

ACTS INTERPRETATION.

No. 10 of 1937.

An Act to amend the *Acts Interpretation Act* 1901-1932, to repeal the *Acts Interpretation Act* 1904-1934, and for other purposes.

[Assented to 27th August, 1937.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title
and citation.

1.—(1.) This Act may be cited as the *Acts Interpretation Act* 1937.
(2.) The *Acts Interpretation Act* 1901-1932* is in this Act referred to as the Principal Act.
(3.) The Principal Act, as amended by this Act, may be cited as the *Acts Interpretation Act* 1901-1937.

Commencement.

2. This Act shall commence on a date to be fixed by Proclamation.

Repeal.

3. The Acts specified in the first column of the Schedule to this Act are repealed to the extent respectively specified in the second column of that Schedule.

Application
of Act.

4. Section two of the Principal Act is repealed and the following section inserted in its stead :—

“ 2.—(1.) The *Acts Interpretation Act* 1901, and that Act as amended from time to time, shall, unless the contrary intention appears, apply, and be deemed to have applied, to all Acts of the Parliament including this Act.

(2.) This Act shall bind the Crown.”.

Application of
Act to rules, &c.

5. Section two A of the Principal Act is repealed.

Commencement
of Act.

6. Section five of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-sections :—

“(1.) Every Act to which the Royal Assent has been given by the Governor-General for and on behalf of the King on or before the thirty-first day of December, One thousand nine hundred and thirty-seven, shall be deemed to have come into operation on the day on which that Act received the Royal Assent, unless the contrary intention appears in the Act.

* Act No. 2, 1901, as amended by No. 4, 1916 ; No. 8, 1918 ; No. 23, 1930 ; and No. 24, 1932.

“(1A.) Every Act (other than an Act to alter the Constitution) to which the Royal Assent is given by the Governor-General for and on behalf of the King on or after the first day of January, One thousand nine hundred and thirty-eight, shall come into operation on the twenty-eighth day after the day on which that Act receives the Royal Assent, unless the contrary intention appears in the Act.

“(1u.) Every Act to alter the Constitution to which the Royal Assent is given by the Governor-General for and on behalf of the King on or after the first day of January, One thousand nine hundred and thirty-eight, shall come into operation on the day on which that Act receives the Royal Assent, unless the contrary intention appears in that Act.”.

7. Section fifteen A of the Principal Act is repealed and the following section inserted in its stead :—

“15A. Every Act shall be read and construed subject to the Constitution, and so as not to exceed the legislative power of the Commonwealth, to the intent that where any enactment thereof would, but for this section, have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.”.

Construction of Acts to be subject to Constitution.

8. Section seventeen of the Principal Act is amended by inserting after paragraph (p) the following paragraphs :—

“(q) ‘ Prescribed ’ means prescribed by the Act, or by Regulations under the Act :

“ Prescribed ”.

“(r) ‘ Regulations ’ means Regulations under the Act.”.

“ Regulations ”.

9. Section nineteen A of the Principal Act is repealed and the following section inserted in its stead :—

“19A. Where in any Act it is provided that the Act shall be administered by a specified Minister of State of the Commonwealth, or shall be administered, controlled or carried into effect by a specified Department of State of the Commonwealth, or where there is no longer a Minister or Department of the designation specified in the Act—

Administration of Acts.

(a) the reference to that Minister shall be read as a reference to any Minister to whom the administration of the Act is allotted by order of the Governor-General and shall be deemed to include any Minister or Member of the Executive Council for the time being acting for and on behalf of the Minister to whom the administration of the Act is so allotted ; and

(b) the reference to that Department shall be read as a reference to any Department to which the administration of the Act is allotted by any such order.”.

10. Section twenty-six of the Principal Act is amended—

(a) by inserting in paragraph (d), after the word “ or ” (seventh occurring), the words “ part of the Commonwealth or under the law ” ; and

Judicial definitions. “ Court of Summary Jurisdiction.”

- (b) by inserting after paragraph (d) the following paragraph :—
- “ Justice of the Peace.”
 “ (e) ‘ Justice of the Peace ’ includes a Justice of the Peace for a State or part of a State.”.
- Offences under two or more laws.
11. Section thirty of the Principal Act is amended by adding at the end thereof the following sub-section :—
- “ (2.) Where an act or omission constitutes an offence under both—
- (a) an Act and a State Act ; or
- (b) an Act and an Ordinance of a Territory of the Commonwealth, and the offender has been punished for that offence under the State Act or the Ordinance, as the case may be, he shall not be liable to be punished for the offence under the Act.”.
- Expressions in instruments under an Act.
12. Section thirty-two of the Principal Act is repealed.
13. After section forty of the Principal Act the following headings and sections are inserted :—
- “ Offences and Penalties.*
- Penalties at foot of sections or sub-sections.
- “ 41. The penalty, pecuniary or other, set out—
- (a) at the foot of any section of any Act ; or
- (b) at the foot of any sub-section of any section of any Act, but not at the foot of the section,
- shall indicate that any contravention of the section or of the sub-section respectively, whether by act or omission, shall be an offence against the Act, punishable upon conviction by a penalty not exceeding the penalty mentioned :
- Provided that where the penalty is expressed to apply to a part only of the section or sub-section, it shall apply to that part only.
- Indictable offences.
- “ 42. Offences against any Act which are punishable by imprisonment for a period exceeding six months shall, unless the contrary intention appears, be indictable offences.
- Offences punishable by summary conviction.
- “ 43. Offences against any Act which—
- (a) are punishable by imprisonment, but not for a period exceeding six months ; or
- (b) not being punishable by imprisonment, are not declared to be indictable offences,
- shall, unless the contrary intention appears, be punishable on summary conviction.
- Pecuniary penalties.
- “ 44. All pecuniary penalties for any offence against any Act may, unless the contrary intention appears, be recovered in any court of summary jurisdiction.
- Imprisonment.
- “ 45. Where under any Act imprisonment may be awarded for any offence, it may be awarded with or without hard labour.

