



Australian Capital Territory

## **Legislation Act 2001    No 14**

### **Republication No 3**

Republication date: 21 February 2002

Last amendment made by Act 2001 No 88

Amendments incorporated to 21 February 2002

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Legislation Act 2001* as in force on 21 February 2002. It includes any amendment, repeal or expiry affecting the republished law to 21 February 2002 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

Amendments incorporated to  
21 February 2002



Australian Capital Territory

# Legislation Act 2001

## Contents

---

Page

### Chapter 1 Preliminary

#### Part 1.1 General

|   |                    |   |
|---|--------------------|---|
| 1 | Name of Act        | 2 |
| 3 | Dictionary         | 2 |
| 4 | Notes              | 2 |
| 5 | Objects            | 3 |
| 6 | Application of Act | 4 |

---

|   | Page |
|---|------|
| <b>Part 1.2            Basic concepts</b>   |      |
| 7        Meaning of <i>Act</i> generally (IA dict, def of <i>Act</i> , par (a))   | 5    |
| 8        Meaning of <i>subordinate law</i> (IA dict, def of <i>subordinate law</i> and SLA s 6 (19), def of <i>subordinate law</i> , par (a))           | 5    |
| 9        Meaning of <i>disallowable instrument</i> (SLA s 10 (1) and 6 (19), def of <i>subordinate law</i> )  | 6    |
| 10       Meaning of <i>notifiable instrument</i>  | 6    |
| 11       Meaning of <i>commencement notice</i>  | 6    |
| 12       Meaning of <i>registrable instrument</i>   | 7    |
| 13       Meaning of <i>statutory instrument</i> (IA dict, def of <i>statutory instrument</i> )  | 7    |
| 14       Meaning of <i>instrument</i> (IA dict, def of <i>instrument</i> )  | 7    |
| 15       Meaning of <i>authorised republication</i>   | 8    |
| 16       Meaning of <i>provision</i> (IA dict, def of <i>provision</i> )  | 8    |
| <br>  |      |
| <b>Part 1.3            Sources of law in the Territory</b>  |      |
| 17       References to Acts include references to former Cwlth enactments etc (IA s 7A, dict, def of <i>Act</i> , par (b) and def of <i>enactment</i> ) | 10   |
| <br>  |      |
| <b>Chapter 2           ACT legislation register and web site</b>  |      |
| 18       ACT legislation register   | 11   |
| 19       Contents of register   | 11   |
| 20       Prompt registration  | 14   |
| 21       Approved web site  | 14   |
| 22       Access to registered material at approved web site   | 14   |
| <br>  |      |
| <b>Chapter 3           Authorised versions and evidence of Acts and statutory instruments</b>   |      |
| 23       Authorisation of versions by parliamentary counsel (LRA s 8)   | 15   |
| 24       Authorised electronic versions (LRA s 20, s 22, s 23)  | 15   |
| 25       Authorised printed versions (LRA ss 6-9, ss 20-23)   | 16   |
| 26       Judicial notice of certain matters (EA ss 8–10A, s 10C)  | 17   |

|                  | Page   |
|------------------|--|
| <b>Chapter 4</b> | <b>Numbering and notification of Acts</b>  |
| 27               | Numbering of Acts (IA s 9) 19  |
| 28               | Notification of Acts (IA s 8) 19   |
| 29               | References to <i>enactment</i> or <i>passing</i> of Acts (IA s 10F) 20                         |
| 30               | References to <i>notification</i> of Acts 21   |
| <br>             |  |
| <b>Chapter 5</b> | <b>Regulatory impact statements for subordinate laws and disallowable instruments</b>          |
| <b>Part 5.1</b>  | <b>Preliminary</b>   |
| 31               | Definitions for ch 5 (SLA s 9A) 22   |
| 32               | Other publication or consultation requirements not affected (SLA s 9B) 23                      |
| 33               | Guidelines about costs of proposed subordinate laws and disallowable instruments (SLA s 9C) 23 |
| <b>Part 5.2</b>  | <b>Requirements for regulatory impact statements</b>   |
| 34               | Preparation of regulatory impact statements (SLA s 9D) 24                                      |
| 35               | Content of regulatory impact statements (SLA s 9E) 25  |
| 36               | When is preparation of a regulatory impact statement unnecessary? (SLA s 9F) 26                |
| 37               | When must a regulatory impact statement be presented? (SLA s 9G) 27                            |
| <b>Part 5.3</b>  | <b>Failure to comply with requirements for regulatory impact statements</b>                    |
| 38               | Effect of failure to comply with pt 5.2 (SLA s 9H) 28  |
| <br>             |  |
| <b>Chapter 6</b> | <b>Making, notification and numbering of statutory instruments</b>                             |
| <b>Part 6.1</b>  | <b>General</b>   |
| 39               | Meaning of <i>matter</i> in ch 6 (IA s 27B) 29   |

## Contents

---

|                 | Page   |
|-----------------|--|
| 40              | Presumption of validity (EA s 10C (2) (e)) 29  |
| 41              | Making of statutory instruments by Executive (SLA s 3) 29  |
| <b>Part 6.2</b> | <b>Making of statutory instruments generally</b>   |
| 42              | Power to make statutory instruments (IA s 26 (1), s 27C) 30  |
| 43              | Statutory instruments to be interpreted not to exceed powers under authorising law (SLA s 9 (3)) 30            |
| 44              | Power to make statutory instruments for an Act etc (SLA s 2A) 31   |
| 45              | Power to make rules of court (IA s 27I) 32   |
| 46              | Power to make instrument includes power to amend or repeal (IA s 27D) 32                                       |
| 47              | Statutory instrument may make provision by applying a law or instrument (SLA s 8) 33                           |
| 48              | Power to make instrument includes power to make different provision for different categories etc (IA s 27E) 35 |
| 49              | Single instrument may exercise several powers or satisfy several requirements (IA s 27F) 36                    |
| 50              | Relationship between authorising law and instrument dealing with same matter (IA s 27G) 37                     |
| 51              | Instrument may make provision in relation to land by reference to map etc (IA s 27GA) 37                       |
| 52              | Instrument may authorise determination of matter etc (IA s 27GB) 37  |
| 53              | Instrument may prohibit (IA s 27GC) 38   |
| 54              | Instrument may require the making of statutory declaration (IA s 27H) 38                                       |
| <b>Part 6.3</b> | <b>Making of certain statutory instruments about fees</b>  |
| 55              | Definitions for pt 6.3 39  |
| 56              | Determination of fees by disallowable instrument 39  |
| 57              | Fees payable in accordance with determinations etc 41  |
| 58              | Regulations may make provision about fees 42   |
| <b>Part 6.4</b> | <b>Numbering and notification of registrable instruments</b>   |
| 59              | Numbering (SLA s 4 (1)) 44   |

|                  | Page   |    |
|------------------|--|----|
| 60               | Correction of name of registrable instrument   | 44 |
| 61               | Notification of registrable instruments (SLA s 6 (1) (a), (2)-(5))   | 45 |
| 62               | Effect of failure to notify registrable instrument   | 47 |
| 63               | References to <i>notification</i> of registrable instruments   | 47 |
| <br>             |  |    |
| <b>Chapter 7</b> | <b>Presentation, amendment and disallowance of subordinate laws and disallowable instruments</b>           |    |
| 64               | Presentation (SLA s 6 (1) (c), (6), (8), and s 10)   | 48 |
| 65               | Disallowance by resolution of Assembly (SLA s 6 (7), (7A), (8), and s 10)                                  | 48 |
| 65A              | Notification of disallowance by resolution of Assembly (SLA s 6 (8) and s 10)                              | 49 |
| 66               | Revival of affected laws (SLA s 6 (9), and s 10)   | 51 |
| 67               | Making of instrument same in substance within 6 months after disallowance (SLA s 6 (10), (16), and s10)    | 51 |
| 68               | Amendment by resolution of Assembly (SLA s 6 (7A), (11), (13)-(15), (17), (18), and s 10)                  | 52 |
| 69               | Notification of amendments made by resolution of Assembly (SLA s 6 (12), and s 10)                         | 53 |
| 70               | Making of amendment restoring effect of law within 6 months after amendment (SLA s 6 (10), (16), and s 10) | 55 |
| 71               | Effect of dissolution or expiration of Legislative Assembly on notice of motion (SLA s 6 (7B), and s 10)   | 55 |
| <br>             |  |    |
| <b>Chapter 8</b> | <b>Commencement and exercise of powers before commencement</b>   |    |
| 72               | Meaning of <i>law</i> in ch 8  | 57 |
| 73               | General rules about commencement (IA s 10, SLA s 6 (1) (b))  | 57 |
| 74               | Time of commencement (IA s 10A)  | 59 |
| 75               | Commencement of naming and commencement provisions on notification day (IA s 10B)                          | 59 |
| 76               | Non-prejudicial provision may commence retrospectively (SLA s 7)   | 59 |
| 77               | Commencement by commencement notice (IA s 10C)   | 60 |

## Contents

---

|                  | Page  |
|------------------|---|
| 78               | Separate commencement of amendments (IA s 10D) 61   |
| 79               | Automatic commencement of postponed law (IA s 10E) 61                                       |
| 80               | References to <i>commencement</i> of law (IA s 11) 62                                       |
| 81               | Exercise of powers between notification and commencement (SLA s 5) 62                       |
| <br>             |   |
| <b>Chapter 9</b> | <b>Repeal and amendment of laws</b>   |
| <br>             |   |
| <b>Part 9.1</b>  | <b>General</b>  |
| 82               | Definitions for ch 9 (IA s 37) 64   |
| 83               | Consequences of amendment of statutory instrument by Act (SLA s 8A) 64                      |
| 84               | Saving of operation of repealed and amended laws (IA s 41) 64                               |
| 84A              | Creation of offences and changes in penalties (IA s 33A) 65                                 |
| <br>             |   |
| <b>Part 9.2</b>  | <b>Repeal</b>   |
| 85               | When repeal takes effect (IA s 38) 67   |
| 86               | Repealed and amended laws not revived on repeal of repealing and amending laws (IA s 39) 67 |
| 87               | Commencement not undone if repealed (IA s 40) 68  |
| 88               | Repeal does not end transitional or validating effect etc (IA s 42) 68                      |
| 89               | Automatic repeal of certain laws and provisions (IA s 43) 70                                |
| <br>             |   |
| <b>Part 9.3</b>  | <b>Amendment</b>  |
| 90               | Law and amending laws to be read as one (IA s 44) 73  |
| 91               | Insertion of provisions by amending law (IA s 45) 73  |
| 92               | Amendment to be made wherever possible (IA s 46) 75   |
| 93               | Provisions included in another provision for amendment purposes (IA s 46A) 75               |
| 94               | Continuance of appointments etc made under amended provisions (IA s 47) 77                  |
| 95               | Status of modifications (IA s 48) 77  |
| 96               | Relocated provisions (IA s 49) 78   |



|   | Page |
|---|------|
| <b>Chapter 10 Referring to laws</b>   |      |
| 97 References to law or instrument include law or instrument containing reference (IA s 50 (2)) | 79   |
| 98 Referring to laws in general terms (IA s 50 (1))   | 79   |
| 99 Referring to particular Acts (IA s 51)   | 80   |
| 100 Referring to statutory instruments (IA s 52, SLA s 4 (2))                                   | 81   |
| 101 Referring to provisions of laws or instruments (IA s 53)                                    | 82   |
| 101A Reference to provisions of law or instrument is inclusive (IA s 14)                        | 83   |
| 101B References to paragraphs etc (IA s 12A)  | 83   |
| 102 Meaning of references to a law or instrument generally (IA s 54)                            | 84   |
| 103 References to laws and instruments with amended names (IA s 55)                             | 85   |
| 104 References to laws include references to instruments under laws (IA s 55A)                  | 86   |
| 105 References in statutory instruments to <i>the Act</i> (IA s 55B)                            | 87   |
| 106 References to repealed laws (IA s 55C)  | 87   |
| <br>  |      |
| <b>Chapter 11 Republication of Acts and statutory instruments</b>                               |      |
| <br>  |      |
| <b>Part 11.1 General</b>  |      |
| 107 Meaning of <i>law</i> in ch 11 (LRA s 5, def of <i>law</i> and s 8 (2))                     | 88   |
| 108 Republication in register   | 88   |
| 109 Republications may be published with other information                                      | 88   |
| 110 Collections (LRA s 19A)   | 88   |
| <br>  |      |
| <b>Part 11.2 Substantive amendments made by laws</b>  |      |
| 111 Incorporation of amendments (LRA s 10)  | 90   |
| 112 Reference to amending laws (LRA s 11 (1))   | 90   |
| 113 Provisions not republished or relocated (LRA s 12)  | 90   |
| <br>  |      |
| <b>Part 11.3 Editorial changes</b>  |      |
| 114 Authorisation for parliamentary counsel (LRA s 13, s 19)                                    | 92   |
| 115 Amendments not to change effect (LRA s 14)  | 92   |

## Contents

---

|     |  | Page |
|-----|--|------|
| 116 | Ambit of editorial amendments (LRA s 15)     | 92   |
| 117 | Legal effect of editorial changes (LRA s 16) | 94   |
| 118 | Reference to editorial amendments (LRA s 17) | 94   |

### **Chapter 12**      **Scope of Acts and statutory instruments**

|     |  |    |
|-----|--|----|
| 120 | Act to be interpreted not to exceed legislative powers of Assembly (IA s 11AA) | 95 |
| 122 | Application to Territory (IA s 23A)  | 95 |

### **Chapter 13**      **Structure of Acts and statutory instruments**

#### **Part 13.1**      **General**

|     |   |    |
|-----|---|----|
| 125 | Meaning of <i>law</i> in ch 13  | 97 |
| 126 | Material that is part of an Act or statutory instrument (IA s 11H)    | 97 |
| 127 | Material that is not part of an Act or statutory instrument (IA s 12) | 98 |

#### **Part 13.2**      **Particular kinds of provisions**

|     |  |     |
|-----|--|-----|
| 130 | What is a definition? (IA dictionary, <i>definition</i> )  | 99  |
| 131 | Signpost definitions (IA, dict, def of <i>see</i> )        | 100 |
| 132 | Examples (IA s 11D)  | 100 |
| 133 | Penalty units (IA s 33AA)                                  | 101 |
| 134 | Penalties at end of sections and subsections (IA s 32A)    | 102 |
| 135 | Penalties not at end of sections and subsections (IA s 33) | 104 |
| 136 | Indictable and summary offences (IA s 33D and 33E)         | 105 |

### **Chapter 15**      **Aids to interpretation**

#### **Part 15.1**      **General**

|     |   |     |
|-----|---|-----|
| 144 | Meaning of commonly-used words and expressions (IA s 11F (1)) | 107 |
| 145 | Gender and number (IA s 19)                                   | 107 |

|                   | Page   |
|-------------------|--|
| 146               | 107  |
| 147               | 108  |
| 148               | 109  |
| 149               | 109  |
| 150               | 109  |
| <br>              |  |
| <b>Part 15.2</b>  | <b>Definitions</b>                                 |
| 155               | 110  |
| 156               | 110  |
| 157               | 111  |
| <br>              |  |
| <b>Part 15.3</b>  | <b>References to various entities and things</b>   |
| 160               | 112  |
| 161               | 112  |
| 162               | 113  |
| 163               | 114  |
| 164               | 116  |
| 165               | 116  |
| 168               | 116  |
| <br>              |  |
| <b>Chapter 16</b> | <b>Courts, tribunals and other decision-makers</b> |
| 175               | 117  |
| 176               | 117  |
| 177               | 117  |
| 178               | 118  |
| 179               | 118  |
| 180               | 118  |

|                        | Page  |
|------------------------|---|
| <b>Chapter 17</b>      | <b>Entities and positions</b>   |
| 185                    | Meaning of <i>law</i> in ch 17 120  |
| 186                    | Application of ch 17 120  |
| 187                    | Change of name of entity (IA s 13B) 120   |
| 188                    | Change in constitution of entity (IA s 13BA) 120  |
| 189                    | References to occupant of position (IA s 25) 121  |
| 190                    | Change of name of position (IA s 13B) 121   |
| 191                    | Chairperson and deputy chairperson (IA s 25A) 121                                       |
| <br>                   |   |
| <b>Chapter 18</b>      | <b>Administrative and machinery provisions</b>  |
| <b>Part 18.1</b>       | <b>Introductory</b>   |
| 195                    | Meaning of <i>law</i> in ch 18 123  |
| <br>                   |   |
| <b>Part 18.2</b>       | <b>Functions</b>  |
| 196                    | Provision giving function gives power to exercise function (IA s 25B) 124               |
| 197                    | Statutory functions may be exercised from time to time (IA s 26 (1)) 124                |
| 199                    | Functions of bodies (IA s 13BB) 124   |
| 200                    | Functions of occupants of positions (IA s 26 (2), s 30AA) 125                           |
| <br>                   |   |
| <b>Part 18.3</b>       | <b>Appointments</b>   |
| <b>Division 18.3.1</b> | <b>Appointments—other than acting appointments</b>                                      |
| 205                    | Application of div 18.3.1 (IA s 28 (1)) 126   |
| 206                    | Appointment must be in writing etc (IA s 28 (7)) 126                                    |
| 207                    | Appointment may be by name or position (IA s 28 (2)) 126                                |
| 208                    | Power of appointment includes power to suspend etc (IA s 28 (3) to (5)) 127             |
| 209                    | Power of appointment includes power to make acting appointment (IA s 28 (4) to (6)) 127 |
| 210                    | Resignation of appointment (IA s 28 (8), (9)) 129                                       |
| 211                    | Appointment not affected by appointer changes 129                                       |
| 212                    | Appointment not affected by defect etc (IA s 28 (10)) 129                               |

|  | Page |
|--|------|
| <b>Division 18.3.2    Acting appointments</b>  |      |
| 215    Application of div 18.3.2 (IA s 28A (1))  | 129  |
| 216    Acting appointment must be in writing etc (IA s 28 (7), (11))                   | 130  |
| 217    Acting appointment may be made by name or position                              | 130  |
| 218    Instrument may provide when acting appointment has effect etc<br>(IA s 28A (2)) | 130  |
| 219    Appointer may decide terms of acting appointment etc<br>(IA s 28A (3))          | 131  |
| 220    Appointee may exercise functions under acting appointment etc<br>(IA s 28A (8)) | 131  |
| 221    How long does an acting appointment operate?<br>(IA s 28A (4) to (6))           | 132  |
| 222    Resignation of acting appointment (IA s 28 (8) to (11))                         | 132  |
| 223    Effect of acting appointment on substantive appointment etc<br>(IA s 28A (7))   | 132  |
| 224    Acting appointment not affected by appointer changes                            | 133  |
| 225    Acting appointment not affected by defect etc (IA s 28 (10), (11),<br>28A (9))  | 133  |
| <br><b>Part 18.4            Delegations</b>  |      |
| 230    Application of pt 18.4 generally  | 134  |
| 231    Application of pt 18.4 to subdelegations (IA s 30AB)                            | 134  |
| 232    Delegation must be in writing etc   | 135  |
| 233    Delegation may be made by name or position (IA s 29A)                           | 135  |
| 234    Instrument may provide when delegation has effect etc<br>(IA s 29B (a))         | 135  |
| 235    Delegation may be made to 2 or more delegates                                   | 136  |
| 236    Power to delegate may not be delegated (IA s 29B (b))                           | 136  |
| 237    Delegation may be amended or revoked  | 136  |
| 238    Appointer responsible for delegated function                                    | 136  |
| 239    Exercise of delegation by delegate (IA s 29B (c), (e), s 30)                    | 137  |
| 240    Appointer may exercise delegated function (IA s 29B (d))                        | 137  |
| 241    Delegation not affected by appointer changes (IA s 30AA)                        | 137  |
| 242    Delegation not affected by defect etc   | 138  |

|                   | Page   |
|-------------------|--|
| <b>Part 18.5</b>  | <b>Service of documents</b>  |
| 245               | Application of pt 18.5 (IA s 17A (1)) 139  |
| 246               | Definitions for pt 18.5 139  |
| 247               | Service of documents on individuals (IA s 17A (1), 18) 141                                       |
| 248               | Service of documents on corporations (IA s 17A (1), 18) 141                                      |
| 249               | Service of documents on agencies (IA s 17A (1), 18) 142  |
| 250               | When service taken to be effected (IA s 18)) 142   |
| 251               | Other laws not affected etc (IA s 17A (2) (a)) 143   |
| 252               | Powers of courts and tribunals not affected (IA s 17A (2) (b)) 144                               |
| <b>Part 18.6</b>  | <b>Other provisions</b>  |
| 255               | Forms (IA s 13) 145  |
| 256               | Production of records kept in computers etc (IA s 13A) 147                                       |
| <b>Chapter 19</b> | <b>Miscellaneous</b>   |
| 260               | Delegation by parliamentary counsel 148  |
| 261               | References to Subordinate Laws Act 1989 etc 148  |
| 262               | Regulation-making power 148  |
| <b>Chapter 20</b> | <b>Transitional</b>  |
| 263               | Application of s 28 149  |
| 264               | Application of s 47 (2) and (3) 149  |
| 265               | Application of s 61 and s 62 149   |
| 266               | Application of s 69 150  |
| 267               | Transitional regulations 150   |
| 268               | Modification of ch 20's operation 151  |
| 269               | Status of certain instruments as disallowable instruments 151                                    |
| 270               | Status of certain instruments as notifiable instruments 151                                      |
| 271               | Compliance with authorisation or requirement to do something by notice in Gazette (IA s 27A) 152 |
| 271B              | Commencement of Acts that refer to notification or notice in the Gazette 153                     |
| 271C              | Commencement of registrable instruments that refer to notification or notice in the Gazette 153  |

---

|                   | Page   |     |
|-------------------|--|-----|
| 272               | Status of republications under the Legislation (Republication) Act 1996  | 153 |
| 273               | Transitional provisions about penalties (IA s 63)                        | 153 |
| 274               | Status of certain determinations   | 154 |
| <br>              |  |     |
| <b>Schedule 1</b> | <b>Acts included in sources of law of the Territory</b>                  | 156 |
| <b>Part 1.1</b>   | <b>Former NSW and UK Acts in force before establishment of Territory</b> | 156 |
| <b>Part 1.2</b>   | <b>Former NSW Acts applied after establishment of Territory</b>          | 160 |
| <br>              |  |     |
| <b>Dictionary</b> |  | 162 |
| <b>Part 1</b>     | <b>Meaning of commonly-used words and expressions</b>                    | 162 |
| <b>Part 2</b>     | <b>Words and expressions for the <i>Legislation Act 2001</i> only</b>    | 183 |
| <br>              |  |     |
| <b>Endnotes</b>   |  |     |
| 1                 | About the endnotes   | 187 |
| 2                 | Abbreviation key   | 187 |
| 3                 | Legislation history  | 188 |
| 4                 | Amendment history  | 189 |
| 5                 | Earlier republications   | 205 |
| 6                 | Modifications of republished law with temporary effect                   | 205 |
| 7                 | Uncommenced amendments   | 207 |

Amendments incorporated to  
21 February 2002



Australian Capital Territory

# Legislation Act 2001

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An Act about legislation

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## Chapter 1 Preliminary

### Part 1.1 General

#### 1 Name of Act

This Act is the *Legislation Act 2001*.

#### 3 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of an Act usually defines certain words and expressions used in the Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in the Act. However, in this Act the dictionary is divided into 2 parts.

*Note 2* Part 1 defines words and expressions commonly used in Acts (including this Act) and statutory instruments. For example, because of the definition '*month* means calendar month.', the word 'month' has the defined meaning wherever the word is used in an Act or statutory instrument unless the Act or instrument provides otherwise or the contrary intention otherwise appears (see s 144 and s 155 of this Act).

*Note 3* Part 2 defines certain words and expressions used in this Act. For example, the signpost definition '*administrator*, for part 18.5 (Service of documents)—see section 246.' means that the expression administrator is defined for pt 18.5 of this Act in s 246. A definition in pt 2 of the dictionary applies to all of this Act unless the definition, or another provision of this Act, provides otherwise or the contrary intention otherwise appears (see s 155 and s 156 (1) of this Act).

#### 4 Notes

(1) A note included in this Act is explanatory and is not part of this Act.

*Note* See s 127 (1), (4) and (5) for the legal status of notes.

(2) In this section:

**note** includes material enclosed in brackets in section headings.

*Note* For comparison, a number of sections of this Act contain bracketed notes in their headings drawing attention to equivalent or comparable (though not necessarily identical) provisions of other Acts. Abbreviations in the notes include the following:

- EA: *Evidence Act 1971* (the operation of this Act is affected by the *Evidence Act 1995* (Cwlth))
- IA: *Interpretation Act 1967* (as amended by the *Statute Law Amendment Act 2000* and the *Statute Law Amendment Act 2001*)
- LRA: *Legislation (Republication) Act 1996* (as amended by the *Statute Law Amendment Act 2000*)
- SLA: *Subordinate Laws Act 1989* (as amended by the *Statute Law Amendment Act 2000*).

(3) Subsection (2) and this subsection expire 2 years after this section commences.

## 5 Objects

- (1) The main object of this Act is to make legislation more accessible.
- (2) This is to be achieved particularly by—
  - (a) encouraging access to legislation through the Internet, while maintaining access to printed legislation; and
  - (b) restating the law about the making, publication and operation of legislation, improving its structure and content, and simplifying its provisions where practicable; and
  - (c) assisting users of legislation to find, read, understand and use legislation by—
    - (i) facilitating the shortening and simplifying of legislation; and
    - (ii) promoting consistency in the form and language of legislation; and

- (iii) facilitating the updating and republication of legislation to ensure its ready availability.

## **6 Application of Act**

This Act applies to all Acts and statutory instruments.

## Part 1.2                      Basic concepts

### 7        **Meaning of *Act* generally** (IA dict, def of *Act*, par (a))

- (1) An *Act* is an Act of the Legislative Assembly.
- (2) An *Act of the Legislative Assembly* is a law (however described or named) made by the Legislative Assembly under the Self-Government Act.
- (3) A reference to an *Act* includes a reference to a provision of an Act.

*Note 1*    Section 17 deals with former Commonwealth enactments, and former NSW and UK Acts, that have become ACT Acts.

*Note 2*    Section 98 deals with reference to laws in general terms.

### 8        **Meaning of *subordinate law*** (IA dict, def of *subordinate law* and SLA s 6 (19), def of *subordinate law*, par (a))

- (1) A *subordinate law* is a regulation, rule or by-law (whether or not legislative in nature) made under—
  - (a) an Act; or
  - (b) another subordinate law; or
  - (c) power given by an Act or subordinate law and also power given otherwise by law.
- (2) A reference to a *subordinate law* includes a reference to a provision of a subordinate law.

**9 Meaning of *disallowable instrument* (SLA s 10 (1) and 6 (19), def of *subordinate law*)**

- (1) A *disallowable instrument* is—
- (a) a statutory instrument (whether or not legislative in nature) that is declared to be a disallowable instrument by an Act, subordinate law or another disallowable instrument; or
  - (b) a determination of fees or charges by a Minister under an Act or subordinate law.

*Note* *Statutory instrument* is defined in s 13.

- (2) A reference to a *disallowable instrument* includes a reference to a provision of a disallowable instrument.

**10 Meaning of *notifiable instrument***

- (1) A *notifiable instrument* is a statutory instrument (whether or not legislative in nature) that is declared to be a notifiable instrument by an Act, subordinate law, disallowable instrument or another notifiable instrument.

*Note* Section 270 (Status of certain instruments as notifiable instruments) declares certain statutory instruments that are required or permitted to be published or notified in the Gazette to be notifiable instruments.

- (2) A reference to a *notifiable instrument* includes a reference to a provision of a notifiable instrument.

**11 Meaning of *commencement notice***

- (1) A *commencement notice* is a statutory instrument that fixes or otherwise determines the commencement of an Act, subordinate law, disallowable instrument or notifiable instrument.
- (2) A reference to a *commencement notice* includes a reference to a provision of a commencement notice.

## 12 Meaning of *registrable instrument*

- (1) A *registrable instrument* is—
  - (a) a subordinate law; or
  - (b) a disallowable instrument; or
  - (c) a notifiable instrument; or
  - (d) a commencement notice.
- (2) A reference to a *registrable instrument* includes a reference to a provision of a registrable instrument.

## 13 Meaning of *statutory instrument* (IA dict, def of *statutory instrument*)

- (1) A *statutory instrument* is an instrument (whether or not legislative in nature) made under—
  - (a) an Act; or
  - (b) another statutory instrument; or
  - (c) power given by an Act or statutory instrument and also power given otherwise by law.
- (2) A *statutory instrument* includes a subordinate law, disallowable instrument, notifiable instrument and commencement notice.
- (3) A reference to a *statutory instrument* includes a reference to a provision of a statutory instrument.

## 14 Meaning of *instrument* (IA dict, def of *instrument*)

- (1) An *instrument* is any writing or other document.

*Note* *Writing* is defined in the dictionary, pt 1.
- (2) A reference to an *instrument* includes a reference to a provision of an instrument.

**15 Meaning of *authorised republication***

- (1) An *authorised republication* is a republication of a law authorised by the parliamentary counsel under this Act.
- (2) A reference to an *authorised republication* includes a reference to a provision of an authorised republication.
- (3) In this section:  
*law*—see section 107 (Meaning of *law* in ch 11).

**16 Meaning of *provision* (IA dict, def of *provision*)**

A *provision* of an Act or instrument is any words or anything else that forms part of the Act or instrument.

**Examples of provisions consisting of groups of words**

Sections, subsections, paragraphs, subparagraphs, sub-subparagraphs, examples.

**Examples of provisions consisting of groups of other provisions**

Chapters, parts, divisions, subdivisions, schedules.

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

## Part 1.3 Sources of law in the Territory

### Notes on sources of law

- Note 1* The laws in force in the Territory consist of the written law and various unwritten laws known as the principles and rules of common law and equity.
- Note 2* The written law of the Territory consists primarily of laws, known as Acts, made by the Legislative Assembly. It also includes regulations, rules of court and other legislative instruments made under specific powers given by Acts. (Written laws made under an Act are commonly called 'subordinate' or 'delegated' legislation.)
- Note 3* Before self-government, ordinances made by the Governor-General under the *Seat of Government (Administration) Act 1910* (Cwlth) were the main form of legislation made for the Territory. Most of the ordinances in force at self-government have been converted into Acts (see the Self-Government Act, s 34). However, the Governor-General has power to make ordinances for the Territory on a limited number of topics (see the *Seat of Government (Administration) Act 1910* (Cwlth), s 12).
- Note 4* The written laws in force in the Territory also include the Commonwealth Constitution, Commonwealth Acts, and regulations and other legislative instruments made under Commonwealth Acts. As a general rule, Commonwealth Acts and legislative instruments apply in the ACT in the same way as they apply in other parts of Australia. Commonwealth Acts and instruments prevail over the Acts made by the Legislative Assembly to the extent to which they are inconsistent (see the Self-Government Act, s 28).
- Note 5* Certain Acts of New South Wales and the United Kingdom also formed part of the written laws in force in the Territory. Because of the *Interpretation Act 1967*, s 65 (now expired), these are now taken to be laws made by the Legislative Assembly as if they had been enacted by the Assembly. These Acts are listed in sch 1.



**17 References to Acts include references to former Cwlth enactments etc** (IA s 7A, dict, def of *Act*, par (b) and def of *enactment*)

- (1) A reference to an *Act* includes a reference to a former Commonwealth enactment.
- (2) Without limiting subsection (1), a reference to an *Act* includes a reference to a former NSW Act or former UK Act mentioned in schedule 1.
- (3) In this section:

***former Commonwealth enactment*** means a Commonwealth Act or ordinance, a New South Wales Act or Imperial Act that is—

- (a) an enactment within the meaning of the Self-Government Act because of section 34 of that Act; or
- (b) an enactment because of the *A.C.T. Self-Government (Consequential Provisions) Act 1988* (Cwlth), section 10 (3) or 12 (2) or (3).

## Chapter 2      ACT legislation register and web site

### 18      ACT legislation register

- (1) The parliamentary counsel must establish and maintain a register of Acts and statutory instruments (the *ACT legislation register*).
- (2) The register must be kept electronically.

**Example of how register may be kept**

The register may be kept in the form of, or as part of, 1 or more computer databases, and may include data compiled electronically from the databases.

