

# AUSTRALIAN CAPITAL TERRITORY

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## Interpretation (Amendment) Ordinance 1985

No. 24 of 1985

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# AUSTRALIAN CAPITAL TERRITORY

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## Interpretation (Amendment) Ordinance 1985

No. 24 of 1985

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 21 June 1985.

N. M. STEPHEN  
Governor-General

By His Excellency's Command,

LIONEL BOWEN  
Attorney-General

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An Ordinance to amend the *Interpretation Ordinance 1967*

### Short title

1. This Ordinance may be cited as the *Interpretation (Amendment) Ordinance 1985*.<sup>1</sup>

### Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *Interpretation Ordinance 1967*.<sup>2</sup>

### Application

3. Except as otherwise provided by this Ordinance, the amendments effected by this Ordinance apply in relation to all Ordinances whether made before or after the commencement of this Ordinance.

**Repeal of section 4**

4. Section 4 of the Principal Ordinance is repealed.

**Regard to be had to purpose or object of Ordinance**

5. Section 11A of the Principal Ordinance is amended by omitting sub-section (2).

6. After section 11A of the Principal Ordinance the following section is inserted:

**Use of extrinsic material in the interpretation of an Ordinance**

“11B. (1) Subject to sub-section (3), in the interpretation of a provision of an Ordinance, if any material not forming part of the Ordinance is capable of assisting in the ascertainment of the meaning of the provision, consideration may be given to that material—

- (a) to confirm that the meaning of the provision is the ordinary meaning conveyed by the text of the provision taking into account its context in the Ordinance and the purpose or object underlying the Ordinance; or
- (b) to determine the meaning of the provision when—
  - (i) the provision is ambiguous or obscure; or
  - (ii) the ordinary meaning conveyed by the text of the provision taking into account its context in the Ordinance and the purpose or object underlying the Ordinance leads to a result that is manifestly absurd or is unreasonable.

“(2) Without limiting the generality of sub-section (1), the material that may be considered in accordance with that sub-section in the interpretation of a provision of an Ordinance includes—

- (a) all matters not forming part of the Ordinance that are set out in the document containing the text of the Ordinance as printed by the Government Printer;
- (b) any treaty or other international agreement that is referred to in the Ordinance;
- (c) any relevant report of a Royal Commission, Law Reform commission, committee of inquiry or other similar body that was laid before either House of the Parliament, or referred, furnished or presented to the House of Assembly, before the time when the provision was made;

- (d) any explanatory statement relating to the Ordinance containing the provision, or any other relevant document, that was laid before, or furnished to the members of, either House of the Parliament when that Ordinance was laid before that House pursuant to sub-section 12 (2) of the *Seat of Government (Administration) Act 1910*; and
- (e) any document (whether or not a document to which a preceding paragraph applies) that is declared by the Ordinance to be a relevant document for the purposes of this section.

“(3) In determining whether consideration should be given to any material in accordance with sub-section (1), or in considering the weight to be given to any such material, regard shall be had, in addition to any other relevant matters, to—

- (a) the desirability of persons being able to rely on the ordinary meaning conveyed by the text of the provision taking into account its context in the Ordinance and the purpose or object underlying the Ordinance; and
- (b) the need to avoid prolonging legal or other proceedings without compensating advantage.”.

7. (1) After section 13 of the Principal Ordinance the following sections are inserted in Division 1 of Part III:

**Production of records kept in computers, &c.**

“13A. Where a person who keeps a record of information by means of a mechanical, electronic or other device is required by or under an Ordinance to produce the information or a document containing the information to, or make a document containing the information available for inspection by, a court, tribunal or person, then, unless the court, tribunal or person otherwise directs, the requirement shall be deemed to oblige the person to produce or make available for inspection, as the case may be, a writing that reproduces the information in a form capable of being understood by the court, tribunal or person, and the production of such a writing to the court, tribunal or person constitutes compliance with the requirement.

**Alterations of names and constitutions**

“13B. (1) Where an Ordinance alters the name of a body (whether or not the body is incorporated) or alters the name of an office, then, unless the contrary intention appears—

- (a) the body or office continues in existence under the new name so that its identity is not affected; and
- (b) in any Ordinance, in any instrument under an Ordinance, in any award or other industrial determination or order or any industrial agreement, in any other order (whether executive, judicial or otherwise), in any contract, in any pleading in, or process issued in connection with, any legal or other proceedings or in any other instrument, a reference to the body or the office under the former name shall, except in relation to matters that occurred before the alteration took place, be construed as a reference to the body or the office under the new name.

