



Acts Interpretation Amendment Act 1998

No. 125, 1998



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**An Act to amend the *Acts Interpretation Act 1901* in
relation to references in Acts to Ministers, and for
related purposes**

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An Act to amend the *Acts Interpretation Act 1901* in relation to references in Acts to Ministers, and for related purposes

[Assented to 21 December 1998]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Acts Interpretation Amendment Act 1998*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the Acts Interpretation Act 1901

1 After section 18B

Insert:

18C Portfolio Minister may authorise a non-portfolio Minister or a member of the Executive Council who is not a Minister to act on his or her behalf in the performance of statutory functions or the exercise of statutory powers

- (1) A Minister (the *authorising Minister*) who administers (whether alone or jointly with one or more other Ministers) an Act or a provision of an Act may authorise:
 - (a) a Minister who does not administer the Act or provision; or
 - (b) a member of the Executive Council who is not a Minister; to act on behalf of the authorising Minister in the performance of functions, or the exercise of powers, that the authorising Minister may perform or exercise under the Act or provision.
- (2) An authorisation under subsection (1) in relation to an Act or a provision of an Act extends to the performance of functions, or the exercise of powers, that the authorising Minister may perform or exercise under an instrument (including a regulation, rule or Proclamation) having effect under or for the purposes of the Act or provision.
- (3) Subject to subsection (4), an authorisation under subsection (1) may be expressed:
 - (a) to have effect only during a period or periods, or during the existence of a circumstance or circumstances, referred to in the authorisation; or
 - (b) to take effect immediately, or at a time referred to in the authorisation, and afterwards to continue to have effect until another person is appointed to the office held by the authorising Minister.

- (4) Despite subsection (3), an authorisation under subsection (1) may be revoked at any time by the authorising Minister.
- (5) An authorisation under subsection (1), and the revocation of such an authorisation, must be in writing.
- (6) This section does not affect the giving, under a power existing apart from this section, of an authorisation to a Minister or other member of the Executive Council to act on behalf of another Minister.
- (7) In this section:
function includes duty.

2 Validation of past authorisations

If a Minister (the *authorising Minister*) purported, before the commencement of this item, to give to another Minister or member of the Executive Council an authorisation to act on behalf of the authorising Minister in the performance of functions or duties, or the exercise of powers, that the authorising Minister was empowered to perform or exercise under an Act or a provision of an Act or under an instrument (including a regulation, rule or Proclamation) having effect under or for the purposes of such an Act or provision:

- (a) the authorisation is taken to have been validly given; and
- (b) if the authorisation continues in force after that commencement, the authorising Minister may at any time, by writing, revoke the authorisation.

3 Section 19

Omit “unless the contrary intention appears”.

4 Subsection 19A(1)

Omit all the words before paragraph (a), substitute:

If a provision of an Act:

- (aa) refers to a Minister by using the expression “the Minister” without specifying which Minister is referred to; or
- (ab) refers to a particular Minister;

then, unless the contrary intention appears, the reference is a reference to:

5 Validation of past acts

Any act that a Minister purported to do before the commencement of this Act on behalf of another Minister in the purported performance of a function or duty or the purported exercise of a power conferred on the other Minister by an Act or by an instrument (including a regulation, rule or Proclamation) having effect under or for the purposes of an Act is taken to have been as valid as it would have been if:

- (a) the amendment of subsection 19A(1) of the *Acts Interpretation Act 1901* made by item 4 had been in force when the purported act was done; and
- (b) the purported act had been done by the first-mentioned Minister under that subsection as amended by that item.

6 Paragraph 19BA(1)(b)

Omit “by virtue of administrative arrangements ordered”, substitute “because of any order or appointment made”.

7 Validation of past orders

- (1) Any order that the Governor-General purported to make before the commencement of item 6 under paragraph 19BA(1)(c) of the *Acts Interpretation Act 1901* is taken to have been, at all times before that commencement when the order purported to be in force, as valid as it would have been if the amendment made by that item had been in force when the purported order was made.
- (2) If an order that the Governor-General purported to make before the commencement of item 6 under paragraph 19BA(1)(c) of the *Acts Interpretation Act 1901* purported to be in force immediately before that commencement, the purported order has the effect after that commencement that it would have if the amendment made by that item had been in force when the purported order was made.

*[Minister's second reading speech made in—
House of Representatives on 12 November 1998
Senate on 30 November 1998]*

(171/98)