 322, 323 and 324”. Item 16 corrects that misdescription of text by omitting the reference to “322,”.

Item 17

71 Item 187 of Schedule 1 to the Work Choices Act misdescribed text in paragraph 179A(1)(a) of the WRA (since renumbered as paragraph 722(1)(a)) that was to be omitted and substituted by that item. Instead of referring to “court” item 187 refers to “a court”. Item 17 corrects that misdescription of text.

Item 18

72 Item 24 of Schedule 4 to the Work Choices Act contains a transitional provision for organisations registered under Schedule 1B to the WRA before the commencement of Schedule 1 to the Work Choices Act. Item 24 refers to “Schedule 1B to the amended Act”. Schedule 1B was renumbered as Schedule 1 on the commencement of Schedule 5 to the Work Choices Act. Item 18 corrects item 24 so it refers to Schedule 1 rather than Schedule 1B.

Schedule 3—Repeal of obsolete Acts

73 The items in Schedule 3 repeal obsolete Acts and make consequential amendments to Acts that refer to those Acts.

Part 1

74 The items in Part 1 repeal obsolete Acts administered by the Minister for Transport and Regional Services.

Items 1 to 10, 12 and 13

75 Items 1 to 10, 12 and 13 repeal Acts that imposed and regulated the administration of a variety of taxes before the conferral of self-government on the Australian Capital Territory

(ACT). Schedule 2 to the *Taxation Laws Amendment Act (No. 2) 1987* provided for the termination of taxes imposed by those Acts and transferred responsibility for administering those Acts from the Commissioner of Taxation to the Commissioner for ACT Revenue Collection. ACT ordinances subsequently reimposed many of those taxes and regulated their administration. Those ordinances were converted into ACT enactments by subsection 34(4) of the *Australian Capital Territory (Self-Government) Act 1988* and since that time have been subject to amendment and repeal by the Legislative Assembly for the ACT. Accordingly, the Acts repealed by items 1 to 10, 12 and 13 are obsolete.

Item 11

76 Item 11 repeals the *National Rail Corporation Agreement Act 1992*. That Act gave effect to an agreement between the Commonwealth and the States of New South Wales, Victoria, Queensland and Western Australia relating to a company known as the National Rail Corporation Limited. The National Rail Corporation Limited was sold in 2002. Accordingly, the Act is obsolete.

Item 14

77 Item 14 repeals the *Ships (Capital Grants) Act 1987*. In respect of purchases of ships, grants have not been payable under that Act for deliveries of ships after 30 June 1990 (see paragraph 9(2)(b)). In respect of conversions of ships, grants have not been payable under that Act for conversions of ships delivered after 30 June 1992 (see subsection 9(3)). In respect of modifications of ships, grants have not been payable under that Act for modifications completed after 30 June 1992 (see subsection 9(7)). Accordingly, the Act is obsolete.

Item 15

78 Item 15 repeals the *States Grants (Urban Public Transport) Act 1974*. That Act provided for financial assistance to be payable to a State in accordance with the Agreement set out in the Schedule to the Act. Clause 15 of the Agreement provided for that assistance to be paid in respect of moneys expended by the State during the financial years commencing on 1 July in the years 1973, 1974, 1975 1976 and 1977 on projects to improve the quality, capacity, efficiency or frequency of the public transport system of a major city in respect of which the State desired financial assistance to be provided by the Commonwealth under the Agreement. Financial assistance has not been payable under that Act in respect of moneys expended in subsequent years. Accordingly, the Act is obsolete.

Part 2

79 The items in Part 2 repeal obsolete Acts administered by the Minister for Industry, Tourism and Resources.

Item 16

80 Item 16 repeals the *Bounty (Ships) Act 1989*. Subsection 10(1) of that Act provides that eligible costs bounty is only payable in respect of the construction or modification of a bountiable vessel that is completed before 31 December 2003. Subsection 10(2) of that Act

provides that eligible research and development expenditure bounty is only payable in respect of the construction or modification of a vessel that is completed before 1 July 2004.

Paragraph 11(2)(d) provides that claims for payment of bounty are to be lodged with an authorised officer or the Secretary within 12 months after the constructions or modification was completed. Claims for bounty can no longer be made under that Act. Accordingly, the Act is obsolete.