“(2) Where an Ordinance alters the constitution of a body (whether or not the body is incorporated), then, unless the contrary intention appears—

- (a) the body continues in existence as newly constituted so that its identity is not affected;
- (b) the alteration does not affect any functions, powers, property, rights, liabilities or obligations of the body;
- (c) the alteration does not affect any legal or other proceedings instituted or to be instituted by or against the body, and any legal or other proceedings that might have been continued or commenced by or against the body as previously constituted may be continued or commenced by or against the body as newly constituted; and
- (d) the alteration does not affect any investigation or inquiry being or proposed to be undertaken by any tribunal, authority or person into any action taken or practice engaged in by the body before the alteration took place, and any investigation or inquiry that might have been continued or commenced into any such action or practice may be continued or commenced as if the action had been taken or the practice had been engaged in by the body as newly constituted.

### **Content of statements of reasons for decisions**

“13C. Where an Ordinance requires a tribunal, body or person making a decision to give written reasons for the decision, whether the expression ‘reasons’, ‘grounds’ or any other expression is used, the instrument giving the reasons shall also set out the findings on material questions of fact and refer to the evidence or other material on which those findings were based.

### **Attainment of particular age**

“13D. For the purposes of any Ordinance, unless the contrary intention appears, the time at which a person attains a particular age expressed in years is the commencement of the relevant anniversary of the date of the birth of that person.”.

(2) Section 13D of the Principal Ordinance as amended by this Ordinance applies only where the relevant anniversary falls on or after 1 January 1986.

### **Meaning of certain words**

**8.** Section 14 of the Principal Ordinance is amended—

(a) by omitting the definitions of “calendar year” and “commencement” and substituting the following definitions:

“ ‘calendar month’ means a period commencing at the beginning of a day of one of the 12 months of the year and ending immediately before the beginning of the corresponding day of the next month or, if there is no such corresponding day, ending at the expiration of the next month;

‘calendar year’ means a period of 12 months commencing on 1 January;

‘commencement’, in relation to an Ordinance or a provision of an Ordinance, means the time at which the Ordinance or provision comes into operation;

‘Commissioner of Police’ means the Commissioner of Police of the Australian Federal Police;”;

(b) by inserting after the definition of “Commonwealth country” the following definition:

“ ‘contravene’ includes fail to comply with;”;

(c) by inserting after the definition of “court of summary jurisdiction” the following definition:

“ ‘Department’ means the Department of State of the Commonwealth that is administered by the Minister for the time being administering the Ordinance or, if, for the time being, different Ministers are administering the Ordinance in different respects, the Department of State of the Commonwealth that is

administered by the Minister administering the Ordinance in the relevant respect;”;

(d) by omitting “ending on 30 June” from the definition of “financial year” and substituting “commencing on 1 July”;

(e) by inserting after the definition of “financial year” the following definition:

“ ‘House of Assembly’ means the Australian Capital Territory House of Assembly;”;

(f) by inserting after the definition of “Lake Burley Griffin” the following definition:

“ ‘Lake Ginninderra’ means Lake Ginninderra as defined in the *Lakes Ordinance 1976*;”;

(g) by inserting after the definition of “rules of court” the following definition:

“ ‘Standards Association of Australia’ means the body incorporated by Royal Charter under that name;”;

(h) by adding at the end thereof the following sub-sections:

“(2) In an Ordinance, a reference consisting of the words ‘Australian Standard’ followed by a number shall be read as a reference to the standard so numbered published by or on behalf of the Standards Association of Australia.

“(3) Express references in an Ordinance to companies, corporations or bodies corporate shall not be taken to imply that references in the Ordinance to persons do not also include references to companies, corporations or bodies corporate.”.

### **Reference to Judge of Supreme Court**

**9.** Section 16 of the Principal Ordinance is amended by omitting “Chief Judge” and substituting “Chief Justice”.

**10.** Section 17 of the Principal Ordinance is repealed and the following sections are substituted:

### **References to writing and documents**

“17. In an Ordinance, unless the contrary intention appears—



‘document’ includes—

- (a) any paper or other material on which there is writing;
- (b) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and
- (c) any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device;

‘writing’ includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form.

### **Service of documents**

“17A. (1) For the purposes of any Ordinance that authorizes or requires a document to be served on a person, whether the expression ‘serve’, ‘give’ or ‘send’ or any other expression is used, then, unless the contrary intention appears, the document may be served—

- (a) on a natural person—
  - (i) by delivering it to the person personally; or
  - (ii) by leaving it at, or by sending it by pre-paid post to, the address of the place of residence or business of the person last known to the person serving the document; or
- (b) on a body corporate—by leaving it at, or sending it by pre-paid post to, the head office, a registered office or a principal office of the body corporate.

“(2) Nothing in sub-section (1)—

- (a) affects the operation of any other law of the Territory that authorizes or requires the service of a document otherwise than as provided in that sub-section; or
- (b) affects the power of a court to authorize or require service of a document otherwise than as provided in that sub-section.”.