### 19      Contents of register

- (1) The ACT legislation register must contain the following:
  - (a) authorised republications of laws currently in force;
  - (b) Acts as made;
  - (c) subordinate laws as made;
  - (d) disallowable instruments as made;
  - (e) notifiable instruments as made;
  - (f) commencement notices as made;
  - (g) resolutions passed, or taken to have been passed, by the Legislative Assembly to disallow a subordinate law or disallowable instrument;
  - (h) resolutions passed, or taken to have been passed, by the Legislative Assembly to amend a subordinate law or disallowable instrument;
  - (i) bills presented to the Legislative Assembly.

- (2) The ACT legislation register must also contain the following:
- (a) notifications of the making of Acts;
  - (b) notifications of the making of subordinate laws;
  - (c) notifications of the making of disallowable instruments;
  - (d) notifications of the making of notifiable instruments;
  - (e) notifications of the making of commencement notices;
  - (f) notifications of the disallowance of subordinate laws or disallowable instruments under section 65 (Disallowance by resolution of Assembly);
  - (g) notifications of the amendment of subordinate laws or disallowable instruments under section 68 (Amendment by resolution of Assembly).
- (3) However, the parliamentary counsel may enter additional material in the register if the parliamentary counsel considers that it is likely to be useful to users of the register.
- (4) Without limiting subsection (3), the additional material may include the following:
- (a) unauthorised republications of laws currently in force;
  - (b) past versions of unauthorised republications;
  - (c) past versions of authorised republications;
  - (d) statutory instruments that are not registrable instruments;
  - (e) explanatory memoranda for bills, and amendments of bills, presented to the Legislative Assembly;
  - (f) repealed Acts and statutory instruments;

(g) Commonwealth laws that apply in or in relation to the Territory.

*Note* The following sections of the Act deal with the entry of material in the register:

- s 28 (Notification of Acts)
- s 61 (Notification of registrable instruments)
- s 65A (Notification of disallowance by resolution of Assembly)
- s 69 (Notification of amendments made by resolution of Assembly)
- s 108 (Republication in register).

- (5) If the register contains an authorised republication of a law currently in force, and the law is amended, the parliamentary counsel must replace the republication with an authorised republication of the law as amended.
- (6) If the register contains an authorised republication of a law, and the law is repealed, expires or, for a subordinate law or disallowable instrument, is disallowed by the Legislative Assembly, the parliamentary counsel must ensure that the republication is no longer shown as a republication of law currently in force.
- (7) If the parliamentary counsel considers it likely to be useful to users of the register to enter information (in any form) in the register, the parliamentary counsel may enter the information at any time.

**Example**

Guides and indexes to the register

- (8) If an Act passed by the Legislative Assembly, or a registrable instrument made, before the commencement of this Act need not be notified under this Act, the parliamentary counsel may enter the text of the Act or instrument in the register.
- (9) The parliamentary counsel may correct any mistake, error or omission in the register subject to the requirements (if any) of the regulations.

(10) In this section:

*amended* includes modified.

*law*—see section 107 (Meaning of *law* in ch 11).

## **20 Prompt registration**

The parliamentary counsel must ensure that anything the parliamentary counsel is required to do in relation to the register is done promptly.

## **21 Approved web site**

- (1) The parliamentary counsel must approve an Internet site, and may approve additional Internet sites, for this Act.
- (2) The parliamentary counsel may enter into agreements or arrangements to ensure that users can authenticate an approved web site or the material accessible on an approved web site.

## **22 Access to registered material at approved web site**

- (1) The parliamentary counsel must ensure, as far as practicable, that a copy of the material mentioned in section 19 (1) and (2) (Contents of register) is accessible at all times on an approved web site.
- (2) Access is to be provided without charge by the Territory.

## Chapter 3      **Authorised versions and evidence of Acts and statutory instruments**

### **23 Authorisation of versions by parliamentary counsel (LRA s 8)**

The parliamentary counsel may authorise printed or electronic versions of an Act, statutory instrument or republication.

### **24 Authorised electronic versions (LRA s 20, s 22, s 23)**

- (1) This section applies to the following:
  - (a) a copy of an Act, statutory instrument or republication accessible at an approved web site;
  - (b) any other electronic copy of an Act, statutory instrument or republication.
- (2) A copy of the Act, statutory instrument or republication is an authorised version only—
  - (a) if it is authorised by the parliamentary counsel; and
  - (b) in the format in which it is authorised.

#### **Example of authorised version accessible at approved web site**

A locked pdf file with a digital signature permitting authentication of the downloaded file.

- (3) It is presumed, unless the contrary is proved—
  - (a) that an Internet site purporting to be an approved web site is an approved web site; and
  - (b) that a copy of an Act, statutory instrument or republication accessible at an approved web site and purporting to be

authorised by the parliamentary counsel is authorised by the parliamentary counsel under this Act; and

- (c) that any other electronic copy of an Act, statutory instrument or republication purporting to be authorised by the parliamentary counsel is authorised by the parliamentary counsel under this Act; and
  - (d) that an authorised electronic version of the Act or statutory instrument correctly shows the Act or instrument; and
  - (e) that an authorised electronic version of a republication of a law correctly shows the law as at the republication date.
- (4) In this section:

*law*—see section 107 (Meaning of *law* in ch 11).

## **25 Authorised printed versions (LRA ss 6-9, ss 20-23)**

- (1) A version of an Act, statutory instrument or republication printed by authority of the Territory government and authorised by the parliamentary counsel is an authorised version.
- (2) It is presumed, unless the contrary is proved—
  - (a) that a printed version of an Act, statutory instrument or republication purporting to have been printed by authority of the Territory government was so printed; and
  - (b) that a printed version of an Act, statutory instrument or republication purporting to have been authorised by the parliamentary counsel was authorised by the parliamentary counsel under this Act; and
  - (c) that an authorised printed version of an Act or statutory instrument correctly shows the Act or instrument; and
  - (d) that an authorised printed version of a republication of a law correctly shows the law as at the republication date.

(3) In this section:

*law*—see section 107 (Meaning of *law* in ch 11).

## **26 Judicial notice of certain matters (EA ss 8–10A, s 10C)**

(1) Proof is not required about—

- (a) the passing of a proposed law by the Legislative Assembly or its notification in the register or the Gazette; or
- (b) the making, or notification or publication in the register or the Gazette, of a subordinate law, disallowable instrument, notifiable instrument, commencement notice or any other statutory instrument; or
- (c) the approval (however described) of a statutory instrument by the Executive, a Minister or any other entity; or
- (d) the provisions of an Act, subordinate law, disallowable instrument, notifiable instrument, commencement notice or any other statutory instrument; or
- (e) the commencement of an Act, subordinate law, disallowable instrument, notifiable instrument, or any other statutory instrument; or
- (f) the presentation of a subordinate law, disallowable instrument or any other statutory instrument to the Legislative Assembly; or
- (g) anything done or not done by or in the Legislative Assembly in relation to a subordinate law, disallowable instrument or any other statutory instrument; or
- (h) changes made under chapter 11 (Republication of Acts and statutory instruments); or
- (i) the authorisation of a republication under this Act, the provisions of an authorised republication or the republication date of an authorised republication.



- (2) A court or tribunal may inform itself of anything mentioned in subsection (1) in any way it considers appropriate.

**Examples of ways that may be appropriate**

- 1 Using a version of an Act downloaded from an approved web site using the Internet.
  - 2 Using information obtained from an approved web site using the Internet.
  - 3 Using an authorised printed version of a republication.
- (3) However, the court or tribunal must consider whether the source it intends to use appears to be a reliable source of information.
- (4) For subsection (3), an authorised version of an Act, statutory instrument or republication is a reliable source of information.
- (5) This section does not limit any other law providing how a court or tribunal may be informed about a matter mentioned in subsection (1).

## Chapter 4                      Numbering and notification of Acts

### 27      **Numbering of Acts** (IA s 9)

The Acts passed in each year are to be numbered as nearly as practicable in the order in which they are passed.

### 28      **Notification of Acts** (IA s 8)

- (1) If a proposed law is passed by the Legislative Assembly, the Speaker must ask the parliamentary counsel to notify the making of the law.
- (2) If the Speaker asks the parliamentary counsel to notify the making of the proposed law, the parliamentary counsel must—
  - (a) notify the making of the law in the register; or
  - (b) if it is not practicable to notify the making of the proposed law in the register, or make the text of the proposed law and the notification of its making accessible at 1 or more approved web sites, when the law is to be notified—notify the making of the law in the Gazette.
- (3) If the Speaker asks the parliamentary counsel to notify the making of the proposed law on a particular day, the parliamentary counsel must notify the making of the law on that day unless it is impracticable to do so.
- (4) The making of the proposed law is notified in the register by entering in the register—
  - (a) a statement that the law has been passed by the Legislative Assembly; and
  - (b) the text of the law.

- (5) The making of the proposed law is notified in the Gazette by publishing in the Gazette a statement—
  - (a) that the law has been passed by the Legislative Assembly; and
  - (b) of the place or places where copies of the law can be purchased.
- (6) If the making of the proposed law is notified in the Gazette—
  - (a) copies of the law must be available for purchase on the day of publication (the *Gazette date*), or as soon as practicable after the Gazette date, at the place, or each of the places, stated in the Gazette; and
  - (b) the parliamentary counsel must later enter in the register—
    - (i) a statement that the law has been passed by the Legislative Assembly; and
    - (ii) a statement that the law was notified in the Gazette on the Gazette date; and
    - (iii) the text of the law.
- (7) If on the Gazette date no copies of the law are available for purchase at the place, or any of the places, stated in the Gazette, the parliamentary counsel must give the Minister a statement—
  - (a) that copies of the law were not available; and
  - (b) explaining why they were not available.
- (8) The Minister must present the statement to the Legislative Assembly within 6 sitting days after the Gazette date.

**29      References to *enactment* or *passing* of Acts (IA s 10F)**

In an Act or statutory instrument, a reference to the *enactment* or *passing* of an Act is a reference to the making of the Act having been notified in the register or the Gazette.

**30 References to *notification* of Acts**

In an Act or statutory instrument, a reference to the *notification* of an Act is a reference to the making of the Act having been notified in the register or the Gazette.

## **Chapter 5**            **Regulatory impact statements for subordinate laws and disallowable instruments**

### **Part 5.1**            **Preliminary**

#### **31**    **Definitions for ch 5 (SLA s 9A)**

In this chapter:

*authorising law*, in relation to a proposed subordinate law or disallowable instrument (the *proposed law*), means the Act or statutory instrument (and, if appropriate, the provision of the Act or statutory instrument) under which the proposed law will be made.

*benefits* includes—

- (a) advantages; and
- (b) direct and indirect economic, environmental and social benefits.

*costs* includes—

- (a) burdens and disadvantages; and
- (b) direct and indirect economic, environmental and social costs.

*scrutiny committee principles* means the terms of reference of the Legislative Assembly's Standing Committee on Justice and Community Safety that apply to subordinate laws and disallowable instruments.

**32 Other publication or consultation requirements not affected (SLA s 9B)**

- (1) Part 5.2 (Requirements for regulatory impact statements) does not affect any requirements in any other Territory law for publication or consultation about a proposal to make a subordinate law or disallowable instrument.
- (2) Part 5.2 does not apply to the subordinate law or disallowable instrument if the requirements are of a comparable level to publication and consultation under the part.

**33 Guidelines about costs of proposed subordinate laws and disallowable instruments (SLA s 9C)**

- (1) The Minister may, in writing, issue guidelines to be applied in deciding whether a proposed subordinate law or disallowable instrument is, or is not, likely to impose appreciable costs on the community or a part of the community.
- (2) Guidelines issued under this section are a disallowable instrument.
- (3) The Minister must issue guidelines under subsection (1) within 6 months after the commencement of this section.
- (4) Subsection (3) and this subsection expire 6 months after the commencement of this section.

## **Part 5.2 Requirements for regulatory impact statements**

### **34 Preparation of regulatory impact statements (SLA s 9D)**

- (1) If a proposed subordinate law or disallowable instrument (the *proposed law*) is likely to impose appreciable costs on the community, or a part of the community, then, before the proposed law is made, the Minister administering the authorising law (the *administering Minister*) must arrange for a regulatory impact statement to be prepared for the proposed law.
- (2) However, this section does not apply to the proposed law if the administering Minister, in writing, exempts the proposed law from subsection (1).

*Note* Sections 32 and 36 also state other circumstances when a regulatory impact statement is not required.

- (3) An exemption under subsection (2) (the *RIS exemption*) is a disallowable instrument.
- (4) If the RIS exemption is disallowed under this Act after the proposed law has been made in whole or in part, the administering Minister must arrange for a regulatory impact statement to be prepared for the subordinate law or disallowable instrument.
- (5) The regulatory impact statement prepared under subsection (4) must be presented to the Legislative Assembly within 5 sitting days after the disallowance of the RIS exemption.
- (6) This chapter (other than section 37 (When must a regulatory impact statement be presented?)) applies to the law as if the law were a proposed subordinate law or disallowable instrument.

### 35 Content of regulatory impact statements (SLA s 9E)

A regulatory impact statement for a proposed subordinate law or disallowable instrument (the *proposed law*) must include the following information about the proposed law in clear and precise language:

- (a) the authorising law;
- (b) a brief statement of the policy objectives of the proposed law and the reasons for them;
- (c) a brief statement of the way the policy objectives will be achieved by the proposed law and why this way of achieving them is reasonable and appropriate;
- (d) a brief explanation of how the proposed law is consistent with the policy objectives of the authorising law;
- (e) if the proposed law is inconsistent with the policy objectives of another Territory law—
  - (i) a brief explanation of the relationship with the other law; and
  - (ii) a brief explanation for the inconsistency;
- (f) if appropriate, a brief statement of any reasonable alternative way of achieving the policy objectives (including the option of not making a subordinate law or disallowable instrument) and why the alternative was rejected;
- (g) a brief assessment of the benefits and costs of implementing the proposed law that—
  - (i) if practicable and appropriate, quantifies the benefits and costs; and
  - (ii) includes a comparison of the benefits and costs with the benefits and costs of any reasonable alternative way of



achieving the policy objectives stated under paragraph (f);

- (h) a brief assessment of the consistency of the proposed law with the scrutiny committee principles and, if it is inconsistent with the principles, the reasons for the inconsistency.

**36 When is preparation of a regulatory impact statement unnecessary? (SLA s 9F)**

- (1) A regulatory impact statement need not be prepared for a proposed subordinate law or disallowable instrument (the *proposed law*) if the proposed law only provides for, or to the extent it only provides for, any of the following:
  - (a) a matter that is not of a legislative nature, including, for example, a matter of a machinery, administrative, drafting or formal nature;
  - (b) a matter that does not operate to the disadvantage of anyone (other than the Territory or a Territory authority or instrumentality) by—
    - (i) adversely affecting the person's rights; or
    - (ii) imposing liabilities on the person;
  - (c) an amendment of a Territory law to take account of current legislative drafting practice;
  - (d) the commencement of an Act or statutory instrument or a provision of an Act or statutory instrument;
  - (e) an amendment of a Territory law that does not fundamentally affect the law's application or operation;
  - (f) a matter of a transitional character;

- (g) a matter arising under a Territory law that is substantially uniform or complementary with legislation of the Commonwealth or a State;
  - (h) a matter involving the adoption of an Australian or international protocol, standard, code, or intergovernmental agreement or instrument, if an assessment of the benefits and costs has already been made and the assessment was made for, or is relevant to, the ACT;
  - (i) a proposal to make, amend or repeal rules of court;
  - (j) a matter advance notice of which would enable someone to gain unfair advantage;
  - (k) an amendment of a fee, charge or tax consistent with announced government policy.
- (2) A regulatory impact statement also need not be prepared for the proposed law if, or to the extent, it would be against the public interest because of the nature of the proposed law or the circumstances in which it is made.

**Example**

A law may need to be made urgently for controlling the spread of a disease or dealing with another urgent situation.

*Note* Sections 32 and 34 also state other circumstances when a regulatory impact statement is not required.

**37 When must a regulatory impact statement be presented?**  
(SLA s 9G)

- (1) This section applies if a regulatory impact statement for a proposed subordinate law or disallowable instrument (the *proposed law*) has been prepared and the proposed law is made in whole or part.
- (2) The statement must be presented to the Legislative Assembly with the subordinate law or disallowable instrument.

|                  |  |
|------------------|--|
| <b>Chapter 5</b> | Regulatory impact statements for subordinate laws and disallowable instruments |
| <b>Part 5.3</b>  | Failure to comply with requirements for regulatory impact statements           |

Section 38

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## **Part 5.3**

# **Failure to comply with requirements for regulatory impact statements**

### **38 Effect of failure to comply with pt 5.2 (SLA s 9H)**

- (1) Failure to comply with part 5.2 (Requirements for regulatory impact statements) in relation to a subordinate law or disallowable instrument (the *law*) does not—
  - (a) affect the law's validity; or
  - (b) create rights or impose legally enforceable obligations on the Territory, a Minister or anyone else.
- (2) In addition, a decision made, or appearing to be made, under part 5.2 is final and conclusive.
- (3) In this section:  
*decision* includes—
  - (a) conduct engaged in to make a decision; and
  - (b) conduct related to making a decision; and
  - (c) failure to make a decision.

## **Chapter 6**      **Making, notification and numbering of statutory instruments**

### **Part 6.1**      **General**

#### **39**      **Meaning of *matter* in ch 6 (IA s 27B)**

In this chapter:

*matter*, in relation to a statutory instrument, includes circumstance, person, place and purpose.

#### **40**      **Presumption of validity (EA s 10C (2) (e))**

It is presumed, unless the contrary is proved, that all conditions and steps required for the making of a statutory instrument have been satisfied and carried out.

#### **41**      **Making of statutory instruments by Executive (SLA s 3)**

- (1) If an Act authorises or requires the Executive to make a statutory instrument, it is sufficient if the instrument is signed by any 2 Ministers who are members of the Executive.
- (2) A statutory instrument made by the Executive is taken to be made when it is signed by the second Minister who is a member of the Executive.

## Part 6.2 Making of statutory instruments generally

### 42 Power to make statutory instruments (IA s 26 (1), s 27C)

- (1) If an Act or statutory instrument gives a power that can be exercised by making an instrument, the Act or statutory instrument gives power to make the instrument.

**Example**

An Act gives a Minister power to approve codes of practice, but does not require the approval to be in writing or to be given by a particular instrument. The power can be exercised by giving a written approval. The Act, therefore, gives power to make an instrument, namely, a written approval.

- (2) If an Act or statutory instrument gives power to make an instrument, the power may be exercised from time to time.

### 43 Statutory instruments to be interpreted not to exceed powers under authorising law (SLA s 9 (3))

- (1) A statutory instrument is to be interpreted as operating to the full extent of, but not to exceed, the power given by the Act or statutory instrument under which it is made (the *authorising law*).
- (2) Without limiting subsection (1), if a provision of a statutory instrument would, apart from this section, be interpreted as exceeding power—
  - (a) the provision is valid to the extent to which it does not exceed power; and
  - (b) the remainder of the instrument is not affected.

**Example 1**

The *Agriculture Services Determination 2001*, part 4 exceeds the determination-making power given by the *Agriculture Services Act 2000* (hypothetical). The other provisions of the determination are within power.

The determination (apart from part 4) operates effectively. Part 4 is treated as if it did not form part of the determination and is disregarded.

*Note to example 1* The kind of interpretation indicated in example 1 is known as a divisible interpretation of the determination.

**Example 2**

The *Goats Regulations 2001* (hypothetical) are made under the *Goats Act 2001*. The *Goats Regulations 2001*, regulation 39 seeks to impose rules about the care of ‘animals’, but the Act only gives power to make regulations about goats.

Regulation 39 is read restrictively (‘read down’) as if it mentioned goats. In other words, the regulation is effective but treated as if it applied only to goats.

*Note to example 2* The kind of interpretation indicated in example 2 is known as a distributive interpretation of the regulations.

- (3) Without limiting subsection (1), if the application of a provision of a statutory instrument to a matter would, apart from this section, be interpreted as exceeding power, the provision’s application to other matters is not affected.

**Example**

The *Community Safety Order 2001* is expressed to apply to all members of the community without qualification although it is in fact made under the *Building Industry (Safety) Act 2000* (hypothetical). That Act is restricted in its operation to the building industry. The order is cast in such wide terms that it cannot be interpreted divisibly or distributively. However, the order applies to entities such as XYZ Constructions Pty Ltd because it is a company in the construction industry.

- (4) This section is in addition to any provision of the statutory instrument or authorising law.

**44 Power to make statutory instruments for an Act etc  
(SLA s 2A)**

- (1) If an Act or statutory instrument (the *authorising law*) authorises or requires the making of a statutory instrument for (or for the purposes of) the authorising law or another Act or statutory instrument (the *other law*), the power authorises a statutory instrument to be made with respect to any matter that—

- (a) is required or permitted to be prescribed by the authorising law or other law; or
  - (b) is necessary or convenient to be prescribed for carrying out or giving effect to the authorising law or other law.
- (2) Subsection (1) applies to the authorising law even though the authorising law—
- (a) only authorises the making of a statutory instrument for (or for the purposes of) the authorising law; or
  - (b) also authorises or requires the making of a statutory instrument about a particular matter.
- (3) Power given by the authorising law to make a statutory instrument about a particular matter does not limit power given by the authorising law or other law to make a statutory instrument (whether or not of the same kind) about any other matter, except so far as the authorising law otherwise expressly provides.

**45 Power to make rules of court (IA s 27I)**

The power of an entity to make rules of court in relation to a court includes power to make rules of court for any Act, subordinate law or disallowable instrument that requires or permits anything to be done, in relation to the court, by rules of court.

**46 Power to make instrument includes power to amend or repeal (IA s 27D)**

- (1) Power given under an Act or statutory instrument (the *authorising law*) to make a statutory instrument includes power to amend or repeal the instrument.

- (2) The power to amend or repeal the instrument is exercisable in the same way, and subject to the same conditions, as the power to make the instrument.

**Examples**

- 1 If the instrument is a disallowable instrument, an amendment or repeal of the instrument is also a disallowable instrument.
  - 2 If the instrument is a notifiable instrument, an amendment or repeal of the instrument is also a notifiable instrument.
  - 3 If notice of the making of the instrument must be published in a newspaper, notice of an amendment or repeal of the instrument must also be published in the newspaper.
- (3) This section is subject to any provision of the authorising law.

**47 Statutory instrument may make provision by applying a law or instrument (SLA s 8)**

- (1) If an Act, subordinate law or disallowable instrument (the *authorising law*) authorises or requires the making of a statutory instrument about a matter, a statutory instrument (the *relevant instrument*) made under the authorising law may make provision about the matter by applying (with or without change)—
- (a) a law or instrument, or a provision of a law or instrument, as in force at a particular time; or
  - (b) a law or instrument, or a provision of a law or instrument, as in force from time to time if—
    - (i) the statutory instrument expressly provides that the law, instrument or provision is applied from time to time; and
    - (ii) for an instrument or provision of an instrument—the authorising law authorises the instrument or provision to be applied from time to time.

**Example for par (b) (i)**

The *ABC Regulations 2000* provide that noise measurements are to be taken in accordance with the NSW noise control manual as in force from time to time.



**Example for par (b) (ii)**

The *XYZ Regulations 2000* are made under the *XYZ Act 1999*. The *XYZ Act 1999* contains the following provision:

‘(2) The regulations may apply, adopt or incorporate (with or without change) an instrument or provision of an instrument as in force from time to time.’.

- (2) If the relevant instrument makes provision about the matter by applying (with or without change) a law or instrument, or a provision of a law or instrument, as in force at a particular time, the text of the law, instrument or provision as in force at that time is taken to be a notifiable instrument made under the relevant instrument by the entity authorised or required to make the relevant instrument.
- (3) If the relevant instrument makes provision about the matter by applying (with or without change), a law or instrument, or a provision of a law or instrument, as in force from time to time, the text of each of the following is taken to be a notifiable instrument made under the relevant instrument by the person authorised or required to make the relevant instrument:
  - (a) the law, instrument or provision as in force at the time the relevant instrument is made;
  - (b) each subsequent amendment of the law, instrument or provision;
  - (c) for a law or instrument that is repealed and remade (with or without changes)—the law or instrument as remade and each subsequent amendment of the law or instrument;
  - (d) for a provision that is omitted and remade (with or without changes) in another law or instrument—the provision as remade and each subsequent amendment of the provision.
- (4) Subsections (2) and (3) do not apply in relation to—
  - (a) an ACT law or a provision of an ACT law; or

- (b) a law of another jurisdiction, an instrument, or a provision of a law of another jurisdiction or an instrument, if the authorising law or the relevant instrument expressly declares that it does not apply.
- (5) Subsections (2) and (3) apply in relation to a law of another jurisdiction, an instrument, or a provision of a law of another jurisdiction or an instrument, with the modifications (if any) expressly made by the authorising law or the relevant instrument.

- (6) In this section:

*ACT law* means an Act, subordinate law or disallowable instrument.

*applying* includes adopting or incorporating.

*disallowable instrument*, for a Commonwealth Act, means a disallowable instrument under the *Acts Interpretation Act 1901* (Cwlth), section 46A.

*instrument* does not include a law.

*law* means an ACT law or law of another jurisdiction.

*law of another jurisdiction* means—

- (a) a Commonwealth Act, or any regulations, rules, ordinance or disallowable instrument under a Commonwealth Act; or
- (b) a State Act, or any regulations or rules under a State Act; or
- (c) a New Zealand or Norfolk Island Act, or any regulations or rules under a New Zealand or Norfolk Island Act.

**48 Power to make instrument includes power to make different provision for different categories etc (IA s 27E)**

- (1) Power given under an Act or statutory instrument to make a statutory instrument includes power—
- (a) to make different provision with respect to different matters or different classes of matters; or

- (b) to make an instrument that applies differently by reference to stated exceptions or factors.
- (2) Without limiting subsection (1), power given under an Act or statutory instrument to make a statutory instrument about particular matters includes power to make a statutory instrument about any 1 or more of the matters or a particular class of the matters.
- (3) For this section, a class may consist of a single matter.

**49 Single instrument may exercise several powers or satisfy several requirements (IA s 27F)**

- (1) Power given under an Act or statutory instrument may be exercised with any other power to make a single instrument—
  - (a) whether or not the powers are exercised in relation to separate provisions, some of the same provisions, or all of the provisions, of the instrument; or
  - (b) whether or not the other powers are given under the same Act or statutory instrument, another Act or statutory instrument or any other Territory law.
- (2) A statutory instrument is taken—
  - (a) to be made under each power given under Territory law under which it could be made; and
  - (b) to satisfy each requirement under Territory law that it could satisfy.
- (3) Without limiting subsection (2), that subsection applies to an instrument even though—
  - (a) it is stated to be made under a particular Territory law (the *authorising law*) or a particular provision of the authorising law; and
  - (b) it is stated to be made for a particular Territory law (the *requiring law*) or a particular provision of the requiring law.

**50 Relationship between authorising law and instrument dealing with same matter (IA s 27G)**

If an Act or statutory instrument (the *authorising law*) gives power to make a statutory instrument about a matter, the instrument may make provision with respect to a particular aspect of the matter even though provision is made by the authorising law in relation to another aspect of the matter or in relation to another matter.

**51 Instrument may make provision in relation to land by reference to map etc (IA s 27GA)**

- (1) This section applies if an Act or statutory instrument authorises or requires provision to be made by statutory instrument in relation to land or waters.
- (2) Provision may be made by reference to—
  - (a) a particular map or plan held by an entity; or
  - (b) a particular entry in a register kept by an entity;

if the map, plan or register is available for inspection by members of the public, whether or not on payment of a fee.

**52 Instrument may authorise determination of matter etc (IA s 27GB)**

- (1) This section applies if an Act or statutory instrument (the *authorising law*) authorises or requires provision to be made about a matter by statutory instrument.
- (2) A statutory instrument made under the authorising law may make provision about the matter by authorising or requiring a stated entity to make provision about the matter, or any aspect of the matter, whether or not from time to time.
- (3) In this section:

*provision*, for a matter, includes determining or regulating the matter, applying the instrument to the matter, being satisfied or

forming an opinion about anything relating to the matter, or doing anything else in relation to the matter.

**Example**

If an Act provides that an application is to be in a prescribed form, regulations made under the Act may provide that the form is to be that approved by the Minister.

**53 Instrument may prohibit (IA s 27GC)**

If an Act or statutory instrument authorises or requires a matter to be regulated (however described) by statutory instrument, the power may be exercised by prohibiting by statutory instrument the matter or any aspect of the matter.

**54 Instrument may require the making of statutory declaration (IA s 27H)**

- (1) If an Act or statutory instrument (the *authorising law*) gives power to make a statutory instrument, the instrument may require the making of a statutory declaration.
- (2) Subsection (1) applies—
  - (a) whether or not the authorising law authorises or requires penalties to be prescribed by instrument; and
  - (b) if the authorising law authorises or requires penalties to be prescribed by instrument—irrespective of the level of penalties that may be prescribed.

## Part 6.3                      Making of certain statutory instruments about fees

### 55      Definitions for pt 6.3

In this part:

*fee* includes a charge or other amount.

*provide* a service includes exercise a function.

*service* includes a function or facility.

### 56      Determination of fees by disallowable instrument

- (1) This section applies if an Act (the *authorising law*) authorises fees to be determined for 1 of the following (the *relevant law*):
  - (a) the authorising law; or
  - (b) another Act or statutory instrument.
- (2) The authorising law authorises a fee to be determined with respect to any matter under or related to the relevant law.
- (3) To remove any doubt, a fee may be determined for a provision of the relevant law even though the provision does not mention a fee.

#### Example

The X Act, section 15 provides for a person to apply for an approval but makes no mention of a fee for the approval. However, section 79 (1) of the Act provides:

The Minister may, in writing, determine fees for this Act.

Because section 79 (1) permits a fee to be determined ‘for this Act’, the *Legislation Act 2001*, section 56 applies in relation to section 15 and the Minister may determine an application fee for the approval.

- (4) A fee may be determined—
  - (a) by specifying the fee; or

- (b) by setting a rate, or providing a formula or other method, by which the fee is to be worked out; or
- (c) a combination of a specified fee and a rate, formula or other method.

**Examples of different methods of determining fees**

An instrument may determine a fee by specifying an amount (eg \$250), or a rate (eg \$7.50 per kilogram). An instrument may also determine a fee by providing a formula. For example, the fee for a licence issued for part of a year could be worked out using the following formula:

$$\text{annual fee} \times \frac{\text{whole and part months for which licence issued}}{12}$$

- (5) The determination—
  - (a) must provide by whom the fee is payable; and
  - (b) must provide to whom the fee is to be paid; and
  - (c) may make provision about the circumstances in which the fee is payable; and
  - (d) may make provision about exempting a person from payment of the fee; and
  - (e) may make provision about when the fee is payable and how it is to be paid (for example, as a lump sum or by instalments); and
  - (f) may mention the service for which the fee is payable; and
  - (g) may make provision about waiving, postponing or refunding the fee (in whole or part); and
  - (h) may make provision about anything else relating to the fee.

**Example for par (a)**

A provision that the owner for the time being of a vehicle is liable for any unpaid registration fee.

**Examples for par (c)**

- 1 A provision that a document prepared and submitted in accordance with a condition imposed under the Act be accompanied by a fee.
- 2 A provision that royalty ceases to be payable if the percentage of recoverable minerals is less than the prescribed limit.

**Examples for par (e)**

- 1 A provision that a levy is payable within 30 days after a sale of goods.
- 2 A provision that, if a licensee fails to pay an instalment payable in the financial year within 14 days after the day it is payable, all remaining instalments payable in the financial year become payable.

**Example for par (g)**

A provision that a stated official may waive all or part of a charge in stated circumstances, including if the official is satisfied about a stated circumstance.

**57 Fees payable in accordance with determinations etc**

- (1) A fee determined by a disallowable instrument is payable by the person by whom the fee is payable under the determination, in relation to the service (if any) mentioned in the determination and in accordance with the determination, to the person to whom the fee is payable under the determination.
- (2) If a service is mentioned in the determination, the fee is payable before the service is provided unless the determination provides otherwise.
- (3) If the fee is payable in relation to a service mentioned in the determination and the fee has not been paid in accordance with the determination, no-one is obliged to provide the service.

**Examples**

- 1 If a fee for a service is payable in advance under a disallowable instrument and the fee is not paid, there is no obligation to provide the service.
- 2 If fees for services over a period of time are payable by instalment under a disallowable instrument and the person paying the fees falls behind in payments on the instalments, there is no obligation to provide further services for the person.



- (4) Subsection (3) applies to a service even though, apart from that subsection, someone is under a duty to provide the service.

**Example**

A provision of an Act provides that a registrar ‘must’ renew a licence if the holder of the licence applies to the registrar for its renewal before the end of the licence term. If a fee is determined for renewal of the licence, the registrar is not required to renew the licence unless the fee is paid.

