

2003

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Legislation (Statutory Interpretation) Amendment Bill 2003

A Bill for

An Act to amend the *Legislation Act 2001*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Section 1

1 **1 Name of Act**

2 This Act is the *Legislation (Statutory Interpretation) Amendment*
3 *Act 2003*.

4 **2 Commencement**

5 This Act commences on the day after its notification day.

6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see Legislation Act, s 75 (1)).

8 **3 Act amended**

9 This Act amends the *Legislation Act 2001*.

10 **4 Chapter 14**

11 *substitute*

12 **Chapter 14** **Interpretation of Acts and**
13 **statutory instruments**

14 **Part 14.1** **Purpose and scope**

15 **136 Meaning of Act in ch 14**

16 In this chapter:

17 *Act* includes a statutory instrument.

18 *Note* Section 7 (3) provides that a reference to an Act includes a reference to
19 a provision of an Act. Section 13 (3) provides that a reference to a
20 statutory instrument includes a reference to a provision of a statutory
21 instrument.

1 **137 Purpose and scope of ch 14**

- 2 (1) The purpose of this chapter is to provide guidance about the
3 interpretation of Acts.
- 4 (2) This chapter is not intended to be a comprehensive statement of the
5 law of interpretation applying to Acts.
- 6 (3) In particular, this chapter assumes that common law presumptions
7 operate in conjunction with this chapter.
- 8 (4) Subsection (3) also applies to common law presumptions that come
9 into existence after the commencement of this chapter.

10 **Part 14.2 Key principles of**
11 **interpretation**

12 **138 Meaning of *working out the meaning of an Act***

13 In this part:

14 *working out the meaning of an Act* means—

- 15 (a) resolving an ambiguous or obscure provision of the Act; or
- 16 (b) confirming or displacing the apparent meaning of the Act; or
- 17 (c) finding the meaning of the Act when its apparent meaning
18 leads to a result that is manifestly absurd or is unreasonable; or
- 19 (d) finding the meaning of the Act in any other case.

20 **139 Interpretation best achieving Act's purpose (IA s 11A)**

- 21 (1) In working out the meaning of an Act, the interpretation that would
22 best achieve the purpose of the Act is to be preferred to any other
23 interpretation.
- 24 (2) This section applies whether or not the Act's purpose is expressly
25 stated in the Act.

Section 4

1 140 Legislative context

2 In working out the meaning of an Act, the provisions of the Act
3 must be read in the context of the Act as a whole.

4 Examples

5 1 The long title of an Act provides that it is an Act to give certain benefits to
6 the holders of pensioner cards. Section 4 provides ‘This Act applies to a
7 holder of a pensioner card’. Section 22 provides that the commissioner may
8 grant ‘a person’ an exemption from payment of rates. The Act does not
9 contain a definition of ‘person’. Section 22 must be read in the context of
10 the Act as a whole so that the commissioner may only grant exemptions to
11 people who are holders of pensioner cards.

12 2 The *Drug Testing Regulations 2001* (made under the *Drug Testing Act 2000*
13 (hypothetical)), regulation 6 contains the following heading:

14 6 Corresponding law—Act, s 100, def corresponding law

15 The heading indicates that the regulation has been made for the definition of
16 *corresponding law* in the *Drug Testing Act 2000*, section 100.

17 3 Regulation 12 (1) of a subordinate law refers to ‘an order under the *Crimes*
18 *Act 1900*, section 402’. No other kind of order is mentioned in the regulation
19 and the word ‘order’ is not otherwise defined in the subordinate law.
20 Subregulations (2), (4), (7) and (9) of the same regulation, which merely
21 refer to ‘the order’, are to be understood as referring to the order mentioned
22 in subregulation (1).

23 *Note 1* See s 126 and s 127 for material that is, or is not, part of an Act or
24 statutory instrument.

25 *Note 2* An example is part of the Act, is not exhaustive and may extend, but
26 does not limit, the meaning of the provision in which it appears (see
27 s 126 and s 132).

1 **141 Non-legislative context generally (IA s 11B)**

- 2 (1) In working out the meaning of an Act, material not forming part of
3 the Act may be considered.

4 *Note 1* See s 146 for the meaning of *may* and *must*.

5 *Note 2* See s 126 and s 127 for material that is, or is not, part of an Act or
6 statutory instrument.

7 *Note 3* See s 142 for material that may be considered in working out the
8 meaning of an Act or statutory instrument.

- 9 (2) In deciding whether material not forming part of an Act should be
10 considered in working out the meaning of the Act, and the weight to
11 be given to the material, the following matters must be taken into
12 account:

- 13 (a) the desirability of being able to rely on the ordinary meaning of
14 the Act, having regard to the purpose of the Act and the
15 provisions of the Act read in the context of the Act as a whole;
16 (b) the undesirability of prolonging proceedings without
17 compensating advantage;
18 (c) the accessibility of the material to the public.