**11.** Section 19 of the Principal Ordinance is repealed and the following section substituted:

**Gender and number**

“19. In an Ordinance, unless the contrary intention appears—

- (a) words importing a gender include every other gender; and
- (b) words in the singular number include the plural and words, in the plural number include the singular.”.

**References to officers, localities, &c.**

12. Section 25 of the Principal Ordinance is amended by omitting from sub-section (3) “that office or position for the time being” and substituting “for the time being, or perform for the time being the duties of, that office or position”.

**Power to make, grant or issue instruments**

13. Section 27 of the Principal Ordinance is amended by adding at the end thereof the following sub-sections:

“(2) Where an ordinance confers a power to make, grant or issue any instrument (including rules, regulations or by-laws) with respect to particular matters, the power shall be construed as including a power to make, grant or issue such an instrument with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.

“(3) Where an Ordinance confers a power to make, grant or issue any instrument (including rules, regulations or by-laws), the power shall not be taken, by implication, not to include the power to make provisions for or in relation to a particular aspect of a matter by reason only that provision is made by the Ordinance in relation to another aspect of that matter or in relation to another matter.

“(4) Where an Ordinance confers a power to make, grant or issue an instrument (including rules, regulations or by-laws) prescribing penalties not exceeding a specified amount or imprisonment for a specified period, that limitation on the penalties that may be prescribed does not prevent the instrument from requiring the making of a statutory declaration.”.

**Power to make appointments**

14. Section 28 of the Principal Ordinance is amended—

- (a) by inserting in sub-section (1) “to appoint a person to act in the office or place until—
  - (a) a person is appointed to the office or place; or
  - (b) the expiration of 12 months after the office or place was created or became vacant, as the case requires,

whichever first happens, and that person or authority has also, unless the contrary intention appears, the power” after “the power”;

- (b) by inserting in sub-section (2) “to an office or place” after “appointments”; and
- (c) by inserting in sub-section (2) “the power to make an appointment to act in the office or place or” before “the power of removal”.

15. After section 29 of the Principal Ordinance the following section is inserted:

#### **Delegations**

“29A. Where an Ordinance confers power to delegate a function or power, then, unless the contrary intention appears, the power of delegation shall not be construed as being limited to delegating the function or power to a specified person but shall be construed as including a power to delegate the function or power to any person from time to time holding, occupying, or performing the duties of, a specified office or position.”.

#### **Heading to Division 4 of Part III**

16. The heading to Division 4 of Part III is omitted and the following heading substituted:

***“Division 4—Legal proceedings”.***

17. Before section 32 of the Principal Ordinance the following section is inserted in Division 4 of Part III:

#### **Jurisdiction of courts**

“31A. Where a provision of an Ordinance, whether expressly or by implication, authorizes a civil or criminal proceeding to be instituted in a particular court of the Territory in relation to a matter—

- (a) that provision shall be—
  - (i) deemed to vest that court with jurisdiction in that matter; and

- (ii) construed as providing that the jurisdiction is vested so far only as the Constitution permits; and
- (b) except so far as the contrary intention appears, the jurisdiction so vested is not limited by any limits to which any other jurisdiction or the court may be subject.”.

**Corporation liable to, and may sue for, penalties**

**18.** (1) Section 32 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) “term” (first occurring) and substituting “period”; and
- (b) by omitting paragraphs (1) (a) to (d) (inclusive) and substituting the following paragraphs:
  - “(a) where the period of imprisonment does not exceed 6 months—\$5,000;
  - (b) where the period of imprisonment exceeds 6 months but does not exceed 1 year—\$10,000;
  - (c) where the period of imprisonment exceeds 1 year but does not exceed 2 years—\$25,000;
  - (d) where the period of imprisonment exceeds 2 years but does not exceed 5 years—\$50,000; and
  - (e) where the period of imprisonment exceeds 5 years—\$100,000.”.

(2) The amendment effected by sub-section (1) applies only in respect of offences committed after the commencement of this Ordinance.

**19.** After section 33 of the Principal Ordinance the following sections are inserted:

**Effect of alterations in penalties**

“33A. (1) Where an Ordinance increases the penalty or maximum penalty for an offence, the penalty or maximum penalty as increased applies only to offences committed after the commencement of the provision of the Ordinance increasing the penalty or maximum penalty.

“(2) Where an Ordinance reduces the penalty or maximum penalty for an offence, the penalty or maximum penalty as reduced extends to offences committed before the commencement of the provision of the Ordinance

reducing the penalty or maximum penalty, but the reduction does not affect any penalty imposed before that commencement.

### **Continuing offences**

“33B. Where, by or under a provision of an Ordinance, an act or thing is required to be done within a particular period or before a particular time, unless the contrary intention appears, the obligation to do that act or thing continues, notwithstanding that that period has expired or that time has passed, until that act or thing is done.