**58 Regulations may make provision about fees**

- (1) This section applies if an Act (the *authorising law*)—
- (a) authorises or requires fees to be determined for the authorising law, or another Act or a statutory instrument (the *fees law*); and
  - (b) the authorising law authorises the making of regulations by the Executive.
- (2) Regulations under the authorising law may make provision in relation to—
- (a) the payment, collection and recovery of determined fees; and
  - (b) the waiver, postponement or refund of the fees (in whole or part); and
  - (c) anything else about which provision may, under section 56 (Determination of fees by disallowable instrument), be made by determination in relation to determined fees.
- (3) The power mentioned in subsection (2) (b) includes power to make provision in relation to an entitlement to a waiver, postponement or refund of determined fees in circumstances prescribed under the regulations (including the removal of a statutory capacity).
- (4) Regulations or the authorising law may make provision in relation to the payment of determined fees by cheque or credit card, including, for example, the consequences of a cheque not being honoured on presentation or a credit card transaction not being honoured.

- (5) Regulations or the authorising law may make provision in relation to the removal of a statutory capacity if any determined fee—
- (a) is not paid when it is required to be paid; or
  - (b) is paid by cheque and the cheque is not honoured on presentation; or
  - (c) is paid by credit card and the credit card transaction is not honoured.
- (6) Regulations or the authorising law may make provision in relation to the restoration of a statutory capacity (whether prospectively or during any past period).
- (7) This section is in addition to any provision of the authorising law or fees law.
- (8) In this section:

*credit card* includes debit card.

*removal*, of a statutory capacity, includes suspension, cancellation, revocation, withdrawal, surrender or other prescribed restriction or termination of a statutory capacity under the fees law or authorising law.

*statutory capacity* includes an accreditation, approval, assessment, authority, certificate, condition, decision, determination, exemption, licence, permission, permit, registration or other prescribed thing giving a status, privilege or benefit under the fees law or authorising law (whether or not required under either law for doing anything).

## **Part 6.4**                      **Numbering and notification of registrable instruments**

### **59**      **Numbering (SLA s 4 (1))**

- (1) The registrable instruments registered in each year must be numbered by the parliamentary counsel as nearly as practicable in the order in which they are notified.
- (2) However, the parliamentary counsel may—
  - (a) allocate different kinds of statutory instruments to different series for numbering purposes; or
  - (b) add distinguishing letters to numbers to indicate the kind of statutory instrument.

#### **Examples**

- 1 The parliamentary counsel may number subordinate laws, disallowable instruments, commencement notices and other registrable instruments in different series.
  - 2 The parliamentary counsel could add the letters 'SL' to the numbers of registered subordinate laws, the letters 'DI' to the numbers of registered disallowable instruments and the letters 'CN' to the numbers of registered commencement notices.
- (3) Also, the regulations may provide that this section does not apply to a notifiable instrument of a kind prescribed under the regulations.

### **60**      **Correction of name of registrable instrument**

- (1) This section applies if a registrable instrument is unnamed or the name it gives to itself—
  - (a) includes a year that is not the year in which the instrument was made; or
  - (b) is the same as another registrable instrument that has been, or is to be, notified under this Act; or

- (c) includes a number that is not consecutive with other registrable instruments that have been notified under this Act; or
- (d) does not include a number that would give the instrument a unique name.

**Example for par (c)**

A registrable instrument has the name '*XYZ Amendment Rule 2000 (No 5)*'. Registrable instruments with the names '*XYZ Amendment Rule 2000 (No 1)*', '*XYZ Amendment Rule 2000 (No 2)*' and '*XYZ Amendment Rule 2000 (No 3)*' have already been notified under the Act

**Example for par (d)**

A registrable instrument has the name '*XYZ Amendment Rule 2000 (No )*'.

- (2) The parliamentary counsel is authorised, before notifying the registrable instrument under this Act—
  - (a) to add a name to an unnamed instrument; or
  - (b) to amend the instrument's name to bring it into line with current legislative drafting practice.
- (3) If the name of a registrable instrument is added or amended under this section, the instrument has effect for all purposes as if the instrument were made with the name as added or amended.

**61 Notification of registrable instruments (SLA s 6 (1) (a), (2)-(5))**

- (1) If a registrable instrument is made, the maker of, or the appropriate person for, the instrument may ask the parliamentary counsel to notify the making of the instrument.
- (2) If the maker of, or appropriate person for, a registrable instrument asks the parliamentary counsel to notify the making of the instrument and complies with the requirements (if any) prescribed under the regulations, the parliamentary counsel must—
  - (a) notify the making of the instrument in the register; or

- (b) if it is not practicable to notify the making of the instrument in the register, or make the text of the instrument and the notification of its making accessible at 1 or more approved web sites, when the instrument is to be notified—notify the making of the instrument in the Gazette.
- (3) The making of the registrable instrument is notified in the register by entering in the register—
  - (a) a statement that the instrument has been made; and
  - (b) the text of the instrument.
- (4) The making of the registrable instrument is notified in the Gazette by—
  - (a) publishing the text of the instrument in the Gazette; or
  - (b) publishing in the Gazette a statement—
    - (i) that the instrument has been made; and
    - (ii) of the place or places where copies of the instrument can be purchased.
- (5) If the making of the registrable instrument is notified in the Gazette, the parliamentary counsel must later enter in the register—
  - (a) a statement that the instrument has been made; and
  - (b) a statement that the instrument was notified in the Gazette on a stated date; and
  - (c) the text of the instrument.
- (6) If the registrable instrument is notified in the Gazette by publishing the statement mentioned in subsection (4) (b), copies of the instrument must be available for purchase on the day of the publication (the *Gazette date*), or as soon as practicable after the Gazette date, at the place, or each of the places, stated in the Gazette.

- (7) If on the Gazette date no copies of the registrable instrument are available for purchase at the place, or any of the places, stated in the Gazette, the parliamentary counsel must give the Minister a statement—
- (a) that copies of the law were not available; and
  - (b) explaining why they were not available.
- (8) The Minister must present the statement to the Legislative Assembly within 6 sitting days after the Gazette date.
- (9) In this section:
- appropriate person*, for a registrable instrument, means—
- (a) for a registrable instrument made or approved (however described) by the Executive—a Minister; and
  - (b) for rules of a court or tribunal—the registrar of the court or tribunal; and
  - (c) for a registrable instrument prescribed under the regulations—a person prescribed under the regulations as the appropriate person for the instrument.

## **62 Effect of failure to notify registrable instrument**

A registrable instrument is not enforceable by or against the Territory or anyone else unless it is notified.

## **63 References to *notification* of registrable instruments**

In an Act or statutory instrument, a reference to the *notification* of a registrable instrument is a reference to the instrument having been notified in the register or Gazette.

## **Chapter 7 Presentation, amendment and disallowance of subordinate laws and disallowable instruments**

*Note* In this chapter, a reference to a subordinate law or disallowable instrument includes a reference to a provision of a subordinate law or disallowable instrument (see s 8 (2) and s 9 (2)).

### **64 Presentation (SLA s 6 (1) (c), (6), (8), and s 10)**

- (1) A subordinate law or disallowable instrument must be presented to the Legislative Assembly within 6 sitting days after its notification day.
- (2) If a subordinate law or disallowable instrument is not presented under subsection (1), it is taken to be repealed.

### **65 Disallowance by resolution of Assembly (SLA s 6 (7), (7A), (8), and s 10)**

- (1) This section applies if notice of a motion to disallow a subordinate law or disallowable instrument is given in the Legislative Assembly within 6 sitting days after it is presented to the Assembly.
- (2) If the Legislative Assembly passes a resolution to disallow the subordinate law or disallowable instrument, it is taken to be repealed—
  - (a) on the day the disallowance is notified; or
  - (b) if the resolution provides that it takes effect on the day the resolution is passed—that day.

- (3) For this chapter, the Legislative Assembly is taken to have passed a resolution to disallow the subordinate law or disallowable instrument if, at the end of 6 sitting days after the notice is given—
  - (a) the notice has not been withdrawn and the motion has not been called on; or
  - (b) the motion has been called on and moved, but has not been withdrawn or otherwise disposed of.
- (4) If subsection (3) applies, the resolution is taken to be the resolution set out in the motion for the resolution.

**65A Notification of disallowance by resolution of Assembly**  
(SLA s 6 (8) and s 10)

- (1) If a subordinate law or disallowable instrument is disallowed, or taken to have been disallowed, under section 65 (Disallowance by resolution of Assembly), the Speaker must ask the parliamentary counsel to notify the disallowance.
- (2) If the Speaker asks the parliamentary counsel to notify the disallowance, the parliamentary counsel must—
  - (a) notify the disallowance in the register; or
  - (b) if it is not practicable to notify the disallowance in the register, or make the text of the resolution and the notification of its making accessible at 1 or more approved web sites, when the disallowance is to be notified—notify the disallowance in the Gazette.
- (3) If the Speaker asks the parliamentary counsel to notify the disallowance on a particular day, the parliamentary counsel must notify the disallowance on that day unless it is impracticable to do so.



Section 65A

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- (4) The disallowance is notified in the register by entering in the register—
  - (a) a statement that the subordinate law or disallowable instrument has been disallowed under section 65; and
  - (b) the text of the resolution passed, or taken to have been passed, by the Legislative Assembly under section 65; and
  - (c) the day when the resolution was passed or taken to have been passed; and
  - (d) the day when the subordinate law or disallowable instrument is taken to be repealed because of the resolution.
- (5) The disallowance is notified in the Gazette by publishing in the Gazette—
  - (a) a statement that the subordinate law or disallowable instrument has been disallowed under section 65; and
  - (b) the text of the resolution passed, or taken to have been passed, by the Legislative Assembly under section 65; and
  - (c) the day when the resolution was passed or taken to have been passed; and
  - (d) the day when the subordinate law or disallowable instrument is taken to be repealed because of the resolution.
- (6) If the disallowance is notified in the Gazette, the parliamentary counsel must later enter in the register—
  - (a) a statement that the subordinate law or disallowable instrument has been disallowed under section 65; and
  - (b) a statement that the disallowance was notified in the Gazette on a stated date; and
  - (c) the text of the resolution passed, or taken to have been passed, under section 65; and

- (d) the day when the resolution was passed or taken to have been passed; and
- (e) the day when the subordinate law or disallowable instrument is taken to be repealed because of the resolution.

**66 Revival of affected laws (SLA s 6 (9), and s 10)**

- (1) This section applies if—
  - (a) a subordinate law or disallowable instrument (the *disallowed law*) is taken to be repealed under section 64 (Presentation) or section 65 (Disallowance by resolution of Assembly); and
  - (b) the disallowed law repealed or amended an Act or statutory instrument (the *affected law*); and
  - (c) the repeal or amendment has commenced.
- (2) The affected law is revived, from the beginning of the day after the disallowed law is taken to have been repealed, as if the disallowed law had never been made.

**67 Making of instrument same in substance within 6 months after disallowance (SLA s 6 (10), (16), and s10)**

- (1) This section applies if a subordinate law or disallowable instrument (the *disallowed law*) is disallowed under section 65 (Disallowance by resolution of Assembly).
- (2) A subordinate law or disallowable instrument the same in substance must not be made within 6 months after the disallowance unless the Legislative Assembly has—
  - (a) rescinded the resolution that disallowed the disallowed law; or
  - (b) by resolution, approved the making of—
    - (i) a subordinate law or disallowable instrument in those terms; or

(ii) a subordinate law or disallowable instrument the same in substance as the disallowed law.

(3) A subordinate law or disallowable instrument made in contravention of this section is void.

**68 Amendment by resolution of Assembly** (SLA s 6 (7A), (11), (13)-(15), (17), (18), and s 10)

(1) In this section:

*amendment* does not include an amendment that would have the effect of waiving or changing any fee, charge, penalty or other amount payable to the Territory.

*disallowable instrument* does not include a determination of fees or charges by a Minister under an Act or subordinate law.

(2) This section applies if notice of a motion to amend a subordinate law or disallowable instrument is given in the Legislative Assembly within 6 sitting days after it is presented to the Assembly.

(3) If the Legislative Assembly passes a resolution to amend the subordinate law or disallowable instrument, it is amended accordingly—

(a) on the day the amendment is notified; or

(b) if the resolution provides that it takes effect on the day the resolution is passed—that day.

(4) For this chapter, the Legislative Assembly is taken to have passed a resolution to amend the subordinate law or disallowable instrument if, at the end of 6 sitting days after the notice is given—

(a) the notice has not been withdrawn and the motion has not been called on; or

(b) the motion has been called on and moved, but has not been withdrawn or otherwise disposed of.

- (5) If subsection (4) applies, the resolution is taken to be the resolution set out in the motion for the resolution.
- (6) An amendment under this section has effect for all purposes as if it had been made by an Act.
- (7) Without limiting subsection (6), section 83 (Consequences of amendment of statutory instrument by Act) applies to the amendment as if it had been made by an Act.

**69 Notification of amendments made by resolution of Assembly (SLA s 6 (12), and s 10)**

- (1) If a subordinate law or disallowable instrument (the *amended law*) is amended under section 68 (Amendment by resolution of Assembly), the Speaker must ask the parliamentary counsel to notify the amendment.
- (2) If the Speaker asks the parliamentary counsel to notify the amendment, the parliamentary counsel must—
  - (a) notify the amendment in the register; or
  - (b) if it is not practicable to notify the amendment in the register, or make the text of the resolution and the notification of its making accessible at 1 or more approved web sites, when the amendment is to be notified—notify the amendment in the Gazette.
- (3) If the Speaker asks the parliamentary counsel to notify the amendment on a particular day, the parliamentary counsel must notify the amendment on that day unless it is impracticable to do so.
- (4) The amendment is notified in the register by entering in the register—
  - (a) a statement that the amendment of the amended law has been made under section 68; and

Section 69

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- (b) the text of the resolution passed, or taken to have been passed, by the Legislative Assembly under section 68; and
  - (c) the day when the resolution was passed or taken to have been passed; and
  - (d) the day when the subordinate law or disallowable instrument is taken to be repealed because of the resolution.
- (5) The amendment is notified in the Gazette by publishing in the Gazette—
- (a) a statement that the amendment of the amended law has been made under section 68; and
  - (b) the text of the resolution passed, or taken to have been passed, by the Legislative Assembly under section 68; and
  - (c) the day when the resolution was passed or taken to have been passed; and
  - (d) the day when the subordinate law or disallowable instrument is taken to be amended because of the resolution.
- (6) If the amendment is notified in the Gazette, the parliamentary counsel must later enter in the register—
- (a) a statement that the amendment of the amended law has been made under section 68; and
  - (b) a statement that the amendment was notified in the Gazette on a stated date; and
  - (c) the text of the resolution passed, or taken to have been passed, by the Legislative Assembly under section 68; and
  - (d) the day when the resolution was passed or taken to have been passed; and
  - (e) the day when the subordinate law or disallowable instrument is taken to be amended because of the resolution.

**70 Making of amendment restoring effect of law within 6 months after amendment (SLA s 6 (10), (16), and s 10)**

- (1) This section applies if a subordinate law or disallowable instrument (the *amended law*) is amended under section 68 (Amendment by resolution of Assembly).
- (2) A subordinate law or disallowable instrument the same in substance as the amended law before the amendment (the *earlier law*) must not be made within 6 months after the making of the amendment unless the Legislative Assembly has—
  - (a) rescinded the resolution that made the amendment; or
  - (b) by resolution approved the making of—
    - (i) a subordinate law or disallowable instrument in those terms; or
    - (ii) a subordinate law or disallowable instrument the same in substance as the earlier law.
- (3) A subordinate law or disallowable instrument made in contravention of this section is void.

**71 Effect of dissolution or expiration of Legislative Assembly on notice of motion (SLA s 6 (7B), and s 10)**

- (1) This section applies if—
  - (a) notice of motion to disallow or amend a subordinate law or disallowable instrument is given in the Legislative Assembly within 6 sitting days after the instrument is presented to the Assembly; and
  - (b) within 6 sitting days after the notice is given, the Assembly is dissolved or expires; and
  - (c) at the time of the dissolution or expiry—

**Chapter 7** Presentation, amendment and disallowance of subordinate laws and disallowable instruments

Section 71

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- (i) the notice has not been withdrawn and the motion has not been called on; or
  - (ii) the motion has been called on and moved, but has not been withdrawn or otherwise disposed of.
- (2) For this chapter, the subordinate law or disallowable instrument is taken to have been presented to the Legislative Assembly on the first sitting day of the Assembly after the next general election of members of the Assembly.

## Chapter 8 Commencement and exercise of powers before commencement

### 72 Meaning of *law* in ch 8

In this chapter:

*law* means an Act, subordinate law or disallowable instrument, and includes a provision of a law.

### 73 General rules about commencement (IA s 10, SLA s 6 (1) (b))

- (1) An Act commences—
  - (a) on its notification day; or
  - (b) if the Act provides for a different date or time of commencement—on that date or at that time.
- (2) A subordinate law, disallowable instrument or notifiable instrument commences—
  - (a) on its notification day; or
  - (b) if an Act or the instrument provides for a later date or time of commencement—on that date or at that time; or
  - (c) if an Act provides for an earlier date or time of commencement—on that date or at that time; or
  - (d) if the instrument, under authority given by an Act, provides for an earlier date or time—on that date or at that time.

#### Examples for par (b)

- 1 A subordinate law may provide that it commences on a stated future date or at a stated time on a stated future date.



Section 73

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- 2 A disallowable instrument may provide that it commences on the day, or immediately after, a stated law, or a stated provision of a stated law, commences.
  - 3 A notifiable instrument may provide that it commences on the expiry of a stated statutory instrument.
  - 4 A notifiable instrument may provide that it commences on the date fixed by a Commonwealth Minister, by notice in the Commonwealth Gazette, under a stated Commonwealth Act.
- (3) Without limiting subsection (2), if a subordinate law, disallowable instrument or notifiable instrument is notified on a day after the day or time provided by the instrument for its commencement, and subsection (2) (c) or (d) does not apply to the instrument—
- (a) the instrument is valid; but
  - (b) the instrument commences on its notification day.
- (4) A statutory instrument that is not a registrable instrument commences—
- (a) on the day it is made or, if it is required under an Act or statutory instrument to be approved (however described) by the Executive, a Minister or any other entity, the day it is approved; or
  - (b) if an Act or the instrument provides for a later date or time of commencement—on that date or at that time; or
  - (c) if an Act provides for an earlier date or time of commencement—on that date or at that time; or
  - (d) if the instrument, under authority given by an Act, provides for an earlier date or time—on that date or at that time.
- (5) This section is subject to the following sections:
- (a) section 75 (Commencement of naming and commencement provisions on notification day);
  - (b) section 76 (Non-prejudicial provision may commence retrospectively);

(c) section 79 (Automatic commencement of postponed law).

**74 Time of commencement (IA s 10A)**

If a law commences on a day, it commences at the beginning of the day.

**75 Commencement of naming and commencement provisions on notification day (IA s 10B)**

- (1) The provisions of a law providing for its name and commencement automatically commence on its notification day.
- (2) This section applies to a law despite anything in the law unless it expressly provides that this section does not apply.

**76 Non-prejudicial provision may commence retrospectively (SLA s 7)**

- (1) A statutory instrument may provide that a non-prejudicial provision of the instrument commences retrospectively.
- (2) This section applies to a non-prejudicial provision of a statutory instrument only if the instrument clearly indicates that the provision is to commence retrospectively.

**Example**

The instrument provides that a non-prejudicial provision is ‘taken to have commenced’ at an earlier date or time.

- (3) In this section:

*non-prejudicial provision* means a provision that does not operate to the disadvantage of a person (other than the Territory or a Territory authority or instrumentality) by—

- (a) adversely affecting the person’s rights; or
- (b) imposing liabilities on the person.

**77 Commencement by commencement notice (IA s 10C)**

- (1) If a law is expressed to commence on a day fixed or otherwise determined by a notice—
- (a) a single day, or a time on a single day, may be fixed or determined; or
  - (b) different days or times may be fixed or determined for different provisions.

**Example**

The *Hypothetical Act 2001* is expressed to commence on a day to be fixed by the Minister by notice. Unless the Act has commenced automatically in accordance with section 79 (Automatic commencement of postponed law), any of the following arrangements for commencement would be possible:

- (a) a notice could fix a single day (eg 5 June 2001) for the entire Act to commence;
  - (b) a notice could fix a time on a single day (eg 8 pm on 5 June 2001) for the entire Act to commence;
  - (c) a notice could fix different days or times for the different provisions of the Act to commence (eg parts 7 and 9 and schedule 4 commence on 5 June 2001, part 11 commences at 5 pm on 30 June 2001, and the remaining provisions of the Act commence on 1 July 2001);
  - (d) a notice could fix a single day (eg 5 June 2001) or a time on a single day (eg 8 pm on 5 June 2001) for the provisions of the Act not already commenced to come into operation.
- (2) If the day or time fixed by a commencement notice for the commencement of an Act happens before the notification day of the notice—
- (a) the notice is valid; but
  - (b) the Act commences on the notification day of the notice.

**78 Separate commencement of amendments (IA s 10D)**

An amendment made by a provision of a law may be given a separate commencement, whether or not the provision is self-contained.

**Examples**

- 1 Each paragraph of a provision of an amending law may be given a separate commencement.
- 2 Each item in a schedule to an amending law may be given a separate commencement.

**79 Automatic commencement of postponed law (IA s 10E)**

- (1) If a postponed law has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period.

**Example**

The *Hypothetical Act 2001* was notified on 5 July 2001 and was expressed to commence on a day to be fixed by the Minister by notice. If the Act had not commenced by notice on or before 4 January 2002, it would automatically commence on 5 January 2002.

- (2) This section applies to a postponed law unless a law expressly states it does not apply.
- (3) In this section:

*enact* includes make.

*notification day*, for a postponed law, means the notification day of—

- (a) if the postponed law is a law—the law; or
- (b) if the postponed law is a provision of a law—the law that enacts the provision.

*postponed law* means a law or provision of a law that does not commence on the notification day because a law postpones its

commencement until a day or time fixed or determined by a commencement notice.

### **80 References to commencement of law (IA s 11)**

In a law, a reference to the *commencement* of the law, or another law (the *law concerned*), is a reference to—

- (a) if the provisions of the law concerned (other than those providing for its name and commencement) commence, or are required to commence, on a single day or at a single time—the commencement of the remaining provisions; or
- (b) if paragraph (a) does not apply and the reference is in a provision of the law concerned—the commencement of the provision; or
- (c) in any other case—the commencement of the relevant provision of the law concerned.

### **81 Exercise of powers between notification and commencement (SLA s 5)**

- (1) This section applies to a power to make an appointment or a statutory instrument, or to do anything else, in the following situations:
  - (a) the power is given by a law (the *authorising law*) that has been notified but does not commence on the law's notification day;
  - (b) the power is given by a law (the *authorising law*) as amended by another law (the *amending law*) and both laws have been notified, but either or both of them do not commence on their notification days.
- (2) The power may be exercised at any time even though the authorising law, or the authorising and amending laws (or either of them), is not in force at the time.

- (3) Also, anything else may be done under the power at any time for the purpose of bringing, or in relation to bringing, the authorising law, or the authorising law as amended by the amending law, into operation.
- (4) If an appointment or statutory instrument made under this section declares that this subsection applies to it, then, unless the appointment or instrument commences on a different date or at a different time under another provision of this chapter, the appointment or instrument commences on—
  - (a) for an appointment or statutory instrument that is a registrable instrument—the notification day of the instrument; or
  - (b) for any other appointment or statutory instrument—the day it is made.
- (5) In any other case, an appointment or statutory instrument made under this section commences on the latest of the following:
  - (a) the commencement of the authorising law or, if subsection (1)(b) applies and the amending law commences after the authorising law, the commencement of the amending law;
  - (b) on the day or at the time the appointment or instrument would have commenced if it had not been made under this section.

## Chapter 9            Repeal and amendment of laws

### Part 9.1            General

#### 82    Definitions for ch 9 (IA s 37)

In this chapter:

*amend* includes modify.

*law* means an Act, subordinate law or disallowable instrument, and includes a provision of a law.

*repeal* includes expiry.

#### 83    Consequences of amendment of statutory instrument by Act (SLA s 8A)

If an Act amends a statutory instrument, the instrument may be amended or repealed as if the amendment had been made by another statutory instrument of that kind.

#### 84    Saving of operation of repealed and amended laws (IA s 41)

- (1) The repeal or amendment of a law does not—
  - (a) revive anything not in force or existing when the repeal or amendment takes effect; or
  - (b) affect the previous operation of the law or anything done, begun or suffered under the law; or
  - (c) affect an existing right, privilege or liability acquired, accrued or incurred under the law.

- (2) An investigation, proceeding or remedy in relation to an existing right, privilege or liability under the law may be begun, exercised, continued or completed, and the right, privilege or liability may be enforced and any penalty imposed, as if the repeal or amendment had not happened.
- (3) Without limiting subsections (1) and (2), the repeal or amendment of a law does not affect—
  - (a) the proof of anything that has happened; or
  - (b) any right, privilege or liability saved by the law.
- (4) This section does not limit any other provision of this chapter and is in addition to any provision of the law by which the repeal or amendment is made.
- (5) In this section:
  - liability* includes liability to penalty for an offence against the law.
  - penalty* includes punishment and forfeiture.
  - privilege* includes immunity.
  - right* includes capacity, interest, status and title.

#### **84A Creation of offences and changes in penalties (IA s 33A)**

- (1) If a law makes an act or omission an offence, the act or omission is only an offence if done or not done after the law commences.
- (2) If a law increases the maximum or minimum penalty, or the penalty, for an offence, the increase applies only to an offence committed after the law commences.
- (3) If a law reduces the maximum or minimum penalty, or the penalty, for an offence, the reduction applies to an offence committed before or after the law commences, but does not affect any penalty imposed before the law commences.



**Chapter 9**  
**Part 9.1**

Repeal and amendment of laws  
General

Section 84A

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- (4) This section applies to a law unless the law expressly provides that this section does not apply.

## Part 9.2 Repeal

### 85 When repeal takes effect (IA s 38)

If a law is repealed on a day, the law continues in force until the end of the day and the repeal takes effect at midnight on the day.

### 86 Repealed and amended laws not revived on repeal of repealing and amending laws (IA s 39)

- (1) If a law (the *first law*) is repealed by another law (the *other law*), the first law is not revived merely because the other law is repealed.

#### Examples

- 1 Act A repeals Act B. Act A is repealed. The repeal of Act A does not revive Act B.
- 2 Act A repeals Act B. Act A is automatically repealed under section 89 of this Act (Automatic repeal of certain laws and provisions). The repeal of Act A does not revive Act B.

- (2) If a law (the *first law*) is amended by another law (the *other law*), the continuing operation of the amendments made by the other law is not affected merely because the other law is repealed and, in particular, the first law is not revived in the form in which it was in before the amendments took effect merely because of the repeal.

#### Examples

- 1 Act A amends Act B. Act A is repealed after it has commenced by a later Act C. The amendments made by Act A continue to operate, even though Act A has been repealed.
- 2 Act A amends Act B. Act A is automatically repealed under section 89 of this Act. The amendments made by Act A continue to operate, even though Act A has been repealed.

- (3) This section does not limit any other provision of this chapter and is in addition to any provision of the law by which the repeal is made.

(4) In this section:

*amended* does not include modified.

*law* includes a rule of the common law (including equity).

**Examples**

- 1 a common law offence
- 2 a common law rule of practice or procedure
- 3 a right to equitable relief

**87 Commencement not undone if repealed (IA s 40)**

- (1) If a provision of a law providing for the commencement of the law is repealed after the law has commenced, the repeal of the provision does not affect the continuing operation of the law.
- (2) If a commencement notice providing for the commencement of a law is repealed after the law has commenced, the repeal of the notice does not affect the continuing operation of the law.
- (3) This section does not limit any other provision of this chapter and is in addition to any provision of the law by which the repeal is made.

**88 Repeal does not end transitional or validating effect etc (IA s 42)**

- (1) If a law—
  - (a) declares something for a transitional purpose (whether or not the law is expressed to be made for that purpose); or
  - (b) validates something that is or may otherwise be invalid; or

- (c) declares something for a purpose that is consequential on a declaration mentioned in paragraph (a) or a validation mentioned in paragraph (b) (whether or not the law is expressed to be made for a purpose of that kind);

the declaratory or validating effect of the law does not end merely because of the repeal of the law.

**Example for par (a)**

A provision stating that an existing licence under a repealed Act is taken to be a licence of a particular kind under another Act and authorising the imposition of conditions under the other Act.

**Example for par (b)**

A provision declaring an instrument to have been validly made and acts done in reliance on the instrument to have been validly done.

**Example for par (c)**

A provision stating that an instrument that is declared valid is taken to have been amended in a particular way.

- (2) If a law (the *savings law*) declares a law (the *declared law*) to be a law to which this section applies—
- (a) the effect of the declared law does not end only because of its repeal; and
  - (b) the effect of the savings law does not end only because of its repeal.
- (3) A declaration may be made for subsection (2) about a law whether or not the Act is a law to which subsection (1) applies.
- (4) A declaration made for subsection (2) about a law does not imply that, in the absence of a declaration about it, another law is not a law to which this section applies.
- (5) This section does not limit any other provision of this chapter and is in addition to any provision of the law by which the repeal is made.

**89 Automatic repeal of certain laws and provisions (IA s 43)**

- (1) An amending law is automatically repealed on the day after all of its provisions have commenced.
- (2) An appropriation Act is automatically repealed on the last day of the financial year for which it makes appropriations.
- (3) An amending provision of a law is automatically repealed on the day after all of the amendments and repeals made by it (or to which it relates) have commenced.
- (4) A commencement provision of a law is automatically repealed on the day after all of the provisions of the law have commenced.
- (5) A commencement notice is automatically repealed on the day after the day, or the last of the days, fixed or otherwise determined by the notice for the commencement of a law.
- (6) A repeal under this section has effect for all purposes, including, for example, any other provisions of this chapter about repeals.
- (7) This section does not limit any other provision of this chapter.
- (8) In this section:

***amending law*** means a law that consists only of provisions of the following kinds:

- (a) for an Act—the Act’s long title;
- (b) for an Act—the Act’s preamble (if any);
- (c) a provision about the law’s name;
- (d) a provision about the law’s commencement;
- (e) a provision about the purposes of the law or any of its provisions;
- (f) a provision about the effect of notes;

- (g) a provision providing for the amendment or repeal of a law or statutory instrument (including a provision identifying the amended or repealed law or statutory instrument);
- (h) a provision declaring a law to be a law to which section 88 (Repeal does not end transitional or validating effect etc) applies;
- (i) a provision about the renumbering of a law;
- (j) a provision authorising or requiring something to be done under chapter 11 (Republication of Acts and statutory instruments).

***amending provision***, of a law, means a provision of the law that only amends or repeals a law or statutory instrument, and includes any other provision (for example, a schedule) of the law that only identifies the law or instrument amended or repealed.

***appropriation Act***—see the *Financial Management Act 1996*, section 3.

***commencement provision***, of a law, means a provision of the law that only provides for the commencement of the law.

**Example 1**

The *Hypothetical Amending Act 2002* repeals and amends a number of Acts. The Act contains the following provisions:

- a long title
- a provision about the Act's name
- a provision about the Act's commencement
- repealing provisions (that is, a provision stating that the Act repeals the Acts mentioned in schedule 1 and a schedule (schedule 1) setting out the names of the repealed Acts)
- amending provisions (that is, a provision stating that the Act amends the Acts mentioned in schedule 2 and a schedule (schedule 2) setting out the amended Acts and the amendments made to them)
- a provision about the application of section 88 (Repeal does not end transitional or validating effect etc) of this Act to a provision being repealed

Section 89

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- a provision requiring an amended Act (the *XYZ Act 1990*) to be renumbered under chapter 10 in the next authorised republication of the *XYZ Act 1990*.

The Act contains no other provisions. Its repealing provisions, and its other provisions apart from the amending provisions, commence on the date of notification, 21 March 2002. Its amending provisions commence on a date fixed by the Minister by notice, 12 April 2002. Under subsection (1), the *Hypothetical Amending Act 2002* is automatically repealed on 13 April 2002.

**Example 2**

The *Example Act 2001* contains provisions establishing a new licensing scheme. It also amends several Acts and repeals others. Because it contains the scheme provisions, it is not an amending law covered by subsection (1).

## Part 9.3 Amendment

### 90 Law and amending laws to be read as one (IA s 44)

A law and all laws amending it are to be read as one.

