

# ACTS INTERPRETATION AMENDMENT ACT 1976

## No. 144 of 1976

An Act to amend the *Acts Interpretation Act* 1901, and for other purposes.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:—

Short title,  
&c.

1. (1) This Act may be cited as the *Acts Interpretation Amendment Act* 1976.<sup>1</sup>

(2) The *Acts Interpretation Act* 1901<sup>2</sup> is in this Act referred to as the Principal Act.

Commence-  
ment.

2. (1) Subject to sub-section (2) of this section and to sub-section 8 (5), this Act shall come into operation on the day on which it receives the Royal Assent.<sup>1</sup>

(2) Sub-section 5 (2) shall come into operation on a date to be fixed by Proclamation.

3. (1) Section 4 of the Principal Act is repealed and the following section substituted:—

Exercise  
of certain  
powers  
between  
passing  
and com-  
mencing  
of Act.

“4. (1) Where an Act (in this section referred to as the Act concerned), being—

(a) an Act enacted on or after the date of commencement of this section that is not to come into operation immediately upon its enactment; or

(b) an Act enacted before the date of commencement of this section that did not come into operation on or before that date,

is expressed to confer power, or to amend another Act in such a manner that the other Act, as amended, will confer power, to make an appointment or to make an instrument of a legislative or administrative character (including rules, regulations or by-laws), then, unless the contrary intention appears, the power may be exercised, and anything may be done for the purpose of enabling the exercise of the power or of bringing the appointment or instrument into effect, before the Act concerned comes into operation as if it had come into operation.

“(2) An appointment or instrument made by virtue of sub-section (1) or, in the case of such an instrument containing a number of provisions, each of those provisions, takes effect—

(a) on the day on which the Act concerned comes into operation; or

- (b) on the day on which the appointment, instrument or provision, as the case may be, would have taken effect if the Act concerned had been in operation when the appointment or instrument was made,

whichever is the later.

“(3) Where an Act is to come into operation on a date to be fixed by a Proclamation or other instrument, the Proclamation or other instrument may be made and published at any time after the enactment of the Act.

“(4) Where this section applies to an Act by reason of the fact that that Act is expressed to amend another Act in the manner referred to in sub-section (1) and that other Act has not come into operation, this section has effect as if the references in sub-sections (1) and (2) to the coming into operation of the Act concerned were references to the coming into operation of the other Act as amended by the Act concerned.

“(5) In sub-sections (1), (2), (3) and (4) a reference to an Act shall be read as including a reference to any provision or provisions of an Act.

“(6) In the application of this section, in accordance with paragraph 46 (a), to rules, regulations or by-laws (including rules, regulations or by-laws made by virtue of this section), references in this section to the enactment of an Act shall be read as references to the making of rules, regulations or by-laws and references in this section to an Act other than the Act concerned shall be read as references to rules, regulations or by-laws.”.

(2) The repeal of section 4 of the Principal Act does not affect the validity of anything done in accordance with that section before the date of commencement of this section or the coming into operation on or after that date of an instrument made, granted or issued by virtue of that first-mentioned section before that date.

4. After section 15A of the Principal Act the following section is inserted in Part IV:—

“15B. (1) Except so far as the contrary intention appears—

- (a) the provisions of every Act, whether passed before or after the commencement of this section, shall be taken to have effect in and in relation to the coastal sea of Australia as if the coastal sea of Australia were part of Australia; and
- (b) any reference in an Act, whether passed before or after the commencement of this section, to Australia or to the Commonwealth shall be read as including a reference to the coastal sea of Australia.

Application  
of Acts in  
coastal  
sea.

“(2) Except so far as the contrary intention appears—

- (a) the provisions of an Act, whether passed before or after the commencement of this section, that are in force in an external

Territory shall be taken to have effect in and in relation to the coastal sea of the Territory as if the coastal sea of the Territory were part of the Territory; and

- (b) any reference in an Act, whether passed before or after the commencement of this section, to all or any of the external Territories (whether or not a particular Territory or particular Territories is or are referred to) shall be read as including a reference to the coastal sea of any Territory to which the reference relates.

“(3) Nothing in sub-section (1) or (2) shall be taken as limiting the operation that any Act had before the commencement of this section.

“(4) In this section, ‘coastal sea’—

- (a) in relation to Australia, means—

- (i) the territorial sea of Australia; and  
 (ii) the sea on the landward side of the territorial sea of Australia and not within the limits of a State or internal Territory,

and includes the airspace over, and the sea-bed and subsoil beneath, any such sea; and

- (b) in relation to an external Territory, means—

- (i) the territorial sea adjacent to the Territory; and  
 (ii) the sea on the landward side of the territorial sea adjacent to the Territory and not within the limits of the Territory,

and includes the airspace over, and the sea-bed and subsoil beneath, any such sea.”.