Item 17

81 Item 17 repeals the *Sydney 2000 Games (Indicia and Images) Protection Act 1996*. Section 55 of that Act provides that if that Act is not repealed before the end of 31 December 2000, it ceases to have effect at that time. Accordingly, the Act is obsolete.

Part 3

82 The items in Part 3 amend other Acts to remove references to the Acts that are repealed by Parts 1 and 2.

Items 18 and 19

83 Item 2 repeals the *Australian Capital Territory Taxation (Administration) Act 1969*. Item 13 repeals the *Pay-roll Tax (Territories) Assessment Act 1971*. Items 18 and 19 omit references to those Acts from paragraph (e) of Schedule 1 to the *Administrative Decisions (Judicial Review) Act 1977*.

Item 20

84 Item 11 repeals the *National Rail Corporation Agreement Act 1992*. Subsection 32(3) of the *Australian Land Transport Development Act 1988* created an exception to the rule in paragraph 32(1)(n) of that Act in relation to sales or other disposals of assets, or the granting of leases of assets, to the National Rail Corporation in accordance with subclause 5(5) of the Agreement set out in the Schedule to the *National Rail Corporation Agreement Act 1992*. Accordingly, that subsection is repealed by item 20.

Items 21 and 22

85 Item 13 repeals the *Pay-roll Tax (Territories) Assessment Act 1971*. Subparagraph (b)(i) of the definition of **Commonwealth authority** in subsection 3(1) of the *Commonwealth Authorities (Australian Capital Territory Pay-roll Tax) Act 1995* and paragraph (a) of the definition of **Commonwealth authority subject to pay-roll tax** in subsection 3(1) of the *Commonwealth Authorities (Northern Territory Pay-roll Tax) Act 1979* contain references to that Act as in force at particular times. Items 21 and 22 amend those references to insert the word “former” before the short title of the repealed Act to provide an indication to a reader that the Act has been repealed.

Items 23 and 24

86 Item 2 repeals the *Australian Capital Territory Taxation (Administration) Act 1969*. Item 13 repeals the *Pay-roll Tax (Territories) Assessment Act 1971*. Items 23 and 24 omit references to those Acts from Schedule 3 to the *Freedom of Information Act 1982*.

Item 25

87 Item 17 repeals the *Sydney 2000 Games (Indicia and Images) Protection Act 1996*. Item 25 omits the reference to that Act from clause 3 of Schedule 1 to the *Trans-Tasman Mutual Recognition Act 1997*.

Schedule 4—Removing references to official managers and official management

88 Part 5.3 of the *Corporations Act 1989* used to provide for an official manager to be appointed by a company's creditors to assume management of the company for a period of up to three years following a resolution of the directors that the company was unable to pay its debts as and when they become due and payable. Part 5.3 was repealed by section 56 of the *Corporate Law Reform Act 1992* and replaced by Part 5.3A, which has now become Part 5.3A of the *Corporations Act 2001*. Part 5.3A provides for an administrator to be appointed, and for a company to be placed under administration, with a view to executing a deed of company arrangement, if the company is insolvent, or is likely to become insolvent at some future time.

89 There continue to be a number of references to official managers and official management on the statute book. Because companies have not been able to be placed under official management for such a long time, the fact that an official manager has been appointed to assume management of a company is now an irrelevant consideration, and references to official managers and official management are now obsolete.

90 Schedule 4 makes amendments to a variety of legislation to remove those references from the statute book.

Schedule 5—Removal of gender-specific language from the Customs Act 1901

91 It has been Commonwealth drafting practice since the early 1980's for statutory provisions to be drafted so as to avoid the use of gender-specific language. Gender-neutral language is now used to make the language of Bills more inclusive. In particular, a masculine personal pronoun in a Bill must always be accompanied by a feminine personal pronoun (and vice versa) except in the very rare case of legislation intended to apply to people of one sex but not the other (eg maternity leave legislation).

92 There are still large numbers of occurrences of masculine pronouns without equivalent feminine pronouns on the statute book. While paragraph 23(a) of the *Acts Interpretation Act 1901* provides that words importing a gender include every other gender, existing provisions that use gender-specific language have been progressively amended so as to replace that gender-specific language with gender-neutral language.

93 Schedule 5 makes amendments to the *Customs Act 1901* to remove gender-specific language from that Act and replace it with gender-neutral language.