### 91 Insertion of provisions by amending law (IA s 45)

- (1) This section applies if a law (the *amending law*) amends another law (the *amended law*) by inserting any of the following provisions, and does not exactly specify the position in the amended law where it is to be inserted:
  - (a) a chapter, part, division, subdivision, section or subsection (an *inserted chapter, part, division, subdivision, section or subsection*);
  - (b) a paragraph (an *inserted paragraph*);
  - (c) a subparagraph (an *inserted subparagraph*);
  - (d) a sub-subparagraph (an *inserted sub-subparagraph*);
  - (e) a definition (an *inserted definition*);
  - (f) any other provision (a *miscellaneous inserted provision*).
- (2) An inserted chapter, part, division, subdivision, section or subsection is inserted in the appropriate numerical or alphanumerical position in the amended law.
- (3) An inserted paragraph is inserted in the appropriate alphabetical position in the amended law.
- (4) An inserted subparagraph is inserted in the appropriate numerical or alphanumerical position in the amended law.
- (5) An inserted sub-subparagraph is inserted in the appropriate alphabetical position in the amended law.



- (6) An inserted definition is inserted in the appropriate alphabetical position (worked out on a letter-by-letter basis) in a series of definitions in the amended law.
- (7) A miscellaneous inserted provision is inserted in the appropriate position in the amended law.
- (8) In applying this section to a subordinate law or disallowable instrument or to a provision of a schedule to an Act, a reference to a section or subsection is a reference to a corresponding provision of the law, instrument or schedule.
- (9) In working out the appropriate position where a provision is to be inserted in the amended law, regard may be had to the following:
  - (a) the provision number or letter;
  - (b) the heading of the relevant amending provision of the amending Act;
  - (c) any other amendments in the amending law including the order of amendments;
  - (d) anything else in the amending law or amended law;
  - (e) current ACT legislative drafting practice.

**Examples**

- 1 If a part numbered '3' is to be inserted into an amended law with an existing sequence of parts 'part 1—part 2—part 4', inserted part 3 is inserted between parts 2 and 4.
- 2 If a division numbered '2.2A' is to be inserted into an amended law with an existing sequence of divisions in part 2 'division 2.1—division 2.2—division 2.3', inserted division 2.2A is inserted between divisions 2.2 and 2.3.
- 3 If a section numbered '6AA' is to be inserted into an amended law with an existing sequence of sections 'section 6—section 6A—section 6B', inserted section 6AA is inserted between sections 6A and 6B.
- 4 If a section numbered '7A' is to be inserted, by an amending section headed 'new section 7A, division 2.2', into an amended law with an existing sequence 'section 7 [in division 2.2]—division 2.3 [heading]—section 8',

inserted section 7A is inserted between section 7 and the heading to division 2.3 (that is, at the end of division 2.2).

- 5 If a section numbered '7A' is to be inserted, by an amending section headed 'new section 7A, division 2.3', into an amended law with an existing sequence 'section 7 [in division 2.2]—division 2.3 [heading]—section 8', inserted section 7A is inserted between the heading to division 2.3 and section 8 (that is, at the beginning of division 2.3).

- (10) In this section:

*insert* includes relocate.

## **92 Amendment to be made wherever possible (IA s 46)**

If a law amends another law—

- (a) by omitting a word; or
- (b) by substituting a word for another word; or
- (c) by inserting a word before or after a particular word;

the amendment is to be made wherever possible in the other law unless the law otherwise expressly provides.

## **93 Provisions included in another provision for amendment purposes (IA s 46A)**

- (1) This section applies for the purpose of amending a law.
- (2) The heading to a chapter, part, division, subdivision, schedule, dictionary, section or any other provision of the law forms part of the provision to which it is a heading.
- (3) An example at the end of a provision of the law is part of the provision unless the example is expressed in a way that indicates that it applies only to another provision.
- (4) A note at the end of a provision of the law is taken, for this section, to be part of the provision unless the note is expressed in a way that indicates that it applies only to another provision.

Section 93

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- (5) However, a note in a law is not, for any other purpose, part of the law.

*Note* Section 127 (Material that is not part of an Act or statutory instrument) deals with the status of notes.

- (6) A penalty at the end of a subsection of the law—
- (a) is part of the subsection unless the penalty is expressed in a way that indicates that it applies only to other subsections of the section; or
  - (b) if the penalty is expressed in a way that indicates that it applies only to other subsections—is part of the section.
- (7) A penalty at the end of a section of the law that is not divided into subsections is part of the section.
- (8) The word ‘and’, ‘or’ or ‘but’, or a similar word, at the end of a paragraph, subparagraph, sub-subparagraph or another provision of the law is part of the provision.
- (9) In working out whether an example or note is at the end of a provision of the law, any penalty is to be disregarded, and, for an example, any note is to be disregarded.

*Note* According to current legislative drafting practice, examples, notes and penalties to a provision are arranged in the following order at the end of provisions:

- 1 penalty (first)
- 2 examples
- 3 notes (last).

- (10) In applying this section to a subordinate law or disallowable instrument or to a provision of a schedule to an Act, a reference to a section or subsection is a reference to a corresponding provision of the law, instrument or schedule.

**94 Continuance of appointments etc made under amended provisions (IA s 47)**

- (1) This section applies if—
- (a) a law expressly or impliedly authorises or requires—
    - (i) the making of an appointment or statutory instrument; or
    - (ii) the delegation of a function; or
    - (iii) the doing of anything else; and
  - (b) the law is amended by another law; and
  - (c) under the amended law—
    - (i) the appointment or statutory instrument may be made (whether by the same or a different entity); or
    - (ii) the function may be delegated; or
    - (iii) the thing may be done.
- (2) An appointment, statutory instrument, delegation or other thing mentioned in subsection (1) that was in force immediately before the commencement of the amendment continues to have effect after the commencement as if it had been made or done under the amended law.
- (3) In this section:

*amend* includes omit and re-enact in the same law (with or without changes), but does not include omit and re-enact in another law.

**95 Status of modifications (IA s 48)**

If a law is modified by another law, the law operates as modified but the modification does not amend the text of the law.

**96 Relocated provisions (IA s 49)**

- (1) This section applies if a provision of a law is relocated (with or without changes) to a different place in the same law or to a different law.
- (2) The operation or meaning of the provision is not affected merely because of the provision's relocation.
- (3) Without limiting subsection (2), if before its relocation the provision was to be interpreted in a particular way, it is to be interpreted in that way in its new location.

**Example**

If a provision of an Act is to be interpreted as if it were a law consolidating the provisions of other laws and it is relocated into another Act, it is to be interpreted in the same way in its new location.

- (4) However, the provision has effect subject to any changes made to it.

## Chapter 10 Referring to laws

### 97 References to law or instrument include law or instrument containing reference (IA s 50 (2))

- (1) In a law, a reference in general terms to a law of the same kind includes a reference to the law itself.

**Example**

The *ABC Act 2001*, section 27 gives a power to confiscate property under certain circumstances. Section 93 of the same Act provides ‘If an Act authorises the confiscation of property, the owner of the property has a right of appeal to the Magistrates Court.’ The right of appeal under section 93 also applies to the power given by section 27.

- (2) In an instrument, a reference in general terms to an instrument of the same kind includes a reference to the instrument itself.
- (3) In this section:

*instrument* means an instrument (other than a law) made or in force under a law.

*law* means an Act, subordinate law or disallowable instrument.

### 98 Referring to laws in general terms (IA s 50 (1))

- (1) Every Act may be referred to by the word *Act* alone.

**Example**

A former New South Wales Act that applies in the ACT as a Territory Act may be referred to using its NSW short title, eg ‘*Truck Act 1900*’. In other words, it is not necessary to add words such as ‘of the State of New South Wales in its application in the Territory’.

- (2) Every statutory instrument may be referred to using words to describe the kind of instrument alone.

**99 Referring to particular Acts (IA s 51)**

- (1) An Act may be referred to by—
  - (a) the name the Act gives to itself; or
  - (b) the year when it was enacted and its number.
- (2) A Commonwealth Act may be referred to—
  - (a) by the name the Act gives to itself; or
  - (b) in any other way sufficient in a Commonwealth Act for referring to a Commonwealth Act;together with a reference to the Commonwealth (or an abbreviation of the Commonwealth).
- (3) An Act or ordinance of a State or another Territory may be referred to—
  - (a) by the name the Act or ordinance gives to itself; or
  - (b) in any other way sufficient in an Act or ordinance of the State or other Territory for referring to such an Act or ordinance;together with (unless it is a former NSW Act) a reference to the State or other Territory (or an abbreviation of it).
- (4) A UK Act may be referred to—
  - (a) by the name the Act gives to itself; or
  - (b) in any other way sufficient in a UK Act for referring to a UK Act;together with (unless it is a former UK Act) a reference to the United Kingdom (or an abbreviation of the United Kingdom).

**100 Referring to statutory instruments (IA s 52, SLA s 4 (2))**

- (1) A statutory instrument (including a subordinate law or disallowable instrument) may be referred to by—
- (a) any name the instrument gives to itself; or
  - (b) if the instrument was numbered under this Act or another Territory law—the year when it was made and its number, together with a reference (if necessary) to the kind of instrument; or
  - (c) reference to—
    - (i) if the instrument was notified in the register under this Act—the date when it was notified in the register, together with a reference to the Act or statutory instrument under which it was made; or
    - (ii) if the instrument was published or notified in the Gazette before the commencement of this Act—the number, date and pages of the Gazette where it was published or notified; or
    - (iii) for any instrument—the date when it was made, together with a reference to the Act or statutory instrument under which it was made.
- (2) An instrument made or in force under a Commonwealth Act, or under an instrument made or in force under a Commonwealth Act, may be referred to—
- (a) by any name the instrument gives to itself; or
  - (b) in another way sufficient in a Commonwealth Act for the referring to such an instrument;
- together with a reference to the Commonwealth (or an abbreviation of the Commonwealth).



- (3) An instrument made or in force under an Act or ordinance of a State or another Territory, or under an instrument made or in force under such an Act or ordinance, may be referred to—

- (a) by any name the instrument gives to itself; or
- (b) in another way sufficient in an Act or ordinance of the State or other Territory for referring to such an instrument;

together with (unless it is a New South Wales instrument applying in the Territory) a reference to the State or other Territory (or an abbreviation of it).

- (4) An instrument made or in force under a UK Act, or under an instrument made or in force under a UK Act, may be referred to—

- (a) by any name the instrument gives to itself; or
- (b) in another way sufficient in a UK Act for referring to such an instrument;

together with (unless it is a UK instrument applying in the Territory) a reference to the United Kingdom (or an abbreviation of the United Kingdom).

### 101 Referring to provisions of laws or instruments (IA s 53)

- (1) A provision of a law or instrument may, if appropriate, be referred to by reference to the provision of the law or instrument in which it is contained.

**Example**

Paragraph (b) of subsection (2) of section 10 of an Act may be cited by reference to the section and subsection, that is, as section 10 (2) (b).

- (2) In this section:

***instrument*** means an instrument (other than a law) made or in force under a law.

*law* means—

- (a) an Act, subordinate law or disallowable instrument; or
- (b) a law of the Commonwealth, a State or another Territory.

**101A Reference to provisions of law or instrument is inclusive (IA s 14)**

- (1) In an Act or statutory instrument, a reference to any part of a law or instrument is a reference to the following:
  - (a) the provision of the law or instrument that forms the beginning of the part;
  - (b) the provision of the law or instrument that forms the end of the part;
  - (c) any provision of the law or instrument between the beginning and end of the part.

**Examples**

- 1 A reference to ‘sections 5 to 9’ includes both section 5 and section 9.
- 2 A reference to ‘sections 260 to 264’ includes a provision such as a part heading between section 260 and 261.
- 3 A reference to ‘*from child to adult*’ includes both the word ‘child’ and the word ‘adult’.

- (2) In this section:

*instrument* means an instrument (other than a law) made or in force under a law.

*law* means—

- (a) an Act, subordinate law or disallowable instrument; or
- (b) a law of the Commonwealth, a State or another Territory.

**101B References to paragraphs etc (IA s 12A)**

- (1) In an Act or statutory instrument, a reference to a paragraph of a provision of an Act or statutory instrument includes any words in

the provision before or after the paragraph that are necessary or desirable to make the reference meaningful.

**Example**

A section or subsection (or corresponding provisions in regulations) may be divided into paragraphs as follows:

- ‘(2) An application must be—
- (a) in writing; and
  - (b) accompanied by a copy of the advertisement of the applicant’s intention to apply.’

Paragraphs form part of the sentence in which they are contained. A reference to paragraph (a) in this example that did not include the preceding words ‘An application must be’ would be meaningless. Section 101B therefore allows the paragraph to be read with those words so that it makes sense.

*Note* Although this section contains 2 references to an Act or statutory instrument, s 97 makes it clear that they may be the same Act or statutory instrument.

- (2) In this section:

*paragraph* includes a subparagraph and a sub-subparagraph.

**102 Meaning of references to a law or instrument generally (IA s 54)**

- (1) In an Act or statutory instrument, a reference to a law or instrument includes a reference to the following:
- (a) the law or instrument as originally made, and as amended from time to time since it was originally made;
  - (b) if the law or instrument has been repealed and remade (with or without changes) since the reference was made—the law or instrument as remade, and as amended from time to time since it was remade;
  - (c) if a relevant provision of the law or instrument has been omitted and remade (with or without changes) in another law or instrument since the reference was made—the other law or

instrument as in force when the provision was remade, and as amended from time to time since the provision was remade.

- (2) In an Act or statutory instrument, a reference to a provision of a law or instrument includes a reference to the following:
  - (a) the provision as originally made, and as amended from time to time since it was originally made;
  - (b) if the provision has been omitted and remade (with or without changes and whether in the law or instrument or another law or instrument) since the reference was made—the provision as remade, and as amended from time to time since it was remade.
- (3) This section applies except so far as the contrary intention appears.
- (4) In this section:

*instrument* means an instrument (other than a law) made or in force under a law.

*law* means—

- (a) an Act, subordinate law or disallowable instrument; or
- (b) a law of the Commonwealth, a State or another Territory.

*make* includes enact.

### **103 References to laws and instruments with amended names (IA s 55)**

- (1) If the name of a law or instrument is amended, a reference in an Act or statutory instrument to the name includes a reference to the name as amended.
- (2) In this section:

*instrument* means an instrument (other than a law) made or in force under a law.

*law* means—

- (a) an Act, subordinate law or disallowable instrument; or
- (b) a law of the Commonwealth, a State or another Territory.

**104 References to laws include references to instruments under laws (IA s 55A)**

- (1) In an Act or statutory instrument a reference (either generally or specifically) to an Act or statutory instrument, or to a provision of an Act or statutory instrument, includes a reference to the statutory instruments made or in force under the Act, instrument or provision.
- (2) In subsection (1), a reference to the statutory instruments made or in force under the Act, instrument or provision includes a reference to any law or instrument (within the meaning of section 47), or provision of a law or instrument (within the meaning of that section), applied, adopted or incorporated (with or without change) under the Act, instrument or provision.

*Note* Section 47 authorises an Act, subordinate law or disallowable instrument to make provision about a matter by applying, adopting or incorporating a law or instrument (as defined in that section) or a provision of a law or instrument.

- (3) In an Act or statutory instrument a reference (either generally or specifically) to an Act, ordinance or statutory instrument of another jurisdiction, or to a provision of an Act, ordinance or statutory instrument of another jurisdiction, includes a reference to the statutory instruments made or in force under the Act, ordinance, instrument or provision.
- (4) In subsection (3):

*another jurisdiction* means the Commonwealth, a State or another Territory.

*statutory instrument* means an instrument (whether of a legislative or administrative nature) made or in force under the Act, ordinance or statutory instrument concerned.

**105 References in statutory instruments to *the Act* (IA s 55B)**

- (1) In a statutory instrument, a reference to *Act* or *the Act*, without mentioning a particular Act, is a reference to the Act under which the instrument is made or in force.
- (2) This section applies except so far as the contrary intention appears.

**106 References to repealed laws (IA s 55C)**

- (1) If an Act or statutory instrument refers to a law as repealed, the reference is a reference to the law as in force immediately before it was repealed.

**Example**

A reference to the ‘repealed *XYZ Act 2000*’ is a reference to the *XYZ Act 2000* immediately before it was repealed.

- (2) In this section:

*law* means—

- (a) an Act, subordinate law or statutory instrument; or
- (b) a law of the Commonwealth, a State or another Territory.

## Chapter 11      Republication of Acts and statutory instruments

### Part 11.1      General

#### 107    Meaning of *law* in ch 11 (LRA s 5, def of *law* and s 8 (2))

In this chapter:

*law* means an Act or statutory instrument, whether or not it has been amended, and includes—

- (a) a collection of 2 or more Acts or statutory instruments; or
- (b) an agreement or other instrument that has the force of law or is in, or attached to, an Act or statutory instrument.

#### 108    Republication in register

- (1) The parliamentary counsel may republish a law by entering the text of the law in the register.
- (2) Subsection (1) does not limit the ways in which the parliamentary counsel may republish a law.

#### 109    Republications may be published with other information

The parliamentary counsel may publish information not required by this chapter with a printed or electronic version of an authorised republication if the parliamentary counsel considers that the information is likely to be useful to users of the republication.

#### 110    Collections (LRA s 19A)

- (1) If the parliamentary counsel authorises under this Act the republication of 2 or more laws in a collection, this chapter applies

to each of the laws in the collection as if it were republished separately.

- (2) Subsection (1) does not prevent the use of—
- (a) a single contents for the collection; or
  - (b) information applying to 2 or more laws in the collection.





- (b) each provision of a law to be shown in an authorised republication of the law in the place in the law where it was located when the provision was made.
- (2) If a provision of a law is not shown in an authorised republication, the republication must indicate that fact in a suitable place.
- (3) If a provision of a law is shown in an authorised republication in a different place in the law to the place where it was located when the provision was made, the republication must indicate that fact in a suitable place.

## Part 11.3 Editorial changes

### 114 Authorisation for parliamentary counsel (LRA s 13, s 19)

In preparing a law for republication, the parliamentary counsel is authorised—

- (a) to make editorial amendments and other textual amendments of a formal nature that the parliamentary counsel considers desirable to bring the law into line, or more closely into line, with current legislative drafting practice; and
- (b) to make other editorial changes by way of format, layout or printing style, or in any other presentational respect, that the parliamentary counsel considers desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

### 115 Amendments not to change effect (LRA s 14)

This part does not permit the making of an amendment of a law that would change the effect of the law.

### 116 Ambit of editorial amendments (LRA s 15)

- (1) An *editorial amendment* of a law is an amendment that—
  - (a) corrects a typographical error; or
  - (b) corrects or updates a reference to a law, position, entity, place or thing; or
  - (c) goes only to a matter of spelling, punctuation, grammar or syntax or the use of conjunctives and disjunctives; or
  - (d) changes the name of the law or of a provision of the law; or
  - (e) numbers or renumbers a provision of the law; or

- (f) changes the order of definitions or other provisions of the law;  
or
  - (g) replaces a reference to a provision of a law with a different form of reference to the provision; or
  - (h) changes the way of referring to or expressing a number, year, date, time, amount of money, penalty, quantity, measurement, or other matter, idea or concept; or
  - (i) replaces a word indicating gender or that could be taken to indicate gender in accordance with current legislative drafting practice; or
  - (j) replaces a reference to the Queen, the King or the Crown with a reference to the Sovereign or the Territory; or
  - (k) omits—
    - (i) the enacting words or the law-making words (including any signatures); or
    - (ii) a provision that consists only of a description of how the law is arranged into groups of provisions; or
    - (iii) a provision that has expired, the operation of which is exhausted or spent or that is otherwise obsolete or redundant; or
  - (l) omits, inserts or changes a referential expression; or
  - (m) inserts, omits or changes a note; or
  - (n) updates a reference to the heading to a provision; or
  - (o) is consequential on any other editorial amendment (whether made to that law or another law).
- (2) In this section:
- law** includes a law of the Commonwealth, a State, another Territory or a foreign country.

**117 Legal effect of editorial changes (LRA s 16)**

- (1) A law that is amended or otherwise changed under this part in preparing an authorised republication of the law has effect for all purposes, on and after the republication date, as if the changes had been made by an Act that commenced on the republication date.
- (2) Without limiting subsection (1), section 83 (Consequences of amendment of statutory instrument by Act) applies to an amendment made under this part as if the amendment had been made by an Act.
- (3) This section is subject to section 115 (Amendments not to change effect).

**118 Reference to editorial amendments (LRA s 17)**

If a law is amended under this part in preparing an authorised republication of the law, the republication must indicate that fact in a suitable place.

## Chapter 12      **Scope of Acts and statutory instruments**

### **120 Act to be interpreted not to exceed legislative powers of Assembly (IA s 11AA)**

- (1) An Act is to be interpreted as operating to the full extent of, but not to exceed, the legislative power of the Legislative Assembly.
- (2) Without limiting subsection (1), if a provision of an Act would, apart from this section, be interpreted as exceeding the legislative power of the Legislative Assembly—
  - (a) the provision is valid to the extent to which it does not exceed power; and
  - (b) the remainder of the Act is not affected.
- (3) Without limiting subsection (1), if the application of a provision of an Act to a matter would, apart from this section, be interpreted as exceeding power, the provision's application to other matters is not affected.
- (4) This section is in addition to any provision of the Act itself.

*Note* For the equivalent provision for statutory instruments, see s 43.

### **122 Application to Territory (IA s 23A)**

- (1) In an Act or statutory instrument, except so far as the contrary intention appears—
  - (a) a reference to an entity or position by name or description is a reference to the entity or position of that name or description in or for the Territory; and

- (b) a reference to a place, jurisdiction or anything else by name or description is a reference to the place, jurisdiction or thing of that name or description in or for the Territory.
- (2) If the name of an entity or position established under an Act or statutory instrument includes the words ‘of the Australian Capital Territory’, ‘for the Australian Capital Territory’, ‘(ACT)’, or words having a similar effect, a reference in an Act or statutory instrument to the entity or position need not include the words.

## Chapter 13      Structure of Acts and statutory instruments

### Part 13.1      General

#### 125    Meaning of *law* in ch 13

In this chapter:

*law* means an Act, subordinate law or disallowable instrument, and includes a provision of a law.

#### 126    Material that is part of an Act or statutory instrument (IA s 11H)

- (1) A heading to a chapter, part, division, subdivision, schedule, or another provision (other than a section or subsection), of or to an Act or statutory instrument is part of the Act or instrument.
- (2) A heading to a section or subsection of an Act or statutory instrument is part of the Act or instrument if—
  - (a) the Act was enacted, or the instrument was made, after 1 January 2000; or
  - (b) the heading was amended or inserted into another Act or instrument after 1 January 2000.
- (3) An example or diagram in an Act or statutory instrument is part of the Act or instrument.
- (4) A schedule, dictionary or appendix to an Act or statutory instrument is part of the Act or instrument.
- (5) Punctuation in an Act or statutory instrument is part of the Act or instrument.



- (6) A provision number in an Act or statutory instrument is part of the Act or instrument.
- (7) In applying this section to a statutory instrument or to a provision of a schedule to an Act, a reference to a section or subsection is a reference to a corresponding provision of the instrument or schedule.

**127 Material that is not part of an Act or statutory instrument**  
(IA s 12)

- (1) A footnote, endnote, or other note, in or to an Act or statutory instrument is not part of the Act or instrument.
- (2) A table of contents (however described), or reader's guide or index, in or to an Act or statutory instrument is not part of the Act or instrument.
- (3) A heading to a section or subsection of an Act or statutory instrument is not part of the Act or instrument if section 126 (2) (Material that is part of an Act or statutory instrument) does not apply to the heading.
- (4) This section does not prevent the amendment of a note, table, guide, index or heading mentioned in subsection (1), (2) or (3).
- (5) However, such a note, table, guide or index does not become part of the Act or statutory instrument because it is amended or inserted by an Act or instrument.
- (6) In applying this section to a statutory instrument or to a provision of a schedule to an Act, a reference to a section or subsection is a reference to a corresponding provision of the instrument or schedule.

## Part 13.2 Particular kinds of provisions

### 130 What is a definition? (IA dictionary, *definition*)

A *definition* is a provision (however expressed) of an Act or statutory instrument that—

- (a) gives a meaning to a word or expression; or
- (b) limits or extends the meaning of a word or expression.

#### Examples of definitions

- 1 *X* means *Y*.
- 2 *X* includes *Y*.
- 3 *X* means *Y*, and includes *Z*.
- 4 A reference to *X* is a reference to *Y*.
- 5 *X*—see section *Y*.
- 6 *X*—see the *XYZ Act 1999*, section *Y*.
- 7 In a proceeding against a person (the *retailer*), it is a defence if the retailer establishes that the goods were bought honestly.
- 8 *excluded*—a claim is *excluded* if the claim is not brought within 1 year after the claimant becomes aware of the failure to account to which the claim relates.
- 9 Words and expressions used in the *XYZ Act 1999* have the same respective meanings in this Act.

*Note 1* Examples 5 and 6 illustrate signpost definitions, that is, definitions that do not themselves define the word or expression but point the reader to the place where the word or expression is defined (see s 131).

*Note 2* Example 7 illustrates a tagged-term definition (*retailer*) that takes its meaning from the context of the provision where the defined term is found.

*Note 3* Example 8 illustrates a definition that does not begin with the defined term.

*Note 4* For other provisions about definitions, see pt 15.2.

### 131 Signpost definitions (IA, dict, def of see)

- (1) In an Act or statutory instrument, a definition of a word or expression that includes the word ‘see’ followed by a reference to a law or instrument means the word or expression has the same meaning as it has in the law or instrument, as in force from time to time.

#### Examples

- 1 A signpost definition ‘*food*—see section 10.’ in the dictionary to an Act means that the word ‘food’ when used in the Act, has the same meaning as it has in section 10, as in force from time to time.
- 2 A signpost definition ‘*injury*—see the *XYZ Act 2001*, dictionary’ in the dictionary to another Act means that the word ‘injury’, when used in the other Act, has the same meaning as it has in the definition of *injury*, in the *XYZ Act 2001*, dictionary, as in force from time to time.

- (2) In this section:

*instrument* includes a provision of an instrument.

*law* includes a law, or a provision of a law, of the Commonwealth, a State or another Territory.

*Note* For other provisions about definitions, see pt 15.2.

### 132 Examples (IA s 11D)

- (1) An example in an Act or statutory instrument—
- (a) is not exhaustive; and
  - (b) may extend, but does not limit, the meaning of the Act or instrument, or the particular provision to which it relates.

#### Examples

- 1 A specific case (which may be fictional) that helps to give meaning to the more abstract language of a provision. See the examples in section 43 (3).
- 2 An example (which may be fictional) that clarifies the scope of a provision by illustrating cases that fall within the provision or cases that fall outside the provision, or both. See the examples in section 86 (1).

*Note* These examples may overlap.

- (2) An example may take either of the following forms:
- (a) a statement at the end of the provision it illustrates (or at the end of a provision containing the provision it illustrates);
  - (b) a statement forming part of the text of a provision that illustrates the operation of the provision, whether or not the words ‘for example’ are used.

**Examples for par (a)**

The examples in section 130 or subsection (1) above.

**Example for par (b)**

The statement beginning ‘for example’ in section 36 (1) (a).

- (3) Subsection (2) does not limit the form that an example may take.
- (4) This section applies to an example in an Act or statutory instrument unless the Act or instrument expressly provides that this section does not apply.

### **133 Penalty units (IA s 33AA)**

- (1) In a law, if a penalty for an offence is expressed as a number (whether whole or fractional) of penalty units—
- (a) the penalty is a fine of that number of penalty units; and
  - (b) the value of the penalty unit for the offence is—
    - (i) if the person charged is an individual—\$100; or
    - (ii) if the person charged is a corporation—\$500.

**Example**

‘Maximum penalty: 10 penalty units.’ means that a person who is convicted of the relevant offence is liable to a maximum fine of 10 penalty units.

- If the person is an individual, the maximum fine is, therefore, \$1 000 (\$100x10).

- If the person is a corporation, the maximum fine is, therefore, \$5 000 (\$500x10).

*Note* Paragraph (b) is subject to s 273 (Transitional provisions about penalties).

- (2) This section applies to a penalty in a law unless the law expressly provides that this section does not apply.

### **134 Penalties at end of sections and subsections (IA s 32A)**

- (1) This section applies if a penalty (however expressed) is stated in a law—
- (a) at the end of a section (whether or not the section is divided into subsections) and not expressed in a way that indicates that it applies only to a provision of the section; or
  - (b) at the end of a subsection (but not at the end of a section) and not expressed in a way that indicates that it applies only to a provision of the subsection; or
  - (c) at the end of a section or subsection and expressed in a way that indicates that it applies only to a provision of the section or subsection (the *relevant provision*).

#### **Example for par (a)**

The following penalty at the end of a section:

‘Maximum penalty: 20 penalty units.’.

#### **Example for par (b)**

The following penalty at the end of a subsection, but not at the end of a section:

‘Maximum penalty: 20 penalty units.’.

#### **Examples for par (c)**

1 The following penalty at the end of a section divided into subsections:

‘Maximum penalty (subsection (3)): 20 penalty units.’.

2 The following penalty at the end of a subsection, but not at the end of a section:

‘Maximum penalty:

- (a) for paragraph (b)—20 penalty units; or

(b) for another paragraph—50 penalty units, imprisonment for 6 months or both.’

- (2) If an offence is not expressly mentioned in the section, subsection or relevant provision, the penalty indicates that contravention of the section, subsection or relevant provision is an offence punishable on conviction as provided by subsection (4).

**Example of a penalty applying to entire section or subsection**

A person must not contravene a notice.

Maximum penalty: 20 penalty units.

**Example of a penalty applying to a stated provision**

(2) The register of transactions—

(a) may be kept in electronic form; and

(b) must contain the particulars mentioned in section 91C.

Maximum penalty (paragraph (b)): 20 penalty units.

- (3) If an offence is expressly mentioned in the section, subsection or relevant provision, the penalty indicates that the offence is punishable on conviction as provided by subsection (4).

**Example of a penalty applying to entire section or subsection**

A person who contravenes a notice commits an offence.

Maximum penalty: 20 penalty units.

**Example of a penalty applying to a stated provision**

(2) If a person retains possession of the person’s identity card after ceasing to be an officer—

(a) the person commits an offence; and

(b) the identity card is forfeited to the Territory.

Maximum penalty (paragraph (a)): 20 penalty units.

- (4) The penalty that may be imposed for the offence is—
- (a) if only a single penalty is stated (whether as a maximum penalty or a penalty)—not more than the stated penalty; or
- (b) if a minimum as well as a maximum penalty is stated—not less than the minimum and not more than the maximum.

- (5) If—
- (a) a penalty (however expressed) is stated in a law at the end of a section divided into subsections; and
  - (b) another penalty (however expressed) is stated at the end of another subsection of the section; and
  - (c) the first penalty is not expressed in a way that indicates that it applies only to a particular provision of the last subsection;

the first penalty is taken, for this section, to be expressed in a way that indicates that it applies only to the last subsection.

**Example**

In the following example, subsection (4) is the last subsection and the penalty stated at the end applies only to that subsection:

‘(2) A permit holder must record all transactions under this Act.

Maximum penalty: 20 penalty units.

(3) If a permit holder is convicted of an offence against subsection (2), the registrar must cancel the permit.

(4) A permit holder must not sell a declared substance in contravention of this Act.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.’

- (6) In working out for this section whether a penalty is at the end of a section or subsection, the position of any example or note is to be disregarded.
- (7) In applying this section to a subordinate law or disallowable instrument or to a provision of a schedule to an Act, a reference to a section or subsection is a reference to a corresponding provision of the law, instrument or schedule.

**135 Penalties not at end of sections and subsections (IA s 33)**

- (1) This section applies if a penalty (however expressed) is stated in a provision of a law other than at the end of a section or subsection.

- (2) If an offence is expressly mentioned in the provision, the penalty indicates that the offence is punishable on conviction as provided by subsection (4).

**Example**

A person who contravenes subsection (3) commits an offence punishable by a fine not exceeding 20 penalty units.

- (3) If an offence is not expressly mentioned in the provision, the penalty indicates that contravention of the provision (or a stated part of the provision) is an offence punishable on conviction as provided by subsection (4).

**Example**

A person who contravenes subsection (3) must pay a fine not exceeding 20 penalty units.