### **Joinder of charges**

“33C. (1) Charges against the same person for any number of offences under the same provision of an Ordinance may be joined in the same information or summons if those charges are founded on the same facts or form, or are part of, a series of offences of the same or a similar character.

“(2) If a person is convicted of 2 or more offences referred to in subsection (1), being offences related to doing or failing to do the same act or thing, the court may impose one penalty in respect of both or all those offences, but that penalty shall not exceed the sum of the maximum penalties that could be imposed if a separate penalty were imposed in respect of each offence.

### **Indictable offences**

“33D. An offence under any Ordinance that is punishable by imprisonment for a period exceeding 1 year is, unless the contrary intention appears, an indictable offence.

### **Offences punishable on summary conviction**

“33E. An offence under any Ordinance that—

- (a) is punishable by imprisonment for a period not exceeding 1 year; or
- (b) not being punishable by imprisonment, is not declared to be an indictable offence,

is, unless the contrary intention appears, punishable on summary conviction.

### **Offences under 2 or more laws**

“33F. (1) Where an act or omission constitutes offences under 2 or more Ordinances, or constitutes an offence under an Ordinance and an offence at common law, the offender is, unless the contrary intention appears, liable to be prosecuted and convicted under either or any of those Ordinances or under that

Ordinance or at common law, but is not liable to be punished more than once in respect of that act or omission.

“(2) Where an act or omission constitutes an offence under an Ordinance and an Act and the offender has been punished for the offence under the Act, the offender is not liable to be punished for the offence under the Ordinance.

### **Application of certain section of Crimes Act to Ordinances**

“33G. (1) The provisions of sections 13, 14, 15, 17, 19, 19A, 19B, 20, 20A, 20B, 21, 21B and 21C of the *Crimes Act 1914* shall, so far as they are applicable, apply in relation to all Ordinances as if an Ordinance were a law of the Commonwealth.

“(2) In sub-section (1), a reference to an Ordinance shall be read as including a reference to a continued State law and to regulations, rules or by-laws made under an Ordinance or continued State law.”.

**20.** After section 38 of the Principal Ordinance the following sections are inserted:

### **Implied repeals, &c.**

“39. A reference in section 37 or 38 to the repeal of an Ordinance or of a part of an Ordinance shall be read as including a reference to—

- (a) a repeal effected by implication;
- (b) the abrogation or limitation of the effect of the Ordinance or part; and
- (c) the exclusion of the application of the Ordinance or part to any person, subject-matter or circumstance.

### **Effect of expiration of Ordinance**

“39A. Where an Ordinance or a part of an Ordinance expires, lapses or otherwise ceases to have effect, sections 37 and 38 apply as if the Ordinance or part had been repealed by another Ordinance.

### **References to part of an Ordinance**

“39B. A reference in section 37, 38, 39 or 39A to a part of an Ordinance shall be read as including a reference to any provision of, or words, figures, drawings or symbols in, an ordinance.”.

**21.** After section 41 of the Principal Ordinance the following section is inserted:

**References to amended or re-enacted laws of States and Territories**

“41A. Where an Ordinance contains a reference to a short title or other citation that is or was provided by the law of a State or another Territory for the citation of a law of that State or Territory as originally enacted or made, or as amended, then, except so far as the contrary intention appears—

- (a) the reference shall be construed as a reference to that law as originally enacted or made and as amended from time to time; and
- (b) where that law has been repealed and re-enacted or re-made, with or without modifications, the reference shall be construed as including a reference to the re-enacted or re-made law as originally enacted or made and as amended from time to time and, where, in connection with that reference, particular provisions of the repealed law are referred to, being provisions to which provisions of the re-enacted or re-made law correspond, the reference to those particular provisions shall be construed as including a reference to those corresponding provisions.”.

**Application of Ordinance to instruments under Ordinances and continued State laws**

22. Section 49 of the Principal Ordinance is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) Unless the contrary intention appears, an expression used in an instrument referred to in sub-section (1) has the same meaning as in the Ordinance or continued State law under which the instrument was made, granted or issued or the part of that Ordinance or law for the purposes of which the instrument was made, granted or issued, as the case requires.”.

**Repeal of *Interpretation Ordinance 1937***

23. The following Ordinances are repealed:

*Interpretation Ordinance 1937*

*Interpretation Ordinance 1955*

*Interpretation Ordinance 1959.*

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**NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on 28 June 1985.

2. No. 48, 1967 as amended by Nos. 18 and 42, 1972; No. 23, 1973; No. 6, 1975; No. 30, 1976; Nos. 24 and 65, 1977; No. 46, 1978; No. 4, 1979; No. 31, 1980; No. 28, 1982; No. 5, 1983; No. 72, 1984.