Constitutional and official definitions.

5. (1) Section 17 of the Principal Act is amended—

- (a) by adding at the end of paragraph (i) the words “or, if, for the time being, different Ministers are administering that Act or enactment in different respects, each of those Ministers to the extent that he is administering that Act or enactment in the relevant respect”; and

- (b) by omitting paragraphs (p) and (pa) and substituting the following paragraph:—

“(p) ‘Territory’, ‘Territory of the Commonwealth’, ‘Territory under the authority of the Commonwealth’ or ‘Territory of Australia’ means a Territory referred to in section 122 of the Constitution, and includes a Territory administered by the Commonwealth under a Trusteeship Agreement;”.

(2) Section 17 of the Principal Act is amended by omitting paragraph (m) and substituting the following paragraph:—

“(m) ‘Gazette’ means the *Commonwealth of Australia Gazette*, and includes the *Australian Government Gazette* published during

the period commencing on 1 July 1973 and ending immediately before the commencement of sub-section 5 (2) of the *Acts Interpretation Amendment Act 1976*;

6. Section 17A of the Principal Act is amended by inserting, before the words “ ‘Government Printer of Australia’ ”, the words “ ‘Government Printer of the Commonwealth’, ‘Government Printer of the Commonwealth of Australia’, ‘Commonwealth Government Printer’ or”.

Paper or document purporting to be printed by Government Printer.

7. After section 18 of the Principal Act the following section is inserted:—

“18A. In any Act, unless the contrary intention appears, where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.”

Parts of speech and grammatical forms.

8. (1) Sections 19A and 19B of the Principal Act are repealed and the following sections substituted:—

“19B. (1) Where—

- (a) reference is made in a provision of an Act to a particular Minister of State;
- (b) there is no longer any such Minister; and
- (c) the Governor-General, by order under this section, directs that the provision, or provisions that include the provision, shall have effect—
  - (i) as if there were substituted for that reference a reference to such Minister as is specified in the order; or
  - (ii) as if, in so far as the provision applies in a particular respect specified in the order, being one of several respects so specified, there were substituted for that reference a reference to such Minister as is specified in the order,

Reference to Minister, Department, &c., where no longer any such Minister, or Department abolished, &c.

the provision shall, on and from the date of the order or such later date as is specified in the order, have effect accordingly for all purposes, including the purpose of the making of any subsequent order under this sub-section or sub-section 19BA (1), other than such an order that is expressed to have effect as if the first-mentioned order had not been made.

“(2) Where—

- (a) reference is made in a provision of an Act to a particular Department of State of the Commonwealth;

- (b) the Department has been abolished or the name of the Department has been changed; and
- (c) the Governor-General, by order under this section, directs that the provision, or provisions that include the provision, shall have effect—
  - (i) as if there were substituted for that reference a reference to such Department as is specified in the order; or
  - (ii) as if, in so far as the provision applies in a particular respect specified in the order, being one of several respects so specified, there were substituted for that reference a reference to such Department as is specified in the order,

the provision shall, on and from the date of the order or such later date as is specified in the order, have effect accordingly for all purposes, including the purpose of the making of any subsequent order under this sub-section or sub-section 19BA (2), other than such an order that is expressed to have effect as if the first-mentioned order had not been made.

“(3) Where—

- (a) reference is made in a provision of an Act to a particular office, being an office the holder of which was, by virtue of section 25 of the *Public Service Act 1922*, the Permanent Head of a Department;
- (b) the office has been abolished (whether by reason of the abolition of the Department or otherwise) or the name of the office has been changed; and
- (c) the Governor-General, by order under this section, directs that the provision, or provisions that include the provision, shall have effect—
  - (i) as if there were substituted for that reference a reference to such office as is specified in the order; or
  - (ii) as if, in so far as the provision applies in a particular respect specified in the order, being one of several respects so specified, there were substituted for that reference a reference to such office as is specified in the order,

the provision shall, on and from the date of the order or such later date as is specified in the order, have effect accordingly for all purposes, including the purpose of the making of any subsequent order under this sub-section or sub-section 19BA (3), other than such an order that is expressed to have effect as if the first-mentioned order had not been made.