- (4) The penalty that may be imposed for the offence is—
- (a) if only a single penalty is stated (whether as a maximum penalty or a penalty)—not more than the stated penalty; or
  - (b) if a minimum as well as a maximum penalty is stated—not less than the minimum and not more than the maximum.
- (5) In working out for this section whether a penalty is at the end of a section or subsection, the position of any example or note is to be disregarded.
- (6) In applying this section to a subordinate law or disallowable instrument or to a provision of a schedule to an Act, a reference to a section or subsection is a reference to a corresponding provision of the law, instrument or schedule.

**136 Indictable and summary offences (IA s 33D and 33E)**

- (1) An offence is an *indictable offence* if—
- (a) it is punishable by imprisonment for longer than 1 year; or
  - (b) it is declared by a law to be an indictable offence.



- (2) Any other offence is a *summary offence* and is punishable on summary conviction.

## Chapter 15 Aids to interpretation

*Note for ch 15* See also *Interpretation Act 1967*, s 7, s 11A and s 11B.

### Part 15.1 General

#### 144 Meaning of commonly-used words and expressions (IA s 11F (1))

A definition in the dictionary, part 1 applies to all Acts and statutory instruments.

*Note* See s 130 for the definition of *definition* and s 131 for provisions about signpost definitions.

#### 145 Gender and number (IA s 19)

In an Act or statutory instrument, except so far as the contrary intention appears—

- (a) words indicating 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.

#### 146 Meaning of *may* and *must* (IA s 16)

- (1) In an Act or statutory instrument, the word *may*, or a similar word or expression, used in relation to a function indicates that the function may be exercised or not exercised, at discretion.

*Note* *Function* is defined in the dict, pt 1 to include authority, duty and power.

- (2) In an Act or statutory instrument, the word *must*, or a similar word or expression, used in relation to a function indicates that the function is required to be exercised.

- (3) This section applies to an applicable law or applicable provision despite any presumption or rule of interpretation.
- (4) However, this section does not apply to an applicable law or applicable provision if the applicable law, or the law containing the applicable provision, expressly provides that this section does not apply.
- (5) This section applies to any other Act, statutory instrument, or provision of an Act or statutory instrument, except so far as the contrary intention appears.
- (6) In this section:

*applicable law* means an Act enacted, or a subordinate law or disallowable instrument made, after 1 January 2000.

*applicable provision* means a provision inserted after 1 January 2000 into an Act, or a subordinate law or disallowable instrument, that is not an applicable law.

#### **147 Changes of drafting practice not to affect meaning (IA s 11C)**

- (1) The purpose of this section is to encourage the making of progressive improvements in the form of the statute book without inadvertently changing the substantive effect of the law.

*Note* See also s 96 (Relocated provisions).

- (2) This is to be achieved particularly by updating the language and structure of Acts and statutory instruments to replace older forms of legislative expression with forms reflecting current legislative drafting practice.
- (3) If an Act or statutory instrument is amended so that it contains an older form of legislative expression in a provision and a newer form in another, the ideas in the 2 provisions must not be regarded as different only because different words are used or the provisions are structured in different ways.

- (4) Subsection (3) also applies if the provisions are in different Acts or statutory instruments.
- (5) Also, if an Act or statutory instrument is amended so that a provision containing an older form of legislative expression is replaced (whether or not in the same position) by a provision in a newer form, the ideas in the 2 provisions must not be regarded as different only because different words are used or the provisions are structured in different ways.
- (6) In deciding whether the ideas are different, regard must be had to the context and history of the 2 provisions.
- (7) Subsection (6) does not limit the matters to which regard may be had.

**148 Terms used in instruments have same meanings as in authorising laws (IA s 11BA)**

Except so far as the contrary intention appears, words and expressions used in a statutory instrument have the same meanings as they have, from time to time, in the Act or statutory instrument (the *authorising law*), or the relevant provisions of the authorising law, under which the instrument is made or in force.

**149 Age in years (IA s 13D)**

For an Act or statutory instrument, a person is an age in years at the beginning of the person's birthday for the age, except so far as the contrary intention appears.

**150 Measurement of distance (IA s 35)**

In applying an Act or statutory instrument, distance is to be measured in a straight line on a horizontal plane, except so far as the contrary intention appears.

## Part 15.2 Definitions

*Note to pt 15.2* See also s 130 (What is a definition?), s 131 (Signpost definitions) and s 148 (Terms used in instruments have same meanings as in authorising laws).

### 155 Definitions apply subject to contrary intention (IA s 11G)

A definition in an Act or statutory instrument applies except so far as the contrary intention appears.

### 156 Application of definitions in dictionaries and sections (IA s 11F (2))

- (1) A definition in the dictionary to an Act or statutory instrument applies to the entire Act or instrument unless the Act or instrument provides for the definition to have a more limited application.

#### Examples

- 1 The dictionary to the *ABC Act 1999* includes the signpost definition ‘*x*—see the *XYZ Act 1998*, section 3.’. There is nothing in the *ABC Act 1999* indicating the intended application of the definition of *x*. The definition of *x* in the *XYZ Act 1998*, section 3, therefore, applies to the entire *ABC Act 1999*.
- 2 In an Act, the word *z* is defined in the dictionary. The definition provides, in part, that ‘*z*, in part 4 (Registration of vehicles), means ...’. The definition of *z* applies only to part 4.

*Note* See s 144 (Meaning of commonly-used words and expressions) for the application of the definitions in the dict, pt 1 to this Act.

- (2) A definition in a section of an Act or statutory instrument applies only to the section unless the Act or instrument provides for the definition to have a broader application.

#### Examples

- 1 Section 255 (7) of this Act (Forms) contains definitions of **form 1** and **form 2** as tagged terms. There is nothing in this Act indicating that the definitions apply outside section 255. The definitions apply only to section 255.

- 2 In part 6 of an Act, the word *a* is defined in a section, which is not divided into subsections but contains a number of definitions. The section begins with the words ‘In this part:’. The definition of *a* applies to all of part 6.
  - 3 In an Act, the word *b* is defined in a section, which is not divided into subsections but contains a number of definitions. The section begins with the words ‘In this Act:’. The definition of *b* applies to the entire Act.
- (3) A definition in a section of an Act or statutory instrument applies to the entire section unless the Act or instrument provides for the definition to have a more limited application.

**Example**

In a subsection of a section of an Act, the word *c* is defined. The subsection begins with the words ‘In subsection (3):’. The definition of *c* applies only to subsection (3) of that section.

- (4) In applying this section to a statutory instrument or to a provision of a schedule to an Act, a reference to a section is a reference to a corresponding provision of the instrument or schedule.

**157 Defined terms—other parts of speech and grammatical forms (IA s 11E)**

If an Act or statutory instrument defines a word or expression, other parts of speech and grammatical forms of the word or expression have corresponding meanings, except so far as the contrary intention appears.

## **Part 15.3**                      **References to various entities and things**

*Note to pt 15.3*    See also ch 10 (Referring to laws).

### **160**    **References to people generally (IA s 15)**

- (1) In an Act or statutory instrument, a reference to a person generally includes a reference to a corporation as well as an individual, except so far as the contrary intention appears.
- (2) Subsection (1) is not displaced only because there is an express reference to either an individual or a corporation elsewhere in the Act or statutory instrument.

#### **Examples of references to a person generally**

- 1    another person
- 2    anyone else
- 3    party
- 4    someone else
- 5    employer

#### **Examples of express references to a corporation**

- 1    body corporate
- 2    company

#### **Examples of express references to an individual**

- 1    adult
- 2    child
- 3    spouse
- 4    driver

### **161**    **Corporations liable to offences (IA s 32)**

- (1) A provision of a law that creates an offence (whether indictable or summary) applies to corporations as well as to individuals, except so far as the contrary intention appears.

- (2) A provision of a law that creates an offence can apply to a corporation even though contravention of the provision is punishable by imprisonment (with or without another penalty).

**Example**

A provision of an Act contains the following penalty:

‘Maximum penalty: 2,000 penalty units, imprisonment for 1 year or both.’

The provision can apply to a corporation.

- (3) If a corporation is convicted of an offence and, apart from this subsection, the penalty for the offence is a period of imprisonment only, the court may impose a maximum penalty of—
- (a) if the period of imprisonment is not longer than 6 months—50 penalty units; and
  - (b) if the period of imprisonment is longer than 6 months but not longer than 1 year—100 penalty units; and
  - (c) if the period of imprisonment is longer than 1 year but not longer than 2 years—200 penalty units; and
  - (d) if the period of imprisonment is longer than 2 years but not longer than 5 years—500 penalty units; and
  - (e) if the period of imprisonment is longer than 5 years—1,000 penalty units.

*Note* Section 133 explains the meaning and value of penalty units.

- (4) In this section:

*law* means an Act, subordinate law or disallowable instrument.

## 162 References to a *Minister* or the *Minister* (IA s 24)

- (1) In an Act or statutory instrument, a reference to a *Minister* is a reference to the Chief Minister or a Minister appointed under the Self-Government Act, section 41.

*Note* See dict, pt 1, def *Chief Minister*.



- (2) In a provision of an Act or statutory instrument, a reference to *the Minister* without identifying the Minister's title or portfolio is a reference to—
- (a) the Minister for the time being administering the provision; or
  - (b) if, for the time being, different Ministers administer the provision in relation to different matters—
    - (i) if only 1 Minister administers the provision in relation to the relevant matter—the Minister; or
    - (ii) if 2 or more Ministers administer the provision in relation to the relevant matter—any of the Ministers; or
  - (c) if paragraph (b) does not apply and, for the time being, 2 or more Ministers administer the provision—any of the Ministers.
- (3) In subsection (2):
- Minister* includes a Minister for the time being acting on behalf of the Minister or 2 or more Ministers.
- (4) If an Act or statutory instrument mentions a Minister and identifies the Minister by reference to the fact that the Minister administers a stated Act, statutory instrument or provision, subsection (2) applies as if references in paragraphs (a) to (c) to the provision were references to the stated Act, instrument or provision.

*Note* See also dict, pt 1, defs *Attorney-General* and *Treasurer*.

### **163 References to a chief executive or the chief executive (IA s 24A)**

- (1) In an Act or statutory instrument, a reference to *a chief executive* is a reference to a person employed under the Public Sector Management Act, section 28 (Engagement) or section 30 (Temporary performance of duties) to perform the duties of an office of chief executive.

- (2) In a provision of an Act or statutory instrument, a reference to *the chief executive* without identifying the chief executive's title is a reference to—
- (a) the chief executive of the administrative unit responsible for the provision; or
  - (b) if, for the time being, different administrative units are responsible for the provision in relation to different matters—
    - (i) if only 1 administrative unit is responsible for the provision in relation to the relevant matter—the chief executive of the administrative unit; or
    - (ii) if 2 or more administrative units are responsible for the provision in relation to the relevant matter—the chief executive of any of the administrative units; or
  - (c) if paragraph (b) does not apply and, for the time being, 2 or more administrative units are responsible for the provision—the chief executive of any of the administrative units.

*Note* See dict, pt 1, def *administrative unit*.

- (3) If an Act or statutory instrument mentions a chief executive and identifies the chief executive by reference to the fact that the chief executive is the chief executive of the administrative unit responsible for a stated Act, statutory instrument or provision, subsection (2) applies as if references in paragraphs (a) to (c) to the provision were references to the stated Act, instrument or provision.
- (4) In this section:

*chief executive*, of an administrative unit, means the person who is employed under the Public Sector Management Act, section 28 or 30 to perform the duties of the office of chief executive in the administrative unit.

*Public Sector Management Act* means the *Public Sector Management Act 1994*.

*responsible*, for a provision, means allocated responsibility for the provision under the Public Sector Management Act, section 14 (1) (b) (Ministerial responsibility and functions of administrative units).

**164 References to Australian Standards (IA s 25AB)**

In an Act or statutory instrument, a reference consisting of the words ‘Australian Standard’ followed by a number is a reference to the standard so numbered published by or on behalf of Standards Australia.

**165 References to Assembly committees that no longer exist (IA s 25AA)**

In an Act or statutory instrument, a reference (whether by name or description) to a committee of the Legislative Assembly that no longer exists is a reference to the committee of the Assembly nominated by the Speaker either generally or for the provision containing the reference.

**168 References to person with interest in land include personal representative etc**

In an Act or statutory instrument, a reference to a person with an interest in land or other property includes a reference to the person’s personal representatives, successors and assigns, except so far as the contrary intention appears.

**Examples of references to people with interests in land**

- 1 proprietor
- 2 transferor or transferee
- 3 mortgagor or mortgagee
- 4 lessor or lessee
- 5 sublessor or sublessee
- 6 trustee

## Chapter 16      Courts, tribunals and other decision-makers

### 175    Meaning of *law* in ch 16

In this chapter:

*law* means an Act, subordinate law or disallowable instrument, and includes a provision of a law.

### 176    Jurisdiction of courts and tribunals (IA s 31A)

- (1) This section applies if a law, whether expressly or by implication, authorises a proceeding (whether civil or criminal) to be brought in a particular court or tribunal in relation to a matter.
- (2) The law vests the court or tribunal with jurisdiction in the matter.
- (3) The jurisdiction so vested is not limited by any limits to which any other jurisdiction of the court or tribunal may be subject, except so far as the contrary intention appears.

### 177    Recovery of amounts owing under laws (IA s 34)

- (1) If an amount is owing under a law by a person to another person, the first person may recover the amount as a debt owing to the first person by the other person in a court of competent jurisdiction.
- (2) This section applies to a law except so far as the contrary intention appears.

**178 Power to decide includes authority to administer oath etc (IA s 13E)**

- (1) A court, tribunal or other entity authorised by a law to hear and decide a matter has authority—
  - (a) to receive evidence; and
  - (b) to examine witnesses and, for that purpose, to administer oaths.
- (2) This section applies to a law except so far as the contrary intention appears.

**179 Content of statements of reasons for decisions (IA s 13C)**

- (1) This section applies if a law requires a tribunal or other entity making a decision to give written reasons for the decision, whether the expression ‘reasons’, ‘grounds’ or any other expression is used.
- (2) The document giving the reasons must also set out the findings on material questions of fact and refer to the evidence or other material on which the findings were based.
- (3) This section applies to a law unless the law expressly provides that this section does not apply.

**180 Power to make decision includes power to reverse or change (IA s 27)**

- (1) Power given by a law to make a decision includes power to reverse or change the decision.
- (2) The power to reverse or change the decision is exercisable in the same way, and subject to the same conditions, as the power to make the decision.

**Example**

If the power to include land in a special reserve is exercisable only on the resolution of the Legislative Assembly, the power to excise land from a special reserve is exercisable only on the resolution of the Assembly.

- (3) This section applies to a law except so far as the contrary intention appears.

## Chapter 17 Entities and positions

### 185 Meaning of *law* in ch 17

In this chapter:

*law* means an Act, subordinate law or disallowable instrument, and includes a provision of a law.

### 186 Application of ch 17

This chapter applies to a law except so far as the contrary intention appears.

### 187 Change of name of entity (IA s 13B)

- (1) This section applies if a law changes the name of an entity established under a law.

*Note* See dict, pt 1, def *entity*.

- (2) The entity continues in existence under the new name and its identity is not affected by the change.
- (3) A reference in a law or instrument to the entity by its previous name is taken, after the change, to be a reference to the entity by its new name.

### 188 Change in constitution of entity (IA s 13BA)

- (1) This section applies if a law changes how an entity established under a law is constituted.
- (2) The entity continues in existence as newly constituted and its identity is not affected by the change.

- (3) Without limiting subsection (2), the change does not affect—
- (a) any function, right, privilege, liability or property of the entity; or
  - (b) the bringing of a proceeding, or the continuation of a proceeding, by or against the entity; or
  - (c) the carrying out of an investigation or inquiry, or the continuation of an investigation or inquiry, in relation to anything done or not done by or in relation to the entity.

*Note* **Function** is defined in the dict, pt 1 to include authority, duty and power.

### **189 References to occupant of position (IA s 25)**

In an Act or statutory instrument, a reference to the occupant of a position (however expressed) includes a reference to anyone for the time being occupying the position.

*Note* See s 200 (1) (Functions of occupants of positions) and the definitions of *occupy* and *position* in the dict, pt 1.

### **190 Change of name of position (IA s 13B)**

- (1) This section applies if a law changes the name of a position established under a law.
- (2) The position continues in existence under the new name and its identity is not affected by the change.
- (3) A reference in a law or instrument to the position by its previous name is taken, after the change, to be a reference to the position by its new name.

### **191 Chairperson and deputy chairperson (IA s 25A)**

- (1) If a law establishes a position of chairperson of an entity, the chairperson may be referred to as chairman, chairwoman or chair.



- (2) If a law establishes a position of deputy chairperson of an entity, the deputy chairperson may be referred to as deputy chairman, deputy chairwoman or deputy chair.

## **Chapter 18**      **Administrative and machinery provisions**

### **Part 18.1**      **Introductory**

#### **195**    **Meaning of *law* in ch 18**

In this chapter:

*law* means an Act, subordinate law or disallowable instrument, and includes a provision of a law.

## Part 18.2 Functions

*Note for pt 18.2*

**Function** is defined in the dict, pt 1 to include authority, duty and power.

### 196 Provision giving function gives power to exercise function (IA s 25B)

- (1) A provision of a law that gives a function to an entity also gives the entity the powers necessary and convenient to exercise the function.

*Note* See dict, pt 1, def **entity**.

- (2) The powers given to the entity under subsection (1) are additional to any other powers of the entity under the law.

### 197 Statutory functions may be exercised from time to time (IA s 26 (1))

- (1) If a law gives a function to an entity, the function may be exercised from time to time.

*Note* See also s 42 (2) (Power to make statutory instruments).

- (2) This section applies to a law except so far as the contrary intention appears.

### 199 Functions of bodies (IA s 13BB)

- (1) If a law authorises or requires a body to exercise a function, it may do so by resolution.

*Note* See dict, pt 1, def **body**.

- (2) If a law authorises or requires a signature by a person and the person is a body, the signature of a person authorised by the body for the purpose is taken to be the signature of the body.

- (3) If a law gives a function to a body, the function may be exercised by the body as constituted for the time being.
- (4) The exercise of the function is not affected only because of vacancies in the body's membership.
- (5) If a body as constituted for the time being does something in exercise of a function given to the body under a law, the thing done by the body does not end only because the membership of the body changes.

*Note* See also s 211 (Appointment not affected by appointer changes), s 224 (Acting appointment not affected by appointer changes), and s 241 (Delegation not affected by appointer changes).

- (6) Subsection (5) does not prevent the thing done by the body being ended or changed by the body as subsequently constituted for the time being.

## **200 Functions of occupants of positions (IA s 26 (2), s 30AA)**

- (1) If a law gives a function to the occupant of a position, the function may be exercised by the person for the time being occupying the position.

*Note* See s 189 (References to occupant of position) and the definitions of *occupy* and *position* in the dict, pt 1.

- (2) If the person for the time being occupying a position does something in exercise of a function given to the occupant of the position under a law, the thing done by the person does not end only because the person ceases to be the occupant of the position.

*Note* See also s 211 (Appointment not affected by appointer changes), s 224 (Acting appointment not affected by appointer changes), and s 241 (Delegation not affected by appointer changes).

- (3) Subsection (2) does not prevent the thing done by the person being ended or changed by any person subsequently occupying the position for the time being.

## **Part 18.3 Appointments**

### **Division 18.3.1 Appointments—other than acting appointments**

#### **205 Application of div 18.3.1 (IA s 28 (1))**

- (1) This division applies if a law authorises or requires an entity (the *appointer*) to appoint a person—
  - (a) to a position under a law; or
  - (b) to exercise a function or do anything else under a law.

*Note* **Function** is defined in the dict, pt 1 to include authority, duty and power.

- (2) This division applies to a law except so far as the contrary intention appears.

#### **206 Appointment must be in writing etc (IA s 28 (7))**

An appointment must be made, or evidenced, by writing signed by the appointer.

#### **207 Appointment may be by name or position (IA s 28 (2))**

- (1) The appointer may make an appointment by—
  - (a) naming the person appointed; or
  - (b) nominating the occupant of a position (however described), at a particular time or from time to time.
- (2) For this division, the person named, or the occupant of the position nominated, is the *appointee*.

**208 Power of appointment includes power to suspend etc**  
(IA s 28 (3) to (5))

- (1) The appointer's power to make the appointment includes the power—
  - (a) to suspend the appointee, and end the suspension; or
  - (b) to end the appointment, and appoint someone else or reappoint the appointee if the appointee is eligible to be appointed to the position; or
  - (c) to reappoint the appointee if the appointee is eligible to be appointed to the position.
- (2) The power to suspend the appointee, or end the appointment, is exercisable in the same way, and subject to the same conditions, as the power to make the appointment.

**Example**

If the appointment power is exercisable only on the recommendation of a body, the power to suspend, or end the appointment, is exercisable only on the recommendation of the body.

**209 Power of appointment includes power to make acting appointment** (IA s 28 (4) to (6))

- (1) If the appointer's power is the power to make an appointment to a position, the power to make the appointment also includes power to appoint a person, or 2 or more people, to act in the position—
  - (a) during any vacancy, or all vacancies, in the position, whether or not an appointment has previously been made to the position; or

- (b) during any period, or all periods, when the appointee cannot for any reason exercise functions of the position.

**Examples for par (b)**

- 1 The appointee is ill or on leave.
- 2 The appointee is acting in another position.
- 3 The appointee is outside the ACT or Australia.

*Note* **Function** is defined in the dict, pt 1 to include authority, duty and power.

- (2) The power to appoint a person to act is exercisable in the same way, and subject to the same conditions, as the power to make the appointment.

**Example**

If the appointment power is exercisable only on the recommendation of a body, the power to appoint a person to act is exercisable only on the recommendation of the body.

- (3) Without limiting subsection (2), if the law (or another law) requires—
- (a) the appointee to hold a qualification; or
  - (b) the appointer (or someone else) to be satisfied about the appointee's suitability (whether in terms of knowledge, experience, character or any other personal quality) before appointing the appointee to the position;

a person may only be appointed to act in the position if the person holds the qualification or the appointer (or other person) is satisfied about the person's suitability.

**Examples**

- 1 If an Act requires the appointee to be a magistrate, a person can be appointed to act in the position only if the person is a magistrate.
- 2 If a regulation requires the appointee to be a lawyer of at least 5 years standing, a person can be appointed to act in the position only if the person is a lawyer of at least 5 years standing.
- 3 If an Act requires the appointee to have, in the Executive's opinion, appropriate expertise, training or experience in relation to the needs of a

particular group of people, a person can be appointed to act in the position only if the person has, in the Executive's opinion, that expertise, training or experience.

### **210 Resignation of appointment (IA s 28 (8), (9))**

- (1) An appointment ends if the appointee resigns by signed notice of resignation given to the appointer.
- (2) However, if the appointer is the Executive, the notice of resignation may be given to a Minister.

### **211 Appointment not affected by appointer changes**

- (1) If the appointer is a body, an appointment made by the body does not end only because the membership of the body changes.
- (2) If the appointer is the person for the time being occupying a position, an appointment made by the person does not end only because the person ceases to be the occupant of the position.
- (3) This section does not limit the following sections:
  - section 199 (Functions of bodies)
  - section 200 (Functions of occupants of positions).

### **212 Appointment not affected by defect etc (IA s 28 (10))**

An appointment, or anything done under an appointment, is not invalid only because of a defect or irregularity in or in relation to the appointment.

## **Division 18.3.2 Acting appointments**

### **215 Application of div 18.3.2 (IA s 28A (1))**

- (1) This division applies if a law gives an entity (the *appointer*) power to appoint a person to act in a position under a law.

*Note* A power to make an appointment includes power to make an acting appointment (see s 209).



- (2) This division applies to a law except so far as the contrary intention appears.

**216 Acting appointment must be in writing etc (IA s 28 (7), (11))**

An acting appointment must be made, or evidenced, by writing signed by the appointer.

**217 Acting appointment may be made by name or position**

- (1) The appointer may make an acting appointment by—
- (a) naming the person appointed; or
  - (b) nominating the occupant of a position (however described), at a particular time or from time to time.
- (2) For this division, the person named, or the occupant of the position nominated, is the *appointee*.

**218 Instrument may provide when acting appointment has effect etc (IA s 28A (2))**

The instrument making or evidencing the acting appointment may provide that the appointment has effect only in stated circumstances or subject to stated conditions or limitations.

**Examples**

- 1 The instrument relating to a standing (or dormant) acting appointment for a position provides that when the substantive occupant of the position (Y) is overseas X may act in the position, but may exercise stated powers of the position only with Y's approval.
- 2 X is appointed to act in Y's position if Y is out of the ACT and a declaration of acute fire danger is published under the *ABC Act 2000*.

**219 Appointer may decide terms of acting appointment etc**  
(IA s 28A (3))

- (1) The appointer may—
- (a) decide the terms of the acting appointment, including any remuneration and allowances; and
  - (b) end the appointment at any time.

*Note* See also s 221 (How long does an acting appointment operate?)

- (2) The power to end the acting appointment is exercisable in the same way, and subject to the same conditions, as the power to make the acting appointment.

**Example**

If the power to make the acting appointment is exercisable only on the recommendation of a body, the power to end the appointment is exercisable only on the recommendation of the body.

**220 Appointee may exercise functions under acting appointment etc**  
(IA s 28A (8))

While the appointee is acting in the position—

- (a) the appointee has, subject to the instrument making or evidencing the appointment, all the functions of the occupant of the position; and
- (b) all Territory laws apply in relation to the appointee as if the appointee were the occupant of the position.

*Note* **Function** is defined in the dict, pt 1 to include authority, duty and power.

**221 How long does an acting appointment operate?**  
(IA s 28A (4) to (6))

- (1) If the appointee acts in the position because it is vacant, the appointee may not act for more than 1 year after the position became vacant.

*Note* See also s 219 (Appointer may decide terms of acting appointment etc)

- (2) If the appointee is acting in a position that becomes vacant while the appointee is acting, the appointee may continue to act until the first of the following happens:
- (a) the appointer ends the appointment;
  - (b) the vacancy is filled;
  - (c) 1 year after the position became vacant.

- (3) If the appointee acts in the position because the occupant of the position cannot exercise functions and the occupant resumes the exercise of the functions, the appointment no longer authorises the appointee to act on that occasion.

*Note* **Function** is defined in the dict, pt 1 to include authority, duty and power.

**222 Resignation of acting appointment (IA s 28 (8) to (11))**

- (1) An acting appointment ends if the appointee resigns by signed notice of resignation given to the appointer.
- (2) However, if the appointer is the Executive, the notice of resignation may be given to a Minister.

**223 Effect of acting appointment on substantive appointment etc (IA s 28A (7))**

- (1) If the appointee is the occupant of another position under a law (the **substantive position**), the appointee does not cease to occupy the substantive position only because of the appointee's appointment or because the appointee acts under the appointment.

- (2) This section does not prevent an acting appointment being made to the substantive position.

**224 Acting appointment not affected by appointer changes**

- (1) If the appointer is a body, an acting appointment made by the body does not end only because the membership of the body changes.
- (2) If the appointer is the person for the time being occupying a position, an acting appointment made by the person does not end only because the person ceases to be the occupant of the position.
- (3) This section does not limit the following sections:
- section 199 (Functions of bodies)
  - section 200 (Functions of occupants of positions).

**225 Acting appointment not affected by defect etc**  
(IA s 28 (10), (11), 28A (9))

- (1) An acting appointment, or anything done under an acting appointment, is not invalid only because of a defect or irregularity in or in relation to the appointment.
- (2) Anything done by or in relation to the appointee while the appointee purports to act in the position is not invalid only because—
- (a) the occasion for the appointment had not arisen or had ended;  
or
  - (b) the appointment had ended; or
  - (c) the occasion for the appointee to act had not arisen or had ended.

## Part 18.4 Delegations

### 230 Application of pt 18.4 generally

- (1) This part applies if a law authorises or requires an entity (the *appointer*) to delegate (or subdelegate) a function.

*Note* **Function** is defined in the dict, pt 1 to include authority, duty and power.

- (2) For subsection (1), if a law gives a function to an entity, the law may be taken to authorise the delegation of the function even if the law provides for another way in which the function may be exercised.
- (3) This part applies to a law except so far as the contrary intention appears.

### 231 Application of pt 18.4 to subdelegations (IA s 30AB)

- (1) This part applies to the subdelegation of a function in the same way as it applies to the delegation of the function.
- (2) However, if a law authorises or requires an entity to delegate a function, the function may be subdelegated by the delegate only if the law (or another law) expressly authorises or requires the function to the subdelegated.

*Note* Section 231 (2) envisages a law that would allow the appointer (Y) to delegate Y's functions to X with authority for X to further delegate those functions (see, for example, *Public Sector Management Act 1994*, s 36). However, X's authority to subdelegate those functions would not in itself give X the authority to delegate Y's power of delegation. X could only exercise this power if the law also gave this authority. See s 236 which recognises that a law may expressly authorise a person to exercise another's power of delegation.

**232 Delegation must be in writing etc**

A delegation must be made, or evidenced, by writing signed by the appointer.

**233 Delegation may be made by name or position (IA s 29A)**

- (1) The appointer may delegate by—
  - (a) naming the person to whom the delegation is made; or
  - (b) nominating the occupant of a position (however described), at a particular time or from time to time.
- (2) For this part, the person named, or the occupant of the position nominated, is the *delegate*.

**234 Instrument may provide when delegation has effect etc (IA s 29B (a))**

The instrument making or evidencing a delegation may provide—

- (a) that the delegation has effect only in stated circumstances or subject to stated conditions, limitations or directions; or
- (b) that all of the function, or a stated part of the function, is delegated.

**Examples**

- 1 The delegation provides that, when the appointer (Y) is outside Australia, the delegate (X) may exercise her functions except that stated functions may only be exercised with Y's approval.
- 2 The delegation provides that X may enter into a contract for the purchase of property of not more than \$50 000 in value.
- 3 The delegation provides that X may grant licences under a stated Act but that, in considering applications, X must take account of the policy of the agency (authorised by the Act) that there should not be more than 100 licences current at any time.

**235 Delegation may be made to 2 or more delegates**

The appointer may delegate the appointer's function, or any part of the function, to 2 or more delegates.

**236 Power to delegate may not be delegated (IA s 29B (b))**

- (1) The appointer may not delegate the appointer's power to delegate.
- (2) A power to delegate may be delegated by the appointer only if a law expressly authorises or requires the power to the delegated.

*Note* Section 236 (2) envisages a law that would allow the delegate (X) to exercise the power of delegation of the appointer (Y). However, X's authority to exercise Y's power of delegation would not in itself give X the authority to exercise any of the functions to which Y's power of delegation applies. X could only exercise these functions if the law also gave this authority or Y delegated those functions to X. See s 231 which recognises that the law giving the appointer's power to delegate (or another law) may expressly authorise a subdelegation.

**237 Delegation may be amended or revoked**

- (1) The appointer may amend a delegation or revoke it in whole or part.
- (2) The power to amend or revoke a delegation is exercisable in the same way, and subject to the same conditions, as the power to delegate.

**Example**

If the power to delegate is exercisable only with the Minister's approval, the power to revoke the delegation is exercisable only with the Minister's approval.

**238 Appointer responsible for delegated function**

The delegation of a function, or a part of a function, does not relieve the appointer of the appointer's obligation to ensure that the function is properly exercised.

**239 Exercise of delegation by delegate (IA s 29B (c), (e), s 30)**

- (1) A delegate must exercise the delegation subject to any conditions, limitations or directions in the instrument making or evidencing the delegation.
- (2) All Territory laws apply to the delegate in the exercise of the delegation as if the delegate were the appointer.
- (3) Without limiting subsection (2), if the exercise of a function by the appointer is dependent on the appointer's opinion, belief or state of mind and the function is delegated, the function may be exercised by the delegate on the delegate's opinion, belief or state of mind.
- (4) Anything done by the delegate in the exercise of the delegation is taken to have been done by the appointer.

*Note 1* Section 94 provides that a delegation under a law that is in force immediately before an amendment of the law continues to have effect as if made under the amended law.

*Note 2* Section 196 gives a delegate the powers necessary or convenient to exercise a delegated function.

**240 Appointer may exercise delegated function (IA s 29B (d))**

A function that has been delegated may, despite the delegation, be exercised by the appointer.

**241 Delegation not affected by appointer changes (IA s 30AA)**

- (1) If the appointer is a body, a delegation made by the body does not end only because the membership of the body changes.
- (2) If the appointer is the person for the time being occupying a position, a delegation made by the person does not end only because the person ceases to be the occupant of the position.
- (3) This section does not limit the following sections:
  - section 199 (Functions of bodies)
  - section 200 (Functions of occupants of positions).