“ Instruments and Resolutions.

“ 46. Where an Act confers upon any authority power to make, grant or issue any instrument (including rules, regulations or by-laws), then—

Construction of rules, regulations and by-laws.

- (a) unless the contrary intention appears, expressions used in any instrument so made, granted or issued shall have the same meanings as in the Act conferring the power, and this Act shall apply to any instrument so made, granted or issued as if it were an Act and as if each such rule, regulation or by-law were a section of an Act ; and
- (b) any instrument so made, granted or issued shall be read and construed subject to the Act under which it was made, and so as not to exceed the power of that authority, to the intent that where any such instrument would, but for this section, have been construed as being in excess of the power conferred upon that authority, it shall nevertheless be a valid instrument to the extent to which it is not in excess of that power.

“ 47. Where any resolution is or has been passed by either House of the Parliament in purported pursuance of any Act, then, unless the contrary intention appears, the resolution shall be read and construed subject to the Constitution and to the Act under which it purports to have been passed, to the intent that where the resolution would, but for this section, have been construed as being in excess of authority, it shall nevertheless be a valid resolution to the extent to which it is not in excess of authority.

Construction of resolutions.

“ Regulations.

“ 48.—(1.) Where an Act confers power to make regulations, then, unless the contrary intention appears, all regulations made accordingly—

Regulations.

- (a) shall be notified in the *Gazette* ;
- (b) shall, subject to this section, take effect from the date of notification, or, where another date is specified in the regulations, from the date specified ; and
- (c) shall be laid before each House of the Parliament, within fifteen sitting days of that House after the making of the regulations.

(2.) Regulations shall not be expressed to take effect from a date before the date of notification in any case where, if the regulations so took effect—

- (a) the rights of a person (other than the Commonwealth or an authority of the Commonwealth) existing at the date of notification, would be affected in a manner prejudicial to that person ; and

- (b) liabilities would be imposed on any person (other than the Commonwealth or an authority of the Commonwealth) in respect of anything done or omitted to be done before the date of notification,

and where, in any regulations, any provision is made in contravention of this sub-section, that provision shall be void and of no effect.

(3.) If any regulations are not laid before each House of the Parliament in accordance with the provisions of sub-section (1.) of this section, they shall be void and of no effect.

(4.) If either House of the Parliament passes a resolution (of which notice has been given at any time within fifteen sitting days after any regulations have been laid before that House) disallowing any of those regulations, the regulation so disallowed shall thereupon cease to have effect.

(5.) If, at the expiration of fifteen sitting days after notice of a resolution to disallow any regulation has been given in either House of the Parliament in accordance with the last preceding sub-section, the resolution has not been withdrawn or otherwise disposed of, the regulation specified in the resolution shall thereupon be deemed to have been disallowed.

(6.) Where a regulation is disallowed, or is deemed to have been disallowed, under this section, the disallowance of the regulation shall have the same effect as a repeal of the regulation.

“49.—(1.) Where, in pursuance of the last preceding section, either House of the Parliament disallows any regulation, or any regulation is deemed to have been disallowed, no regulation, being the same in substance as the regulation so disallowed, or deemed to have been disallowed, shall be made within six months after the date of the disallowance, unless—

- (a) in the case of a regulation disallowed by resolution—the resolution has been rescinded by the House of the Parliament by which it was passed; or
- (b) in the case of a regulation deemed to have been disallowed—the House of the Parliament in which notice of the resolution to disallow the regulation was given by resolution approves the making of a regulation the same in substance as the regulation deemed to have been disallowed.

(2.) Any regulation made in contravention of this section shall be void and of no effect.

“50. Where an Act confers power to make regulations, the repeal of any regulations which have been made under the Act shall not, unless the contrary intention appears in the Act or regulations effecting the repeal—

- (a) affect any right, privilege, obligation or liability acquired, accrued or incurred under any regulations so repealed; or
- (b) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any regulations so repealed; or

Disallowed regulation not to be re-made unless the motion rescinded or House approves.

Effect of repeal of regulations.

(c) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment ;
and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act or regulations had not been passed or made.”.

14. Where, prior to the commencement of this Act, any regulations to which section ten of the *Acts Interpretation Act* 1904–1934 applied, were expressed to take effect from a date before the date on which those regulations were notified in the *Gazette*, those regulations shall be deemed to have the same force and effect, as if this Act had been in force when those regulations were made : Validation.

Provided that nothing in this section shall affect the operation of any judgment, order or conviction obtained or made before the commencement of this Act.

THE SCHEDULE.

Section 3.

Acts Repealed.	Extent of Repeal.
<i>Acts Interpretation Act</i> 1904	The whole
<i>Acts Interpretation Act</i> 1916	Sections 3 and 4
<i>Acts Interpretation Act</i> 1930	Section 2
<i>Acts Interpretation Act</i> 1932	Sections 3 and 4
