



# Public Works Committee Amendment Act 1981

No. 20 of 1981

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## An Act to amend the *Public Works Committee Act 1969*

[Assented to 9 April 1981]

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

### Short title, &c.

1. (1) This Act may be cited as the *Public Works Committee Amendment Act 1981*.

(2) The *Public Works Committee Act 1969*<sup>1</sup> is in this Act referred to as the Principal Act.

### Commencement

2. This Act shall come into operation on the date on which it receives the Royal Assent.

**Interpretation**

3. Section 5 of the Principal Act is amended—

(a) by inserting after the definition of “assessor” the following definition:

“ ‘authority of the Commonwealth’ means—

- (a) a body corporate, or an unincorporated body, established for a public purpose by, or in accordance with the provisions of, an enactment;
- (b) a body established by the Governor-General or a Minister otherwise than in accordance with an enactment; or
- (c) an incorporated company over which the Commonwealth is in a position to exercise control,

but does not include an inter-governmental body;”;

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

“ ‘enactment’ means—

- (a) an Act;
- (b) an Ordinance of the Australian Capital Territory; or
- (c) an instrument (including rules, regulations or by-laws) made under an Act or under such an Ordinance;

‘inter-governmental body’ means a body corporate or an unincorporated body established by, or in accordance with the provisions of, an agreement between the Commonwealth and a State or States or between the Commonwealth and the Government of another country or the Governments of other countries;”;

(c) by omitting the definition of “public work” and substituting the following definitions:

“ ‘public work’ means—

(a) a work—

- (i) that is proposed to be carried out by or for the Commonwealth, either within or outside Australia; and
- (ii) in respect of the carrying out of which moneys appropriated by the Parliament are proposed to be expended by the Commonwealth;

(b) a work—

- (i) that is proposed to be carried out, either within or outside Australia, by or for an authority of the Commonwealth to which this Act applies by virtue of section 6A; and

- (ii) in respect of the carrying out of which moneys appropriated by the Parliament, or moneys of the authority, are proposed to be expended by the authority; or
  - (c) a work in respect of which a declaration referred to in sub-section (2) of section 6B is in force, but does not include—
    - (d) a work that is proposed to be carried out by or on behalf of the National Capital Development Commission—
      - (i) for the Commonwealth; or
      - (ii) for an authority of the Commonwealth to which this Act applies (including that Commission), unless the work is, under the regulations, a prescribed work for the purposes of this definition; or
    - (e) a work that is proposed to be carried out by or for the Commonwealth by way of assistance to an overseas country;
- ‘State’ includes the Northern Territory;”.

#### **Extension to Territories**

4. Section 6 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) This Act does not extend to—

- (a) a work—
  - (i) that is proposed to be carried out by or for the Northern Territory; and
  - (ii) in respect of the carrying out of which moneys of that Territory are proposed to be expended by that Territory; or
- (b) a work—
  - (i) that is proposed to be carried out by or for the Administration of Norfolk Island; and
  - (ii) in respect of the carrying out of which moneys of that Administration are proposed to be expended by that Administration.”.

5. After section 6 of the Principal Act the following sections are inserted in Part I:

#### **Bodies to which Act applies**

“6A. (1) Subject to sub-section (2), this Act applies to every authority of the Commonwealth.

“(2) This Act does not apply to—

- (a) an authority of the Commonwealth in respect of which a declaration referred to in sub-section (3) is in force;
- (b) the Parliament House Construction Authority; or
- (c) an authority of the Commonwealth established for the purpose of providing, or for purposes which include the purpose of providing, tertiary education in the Australian Capital Territory.

“(3) Where the Governor-General is satisfied that an authority of the Commonwealth is engaging in trading or other activities, or is providing services, in competition with another body or other bodies, or with persons, the Governor-General may make regulations declaring that this Act does not apply to that authority.

#### **Regulations may declare works to be public works**

“6B. (1) The regulations may declare a work that is proposed to be carried out by or on behalf of the National Capital Development Commission—

- (a) for the Commonwealth; or
- (b) for an authority of the Commonwealth to which this Act applies (including that Commission),

to be a prescribed work for the purposes of the definition of ‘public work’ in section 5.