**242 Delegation not affected by defect etc**

- (1) A delegation, or anything done under a delegation, is not invalid only because of a defect or irregularity in or in relation to the delegation.
- (2) Anything done by or in relation to the delegate while the delegate purports to exercise the delegation is not invalid only because—
  - (a) the delegation had been amended or revoked; or
  - (b) the occasion for the delegate to exercise the delegation had not arisen or had ended.

## Part 18.5 Service of documents

### 245 Application of pt 18.5 (IA s 17A (1))

This part applies to a document that is authorised or required under a law to be served (whether the word ‘serve’, ‘give’, ‘notify’, ‘send’ or ‘tell’ or any other word is used).

### 246 Definitions for pt 18.5

In this part:

**administrator**, of a law, means the entity administering or responsible for the law.

**agency** means—

- (a) an administrative unit; or
  - (b) a statutory office-holder; or
  - (c) any other entity established for a public purpose under a law;
- and includes a member of, or a member of the staff of, the agency.

**business address**, of an individual, corporation or agency in relation to anything done or to be done under a law, includes the latest business address, or address for service of notices (however described), of the individual, corporation or agency (if any) recorded in a register or other records kept by the administrator of the law.

**corporation** does not include an agency.

**document** includes a notice, an article that may be sent by post or anything else.

**email address**, of an individual, corporation or agency in relation to anything done or to be done under a law, includes the latest email address of the individual, corporation or agency (if any) recorded in a register or other records kept by the administrator of the law.

***executive officer*** means—

- (a) for a corporation—a person (however described and whether or not the person is a director of the corporation) who is concerned with, or takes part in, the corporation's management; or
- (b) for an agency that is an administrative unit—the chief executive of the administrative unit; or
- (c) for an agency that is a statutory office-holder—the occupant of the position; or
- (d) for an agency constituted by 2 or more people—the person who is entitled, because of the position occupied by the person, to preside at any meeting of the agency at which the person is present; or
- (e) for any other agency—the chief executive officer (however described) of the agency; or
- (f) for any agency—a person (however described) who is concerned with, or takes part in, the agency's management.

***fax number***, of an individual, corporation or agency in relation to anything done or to be done under a law, includes the latest fax number of the individual, corporation or agency (if any) recorded in a register or other records kept by the administrator of the law.

***home address***, of an individual in relation to anything done or to be done under the law, includes the latest home address, or address for service of notices (however described), of the person (if any) recorded in a register or other records kept by the administrator of the law.

***responsible***, for a law, means allocated responsibility for the law under the *Public Sector Management Act 1994*, section 14 (1) (b) (Ministerial responsibility and functions of administrative units).

**247 Service of documents on individuals (IA s 17A (1), 18)**

A document may be served on an individual—

- (a) by giving it to the individual; or
- (b) by sending it by prepaid post, addressed to the individual, to a home or business address of the individual; or
- (c) by faxing it to a fax number of the individual; or
- (d) by emailing it to an email address of the individual; or
- (e) by leaving it, addressed to the individual, at a home or business address of the individual with someone who appears to be at least 16 years old and to live or be employed at the address.

*Note* See s 251 for service of documents under other laws.

**248 Service of documents on corporations (IA s 17A (1), 18)**

A document may be served on a corporation—

- (a) by giving it to an executive officer of the corporation; or
- (b) by sending it by prepaid post, addressed to the corporation (or an executive officer of the corporation), to the address of any of its registered offices or any other business address of the corporation; or
- (c) by faxing it to a fax number of the corporation; or
- (d) by emailing it to an email address of the corporation; or
- (e) by leaving it, addressed to the corporation (or an executive officer of the corporation), at the address of any of the corporation's registered offices, or any other business address of the corporation, with someone who appears to be at least 16 years old and to be employed at the address.

*Note* See s 251 for service of documents under other laws.

**249 Service of documents on agencies (IA s 17A (1), 18)**

A document may be served on an agency—

- (a) by giving it to an executive officer of the agency; or
- (b) by sending it by prepaid post, addressed to the agency (or an executive officer of the agency), to the address of any office of the agency or any other business address of the agency; or
- (c) by faxing it to a fax number of the agency; or
- (d) by emailing it to an email address of the agency; or
- (e) by leaving it, addressed to the agency (or an executive officer of the agency), at the address of any of the agency's offices or any other business address of the agency with someone who appears to be employed at the agency.

*Note* See s 251 for service of documents under other laws.

**250 When service taken to be effected (IA s 18)**

- (1) A document served by post under this part is taken to be served when the document would have been delivered in the ordinary course of post.
- (2) However, subsection (1) does not affect the operation of the *Evidence Act 1995* (Cwlth), section 160.

*Note* The *Evidence Act 1995* (Cwlth), s 160 provides a rebuttable presumption that a postal article sent by prepaid post addressed to a person at an address in Australia or an external Territory was received on the 4th working day after posting.

- (3) If the sender has no reason to suspect that a document served by fax or email under this part was not received by the recipient when sent, the document is presumed to be served when sent unless evidence sufficient to raise doubt about the presumption is adduced.
- (4) For subsection (3), the sender has reason to suspect that a document served by fax or email under this part was not received by the

recipient when sent only if, on the day the document was sent or on the next working day, the equipment the sender used to send the document indicated by way of a signal or other message that—

- (a) the equipment did not send the document when the equipment was used to send the document; or
  - (b) for a fax—the number to which the fax was sent to the recipient was not a fax number of the recipient; or
  - (c) for an email—the address to which the email was sent was not an email address of the recipient.
- (5) A document addressed to the recipient, and left for the recipient as mentioned in section 247 (e), 248 (e) or 249 (e), is taken to be served when it was left.
- (6) In this section:

*recipient*, for a document, means the individual, corporation or agency on whom the document is intended to be served.

*sender*, for a document served, or to be served, by fax or email, means the person sending, or seeking to send, the document.

## **251 Other laws not affected etc (IA s 17A (2) (a))**

- (1) This part does not affect the operation of any other law that authorises or requires service of a document otherwise than as provided under this part.
- (2) Despite this part, a law (or, if the law is an Act, regulations under the Act) may provide—
  - (a) that a document of a particular kind may or must be served (however described) only in a particular way or to a particular address or number; or
  - (b) provide for the date (or date and time) when service (however described) of a document is taken to have been made.

**252 Powers of courts and tribunals not affected (IA s 17A (2))**  
(b))

This part does not affect the power of a court or tribunal to authorise or require service of a document otherwise than as provided under this part.

## Part 18.6 Other provisions

### 255 Forms (IA s 13)

- (1) This section applies if an Act (the *authorising law*) authorises a form to be approved or prescribed under 1 of the following (the *relevant law*):
  - (a) the authorising law; or
  - (b) another Act or statutory instrument.
- (2) The authorising law authorises a form to be approved or prescribed with respect to any matter under or related to the relevant law.
- (3) To remove any doubt, a form may be approved or prescribed for a provision of the relevant law even though the provision does not mention a form.

#### Example

The X Act, section 23 provides for a person to apply for registration but makes no mention of a form for the application. However, section 80 (1) of the Act provides:

The Minister may, in writing, approve forms for this Act.

Because section 80 (1) permits a form to be approved ‘for this Act’, the *Legislation Act 2001*, section 255 applies in relation to section 23 and the Minister may approve a form for the application.

- (4) Substantial compliance with a form is sufficient.
- (5) However, if a form requires—
  - (a) the form to be signed; or
  - (b) the form to be prepared in a particular way (for example, on paper of a particular size or quality or in a particular electronic form); or
  - (c) the form to be completed in a particular way; or



- (d) particular information to be included in the form, or a particular document to be attached to or given with the form; or
- (e) the form, information in the form, or a document attached to or given with the form, to be verified in a particular way (for example, by statutory declaration);

the form is properly completed only if the requirement is complied with.

- (6) Despite subsection (5), the person need not comply with the requirement mentioned in subsection (5) (d) (and the form is taken to be properly completed despite the noncompliance) if—
  - (a) the form is approved or prescribed for a purpose; and
  - (b) the information or document is not reasonably necessary for the purpose.

**Examples**

- 1 A person need not comply with a requirement of an approved form to include personal information (eg marital status) irrelevant to a purpose for which the form is required.
- 2 A person need not comply with a requirement of an approved form that has some relevance to a purpose for which the form is required, but intrudes to an unreasonable extent on personal privacy.

- (7) If—
  - (a) a form (*form 1*) may be approved or prescribed for a purpose; and
  - (b) another form (*form 2*) may be approved or prescribed for the same or another purpose; and
  - (c) separate forms 1 and 2 are approved or prescribed;

a combination form, consisting of forms 1 and 2, may be approved or prescribed and used for the purpose or purposes.

- (8) If, under a law, a form is authorised or required to be filed with (however described), or served on (however described), a person, the form may be filed with, or served on, someone else under arrangements made between them.
- (9) This section applies in relation to a law except so far as the contrary intention appears.

**256 Production of records kept in computers etc (IA s 13A)**

- (1) This section applies if—
  - (a) a person uses an electronic or other device to keep a record of information; and
  - (b) a law requires the person (however the law is expressed) to give the information, or a document containing the information, to an authority.
- (2) The requirement obliges the person to give to the authority a document that accurately reproduces or contains the information in a form that can be understood by the authority.
- (3) In this section:  
*authority* means a court, tribunal or other entity.

## Chapter 19      Miscellaneous

### 260    Delegation by parliamentary counsel

- (1) The parliamentary counsel may delegate all or any of the parliamentary counsel's powers under this Act to a public servant.
- (2) The parliamentary counsel may delegate a power under part 11.3 (Editorial changes) only to a person performing the duties of deputy parliamentary counsel in the public service.

### 261    References to Subordinate Laws Act 1989 etc

- (1) In any Act, statutory instrument or document, a reference to the *Interpretation Act 1967*, the *Legislation (Republication) Act 1996* or the *Subordinate Laws Act 1989* is, in relation to anything dealt with in this Act, a reference to this Act.
- (2) In any Act, statutory instrument or document, a reference to a particular provision of the *Interpretation Act 1967*, the *Legislation (Republication) Act 1996* or the *Subordinate Laws Act 1989* is, in relation to anything dealt with in this Act, a reference to the corresponding provision of this Act.

### 262    Regulation-making power

The Executive may make regulations for this Act.

*Note*      Regulations must be notified, and presented to the Legislative Assembly, under this Act.

## Chapter 20 Transitional

### 263 Application of s 28

- (1) Section 28 (Notification of Acts) does not apply to an Act passed by the Legislative Assembly before the commencement of this section if the passing of the Act has been notified in the Gazette before the commencement.
- (2) This section expires 6 months after it commences.

### 264 Application of s 47 (2) and (3)

- (1) If, immediately before the commencement of this section, a statutory instrument makes provision about a matter by applying a law or instrument, or a provision of a law or instrument, as in force a particular time or from time to time, section 47 (2) and (3) do not apply to the statutory instrument in relation to the law, instrument or provision.
- (2) In subsection (1):
  - applying*—see section 47 (6).
  - instrument*—see section 47 (6).
  - law*—see section 47 (6).
- (3) Subsections (1) and (2) are a law to which section 88 (Repeal does not end transitional or validating effect etc) applies.
- (4) This section expires 3 years after it commences.

### 265 Application of s 61 and s 62

- (1) Sections 61 (Notification of registrable instruments) and 62 (Effect of failure to notify registrable instrument) do not apply to a registrable instrument made before the commencement of this

section if the instrument, or the making of the instrument, has been published or notified in the Gazette before the commencement.

- (2) Sections 61 and 62 do not apply to any other registrable instrument made before the commencement of this section if neither the instrument, nor the making of the instrument, were required to be published or notified in the Gazette.
- (3) This section expires 1 year after it commences.

### **266 Application of s 69**

- (1) Section 69 (Notification of amendments made by resolution of Assembly) does not apply to an amendment made before the commencement of this section if the amendment has been notified in the Gazette before the commencement.
- (2) This section expires 6 months after it commences.

### **267 Transitional regulations**

- (1) The regulations may prescribe savings or transitional matters necessary or convenient to be prescribed because of the enactment of this Act, the *Legislation (Consequential Provisions) Act 2001*, the *Legislation (Consequential Amendments) Act 2001* or the *Statute Law Amendment Act 2001 (No 2)*, schedule 2.
- (2) Without limiting the scope of subsection (1), the regulations may prescribe matters necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act instead of—
  - (a) the provisions of the *Legislation (Republication) Act 1996* or the *Subordinate Laws Act 1989*; or
  - (b) the provisions of the *Interpretation Act 1967* in force immediately before the commencement of the *Legislation (Consequential Provisions) Act 2001* or the *Statute Law Amendment Act 2001 (No 2)*, schedule 2, part 2.1.

- (3) Regulations made for this section must not be taken to be inconsistent with this Act so far as they can operate concurrently with this Act.
- (4) This section does not limit section 268 (Modification of ch 20's operation).
- (5) This section expires 1 year after it commences.

### **268 Modification of ch 20's operation**

- (1) The regulations may modify this chapter to make provision with respect to any matter that is not, or not adequately, dealt with in this chapter.
- (2) This section expires 1 year after it commences.

### **269 Status of certain instruments as disallowable instruments**

- (1) This section applies to a statutory instrument that is declared under an Act or statutory instrument to be a disallowable instrument for the *Subordinate Laws Act 1989*, whether or not for or for the purposes of section 10 of that Act.
- (2) The statutory instrument is a disallowable instrument for this Act.
- (3) Subsections (1) and (2) are a law to which section 88 (Repeal does not end transitional or validating effect etc) applies.
- (4) This section expires 3 years after it commences.

### **270 Status of certain instruments as notifiable instruments**

- (1) This section applies to a statutory instrument (other than a subordinate law, disallowable instrument or commencement notice, or a statutory instrument of a kind prescribed under the regulations for this section) if—
  - (a) the instrument is required or permitted under an Act or statutory instrument to be published or notified in the Gazette;  
or

- (b) the making or approval (however described) of the instrument is, or particulars (the *required particulars*) of the instrument (however described) are, required or permitted under an Act or statutory instrument to be published or notified in the Gazette; or
  - (c) the instrument is a form approved (however described) under an Act, subordinate law or disallowable instrument.
- (2) The statutory instrument is a notifiable instrument for this Act.
  - (3) Despite anything in any other Act or any statutory instrument, the statutory instrument, the making or approval (however described) of it, or the required particulars, need not be notified or published in the Gazette.
  - (4) Subsection (3) does not affect the requirement to notify the making of the statutory instrument in accordance with section 61 (Notification of registrable instruments).
  - (5) However, section 61 applies to the statutory instrument with the modifications (if any) prescribed under the regulations.
  - (6) Subsections (1) to (5) are a law to which section 88 (Repeal does not end transitional or validating effect etc) applies.
  - (7) This section expires 3 years after it commences.

**271 Compliance with authorisation or requirement to do something by notice in Gazette (IA s 27A)**

- (1) If a provision of an Act or statutory instrument authorises or requires something to be done by notice in the Gazette (however the provision is expressed), it is sufficient if it is done by an instrument.
- (2) Subsection (1) does not affect the requirement to notify the making of the statutory instrument in accordance with section 61.

- (3) However, if the instrument is a notifiable instrument because of section 270 (Status of certain instruments as notifiable instruments), subsection (5) of that section applies to the instrument.
- (4) Subsections (1) to (3) are a law to which section 88 applies.
- (5) This section expires 3 years after it commences.

**M 271B Commencement of Acts that refer to notification or notice in the Gazette**

**M 271C Commencement of registrable instruments that refer to notification or notice in the Gazette**

**272 Status of republications under the Legislation (Republication) Act 1996**

- (1) An Act or subordinate law republished under the *Legislation (Republication) Act 1996* is taken to have been authorised by the parliamentary counsel under this Act.
- (2) Subsection (1) is a law to which section 88 applies.
- (3) This section expires 3 years after it commences.

**273 Transitional provisions about penalties (IA s 63)**

- (1) This section applies to—
  - (a) a law as enacted or made that was notified in the Gazette before 10 November 1999; or
  - (b) a republication of a law republished as in force on a date (however expressed) before 10 November 1999.
- (2) In a law, if a penalty for an offence is expressed to apply to a body corporate or corporation—
  - (a) the penalty applies to any corporation; and



- (b) the value of a penalty unit for the offence is \$100, even though the person charged is a body corporate or another corporation.
- (3) Section 133 (1) (b) is subject to this section.
- (4) In this section:
  - law* means an Act or subordinate law.
  - republishion*, of a law, means a republication of a law to which the *Legislation (Republication) Act 1996* applied.
- (5) This section expires 2 years after it commences.

#### **274 Status of certain determinations**

- (1) This section applies to a determination of fees in force immediately before the commencement of part 6.3 (Making of certain statutory instruments about fees).
- (2) To the extent that—
  - (a) the determination was in force under a provision of an Act (the *authorising law*) amended by the *Legislation (Consequential Amendments) Act 2001*; and
  - (b) apart from this section, the authorising law would no longer authorise the determination, in whole or part;the determination is taken to be made under the authorising law as if it had not been amended by that Act.
- (3) Section 56 (5) (a) and (b) do not apply to the determination.
- (4) Section 57 applies to the determination as if a reference to the service mentioned in the determination included a reference to the service mentioned in the authorising law as in force before it was amended by the *Legislation (Consequential Amendments) Act 2001*.

(5) In this section:

*fee*—see section 55.

(6) This section expires 2 years after it commences.

## **Schedule 1      Acts included in sources of law of the Territory**

(see s 17)

### **U Part 1.1      Former NSW and UK Acts in force before establishment of Territory**

| <b>column 1<br/>item</b> | <b>column 2<br/>citation (if provided by the<br/>Act) or subject matter</b> | <b>column 3<br/>year (if not provided in the<br/>citation), number or date of<br/>royal assent and original<br/>jurisdiction</b> |
|--------------------------|---|--|
| 1                        | Magna Carta   | (1297) 25 Edw. 1, c 29 (UK)  |
| 2                        | Due process of law  | (1351) 25 Edw. 3, St. 5 c 4<br>(UK)  |
| 3                        | Due process of law  | (1354) 28 Edw. 3 c 3 (UK)  |
| 4                        | Due process of law  | (1368) 42 Edw. 3 c 3 (UK)  |
| 5                        | Free access to courts   | (1400) 2 Hen. 4 c 1 (UK)   |
| 6                        | Offences at sea   | (1536) 28 Hen. 8 c 15 (UK)   |
| 7                        | Demise of the Crown   | (1547) 1 Edw. 6 c 7 (UK)   |
| 8                        | Actions for trespass or<br>slander  | (1623) 21 Jas. 1 c 16 (UK)   |
| 9                        | The Petition of Right   | (1627) 3 Chas. 1 c 1 (UK)  |
| 10                       | The Bill of Rights  | (1688) 1 Will. and Mary,<br>Sess. 2 c 2 (UK)   |
| 11                       | Piracy  | (1698) 11 Will. 3 c 7 (UK)   |
| 12                       | The Act of Settlement   | (1700) 12 and 13 Will. 3 c 2<br>(UK)   |
| 13                       | Legal proceedings not   | (1702) 1 Anne c 2 (UK)   |

| <b>column 1<br/>item</b> | <b>column 2<br/>citation (if provided by the<br/>Act) or subject matter</b> | <b>column 3<br/>year (if not provided in the<br/>citation), number or date of<br/>royal assent and original<br/>jurisdiction</b> |
|--------------------------|---|--|
|                          | affected by demise of<br>Crown  |  |
| 14                       | Use of Crown seals not<br>affected by demise of<br>Crown                    | (1707) 6 Anne c 41 (UK)  |
| 15                       | Piracy  | (1717) 4 Geo. 1 c 11 (UK)  |
| 16                       | Piracy  | (1721) 8 Geo. 1 c 24 (UK)  |
| 17                       | Set-off of debts  | (1729) 2 Geo. 2 c 22 (UK)  |
| 18                       | Set-off of debts  | (1735) 8 Geo. 2 c 24 (UK)  |
| 19                       | Piracy  | (1744) 18 Geo. 2 c 30 (UK)   |
| 20                       | <i>Royal Marriages Act 1772</i>   | 12 Geo. 3 c 11 (UK)  |
| 21                       | <i>Australian Courts Act 1828</i>   | 9 Geo. 4 c 83 (UK)   |
| 22                       | <i>Foreign Tribunals Evidence<br/>Act 1856</i>                              | 19 and 20 Vic. c 113 (UK)  |
| 23                       | <i>Evidence by Commission Act<br/>1859</i>                                  | 22 Vic. c 20 (UK)  |
| 24                       | <i>British Law Ascertainment<br/>Act 1859</i>                               | 22 and 23 Vic. c 63 (UK)   |
| 25                       | <i>Colonial Laws Validity Act<br/>1865</i>                                  | 28 and 29 Vic. c 63 (UK)   |
| 26                       | <i>Courts (Colonial)<br/>Jurisdiction Act 1874</i>                          | 37 and 38 Vic. c 27 (UK)   |
| 27                       | <i>Public Instruction Act 1880</i>  | 43 Vic. No 23 (NSW)  |
| 28                       | <i>Evidence by Commission Act<br/>1885</i>                                  | 48 and 49 Vic. c 74 (UK)   |
| 29                       | <i>Colonial Courts of Admiralty<br/>Act 1890</i>                            | 53 and 54 Vic. c 27 (UK)   |
| 30                       | <i>Merchant Shipping Act 1894</i>   | 57 and 58 Vic. c 60 (UK)   |

**Schedule 1**  
**Part 1.1**

Acts included in sources of law of the Territory  
Former NSW and UK Acts in force before establishment of Territory

| <b>column 1<br/>item</b> | <b>column 2<br/>citation (if provided by the<br/>Act) or subject matter</b> | <b>column 3<br/>year (if not provided in the<br/>citation), number or date of<br/>royal assent and original<br/>jurisdiction</b> |
|--------------------------|---|--|
| 31                       | <i>Contractors' Debts Act 1897</i>  | 1897 No 29 (NSW)   |
| 32                       | <i>Conveyancing and Law of<br/>Property Act 1898</i>                        | 1898 No 17 (NSW)   |
| 33                       | <i>Landlord and Tenant Act<br/>1899</i>                                     | 1899 No 18 (NSW)   |
| 34                       | <i>Crimes Act 1900</i>  | 1900 No 40 (NSW)   |
| 35                       | <i>Truck Act 1900</i>   | 1900 No 55 (NSW)   |
| 36                       | <i>Judgment Creditors<br/>Remedies Act 1901</i>                             | 1901 No 8 (NSW)  |
| 37                       | <i>Defamation Act 1901</i>  | 1901 No 22 (NSW)   |
| 38                       | <i>Games, Wagers and Betting<br/>Houses Act 1901</i>                        | 1902 No 18 (NSW)   |
| 39                       | <i>Demise of the Crown Act<br/>1901</i>                                     | 1 Edw. 7 c 5 (UK)  |
| 40                       | <i>Arrest on Mesne Process Act<br/>1902</i>                                 | 1902 No 24 (NSW)   |
| 41                       | <i>Common Carriers Act 1902</i>   | 1902 No 48 (NSW)   |
| 42                       | <i>Innkeepers Liability Act 1902</i>  | 1902 No 64 (NSW)   |
| 43                       | <i>Pawnbrokers Act 1902</i>   | 1902 No 66 (NSW)   |
| 44                       | <i>Piracy Punishment Act 1902</i>   | 1902 No 69 (NSW)   |
| 45                       | <i>Public Roads Act 1902</i>  | 1902 No 95 (NSW)   |
| 46                       | <i>Anglican Church of Australia<br/>Constitutions Act 1902</i>              | 24 December 1902 (NSW)   |
| 47                       | <i>Fertilisers Act 1904</i>   | 1904 No 33 (NSW)   |
| 48                       | <i>Forfeiture and Validation of<br/>Leases Act 1905</i>                     | 1905 No 8 (NSW)  |
| 49                       | <i>Free Education Act 1906</i>  | 1906 No 12 (NSW)   |

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| <b>column 1<br/>item</b> | <b>column 2<br/>citation (if provided by the<br/>Act) or subject matter</b> | <b>column 3<br/>year (if not provided in the<br/>citation), number or date of<br/>royal assent and original<br/>jurisdiction</b> |
|--------------------------|---|--|
| 50                       | <i>Gaming and Betting Act 1906</i>  | 1906 No 13 (NSW)   |
| 51                       | <i>Second-hand Dealers and<br/>Collectors Act 1906</i>                      | 1906 No 30 (NSW)   |
| 52                       | <i>Defamation (Amendment) Act<br/>1909</i>                                  | 1909 No 22 (NSW)   |

## Part 1.2 Former NSW Acts applied after establishment of Territory

*Note to pt 1.2*

The former NSW Acts mentioned in this part are in force in the ACT as Acts of the Legislative Assembly

| column 1<br>item | column 2<br>name of NSW Act                                 | column 3<br>applying Territory Act   |
|------------------|---|--|
| 1                | <i>Scaffolding and Lifts Act 1912</i>                       | <i>Scaffolding and Lifts Act 1957</i> (repealed)   |
| 2                | <i>Anglican Church of Australia Trust Property Act 1917</i> | <i>Anglican Church of Australia Trust Property Act 1928</i>  |
| 3                | <i>Conveyancing Act 1919</i>                                | (a) <i>Conveyancing Act 1951</i> (repealed)<br>(b) <i>Law of Property (Miscellaneous Provisions) Act 1958</i> (repealed)<br>(c) <i>Trustee Act 1957</i> (repealed) |
| 4                | <i>Trustee Act 1925</i>                                     | <i>Trustee Act 1957</i> (repealed)   |
| 5                | <i>Anglican Church of Australia Constitution Act 1961</i>   | <i>Anglican Church of Australia Trust Property Act 1928</i>  |
| 6                | <i>Dangerous Goods Act 1975</i>                             | <i>Dangerous Goods Act 1984</i> (repealed)   |

*Note* The written law of the Territory also includes the following Acts that may not be amended or repealed by the Assembly (see the Self-Government Act, s 34):

*Life, Fire and Marine Insurance Act 1902* (NSW)

*Demise of the Crown Act 1760* (UK)

*Naval Prize Act 1864* (UK)

*Naval Prize (Procedure) Act 1916 (UK)*

*Prize Act (1939) (UK)*

*Prize Courts Act 1894 (UK)*

*Prize Courts Act 1915 (UK)*

*Prize Courts (Procedure) Act 1914 (UK)*

*Territorial Waters Jurisdiction Act 1878 (UK).*



## Dictionary

Part 1 Meaning of commonly-used words and expressions

---

## Dictionary

(see s 3)

### Part 1 Meaning of commonly-used words and expressions

(see s 144)

*Note* Words and expressions that are defined only for the *Legislation Act 2001* are set out in pt 2.

**Act**—see the following sections:

- (a) section 7 (Meaning of *Act* generally);
- (b) section 17 (References to Acts include references to former Cwlth enactments etc).

*Note* See also s 102 (Meaning of references to a law or instrument generally) and s 104 (References to laws include references to instruments under laws).

**ACT** means the Australian Capital Territory.

**ADI** is short for authorised deposit-taking institution.

**administrative appeals tribunal** (or **AAT**) means the Administrative Appeals Tribunal established under the *Administrative Appeals Tribunal Act 1989*.

**administrative unit** means an administrative unit for the time being established under the *Public Sector Management Act 1994*, section 13 (1).

**adult** means an individual who is at least 18 years old.

**affidavit**, in relation to a person allowed by law to affirm, declare or promise, includes affirmation, declaration and promise.

**ambulance service** means the ACT Ambulance Service under the *Emergency Management Act 1999*.

**amend** includes—

- (a) for an Act or statutory instrument—omit, insert, substitute, renumber or relocate a provision of the Act or instrument; and
- (b) for an Act or statutory instrument (or a provision of it)—amend by implication; and
- (c) for a provision of an Act or statutory instrument—omit the provision (or a part of it), substitute another provision for the provision (or a part of it), renumber the provision (or a part of it) or relocate the provision (or a part of it); and
- (d) for any other instrument, a provision of an instrument or a decision—change or alter; and
- (e) for chapter 9 (Repeal and amendment of laws)—see section 82 (Definitions for ch 9).

**appoint** includes reappoint.

**asset** includes property of any kind.

**Attorney-General** means the Minister designated Attorney-General by the Chief Minister, and includes a Minister authorised by the Chief Minister to act on behalf of the Attorney-General.

**auditor-general** means the Auditor-General for the Territory.

*Note* The *Auditor-General Act 1996* provides for the appointment, functions and powers of the auditor-general.

**Australia** means the Commonwealth of Australia and, when used in a geographical sense, does not include an external Territory.

**Australian driver licence** means an Australian driver licence under the *Road Transport (Driver Licensing) Act 1999*.

*Note* **Australian driver licence** is defined in the dictionary to that Act to mean a driver licence of any kind issued under the law of the Commonwealth or a State or Territory. It includes a driver licence issued under ACT law (see also def of **driver licence**).

**authorised deposit-taking institution** means an authorised deposit-taking institution under the *Banking Act 1959* (Cwlth).

## Dictionary

Part 1 Meaning of commonly-used words and expressions

---

**bank** means an authorised deposit-taking institution that is permitted under the *Banking Act 1959* (Cwlth) to assume or use—

- (a) the word ‘bank’, ‘banker’ or ‘banking’; or
- (b) any other word (whether or not in English) similar in meaning to a word mentioned in paragraph (a).

**barrister** means a lawyer who practises as a barrister.

**body** includes any group of people joined together for a common purpose, whether or not incorporated.

### Examples

- 1 a company
- 2 a statutory corporation, whether or not it has members
- 3 an association, club or society
- 4 a partnership
- 5 a joint venture
- 6 a corporation sole

**breach** includes contravene.

**building society** means an authorised deposit-taking institution that is permitted under the *Banking Act 1959* (Cwlth) to assume or use—

- (a) the expression ‘building society’; or
- (b) any other expression (whether or not in English) similar in meaning to the expression mentioned in paragraph (a).

**business day** means a day that is not—

- (a) a Saturday or Sunday; or
- (b) a public holiday or bank holiday in the Territory under the *Holidays Act 1958*.

**calendar month** means a period beginning at the start of any day of a named month and ending—

- (a) at the end of the day before the corresponding day of the next named month; or

- (b) if there is no such corresponding day—at the end of the last day of the next named month.

**Examples**

- 1 The period beginning at the start of 5 July 2000 and ending at midnight on 4 August 2000 is a calendar month.
- 2 The period beginning at the start of 30 January 2001 and ending at midnight on 28 February 2001 is a calendar month. The calendar month ends on the last day of February because in that year February does not have a day corresponding to 29 January (because 2001 is not a leap year). If the period began at the start of 30 January 2004 (ie, a leap year), the calendar month would end at midnight on 29 February 2004.

***calendar year*** means a period of 12 months commencing on 1 January.

***change*** includes change by omission, substitution or addition.

***chief executive***—see section 163.

***chief fire control officer*** means the Chief Fire Control Officer under the *Bushfire Act 1936*.

***chief health officer*** means the Chief Health Officer under the *Public Health Act 1997*.

***Chief Justice*** means the Chief Justice of the Supreme Court.

***Chief Magistrate*** means the Chief Magistrate of the Magistrates Court.

***Chief Minister*** means the Chief Minister for the Territory.

*Note* The Chief Minister is elected under the Self-Government Act, s 40.

***chief police officer*** means the police officer responsible to the commissioner of police for the day-to-day administration and control of police services in the Territory.

***child***, if age rather than descendency is relevant, means an individual who is under 18 years old.

***Childrens Court*** means the Childrens Court under the *Children and Young People Act 1999*, section 53.

## Dictionary

Part 1

Meaning of commonly-used words and expressions

---

**city area** means the area that was **the City Area** under the *City Area Leases Act 1936* immediately before its repeal.

**clerk**, in relation to the Legislative Assembly, means the Clerk of the Legislative Assembly.

*Note* The office of Clerk is established under the *Public Sector Management Act 1994*.

**commencement**, of an Act or statutory instrument—see section 80 (References to *commencement* of law).

**commencement notice**—see section 11 (Meaning of *commencement notice*).

**commissioner for the environment** means the Commissioner for the Environment under the *Commissioner for the Environment Act 1993*.

**commissioner for fair trading** means the Commissioner for Fair Trading of the Australian Capital Territory.

*Note* The *Fair Trading (Consumer Affairs) Act 1973* provides for the office of the commissioner.

**commissioner for health complaints** means the Community and Health Services Complaints Commissioner under the *Community and Health Services Complaints Act 1993*.