“19BA. (1) Where--

- (a) reference is made in a provision of an Act to a particular Minister of State;
- (b) by virtue of administrative arrangements ordered by the Governor-General, there is a change in the administration of the provision or of provisions that include the provision; and
- (c) the Governor-General, by order under this section, directs that the provision, or provisions that include the provision, shall have effect—
  - (i) as if there were substituted for that reference a reference to such Minister as is specified in the order; or
  - (ii) as if, in so far as the provision applies in a particular respect specified in the order, being one of several respects so specified, there were substituted for that reference a reference to such Minister as is specified in the order,

Reference to Minister, Department, &c., that is not consistent with changed administrative arrangements.

the provision shall, on and from the date of the order or such later date as is specified in the order, have effect accordingly for all purposes, including the purpose of the making of any subsequent order under this sub-section or sub-section 19B (1), other than such an order that is expressed to have effect as if the first-mentioned order had not been made.

“(2) Where—

- (a) reference is made in a provision of an Act to a particular Department of State of the Commonwealth;
- (b) by virtue of administrative arrangements ordered by the Governor-General, there is a change in the matters dealt with by the Department but the name of the Department is not changed; and
- (c) the Governor-General, by order under this section, directs that the provision, or provisions that include the provision, shall have effect—
  - (i) as if there were substituted for that reference a reference to such Department as is specified in the order; or
  - (ii) as if, in so far as the provision applies in a particular respect specified in the order, being one of several respects so specified, there were substituted for that reference a reference to such Department as is specified in the order,

the provision shall, on and from the date of the order or such later date as is specified in the order, have effect accordingly for all purposes, including the purpose of the making of any subsequent order under this sub-section or sub-section 19B (2), other than such an order that is expressed to have effect as if the first-mentioned order had not been made.

“(3) Where—

- (a) reference is made in a provision of an Act to a specified office, being an office the holder of which is, by virtue of section 25 of the *Public Service Act* 1922, the Permanent Head of a Department;
- (b) by virtue of administrative arrangements ordered by the Governor-General, there is a change in the matters dealt with by the Department but the name of the office is not changed; and
- (c) the Governor-General, by order under this section, directs that the provision, or provisions that include the provision, shall have effect—
  - (i) as if there were substituted for that reference a reference to such office as is specified in the order; or
  - (ii) as if, in so far as the provision applies in a particular respect specified in the order, being one of several respects so specified, there were substituted for that reference a reference to such office as is specified in the order,

the provision shall, on and from the date of the order or such later date as is specified in the order, have effect accordingly for all purposes, including the purpose of the making of any subsequent order under this sub-section or sub-section 19B (3), other than such an order that is expressed to have effect as if the first-mentioned order had not been made.

“(4) The provisions of section 48 (except paragraphs (1) (a) and (b) and sub-sections (2) and (6) ) apply, by force of this sub-section, to an order under this section in like manner as those provisions apply in relation to a regulation.

“(5) Where an order is disallowed, or is to be deemed to be disallowed, under a provision of section 48 as applied by sub-section (4), each provision to which the order relates has effect from and including the date of the disallowance as if the disallowed order had not been made.

Application of sections 19B and 19BA where Department abolished and Department with same name established.

“19BAA. Where a Department of State of the Commonwealth is abolished and, immediately after its abolition, a Department with the same name as the abolished Department is established—

- (a) the first-mentioned Department shall, for the purposes of section 19B, be deemed not to have been abolished; and
- (b) that Department and the other Department shall, for the purposes of section 19BA, be deemed to be the same Department.

Revocation of orders made under sections 19B and 19BA.

“19BB. (1) The Governor-General may, by order under this section, revoke, in whole or in part, an order made under section 19B or 19BA.

“(2) Where an order under section 19B or 19BA in force in relation to a provision of an Act is revoked by an order under sub-section (1), in

whole or with respect to that provision, the provision has effect on and from the date of the order under sub-section (1) or such later date as is specified in that order as if the revoked order had not been made in relation to that provision.

“19BC. Where an order is made by the Governor-General under section 19B, 19BA or 19BB, the Minister shall cause a copy of the order to be published in the *Gazette*.”

Orders under sections 19B, 19BA and 19BB to be published in *Gazette*.

(2) The repeal of sections 19A and 19B of the Principal Act shall not be taken to affect the operation of an order made under either of those sections and in force immediately before the commencement of this section.