“(2) Notwithstanding that an authority of the Commonwealth is not an authority of the Commonwealth to which this Act applies, the regulations may declare a work—

- (a) that is proposed to be carried out by or for the authority; and
- (b) in respect of the carrying out of which moneys appropriated by the Parliament, or moneys of the authority, are proposed to be expended by the authority,

to be a public work to which section 18 applies.”.

#### **Meetings of the Committee**

6. Section 12 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:

“(1) The Committee may meet at such times and at such places within Australia or within an external Territory as the Committee, by resolution, determines or, subject to any resolution of the Committee, as the Chairman determines, but shall not meet at any place outside Australia and the external Territories.”.

#### **Functions of the Committee**

7. Section 17 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(4) In considering and reporting on a public work proposed to be carried out by an authority of the Commonwealth, the Committee shall

have regard to the functions, powers and duties of the authority and to the powers conferred on a Minister in relation to the activities of the authority concerned.”.

**Reference of public works to the Committee**

8. Section 18 of the Principal Act is amended—

- (a) by omitting from sub-section (3) “a Minister” and substituting “the Minister for Housing and Construction”;
- (b) by omitting from paragraph 8 (b) “or”;
- (c) by adding at the end of sub-section (8) the following word and paragraph:

“or; (d) the work is a work that has been declared, by a notice under sub-section (8A), to be a repetitive work for the purposes of this sub-section.”; and

- (d) by inserting after sub-section (8) the following sub-section:

“(8A) The Minister for Housing and Construction may, by notice published in the *Gazette*, declare a work to be a repetitive work for the purposes of sub-section (8) if—

- (a) he is satisfied that the work is substantially similar to other works that have been carried out, are being carried out or are likely to be carried out from time to time by or for the Commonwealth, or by or for an authority of the Commonwealth to which this Act applies; and
- (b) the Committee has agreed to the work being so declared.”.

9. After section 18 of the Principal Act the following sections are inserted:

**Inquiries by Committee**

“18A. (1) Subject to this section, where a public work is referred to the Committee for consideration and report, the Committee may direct that the inquiry by the Committee into the work shall take place in public or in private.

“(2) Where the Committee directs that an inquiry by the Committee into a public work take place in private, the Committee may give directions as to the persons who may be present at the inquiry.

“(3) Where a public work by way of the provision of services on land for the purpose of developing the land for use as urban land is referred to the Committee, the Committee may decide to consider and report on the work without holding any inquiry into the work.

**Consideration of overseas public works**

“18B. Where a public work that is to be carried out outside Australia and the external Territories is referred to the Committee—

- (a) the Committee shall consider the work on the basis of plans, models and statements placed before it and of the evidence (if any) taken by it;

- (b) the Committee is not entitled to require or request the attendance before it of any person who is outside Australia; and
- (c) the Committee may receive statements, in writing, relevant to its consideration of the work, from any person who is in or outside Australia, and may take evidence from any person who is in Australia.”.

#### **Review of reports**

**10.** Section 19 of the Principal Act is amended by omitting from sub-section (2) “the Minister” and substituting “the Minister for Housing and Construction”.

#### **Evidence to be given in public except in certain cases**

**11.** Section 23 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:

“(1) Subject to this section, where the Committee directs that the inquiry by the Committee into a public work shall take place in public, any evidence taken by the Committee for the purpose of the inquiry shall be taken in public.”.

#### **Power to enter on land, &c.**

**12.** Section 27 of the Principal Act is amended by inserting “in Australia or an external Territory” after “place” (first occurring).

#### **Application**

**13. (1)** Sub-section 18 (8) of the Principal Act as amended by this Act does not apply to or in relation to a public work that is proposed to be carried out by or for an authority of the Commonwealth to which the Principal Act as amended by this Act applies and is commenced within the period of 12 months commencing on the date on which this Act receives the Royal Assent.

**(2)** For the purposes of sub-section (1), where an authority of the Commonwealth referred to in that sub-section enters into a contract for the carrying out of the whole or a part of a work for the authority, the date of commencement of the work shall be deemed to be the date on which the contract is entered into.

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#### **NOTE**

1. No. 92, 1969, as amended. For previous amendments, see No. 56, 1972; Nos. 140 and 216, 1973; No. 48, 1974; and No. 37, 1976.