**commissioner for housing** means the Commissioner for Housing under the *Housing Assistance Act 1987*.

**commissioner for land and planning** means the Commissioner for Land and Planning under the *Land (Planning and Environment) Act 1991*.

**commissioner for public administration** means the Commissioner for Public Administration under the *Public Sector Management Act 1994*.

**commissioner for revenue** means the Commissioner for Australian Capital Territory Revenue under the *Taxation Administration Act 1999*.

***commissioner for surveys*** means the Commissioner for Surveys under the *Surveyors Act 2001*.

***commissioner of police*** means the Commissioner of Police of the Australian Federal Police.

***committed for trial***, in relation to a person, means committed to prison or to a remand centre with a view to being tried before a judge and jury, or admitted to bail on an undertaking to appear and be tried before a judge and a jury.

***Commonwealth*** means the Commonwealth of Australia and, when used in a geographical sense, does not include an external Territory.

***Commonwealth country*** means a country that forms part of the Commonwealth of Nations, and includes a territory for the international relations of which a Commonwealth country is responsible.

***Commonwealth Gazette*** means the *Commonwealth of Australia Gazette* or the *Australian Government Gazette*.

*Note* The *Australian Government Gazette* was published from 1 July 1973 to 30 June 1976.

***community advocate*** means the Community Advocate under the *Community Advocate Act 1991*.

***confer***, in relation to a function, includes impose.

***conservator of flora and fauna*** means the Conservator of Flora and Fauna under the *Nature Conservation Act 1980*.

***Consumer Credit (Australian Capital Territory) Code*** means the provisions applying because of the *Consumer Credit Act 1995*, section 4.

***Consumer Credit (Australian Capital Territory) Regulations*** means the provisions applying because of the *Consumer Credit Act 1995*, section 5.

***contravene*** includes fail to comply with.

## Dictionary

Part 1

Meaning of commonly-used words and expressions

---

***converted ordinance*** means an enactment that was an ordinance immediately before self-government day.

***Coroner's Court*** means the Coroner's Court under the *Coroners Act 1997*.

***corporation*** includes a body politic or corporate.

***Corporations Act*** means the *Corporations Act 2001* (Cwlth).

***court of summary jurisdiction*** means the Magistrates Court.

***credit tribunal*** means the Australian Capital Territory Credit Tribunal.

*Note* The *Consumer Credit (Administration) Act 1996* deals with the establishment, functions and powers of the tribunal.

***credit union*** means an authorised deposit-taking institution that is permitted under the *Banking Act 1959* (Cwlth) to assume or use—

- (a) the expression 'credit union'; or
- (b) any other expression (whether or not in English) similar in meaning to the expression mentioned in paragraph (a).

***daylight*** means the period in a day from sunrise to sunset.

***definition***—see section 130 (What is a definition?).

***dentist*** means a registered dentist under the *Dentists Act 1931*.

***dental prosthetist*** means a registered dental prosthetist under the *Dental Technicians and Dental Prosthetists Registration Act 1988*.

***dental technician*** means a registered dental technician under the *Dental Technicians and Dental Prosthetists Registration Act 1988*.

***designation***, of a position under the *Public Sector Management Act 1994*, includes a designation given under that Act.

***director of public prosecutions*** (or ***DPP***) means the Director of Public Prosecutions under the *Director of Public Prosecutions Act 1990*.

**disallowable instrument**—see section 9 (Meaning of *disallowable instrument*).

**discrimination commissioner** means the Discrimination Commissioner under the *Discrimination Act 1991*.

**discrimination tribunal** means the Discrimination Tribunal established by the *Discrimination Act 1991*.

**doctor** means a registered medical practitioner under the *Medical Practitioners Act 1930*.

**document** includes—

- (a) anything on which there is writing; or
- (b) anything on which there are figures, marks, numbers, perforations, symbols or anything else having a meaning for persons qualified to interpret them; or
- (c) anything from which images, sounds, messages or writings can be produced or reproduced, whether with or without the aid of anything else; or
- (d) a drawing, map, photograph or plan.

**driver licence** means a driver licence under the *Road Transport (Driver Licensing) Act 1999*.

*Note* **Driver licence** is defined in the dictionary to that Act to mean a driver licence of any kind issued under that Act (see also def of *Australian driver licence*).

**electoral commission** means the Australian Capital Territory Electoral Commission established by the *Electoral Act 1992*.

**electoral commissioner** means the Electoral Commissioner under the *Electoral Act 1992*.

**enactment**, of an Act—see section 29 (References to *enactment* or *passing* of Acts).

**entity** includes an unincorporated body and a person (including a person occupying a position).



## Dictionary

Part 1

Meaning of commonly-used words and expressions

---

**establish** includes constitute and continue in existence.

**estate** includes any charge, claim, demand, easement, encumbrance, lien, right and title, whether at law or in equity.

**Executive** means the Australian Capital Territory Executive.

*Note* The Executive is established by the Self-Government Act, s 36.

**exercise** a function includes perform the function.

**expire** includes lapse or otherwise cease to have effect.

**external Territory** means a Commonwealth Territory, other than an internal Territory.

**fail** includes refuse.

**Federal Court** means the Federal Court of Australia.

**file** includes lodge.

**financial year** means a period of 12 months beginning on 1 July.

**fire brigade** means the Australian Capital Territory Fire Brigade established by the *Fire Brigade (Administration) Act 1974*.

**fire commissioner** means the Fire Commissioner under the *Fire Brigade (Administration) Act 1974*.

**foreign country** means a country (whether or not an independent sovereign state) outside Australia and the external Territories.

**former NSW Act** means a NSW Act mentioned in schedule 1.

**former UK Act** means a UK Act mentioned in schedule 1.

**found guilty**, of an offence, includes—

- (a) having the offence taken into account under the *Crimes Act 1900*, section 357; and
- (b) having an order made in relation to the offence under the *Crimes Act 1900*, section 402 or the *Children and Young People Act 1999*, section 96.

**function** includes authority, duty and power.

***gambling and racing commission*** means the Gambling and Racing Commission established under the *Gambling and Racing Control Act 1999*.

***Gazette*** means the *Australian Capital Territory Gazette*.

***give***, in relation to a function, includes impose.

***government printer*** includes anyone printing for or by the authority of the Executive.

***government solicitor*** means the Government Solicitor under the *Government Solicitor Act 1989*.

***Governor*** means—

- (a) for a State (other than the Northern Territory)—the Governor of the State, and includes a person administering the Government of the State; or
- (b) for the Northern Territory—the Administrator of the Territory, and includes a person administering the Government of the Territory.

***Governor-General*** means the Governor-General of the Commonwealth, and includes a person administering the Government of the Commonwealth.

***guardianship tribunal*** means the Guardianship and Management of Property Tribunal established under the *Guardianship and Management of Property Act 1991*.

***High Court*** means the High Court of Australia.

*Note* The High Court is established by the Commonwealth Constitution, s 71 and provided for under the *High Court of Australia Act 1979* (Cwlth).

***Imperial Act*** means an Act of the United Kingdom Parliament.

***indictable offence***—see section 136 (1).

***indictment*** includes information.

***individual*** means a natural person.

## Dictionary

Part 1            Meaning of commonly-used words and expressions

---

***instrument***—see section 14 (Meaning of *instrument*).

***interest***, in relation to land or other property, means—

- (a) a legal or equitable estate in the land or other property; or
- (b) a right, power or privilege over, or in relation to, the land or other property.

***internal Territory*** means the Australian Capital Territory, the Jervis Bay Territory or the Northern Territory.

***Jervis Bay Territory*** means the Territory accepted by the Commonwealth under the *Jervis Bay Territory Acceptance Act 1915* (Cwlth).

*Note*        The Territory is described in the agreement set out in the schedule to the Act.

***judge***, of the Supreme Court, means a resident judge, additional judge or acting judge under the *Supreme Court Act 1933*.

***Lake Burley Griffin*** means Lake Burley Griffin as defined in the *Lakes Act 1976*.

***Lake Ginninderra*** means Lake Ginninderra as defined in the *Lakes Act 1976*.

***land*** includes messuages, tenements and hereditaments, corporeal or incorporeal, of any tenure or description, whatever the interest in the land.

*Note*        A number of the terms mentioned in the definition of ***land*** have a technical meaning at law. A *messuage* is a house together with its gardens, orchards and outbuildings. The term *tenement* signifies land capable of being held in freehold. *Hereditament* refers to real property that can be inherited. Hereditaments may be *corporeal*, that is, tangible things such as lands and buildings, or *incorporeal*, that is, intangible rights attaching to land such as rents, easements, tithes and profits a prendre. (Profits a prendre are the right to take some product of, or part of the soil from, the land of someone else.)

**law**, of the Territory, means—

- (a) an Act; or
- (b) a subordinate law; or
- (c) any other statutory instrument of a legislative nature; or
- (d) the common law.

**lawyer** means a legal practitioner.

**legal aid commission** means the Legal Aid Commission (A.C.T.) established by the *Legal Aid Act 1977*.

**legal practitioner** means a barrister, solicitor, barrister and solicitor or legal practitioner entered onto the High Court Register of Practitioners or on the roll, however described, of the Supreme Court of a State or Territory.

**Legislative Assembly** means the Legislative Assembly for the Territory.

*Note* The Assembly is established by the Self-Government Act, s 8 (1).

**liability** means any liability or obligation (whether liquidated or unliquidated, certain or contingent, or accrued or accruing).

**magistrate** means a Magistrate under the *Magistrates Court Act 1930*.

**Magistrates Court** means the Magistrates Court established by the *Magistrates Court Act 1930*.

**make** an instrument includes issue and grant the instrument.

**making**, of a statutory instrument, means the signing, sealing, approval or other endorsement of the instrument by the entity authorised or required to make it.

**master**, in relation to the Supreme Court, means the Master of the Supreme Court.

*Note* The office of master is established under the *Supreme Court Act 1933*.

**may**—see section 146.

## Dictionary

Part 1 Meaning of commonly-used words and expressions

---

***medical practitioner*** means a doctor.

***mental health tribunal*** means the Mental Health Tribunal established by the *Mental Health (Treatment and Care) Act 1994*.

***midnight***, in relation to a particular day, means the time when the day ends.

***Minister***—see section 162.

***modification*** includes modification by addition, omission and substitution.

***month*** means calendar month.

***must***—see section 146.

***name*** includes—

- (a) for an Act—the Act’s short title; and
- (b) for an instrument—the instrument’s citation; and
- (c) for a position—the position’s title or designation.

***named month*** means one of the 12 months of the year.

***national land*** means National Land under the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth).

*Note* If an area of land in the Territory is, or is intended to be, used by or on behalf of the Commonwealth, it may be declared National Land under the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth), s 27.

***night*** means the period between sunset on one day and sunrise on the next day.

***Northern Territory*** means the Northern Territory of Australia.

***notifiable instrument***—see section 10 (Meaning of *notifiable instrument*).

**notification**—

- (a) of an Act—see section 30 (References to *notification* of Acts); and
- (b) of a statutory instrument—see section 63 (References to *notification* of registrable instruments).

**notification day**, for an Act or statutory instrument, means the day the Act or instrument is notified.

**NSW Act** means an Act of the New South Wales Parliament.

**number** means—

- (a) a number expressed in figures or words; or
- (b) a combination of a number so expressed and a letter of the alphabet.

**nurse** means a registered nurse under the *Nurses Act 1988*.

**oath**, in relation to a person allowed by law to affirm, declare or promise includes affirmation, declaration and promise.

**occupy** a position includes hold the position or exercise functions of the position.

**office** includes position.

**office of fair trading** means the Office of Fair Trading of the Australian Capital Territory.

*Note* The *Fair Trading (Consumer Affairs) Act 1973* establishes the office and deals with its functions and powers.

**ombudsman** means the Ombudsman under the *Ombudsman Act 1989*.

**omit**, in relation to a provision of an Act or statutory instrument, includes repeal.

**ordinance** means an ordinance made under the *Seat of Government (Administration) Act 1910* (Cwlth), section 12.

## Dictionary

Part 1 Meaning of commonly-used words and expressions

---

***parliamentary counsel*** means the person performing the duties of Parliamentary Counsel in the public service.

***passing***, of an Act—see section 29 (References to *enactment* or *passing* of Acts).

***penalty unit***—see section 133.

***person*** includes an individual and a corporation.

*Note* Section 160 deals with references to a person generally.

***pharmacist*** means a registered pharmacist under the *Pharmacy Act 1931*.

***planning authority*** means the Australian Capital Territory Planning Authority under the *Land (Planning and Environment) Act 1991*.

***police officer*** means a member or special member of the Australian Federal Police.

***position*** includes office.

***power*** includes authority.

***prescribed***, in an Act, means prescribed by the Act or regulations under the Act.

***privacy commissioner*** means the Privacy Commissioner under the *Privacy Act 1998* (Cwlth).

***proceeding*** means a legal or other action or proceeding.

***property*** means any legal or equitable estate or interest (whether present or future, vested or contingent, or tangible or intangible) in real or personal property of any description (including money), and includes a chose in action.

*Note* A *chose in action* is an intangible personal property right recognised and protected by the law. Examples include debts, money held in a bank, shares, rights under a trust, copyright and right to sue for breach of contract.

***provision***—see section 16 (Meaning of *provision*).

**public employee** means—

- (a) a public servant; or
- (b) a person employed by a Territory instrumentality; or
- (c) a statutory office-holder or a person employed by a statutory office-holder.

**public health officer**—see the *Public Health Act 1997*, dictionary.

**public money**, of the Territory, means revenues, loans and other money received by the Territory.

**public servant** means a person employed in the public service.

**public service** means the Australian Capital Territory Public Service.

*Note* The *Public Sector Management Act 1994*, s 12 deals with the constitution of the public service.

**public trustee** means the Public Trustee for the Australian Capital Territory under the *Public Trustee Act 1985*.

**registered surveyor** means a surveyor under the *Surveyors Act 2001*.

**registrable instrument**—see section 12 (Meaning of *registrable instrument*).

**registrar** means—

- (a) in relation to the Supreme Court—the registrar of the Supreme Court; or
- (b) in relation to the Magistrates Court—the registrar of the Magistrates Court; or
- (c) in relation to a tribunal—the registrar of the tribunal.

**registrar-general** means the Registrar-General under the *Registrar-General Act 1993*.

**registrar of firearms** means the Registrar of Firearms under the *Firearms Act 1996*.



## Dictionary

Part 1

Meaning of commonly-used words and expressions

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**registrar of liquor licences** means the Registrar of Liquor Licences under the *Liquor Act 1975*.

**regulations**, in relation to an Act, means regulations made or in force under the Act.

**remuneration tribunal** means the Remuneration Tribunal established by the *Remuneration Tribunal Act 1995*.

**repeal** includes—

- (a) for an Act or statutory instrument—omit a provision of the Act or instrument; and
- (b) for an Act or statutory instrument (or a provision of it)—abrogate or limit its effect, or exclude from its application, any circumstance, matter, person, place or purpose; and
- (c) for a provision of an Act or statutory instrument—omit the provision (or a part of it); and
- (d) for a decision—revoke it or cancel it; and
- (e) for chapter 9 (Repeal and amendment of laws)—see section 82 (Definitions for ch 9).

**residential tenancies tribunal** means the Residential Tenancies Tribunal established by the *Residential Tenancies Act 1997*.

**road transport authority** means the Australian Capital Territory Road Transport Authority.

*Note* The chief executive of the department responsible for the *Road Transport (General) Act 1999* is the road transport authority (see *Road Transport (General) Act 1999*, s 16).

**rules**, of a court or tribunal, means rules made by the person or body having power to make rules (however described) regulating the practice and procedure of the court or tribunal.

**rural firefighting service** means the Rural Firefighting Service established by the *Bushfire Act 1936*.

**see**, in a definition—see section 131 (Signpost definitions).

***Self-Government Act*** means the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth).

***self-government day*** means 11 May 1989.

*Note* This is the day when the remaining provisions of the Self-Government Act commenced and, in particular, the Australian Capital Territory was established as a body politic, the Legislative Assembly was empowered to make laws for the Territory and the Executive was established.

***sign*** includes attach a seal and make a mark.

***sitting day***, of the Legislative Assembly, means a day when the Assembly meets.

***Small Claims Court*** means the Magistrates Court when exercising jurisdiction as the Small Claims Court.

*Note* The *Magistrates Court (Civil Jurisdiction) Act 1982* deals with the exercise of this jurisdiction.

***solicitor*** means a lawyer who practises as a solicitor.

***Speaker*** means the Presiding Officer of the Legislative Assembly.

*Note* The presiding officer is elected under the Self-Government Act, s 11.

***Standards Australia*** means the company named Standards Australia International Limited (ACN 087 326 690).

***State*** means a State of the Commonwealth, and includes the Northern Territory.

***statutory declaration*** means a statutory declaration made under the *Statutory Declarations Act 1959* (Cwlth).

***statutory instrument***—see section 13 (Meaning of *statutory instrument*).

***statutory office-holder*** means the person occupying a position under an Act or statutory instrument.

***subordinate law***—see section 8 (Meaning of *subordinate law*).

***summary offence***—see section 136 (2).

## Dictionary

Part 1 Meaning of commonly-used words and expressions

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**Supreme Court** means the Supreme Court of the Australian Capital Territory.

*Note* The Supreme Court is established by the *Supreme Court Act 1933*, s 3. The Self-Government Act, s 48A deals with the jurisdiction and powers of the court.

**swear**, in relation to a person allowed by law to affirm, declare or promise, includes affirmation, declaration and promise.

**tenancy tribunal** means the Tenancy Tribunal established by the *Tenancy Tribunal Act 1994*.

**the Territory** means—

- (a) when used in a geographical sense—the Australian Capital Territory; or
- (b) in any other case—the body politic established by the Self-Government Act, section 7.

**Territory authority** means a body established under an Act.

**Territory instrumentality** means a corporation that—

- (a) is established under an Act or statutory instrument, or under the Corporations Act; and
- (b) is a Territory instrumentality under the *Public Sector Management Act 1994*.

*Note* Territory instrumentality is defined in the *Public Sector Management Act 1994*, s 3 (1).

**Territory land** means Territory Land under the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth).

*Note* The *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth), s 28 provides that if land in the Territory is not national land (see the definition above) it is Territory land.

**Territory owned corporation** means a Territory owned corporation under the *Territory Owned Corporations Act 1990*.

**Territory plan** means the Territory plan as in force from time to time under the *Land (Planning and Environment) Act 1991*.

**transitional** includes saving.

**Treasurer** means the Minister designated Treasurer by the Chief Minister, and includes a Minister authorised by the Chief Minister to act on behalf of the Treasurer.

**tribunal** includes any entity that is authorised to hear, receive and examine evidence.

**UK Act** means an Act of the United Kingdom Parliament.

**under**, in relation to an Act or statutory instrument or a provision of an Act or statutory instrument, includes all of the following:

- (a) by;
- (b) for or for the purposes of;
- (c) in accordance with;
- (d) within the meaning of.

**United Kingdom** means the United Kingdom of Great Britain and Northern Ireland.

**United Kingdom Parliament** means—

- (a) the Parliament of England; or
- (b) the Parliament of Great Britain; or
- (c) the Parliament of the United Kingdom of Great Britain and Ireland; or
- (d) the Parliament of the United Kingdom of Great Britain and Northern Ireland.

**veterinary surgeon** means a registered veterinary surgeon under the *Veterinary Surgeons Act 1965*.

**will** includes a codicil.

**word** includes any drawing, figure, number and symbol.

## Dictionary

Part 1 Meaning of commonly-used words and expressions

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*writing* includes any way of representing or reproducing words in visible form.

### Examples

Printing, photocopying, photography, typewriting.

*year*, without specifying the kind of year, means calendar year.

## Part 2

# Words and expressions for the *Legislation Act 2001* only

*Note* Words and expressions that apply to all Acts and statutory instruments are set out in pt 1.

***administrator***, for part 18.5 (Service of documents)—see section 246.

***agency***, for part 18.5 (Service of documents)—see section 246.

***appointee***—

- (a) for division 18.3.1 (Appointments—other than acting appointments)—see section 207 (2); and
- (b) for division 18.3.2 (Acting appointments)—see section 217 (2).

***appointer***—

- (a) for division 18.3.1 (Appointments—other than acting appointments)—see section 205 (1); and
- (b) for division 18.3.2 (Acting appointments)—see section 215 (1); and
- (c) for part 18.4 (Delegations)—see section 230 (1).

***approved web site*** means an Internet site approved under section 21 (Approved web site).

***authorised republication***—see section 15 (Meaning of *authorised republication*).

***authorising law***, for chapter 5 (Regulatory impact statements for subordinate laws and disallowable instruments)—see section 31 (Definitions for ch 5).

***benefits***, for chapter 5 (Regulatory impact statements for subordinate laws and disallowable instruments)—see section 31 (Definitions for ch 5).

## Dictionary

Part 2 Words and expressions for the Legislation Act 2001 only

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***business address***, for part 18.5 (Service of documents)—see section 246.

***corporation***, for part 18.5 (Service of documents)—see section 246.

***costs***, for chapter 5 (Regulatory impact statements for subordinate laws and disallowable instruments)—see section 31 (Definitions for ch 5).

***current legislative drafting practice*** means the legislative drafting practices from time to time used in the Parliamentary Counsel's Office.

***delegate***, for part 18.4 (Delegations)—see section 233 (2).

***document***, for part 18.5 (Service of documents)—see section 246.

***editorial amendment***, of a law—see section 116 (Ambit of editorial amendments).

***email address***, for part 18.5 (Service of documents)—see section 246.

***executive officer***, for part 18.5 (Service of documents)—see section 246.

***fax number***, for part 18.5 (Service of documents)—see section 246.

***fee***, for part 6.3 (Making of certain statutory instruments about fees)—see section 55 (Definitions for pt 6.3).

***home address***, for part 18.5 (Service of documents)—see section 246.

***law***—

- (a) for chapter 5 (Regulatory impact statements for subordinate laws and disallowable instruments)—see section 31 (Definitions for ch 5); and
- (b) for chapter 8 (Commencement and exercise of powers before commencement)—see section 72 (Meaning of *law* in ch 8); and

- (c) for chapter 9 (Repeal and amendment of laws)—see section 82 (Definitions for ch 9); and
- (d) for chapter 11 (Republication of Acts and statutory instruments)—see section 107 (Meaning of *law* in ch 11); and
- (e) for chapter 13 (Structure of Acts and statutory instruments)—see section 125 (Meaning of *law* in ch 13); and
- (f) for chapter 16 (Courts, tribunals and other decision-makers)—see section 175 (Meaning of *law* in ch 16); and
- (g) for chapter 17 (Entities and positions)—see section 185 (Meaning of *law* in ch 17); and
- (h) for chapter 18 (Administrative and machinery provisions)—see section 195 (Meaning of *law* in ch 18).

**provide** a service, for part 6.3 (Making of certain statutory instruments about fees)—see section 55 (Definitions for pt 6.3).

**referential words** means words that identify a provision as a provision, or part of a provision, of the Act, statutory instrument or provision in which they appear.

**Examples**

- 1 of this Act
- 2 of this section
- 3 hereof
- 4 said

**register** means the ACT legislation register.

**republiation** means a republication of a law with the meaning of section 107 (Meaning of *law* in ch 11).

**republiation date**, for an authorised republication, means the date stated in the republication as the republication date.

**responsible**, for part 18.5 (Service of documents)—see section 246.



## Dictionary

Part 2 Words and expressions for the Legislation Act 2001 only

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*scrutiny committee principles*, for chapter 5 (Regulatory impact statements for subordinate laws and disallowable instruments)—see section 31 (Definitions for ch 5).

*service*, for part 6.3 (Making of certain statutory instruments about fees)—see section 55 (Definitions for pt 6.3).

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnotes.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

|  |  |
|--|--|
| am = amended   | ord = ordinance                                  |
| amdt = amendment                                       | orig = original                                  |
| ch = chapter   | p = page   |
| cl = clause  | par = paragraph                                  |
| def = definition                                       | pres = present                                   |
| dict = dictionary                                      | prev = previous                                  |
| disallowed = disallowed by the Legislative<br>Assembly | (prev...) = previously                           |
| div = division   | prov = provision                                 |
| exp = expires/expired                                  | pt = part  |
| Gaz = Gazette  | r = rule/subrule                                 |
| hdg = heading  | reg = regulation/subregulation                   |
| ins = inserted/added                                   | renum = renumbered                               |
| LA = Legislation Act 2001                              | reloc = relocated                                |
| LR = legislation register                              | R[X] = Republication No                          |
| LRA = Legislation (Republication) Act 1996             | s = section/subsection                           |
| mod = modified / modification                          | sch = schedule                                   |
| num = numbered   | sdiv = subdivision                               |
| No = number  | sub = substituted                                |
| o = order  | SL = Subordinate Law                             |
| om = omitted/repealed                                  | <u>underlining</u> = whole or part not commenced |

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Legislation Act 2001 No 14**

notified 5 April 2001 (Gaz 2001 No 14)

s 1, s 2 commenced 5 April 2001 (IA s 10B)

remainder commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

as amended by

#### **Legislation (Consequential Amendments) Act 2001 No 44 pt 220**

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 220 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

#### **Statute Law Amendment Act 2001 (No 2) 2001 No 56 pt 2.2**

notified 5 September 2001 (Gaz 2001 No S65)

s 1, s 2 commenced 5 September 2001 (IA s 10B)

amnds 2.67, 2.69, 2.78, 2.81 commenced 12 September 2001 (s 2 (2))

pt 2.2 remainder commenced 5 September 2001 (s 2 (1))

as modified by

#### **Legislation Regulations 2001 No 34 reg 6**

notified LR 13 September 2001

commenced 13 September 2001 (reg 2)

as amended by

#### **Justice and Community Safety Legislation Amendment Act 2001 No 70 sch 1**

notified LR 14 September 2001

amdt commenced 14 September 2001 (s 2 (5))

#### **Defamation Act 2001 No 88 s 43**

notified LR 24 September 2001

s 1, s 2 commenced 24 September 2001 (LA s 75)

s 43 commences 1 July 2002 (s 2)

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## 4 Amendment history

### Commencement

s 2 om R1 (LA s 89 (4))

### Dictionary

s 3 am 2001 No 56 amdt 2.18

### Notes

s 4 am 2001 No 56 amdt 2.19  
(2), (3) exp 2 September 2003 (s 4 (3))

### Meaning of *instrument*

s 14 am 2001 No 56 amdt 2.20

### Meaning of *provision*

s 16 am 2001 No 56 amdt 2.21

### ACT legislation register

s 18 am 2001 No 56 amdt 2.22

### Contents of register

s 19 sub 2001 No 56 amdt 2.23

### Access to registered material at approved web site

s 22 am 2001 No 56 amdt 2.24

### Authorised electronic versions

s 24 am 2001 No 56 amdt 2.25, amdt 2.26

### Notification of Acts

s 28 am 2001 No 56 amdts 2.27-2.29

### References to *notification of Acts*

s 30 am 2001 No 56 amdt 2.30, amdt 2.31

### Guidelines about costs of proposed subordinate laws and disallowable instruments

s 33 (3), (4) exp 12 March 2002 (s 33 (4))

### Making of statutory instruments by Executive

s 41 hdg sub 2001 No 56 amdt 2.32

s 41 am 2001 No 56 amdts 2.33-2.36

### Determination of fees by disallowable instrument

s 56 am 2001 No 56 amdt 2.37, amdt 2.38; ss renum R1 LA (see 2001 No 56 amdt 2.39)

### Regulations may make provision about fees

s 58 am 2001 No 56 amdt 2.40

### Numbering

s 59 am 2001 No 56 amdt 2.41

## Endnotes

4 Amendment history

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### **Correction of name of registrable instrument**

s 60 am 2001 No 56 amdt 2.42, amdt 2.43; 2001 No 70 amdt 1.8

### **Notification of registrable instruments**

s 61 sub 2001 No 56 amdt 2.44

### **References to *notification* of registrable instruments**

s 63 am 2001 No 56 amdt 2.45, amdt 2.46

### **Disallowance by resolution of Assembly**

s 65 hdg sub 2001 No 56 amdt 2.47

s 65 am 2001 No 56 amdt 2.48, amdt 2.49

### **Notification of disallowance by resolution of Assembly**

s 65A ins 2001 No 56 amdt 2.50

### **Amendment by resolution of Assembly**

s 68 am 2001 No 56 amdts 2.51-2.53; ss renum R1 LA (see 2001 No 56 amdt 2.54)

### **Notification of amendments made by resolution of Assembly**

s 69 am 2001 No 56 amdt 2.55, amdt 2.56

### **Creation of offences and changes in penalties**

s 84A ins 2001 No 56 amdt 2.57

### **Insertion of provisions by amending law**

s 91 am 2001 No 56 amdt 2.58

### **Provisions included in another provision for amendment purposes**

s 93 am 2001 No 56 amdt 2.59, amdt 2.60

### **References to law or instrument include law or instrument containing reference**

s 97 hdg sub 2001 No 56 amdt 2.61

s 97 am 2001 No 56 amdt 2.62

### **Reference to provisions of law or instrument is inclusive**

s 101A ins 2001 No 56 amdt 2.63

### **References to paragraphs etc**

s 101B ins 2001 No 56 amdt 2.63

### **References to laws include references to instruments under laws**

s 104 am 2001 No 56 amdt 2.64

### **Republication in register**

s 108 am 2001 No 56 amdt 2.65

### **Authorisation for parliamentary counsel**

s 114 am 2001 No 70 amdt 1.8

### **Delegation by parliamentary counsel**

s 119 prev s 119 renum as s 260 2001 No 56 amdt 2.67

**Scope of Acts and statutory instruments**

ch 12 hdg prev ch 12 hdg renum as ch 19 hdg 2001 No 56 amdt 2.66  
ins 2001 No 56 amdt 2.68

**Act to be interpreted not to exceed legislative powers of Assembly**

s 120 prev s 120 renum as s 261 2001 No 56 amdt 2.67  
ins 2001 No 56 amdt 2.68

**Regulation-making power**

s 121 prev s 121 renum as s 262 2001 No 56 amdt 2.67

**Application to Territory**

s 122 prev s 122 renum as s 263 2001 No 56 amdt 2.67  
ins 2001 No 56 amdt 2.68

**Application of s 47 (2) and (3)**

s 122A prev s 122A renum as s 264 2001 No 56 amdt 2.67

**Application of s 61 and s 62**

s 123 prev s 123 renum as s 265 2001 No 56 amdt 2.67

**Application of s 69**

s 124 prev s 124 renum as s 266 2001 No 56 amdt 2.67

**Structure of Acts and statutory instruments**

ch 13 hdg prev ch 13 hdg renum as ch 20 hdg 2001 No 56 amdt 2.66  
ins 2001 No 56 amdt 2.68