(3) After the commencement of this sub-section—

- (a) section 40 of the *Audit Act* 1901 shall have effect as if the words “at the Treasury” were not included in the section;
- (b) sub-section 55 (1) of the *Audit Act* 1901 shall have effect as if the words “in the Treasury” were not included in the sub-section;
- (c) section 60 of the *Audit Act* 1901 shall have effect as if, in place of the words “in the Treasury” in the section, there were substituted the words “by the Treasurer”;
- (d) sub-section 71 (2) of the *Audit Act* 1901 shall have effect as if, in place of the words “Secretary to the Department of the Treasury” in paragraph (a) of the sub-section, there were substituted the words “Secretary to the Department of Finance”;
- (e) the Treasury Regulations in force immediately before the commencement of this sub-section, or those Regulations as amended and in force from time to time after the commencement of this sub-section, may be cited as the Finance Regulations or in such other manner as is provided by the Regulations;
- (f) any reference in a law of the Commonwealth or of a Territory, or in an instrument under or having effect for the purposes of such a law, to the Treasury Regulations shall be read as a reference to the Regulations referred to in paragraph (e); and
- (g) any reference in a law of the Commonwealth or of a Territory, or in an instrument under or having effect for the purposes of such a law, to a Commonwealth Sub-Treasury (whether by that name or a similar name) shall, if the Treasurer, after the commencement of this sub-section, establishes under the Regulations referred to in paragraph (e) offices by the name of Accounting Offices, be read, in the case of a reference that is not a reference to a particular Sub-Treasury, as a reference to an Accounting Office so established and, in the case of a reference to a particular Sub-Treasury, as a reference to the Accounting Office established in place of that Sub-Treasury.



(4) Provision may be made by regulations under the *Audit Act* 1901 for and in relation to the application and effect, after the commencement of this sub-section, of any directions given before the commencement of this sub-section by the Secretary to the Department of the Treasury under the Regulations referred to in paragraph (3) (e) and of any instrument issued, or act or thing done, before the commencement of this sub-section, being an instrument, act or thing under or having effect for the purposes of the Regulations referred to in paragraph (3) (e) or of those directions.

(5) If a Department of State of the Commonwealth by the name of the Department of Finance is not established on or before the day on which this Act receives the Royal Assent, sub-sections (3) and (4) shall not come into operation until the day on which such a Department is established.

Formal  
amendments.

### 9. The Principal Act is amended as set out in the Schedule.

## SCHEDULE

Section 9

### FORMAL AMENDMENTS

Provision	Amendment
Section 5 (1)	Omit "the thirty-first day of December, One thousand nine hundred and thirty-seven", substitute "31 December 1937".
Section 5 (1A)	Omit "the first day of January, One thousand nine hundred and thirty-eight", substitute "1 January 1938".
Section 5 (1B)	Omit "the first day of January, One thousand nine hundred and thirty-eight", substitute "1 January 1938".
Section 22 (e)	Omit "the twelve months ending the thirtieth day of June", substitute "the 12 months ending on 30 June".
Section 24 (a)	Omit "six months—Two hundred dollars", substitute "6 months—\$200".
Section 24 (b)	Omit "six months but does not exceed one year—Four hundred dollars", substitute "6 months but does not exceed 1 year—\$400".
Section 24 (c)	Omit "one year but does not exceed two years—One thousand dollars", substitute "1 year but does not exceed 2 years—\$1,000".
Section 24 (d)	Omit "two years—Two thousand dollars", substitute "2 years—\$2,000".
Section 30 (1)	Omit "two", substitute "2".
Section 34B (1) (c)	Omit "of this sub-section".
Section 39	Omit "one", substitute "1".
Section 42	Omit "six", substitute "6".
Section 43 (a)	Omit "six", substitute "6".
Section 48 (1) (c)	Omit "fifteen", substitute "15".
Section 48 (3)	Omit "of this section".
Section 48 (4)	Omit "fifteen", substitute "15".
Section 48 (5)	Omit "fifteen", substitute "15".

## SCHEDULE—continued

Provision	Amendment
Section 48 (5A) . . . . .	Omit “fifteen”, substitute “15”. Omit “the last two preceding sub-sections”, substitute “sub-sections (4) and (5)”.
Section 49 (1) . . . . .	Omit “the last preceding section”, substitute “section 48”. Omit “six”, substitute “6”.

## NOTES

1. Act No. 144, 1976; assented to 6 December 1976.
2. Act No. 2, 1901, as amended. For previous amendments *see* Act No. 4, 1916; No. 8, 1918; No. 23, 1930; No. 24, 1932; No. 10, 1937; No. 7, 1941; No. 78, 1947; No. 79, 1948; No. 80, 1950; No. 69, 1957; No. 19, 1963; No. 52, 1964; No. 93, 1966; No. 79, 1973; No. 216, 1973 (as amended by No. 20, 1974); and No. 37, 1976.