- 19 (3) Subsection (2) does not limit the matters that may be taken into
20 account.

- 21 (4) For subsection (2) (c), material in the register is taken to be
22 accessible to the public.

23 *Note* The register is the ACT legislation register (see dict, pt 2, def *register*).

- 24 (5) For this section, proof is not required in relation to any material in
25 the register if the material is authorised by the parliamentary counsel
26 under this Act.

Section 4

- 1 (6) For subsection (5), it is presumed, unless the contrary is proved, that
2 a copy of any material that is accessible at an approved website and
3 purports to be authorised by the parliamentary counsel under this
4 Act is authorised by the parliamentary counsel under this Act.
- 5 (7) Subsection (6) does not limit any other law providing how a court or
6 tribunal may be informed about the material for this section.

7 **142 Non-legislative context—material that may be considered**
8 (*IA s 11B*)

- 9 (1) In working out the meaning of an Act, material mentioned in
10 table 1, column 2 may be considered.
- 11 (2) In working out the meaning of a statutory instrument, material
12 mentioned in table 1, column 3 may be considered.
- 13 (3) This section does not limit the material that may be considered in
14 working out the meaning of an Act or statutory instrument.

15 **Table 1**

column 1 item	column 2 Act	column 3 statutory instrument
1	material not forming part of the Act contained in an authorised version of the Act <i>Note</i> See ch 3 (Authorised versions and evidence of Acts and statutory instruments).	material not forming part of the statutory instrument contained in an authorised version of the instrument <i>Note</i> See ch 3 (Authorised versions and evidence of Acts and statutory instruments).

Section 4

column 1 item	column 2 Act	column 3 statutory instrument
2	any relevant report of a royal commission, law reform commission, committee of inquiry or other similar body that was presented to the Legislative Assembly before the Act was passed	any relevant report of a royal commission, law reform commission, committee of inquiry or other similar body that was presented to the Legislative Assembly— (a) if the statutory instrument was presented to the Assembly—before the end of 6 sitting days after the day the instrument was presented to the Assembly; or (b) in any other case—before the instrument was made
3	any relevant report of a committee of the Legislative Assembly that was made to the Assembly before the Act was passed	any relevant report of a committee of the Legislative Assembly that was made to the Assembly— (a) if the statutory instrument was presented to the Assembly—before the end of 6 sitting days after the day the instrument was presented to the Assembly; or (b) in any other case—before the instrument was made

Section 4

column 1 item	column 2 Act	column 3 statutory instrument
4	any explanatory statement (however described) for the bill that became the Act, or any other relevant document, that was presented to the Legislative Assembly before the Act was passed	if the statutory instrument was presented to the Legislative Assembly—any explanatory statement (however described) for the instrument, or any other relevant document, that was presented to the Legislative Assembly before the end of 6 sitting days after the instrument was presented to the Assembly
5	the presentation speech made to the Legislative Assembly during the passage of the bill that became the Act	if the statutory instrument was presented to the Legislative Assembly by a member of the Assembly—any presentation speech made to the Assembly
6	official reports of proceedings in the Legislative Assembly in relation to the bill that became the Act	if the statutory instrument was presented to the Legislative Assembly—official reports of proceedings in the Legislative Assembly in relation to the statutory instrument
7	any relevant treaty or other international agreement to which Australia is a party	any relevant treaty or other international agreement to which Australia is a party

1 **143 Law stating material for consideration in working out**
2 **meaning**

- 3 (1) If a relevant law provides that stated material may or must be
4 considered in working out the meaning of an Act or statutory
5 instrument, that does not by implication prevent other material of
6 the same or similar kind being considered in working out the
7 meaning of the Act or instrument.

8 **Example**

9 The *Computer Crime Act 2000* (hypothetical) contains the following provision:

10 **4 Report may be used as an aid to interpretation**

11 The *Community Law Reform Report on Computer Crime* (CLRC No X)
12 may be considered in working out the meaning of this Act.

13 This does not limit access to other non-legislative material of the same or a
14 similar kind for working out the meaning of the *Computer Crime Act 2000*.

15 **Note** An example is part of the Act, is not exhaustive and may extend, but
16 does not limit, the meaning of the provision in which it appears (see
17 s 126 and s 132).

- 18 (2) In this section:

19 **relevant law** means—

- 20 (a) in working out the meaning of an Act—the Act or another Act;
21 or
22 (b) in working out the meaning of a statutory instrument made
23 under an Act—the Act, another Act or the instrument; or
24 (c) in working out the meaning of a statutory instrument made
25 under another statutory instrument—an Act or either
26 instrument.

Endnote

Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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