**General**

pt 13.1 hdg ins 2001 No 56 amdt 2.68

**Meaning of law in ch 13**

s 125 prev s 125 renum as s 267 2001 No 56 amdt 2.67  
ins 2001 No 56 amdt 2.68

**Material that is part of an Act or statutory instrument**

s 126 prev s 126 renum as s 268 2001 No 56 amdt 2.67  
ins 2001 No 56 amdt 2.68

**Material that is not part of an Act or statutory instrument**

s 127 prev s 127 renum as s 269 2001 No 56 amdt 2.67  
ins 2001 No 56 amdt 2.68

**Status of certain instruments as notifiable instruments**

s 128 prev s 128 renum as s 270 2001 No 56 amdt 2.67

**Compliance with authorisation or requirement to do something by notice in Gazette**

s 129 prev s 129 renum as s 271 2001 No 56 amdt 2.67

**Particular kinds of provisions**

pt 13.2 hdg ins 2001 No 56 amdt 2.68

## Endnotes

4 Amendment history

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### **What is a definition?**

s 130 prev s 130 renum as s 272 2001 No 56 amdt 2.67  
ins 2001 No 56 amdt 2.68

### **Signpost definitions**

s 131 ins 2001 No 56 amdt 2.68

### **Examples**

s 132 ins 2001 No 56 amdt 2.68

### **Penalty units**

s 133 ins 2001 No 56 amdt 2.68

### **Penalties at end of sections and subsections**

s 134 ins 2001 No 56 amdt 2.68

### **Penalties not at end of sections and subsections**

s 135 ins 2001 No 56 amdt 2.68

### **Indictable and summary offences**

s 136 ins 2001 No 56 amdt 2.68

### **Aids to interpretation**

ch 15 hdg ins 2001 No 56 amdt 2.68

### **General**

pt 15.1 hdg ins 2001 No 56 amdt 2.68

### **Meaning of commonly-used words and expressions**

s 144 ins 2001 No 56 amdt 2.68

### **Gender and number**

s 145 ins 2001 No 56 amdt 2.68

### **Meaning of *may* and *must***

s 146 ins 2001 No 56 amdt 2.68

### **Changes of drafting practice not to affect meaning**

s 147 ins 2001 No 56 amdt 2.68

### **Terms used in instruments have same meanings as in authorising laws**

s 148 ins 2001 No 56 amdt 2.68

### **Age in years**

s 149 ins 2001 No 56 amdt 2.68

### **Measurement of distance**

s 150 ins 2001 No 56 amdt 2.68

### **Definitions**

pt 15.2 hdg ins 2001 No 56 amdt 2.68

### **Definitions apply subject to contrary intention**

s 155 ins 2001 No 56 amdt 2.68

**Application of definitions in dictionaries and sections**

s 156 ins 2001 No 56 amdt 2.68

**Defined terms—other parts of speech and grammatical forms**

s 157 ins 2001 No 56 amdt 2.68

**References to various entities and things**

pt 15.3 hdg ins 2001 No 56 amdt 2.68

**References to people generally**

s 160 ins 2001 No 56 amdt 2.68

**Corporations liable to offences**

s 161 ins 2001 No 56 amdt 2.68

**References to a *Minister or the Minister***

s 162 ins 2001 No 56 amdt 2.68

**References to a *chief executive or the chief executive***

s 163 ins 2001 No 56 amdt 2.68

**References to Australian Standards**

s 164 ins 2001 No 56 amdt 2.68

**References to Assembly committees that no longer exist**

s 165 ins 2001 No 56 amdt 2.68

**References to person with interest in land include personal representative etc**

s 168 ins 2001 No 56 amdt 2.68

**Courts, tribunals and other decision-makers**

ch 16 hdg ins 2001 No 56 amdt 2.68

**Meaning of *law* in ch 16**

s 175 ins 2001 No 56 amdt 2.68

**Jurisdiction of courts and tribunals**

s 176 ins 2001 No 56 amdt 2.68

**Recovery of amounts owing under laws**

s 177 ins 2001 No 56 amdt 2.68

**Power to decide includes authority to administer oath etc**

s 178 ins 2001 No 56 amdt 2.68

**Content of statements of reasons for decisions**

s 179 ins 2001 No 56 amdt 2.68

**Power to make decision includes power to reverse or change**

s 180 ins 2001 No 56 amdt 2.68

**Entities and positions**

ch 17 hdg ins 2001 No 56 amdt 2.68



## Endnotes

### 4 Amendment history

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#### **Meaning of *law* in ch 17**

s 185 ins 2001 No 56 amdt 2.68

#### **Application of ch 17**

s 186 ins 2001 No 56 amdt 2.68

#### **Change of name of entity**

s 187 ins 2001 No 56 amdt 2.68

#### **Change in constitution of entity**

s 188 ins 2001 No 56 amdt 2.68

#### **References to occupant of position**

s 189 ins 2001 No 56 amdt 2.68

#### **Change of name of position**

s 190 ins 2001 No 56 amdt 2.68

#### **Chairperson and deputy chairperson**

s 191 ins 2001 No 56 amdt 2.68

#### **Administrative and machinery provisions**

ch 18 hdg ins 2001 No 56 amdt 2.68

#### **Introductory**

pt 18.1 hdg ins 2001 No 56 amdt 2.68

#### **Meaning of *law* in ch 18**

s 195 ins 2001 No 56 amdt 2.68

#### **Functions**

pt 18.2 hdg ins 2001 No 56 amdt 2.68

#### **Provision giving function gives power to exercise function**

s 196 ins 2001 No 56 amdt 2.68

#### **Statutory functions may be exercised from time to time**

s 197 ins 2001 No 56 amdt 2.68

#### **Functions of bodies**

s 199 ins 2001 No 56 amdt 2.68

#### **Functions of occupants of positions**

s 200 ins 2001 No 56 amdt 2.68

#### **Appointments**

pt 18.3 hdg ins 2001 No 56 amdt 2.68

#### **Appointments—other than acting appointments**

div 18.3.1 hdg ins 2001 No 56 amdt 2.68

#### **Application of div 18.3.1**

s 205 ins 2001 No 56 amdt 2.68

#### **Appointment must be in writing etc**

s 206 ins 2001 No 56 amdt 2.68

**Appointment may be by name or position**

s 207 ins 2001 No 56 amdt 2.68

**Power of appointment includes power to suspend etc**

s 208 ins 2001 No 56 amdt 2.68

**Power of appointment includes power to make acting appointment**

s 209 ins 2001 No 56 amdt 2.68

**Resignation of appointment**

s 210 ins 2001 No 56 amdt 2.68

**Appointment not affected by appointer changes**

s 211 ins 2001 No 56 amdt 2.68

**Appointment not affected by defect etc**

s 212 ins 2001 No 56 amdt 2.68

**Acting appointments**

div 18.3.2 hdg ins 2001 No 56 amdt 2.68

**Application of div 18.3.2**

s 215 ins 2001 No 56 amdt 2.68

**Acting appointment must be in writing etc**

s 216 ins 2001 No 56 amdt 2.68

**Acting appointment may be made by name or position**

s 217 ins 2001 No 56 amdt 2.68

**Instrument may provide when acting appointment has effect etc**

s 218 ins 2001 No 56 amdt 2.68

**Appointer may decide terms of acting appointment etc**

s 219 ins 2001 No 56 amdt 2.68

**Appointee may exercise functions under acting appointment etc**

s 220 ins 2001 No 56 amdt 2.68

**How long does an acting appointment operate?**

s 221 ins 2001 No 56 amdt 2.68

**Resignation of acting appointment**

s 222 ins 2001 No 56 amdt 2.68

**Effect of acting appointment on substantive appointment etc**

s 223 ins 2001 No 56 amdt 2.68

**Acting appointment not affected by appointer changes**

s 224 ins 2001 No 56 amdt 2.68

**Acting appointment not affected by defect etc**

s 225 ins 2001 No 56 amdt 2.68

**Delegations**

pt 18.4 hdg ins 2001 No 56 amdt 2.68

## Endnotes

4 Amendment history

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**Application of pt 18.4 generally**

s 230 ins 2001 No 56 amdt 2.68

**Application of pt 18.4 to subdelegations**

s 231 ins 2001 No 56 amdt 2.68

**Delegation must be in writing etc**

s 232 ins 2001 No 56 amdt 2.68

**Delegation may be made by name or position**

s 233 ins 2001 No 56 amdt 2.68

**Instrument may provide when delegation has effect etc**

s 234 ins 2001 No 56 amdt 2.68

**Delegation may be made to 2 or more delegates**

s 235 ins 2001 No 56 amdt 2.68

**Power to delegate may not be delegated**

s 236 ins 2001 No 56 amdt 2.68

**Delegation may be amended or revoked**

s 237 ins 2001 No 56 amdt 2.68

**Appointer responsible for delegated function**

s 238 ins 2001 No 56 amdt 2.68

**Exercise of delegation by delegate**

s 239 ins 2001 No 56 amdt 2.68

**Appointer may exercise delegated function**

s 240 ins 2001 No 56 amdt 2.68

**Delegation not affected by appointer changes**

s 241 ins 2001 No 56 amdt 2.68

**Delegation not affected by defect etc**

s 242 ins 2001 No 56 amdt 2.68

**Service of documents**

pt 18.5 hdg ins 2001 No 56 amdt 2.68

**Application of pt 18.5**

s 245 ins 2001 No 56 amdt 2.68

**Definitions for pt 18.5**

s 246 ins 2001 No 56 amdt 2.68

**Service of documents on individuals**

s 247 ins 2001 No 56 amdt 2.68

**Service of documents on corporations**

s 248 ins 2001 No 56 amdt 2.68

**Service of documents on agencies**

s 249 ins 2001 No 56 amdt 2.68

**When service taken to be effected**

s 250 ins 2001 No 56 amdt 2.68

**Other laws not affected etc**

s 251 ins 2001 No 56 amdt 2.68

**Powers of courts and tribunals not affected**

s 252 ins 2001 No 56 amdt 2.68

**Other provisions**

pt 18.6 hdg ins 2001 No 56 amdt 2.68

**Forms**

s 255 ins 2001 No 56 amdt 2.68

**Production of records kept in computers etc**

s 256 ins 2001 No 56 amdt 2.68

**Miscellaneous**

ch 19 hdg (prev ch 12 hdg) renum 2001 No 56 amdt 2.66

**Delegation by parliamentary counsel**

s 260 (prev s 119) renum 2001 No 56 amdt 2.67

**References to Subordinate Laws Act 1989 etc**

s 261 (prev s 120) renum 2001 No 56 amdt 2.67

**Regulation-making power**

s 262 (prev s 121) renum 2001 No 56 amdt 2.67

**Miscellaneous**

ch 20 hdg (prev ch 13 hdg) renum 2001 No 56 amdt 2.66

**Application of s 28**

s 263 (prev s 122) renum 2001 No 56 amdt 2.67  
exp 12 March 2002 (s 263 (2))

**Application of s 47 (2) and (3)**

s 264 (prev s 122A) ins 2001 No 44 amdt 1.2623  
renum 2001 No 56 amdt 2.67  
exp 12 September 2004 (s 264 (4))

**Application of s 61 and s 62**

s 265 (prev s 123) renum 2001 No 56 amdt 2.67  
exp 12 September 2002 (s 265 (3))

**Application of s 69**

s 266 (prev s 124) renum 2001 No 56 amdt 2.67  
exp 12 March 2002 (s 266 (2))

**Transitional regulations**

s 267 (prev s 125) am 2001 No 44 amdt 1.2624  
renum 2001 No 56 amdt 2.67  
am 2001 No 56 amdts 2.69-2.71  
exp 12 September 2002 (s 267 (5))

## Endnotes

### 4 Amendment history

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#### **Modification of ch 20's operation**

s 268 hdg sub 2001 No 56 amdt 2.72  
s 268 (prev s 126) renum 2001 No 56 amdt 2.67  
exp 12 September 2002 (s 268 (2))

#### **Status of certain instruments as disallowable instruments**

s 269 (prev s 127) renum 2001 No 56 amdt 2.67  
exp 12 September 2004 (s 269 (4))

#### **Status of certain instruments as notifiable instruments**

s 270 (prev s 128) renum 2001 No 56 amdt 2.67  
exp 12 September 2004 (s 270 (7))

#### **Compliance with authorisation or requirement to do something by notice in Gazette**

s 271 (prev s 129) renum 2001 No 56 amdt 2.67  
am 2001 No 56 amdt 2.73  
exp 12 September 2004 (s 271 (5))

#### **Commencement of Acts that refer to notification or notice in the Gazette**

s 271B ins as mod SL 2001 No 34 reg 6 (exp 12 September 2002)

#### **Commencement of registrable instruments that refer to notification or notice in the Gazette**

s 271C ins as mod SL 2001 No 34 reg 6 (exp 12 September 2002)

#### **Status of republications under the Legislation (Republication) Act 1996**

s 272 (prev s 130) renum 2001 No 56 amdt 2.67  
exp 12 September 2004 (s 272 (3))

#### **Transitional provisions about penalties**

s 273 ins 2001 No 56 amdt 2.74  
exp 12 September 2003 (s 273 (5))

#### **Status of certain determinations**

s 274 ins 2001 No 56 amdt 2.74  
exp 12 September 2003 (s 274 (6))

#### **Former NSW and UK Acts in force before establishment of Territory**

sch 1 pt 1.1 hdg (prev sch 1 pt 1 hdg) sub and renum 2001 No 56 amdt 2.75  
sch 1 pt 1.1 am 2001 No 44 amdt 1.2625; 2001 No 56 amdts 2.76-2.79;  
2001 No 88 s 43 (2)

#### **Former NSW Acts applied after establishment of Territory**

sch 1 pt 1.2 hdg (prev sch 1 pt 2 hdg) sub and renum 2001 No 56 amdt 2.80  
sch 1 pt 1.2 am 2001 No 44 amdt 1.2626, amdt 1.2627; 2001 No 56  
amdt 2.81

#### **Dictionary**

dict pt 1 def **Act** sub 2001 No 56 amdt 2.82  
def **ACT** reloc from IA 2001 No 56 amdt 2.16  
def **ADI** reloc from IA 2001 No 56 amdt 2.16

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def **administrative appeals tribunal** reloc from IA 2001 No 56  
amdt 2.16

def **administrative unit** reloc from IA 2001 No 56 amdt 2.16

def **adult** reloc from IA 2001 No 56 amdt 2.16

def **affidavit** reloc from IA 2001 No 56 amdt 2.16

def **ambulance service** reloc from IA 2001 No 56 amdt 2.16

def **amend** sub 2001 No 56 amdt 2.82

def **appoint** reloc from IA 2001 No 56 amdt 2.16

def **asset** reloc from IA 2001 No 56 amdt 2.16

def **Attorney-General** ins 2001 No 56 amdt 2.82

def **auditor-general** reloc from IA 2001 No 56 amdt 2.16

def **Australia** reloc from IA 2001 No 56 amdt 2.16

def **Australian driver licence** reloc from IA 2001 No 56  
amdt 2.16

def **authorised deposit-taking institution** reloc from IA 2001  
No 56 amdt 2.16

def **bank** reloc from IA 2001 No 56 amdt 2.16

def **barrister** reloc from IA 2001 No 56 amdt 2.16

def **body** reloc from IA 2001 No 56 amdt 2.16

def **breach** reloc from IA 2001 No 56 amdt 2.16

def **building society** reloc from IA 2001 No 56 amdt 2.16

def **business day** reloc from IA 2001 No 56 amdt 2.16

def **calendar month** reloc from IA 2001 No 56 amdt 2.16

def **calendar year** reloc from IA 2001 No 56 amdt 2.16

def **change** reloc from IA 2001 No 56 amdt 2.16

def **chief executive** ins 2001 No 56 amdt 2.82

def **chief fire control officer** ins 2001 No 56 amdt 2.82

def **chief health officer** reloc from IA 2001 No 56 amdt 2.16

def **Chief Justice** reloc from IA 2001 No 56 amdt 2.16

def **Chief Magistrate** reloc from IA 2001 No 56 amdt 2.16

def **Chief Minister** reloc from IA 2001 No 56 amdt 2.16

def **chief police officer** reloc from IA 2001 No 56 amdt 2.16

def **child** reloc from IA 2001 No 56 amdt 2.16

def **Childrens Court** reloc from IA 2001 No 56 amdt 2.16

def **city area** reloc from IA 2001 No 56 amdt 2.16

def **clerk** reloc from IA 2001 No 56 amdt 2.16

def **commencement** sub 2001 No 56 amdt 2.82

def **commencement notice** sub 2001 No 56 amdt 2.82

def **commissioner for the environment** ins 2001 No 56  
amdt 2.82

def **commissioner for fair trading** reloc from IA 2001 No 56  
amdt 2.16

def **commissioner for health complaints** ins 2001 No 56  
amdt 2.82

def **commissioner for housing** reloc from IA 2001 No 56  
amdt 2.16

def **commissioner for land and planning** reloc from IA 2001  
No 56 amdt 2.16

## Endnotes

### 4 Amendment history

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- def **commissioner for public administration** reloc from IA 2001 No 56 amdt 2.16
- def **commissioner for revenue** reloc from IA 2001 No 56 amdt 2.16
- def **commissioner for surveys** reloc from IA 2001 No 56 amdt 2.16
- def **commissioner of police** reloc from IA 2001 No 56 amdt 2.16
- def **committed for trial** reloc from IA 2001 No 56 amdt 2.16
- def **Commonwealth** reloc from IA 2001 No 56 amdt 2.16
- def **Commonwealth country** reloc from IA 2001 No 56 amdt 2.16
- def **Commonwealth Gazette** reloc from IA 2001 No 56 amdt 2.16
- def **community advocate** reloc from IA 2001 No 56 amdt 2.16
- def **confer** reloc from IA 2001 No 56 amdt 2.16
- def **conservator of flora and fauna** reloc from IA 2001 No 56 amdt 2.16
- def **Consumer Credit (Australian Capital Territory) Code** reloc from IA 2001 No 56 amdt 2.16
- def **Consumer Credit (Australian Capital Territory) Regulations** reloc from IA 2001 No 56 amdt 2.16
- def **contravene** reloc from IA 2001 No 56 amdt 2.16
- def **converted ordinance** reloc from IA 2001 No 56 amdt 2.16
- def **Coroner's Court** reloc from IA 2001 No 56 amdt 2.16
- def **corporation** reloc from IA 2001 No 56 amdt 2.16
- def **Corporations Act** ins in IA 2001 No 56 amdt 2.14  
reloc from IA 2001 No 56 amdt 2.16
- def **court of summary jurisdiction** reloc from IA 2001 No 56 amdt 2.16
- def **credit tribunal** reloc from IA 2001 No 56 amdt 2.16
- def **credit union** reloc from IA 2001 No 56 amdt 2.16
- def **daylight** reloc from IA 2001 No 56 amdt 2.16
- def **definition** ins 2001 No 56 amdt 2.82
- def **dentist** reloc from IA 2001 No 56 amdt 2.16
- def **dental prosthetist** reloc from IA 2001 No 56 amdt 2.16
- def **dental technician** reloc from IA 2001 No 56 amdt 2.16
- def **designation** reloc from IA 2001 No 56 amdt 2.16
- def **director of public prosecutions** (or **DPP**) reloc from IA 2001 No 56 amdt 2.16
- def **disallowable instrument** sub 2001 No 56 amdt 2.82
- def **discrimination commissioner** reloc from IA 2001 No 56 amdt 2.16
- def **discrimination tribunal** reloc from IA 2001 No 56 amdt 2.16
- def **doctor** reloc from IA 2001 No 56 amdt 2.16
- def **document** reloc from IA 2001 No 56 amdt 2.16
- def **driver licence** reloc from IA 2001 No 56 amdt 2.16

def **electoral commission** reloc from IA 2001 No 56 amdt 2.16  
def **electoral commissioner** reloc from IA 2001 No 56  
amdt 2.16  
def **enactment** sub 2001 No 56 amdt 2.82  
def **entity** ins 2001 No 56 amdt 2.82  
def **establish** reloc from IA 2001 No 56 amdt 2.16  
def **estate** reloc from IA 2001 No 56 amdt 2.16  
def **Executive** reloc from IA 2001 No 56 amdt 2.16  
def **exercise** reloc from IA 2001 No 56 amdt 2.16  
def **expire** reloc from IA 2001 No 56 amdt 2.16  
def **external Territory** reloc from IA 2001 No 56 amdt 2.16  
def **fail** reloc from IA 2001 No 56 amdt 2.16  
def **Federal Court** reloc from IA 2001 No 56 amdt 2.16  
def **file** reloc from IA 2001 No 56 amdt 2.16  
def **financial year** reloc from IA 2001 No 56 amdt 2.16  
def **fire brigade** reloc from IA 2001 No 56 amdt 2.16  
def **fire commissioner** reloc from IA 2001 No 56 amdt 2.16  
def **foreign country** reloc from IA 2001 No 56 amdt 2.16  
def **former NSW Act** sub 2001 No 56 amdt 2.82  
def **former UK Act** sub 2001 No 56 amdt 2.82  
def **found guilty** reloc from IA 2001 No 56 amdt 2.16  
def **function** reloc from IA 2001 No 56 amdt 2.16  
def **gambling and racing commission** reloc from IA 2001  
No 56 amdt 2.16  
def **Gazette** reloc from IA 2001 No 56 amdt 2.16  
def **give** reloc from IA 2001 No 56 amdt 2.16  
def **government printer** reloc from IA 2001 No 56 amdt 2.16  
def **government solicitor** reloc from IA 2001 No 56 amdt 2.16  
def **Governor** ins 2001 No 56 amdt 2.82  
def **Governor-General** ins 2001 No 56 amdt 2.82  
def **guardianship tribunal** reloc from IA 2001 No 56 amdt 2.16  
def **High Court** reloc from IA 2001 No 56 amdt 2.16  
def **Imperial Act** reloc from IA 2001 No 56 amdt 2.16  
def **indictable offence** ins 2001 No 56 amdt 2.82  
def **indictment** reloc from IA 2001 No 56 amdt 2.16  
def **individual** reloc from IA 2001 No 56 amdt 2.16  
def **instrument** sub 2001 No 56 amdt 2.82  
def **interest** reloc from IA 2001 No 56 amdt 2.16  
def **internal Territory** reloc from IA 2001 No 56 amdt 2.16  
def **Jervis Bay Territory** reloc from IA 2001 No 56 amdt 2.16  
def **judge** reloc from IA 2001 No 56 amdt 2.16  
def **Lake Burley Griffin** reloc from IA 2001 No 56 amdt 2.16  
def **Lake Ginninderra** reloc from IA 2001 No 56 amdt 2.16  
def **land** reloc from IA 2001 No 56 amdt 2.16  
def **law** reloc from IA 2001 No 56 amdt 2.16  
def **lawyer** reloc from IA 2001 No 56 amdt 2.16  
def **legal aid commission** ins 2001 No 56 amdt 2.82  
def **legal practitioner** reloc from IA 2001 No 56 amdt 2.16



## Endnotes

4 Amendment history

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def **Legislative Assembly** reloc from IA 2001 No 56 amdt 2.16  
def **liability** reloc from IA 2001 No 56 amdt 2.16  
def **magistrate** reloc from IA 2001 No 56 amdt 2.16  
def **Magistrates Court** reloc from IA 2001 No 56 amdt 2.16  
def **make** reloc from IA 2001 No 56 amdt 2.16  
def **making** sub 2001 No 56 amdt 2.82  
def **master** reloc from IA 2001 No 56 amdt 2.16  
def **may** ins 2001 No 56 amdt 2.82  
def **medical practitioner** ins 2001 No 56 amdt 2.82  
def **mental health tribunal** reloc from IA 2001 No 56 amdt 2.16  
def **midnight** reloc from IA 2001 No 56 amdt 2.16  
def **Minister** ins 2001 No 56 amdt 2.82  
def **modification** reloc from IA 2001 No 56 amdt 2.16  
def **month** reloc from IA 2001 No 56 amdt 2.16  
def **must** ins 2001 No 56 amdt 2.82  
def **name** reloc from IA 2001 No 56 amdt 2.16  
def **named month** reloc from IA 2001 No 56 amdt 2.16  
def **national land** reloc from IA 2001 No 56 amdt 2.16  
def **night** reloc from IA 2001 No 56 amdt 2.16  
def **Northern Territory** reloc from IA 2001 No 56 amdt 2.16  
def **notifiable instrument** sub 2001 No 56 amdt 2.82  
def **notification** sub 2001 No 56 amdt 2.82  
def **notification day** sub 2001 No 56 amdt 2.82  
def **NSW Act** reloc from IA 2001 No 56 amdt 2.16  
def **number** reloc from IA 2001 No 56 amdt 2.16  
def **nurse** reloc from IA 2001 No 56 amdt 2.16  
def **oath** reloc from IA 2001 No 56 amdt 2.16  
def **occupy** ins 2001 No 56 amdt 2.82  
def **office** reloc from IA 2001 No 56 amdt 2.16  
def **office of fair trading** reloc from IA 2001 No 56 amdt 2.16  
def **ombudsman** reloc from IA 2001 No 56 amdt 2.16  
def **omit** ins 2001 No 56 amdt 2.82  
def **ordinance** reloc from IA 2001 No 56 amdt 2.16  
def **parliamentary counsel** sub 2001 No 56 amdt 2.82  
def **passing** sub 2001 No 56 amdt 2.82  
def **penalty unit** ins 2001 No 56 amdt 2.82  
def **person** ins 2001 No 56 amdt 2.82  
def **pharmacist** reloc from IA 2001 No 56 amdt 2.16  
def **planning authority** reloc from IA 2001 No 56 amdt 2.16  
def **police officer** reloc from IA 2001 No 56 amdt 2.16  
def **position** reloc from IA 2001 No 56 amdt 2.16  
def **power** reloc from IA 2001 No 56 amdt 2.16  
def **prescribed** reloc from IA 2001 No 56 amdt 2.16  
def **privacy commissioner** reloc from IA 2001 No 56 amdt 2.16  
def **proceeding** reloc from IA 2001 No 56 amdt 2.16  
def **property** reloc from IA 2001 No 56 amdt 2.16  
def **provision** sub 2001 No 56 amdt 2.82  
def **public employee** reloc from IA 2001 No 56 amdt 2.16

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def **public health officer** reloc from IA 2001 No 56 amdt 2.16  
def **public money** reloc from IA 2001 No 56 amdt 2.16  
def **public servant** reloc from IA 2001 No 56 amdt 2.16  
def **public service** reloc from IA 2001 No 56 amdt 2.16  
def **public trustee** reloc from IA 2001 No 56 amdt 2.16  
def **registered surveyor** reloc from IA 2001 No 56 amdt 2.16  
def **registrable instrument** sub 2001 No 56 amdt 2.82  
def **registrar** reloc from IA 2001 No 56 amdt 2.16  
def **registrar-general** reloc from IA 2001 No 56 amdt 2.16  
def **registrar of firearms** reloc from IA 2001 No 56 amdt 2.16  
def **registrar of liquor licences** reloc from IA 2001 No 56  
amdt 2.16  
def **regulations** reloc from IA 2001 No 56 amdt 2.16  
def **remuneration tribunal** reloc from IA 2001 No 56 amdt 2.16  
def **repeal** sub 2001 No 56 amdt 2.82  
def **residential tenancies tribunal** reloc from IA 2001 No 56  
amdt 2.16  
def **road transport authority** reloc from IA 2001 No 56  
amdt 2.16  
def **rules** reloc from IA 2001 No 56 amdt 2.16  
def **rural firefighting service** reloc from IA 2001 No 56  
amdt 2.16  
def **see** ins 2001 No 56 amdt 2.82  
def **Self-Government Act** reloc from IA 2001 No 56 amdt 2.16  
def **self-government day** reloc from IA 2001 No 56 amdt 2.16  
def **sign** reloc from IA 2001 No 56 amdt 2.16  
def **sitting day** reloc from IA 2001 No 56 amdt 2.16  
def **Small Claims Court** reloc from IA 2001 No 56 amdt 2.16  
def **solicitor** reloc from IA 2001 No 56 amdt 2.16  
def **Speaker** reloc from IA 2001 No 56 amdt 2.16  
def **Standards Australia** reloc from IA 2001 No 56 amdt 2.16  
def **State** reloc from IA 2001 No 56 amdt 2.16  
def **statutory declaration** reloc from IA 2001 No 56 amdt 2.16  
def **statutory instrument** sub 2001 No 56 amdt 2.82  
def **statutory office-holder** ins 2001 No 56 amdt 2.82  
def **subordinate law** sub 2001 No 56 amdt 2.82  
def **summary offence** ins 2001 No 56 amdt 2.82  
def **Supreme Court** reloc from IA 2001 No 56 amdt 2.16  
def **swear** reloc from IA 2001 No 56 amdt 2.16  
def **tenancy tribunal** reloc from IA 2001 No 56 amdt 2.16  
def **the Territory** ins 2001 No 56 amdt 2.82  
def **Territory authority** reloc from IA 2001 No 56 amdt 2.16  
def **Territory instrumentality** ins 2001 No 56 amdt 2.82  
def **Territory land** reloc from IA 2001 No 56 amdt 2.16  
def **Territory owned corporation** reloc from IA 2001 No 56  
amdt 2.16  
def **Territory plan** reloc from IA 2001 No 56 amdt 2.16  
def **transitional** reloc from IA 2001 No 56 amdt 2.16

## Endnotes

4 Amendment history

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dict pt 2

def **Treasurer** ins 2001 No 56 amdt 2.82  
def **tribunal** sub 2001 No 56 amdt 2.82  
def **UK Act** reloc from IA 2001 No 56 amdt 2.16  
def **under** ins 2001 No 52 amdt 2.82  
def **United Kingdom** reloc from IA 2001 No 56 amdt 2.16  
def **United Kingdom Parliament** reloc from IA 2001 No 56  
amdt 2.16  
def **veterinary surgeon** reloc from IA 2001 No 56 amdt 2.16  
def **will** ins 2001 No 56 amdt 2.82  
def **word** reloc from IA 2001 No 56 amdt 2.16  
def **writing** reloc from IA 2001 No 56 amdt 2.16  
def **year** reloc from IA 2001 No 56 amdt 2.16  
def **administrator** ins 2001 No 56 amdt 2.82  
def **agency** ins 2001 No 56 amdt 2.82  
def **appointee** ins 2001 No 56 amdt 2.82  
def **appointer** ins 2001 No 56 amdt 2.82  
def **approved web site** sub 2001 No 56 amdt 2.82  
def **authorised republication** sub 2001 No 56 amdt 2.82  
def **authorising law** sub 2001 No 56 amdt 2.82  
def **benefits** sub 2001 No 56 amdt 2.82  
def **business address** ins 2001 No 56 amdt 2.82  
def **corporation** ins 2001 No 56 amdt 2.82  
def **costs** sub 2001 No 56 amdt 2.82  
def **current legislative drafting practice** sub 2001 No 56  
amdt 2.82  
def **delegate** ins 2001 No 56 amdt 2.82  
def **document** ins 2001 No 56 amdt 2.82  
def **editorial amendment** sub 2001 No 56 amdt 2.82  
def **email address** ins 2001 No 56 amdt 2.82  
def **executive officer** ins 2001 No 56 amdt 2.82  
def **fax number** ins 2001 No 56 amdt 2.82  
def **fee** sub 2001 No 56 amdt 2.82  
def **home address** ins 2001 No 56 amdt 2.82  
def **law** sub 2001 No 56 amdt 2.82  
def **provide** sub 2001 No 56 amdt 2.82  
def **referential words** sub 2001 No 56 amdt 2.82  
def **register** sub 2001 No 56 amdt 2.82  
def **republication** sub 2001 No 56 amdt 2.82  
def **republication date** sub 2001 No 56 amdt 2.82  
def **responsible** ins 2001 No 56 amdt 2.82  
def **scrutiny committee principles** sub 2001 No 56 amdt 2.82  
def **service** sub 2001 No 56 amdt 2.82

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

| Republication No | Amendments to  | Republication date |
|------------------|----------------|--------------------|
| 1                | SL 2001 No 34  | 13 September 2001  |
| 2                | Act 2001 No 70 | 14 September 2001  |

## 6 Modifications of republished law with temporary effect

The following modifications have not been included in this republication:

|   |
|---|
| <b>Legislation Regulations 2001 No 34 reg 6</b> |
|---|

### 6 Modification of Act, ch 20—Act, s 268 (1)

The Act, chapter 20 (Transitional) is modified by inserting the following sections:

#### **271B Commencement of Acts that refer to notification or notice in the Gazette**

- (1) Subsection (2) applies to an Act if—
- (a) the Act has a commencement provision that provides for the Act, or a provision of the Act, to commence on the day the Act is notified in the Gazette; and
  - (b) the Act has not been notified in the Gazette before the commencement of this section.

## Endnotes

- (2) The Act or provision commences on the Act's notification day.
- (3) Subsection (4) applies to an Act if—
  - (a) the Act has a commencement provision that provides for the Act, or a provision of the Act, to commence on a day fixed by notice in the Gazette; and
  - (b) the day has not been fixed by notice in the Gazette before the commencement of this section.
- (4) The Act or provision commences on the date or at the time fixed by commencement notice notified under this Act.
- (5) This section expires 1 year after it commences.

### **271C Commencement of registrable instruments that refer to notification or notice in the Gazette**

- (1) Subsection (2) applies to a registrable instrument if—
  - (a) the instrument has a commencement provision that provides for the instrument, or a provision of the instrument, to commence on the day the instrument is notified in the Gazette; and
  - (b) the instrument has not been notified in the Gazette before the commencement of this section.
- (2) The instrument or provision commences on the instrument's notification day.
- (3) Subsection (4) applies to a registrable instrument if—
  - (a) the instrument has a commencement provision that provides for the instrument, or a provision of the instrument, to commence on a day fixed by notice in the Gazette; and
  - (b) the day has not been fixed by notice in the Gazette before the commencement of this section.

- (4) The Act or provision commences on the date or at the time fixed by commencement notice notified under this Act.
- (5) This section expires 1 year after it commences.

## 7 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

|   |
|---|
| <b>Defamation Act 2001 No 88 s 43 (2)</b> |
|---|

- (2) The *Legislation Act 2001*, schedule 1, part 1.1 is amended by omitting the items about the *Defamation Act 1901* and *Defamation (Amendment) Act 1909*.

Authorised when accessed at [www.legislation.act.gov.au](http://www.legislation.act.gov.au) or in authorised printed form

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