



# Census and Statistics Amendment Act (No. 2) 1981

No. 177 of 1981

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# Census and Statistics Amendment Act (No. 2) 1981

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## An Act to amend the *Census and Statistics Act 1905*, and for related purposes

[Assented to 8 December 1981]

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

### PART I—PRELIMINARY

#### Short title

1. This Act may be cited as the *Census and Statistics Amendment Act (No. 2) 1981*.

#### Commencement

2. This Act shall come into operation on a date to be fixed by Proclamation.

### PART II—AMENDMENTS OF THE CENSUS AND STATISTICS ACT 1905

#### Principal Act

3. The *Census and Statistics Act 1905*<sup>1</sup> is in this Part referred to as the  
Principal Act.

**Heading to Part I**

4. The heading to Part I of the Principal Act is omitted and the following heading is substituted:

**“PART I—PRELIMINARY”**

**Interpretation**

5. Section 3 of the Principal Act is amended—

(a) by inserting before the definition of “Bureau” the following definition:

“‘authorized officer’ means an officer who, by virtue of an appointment under section 16, is an authorized officer for the purposes of this Act;” and

(b) by omitting the definitions of “Dwelling”, “Factory” and “Occupier” and substituting the following definitions:

“‘determination’ means a determination made under section 13;

“‘form’ means a form prepared by the Statistician under sub-section 10 (1);”.

**Heading to Part II**

6. The heading to Part II of the Principal Act is omitted.

**Repeal of section 5**

7. Section 5 of the Principal Act is repealed.

**Heading to Part III**

8. The heading to Part III of the Principal Act is omitted and the following heading is substituted:

**“PART II—THE CENSUS”**

**Taking of Census**

9. Section 8 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) For the purposes of the taking of the Census, the Statistician shall collect statistical information in relation to the matters prescribed for the purposes of this section.”.

10. Sections 9 to 15A, inclusive, Part IV, the heading to Part V and sections 21 to 26, inclusive, of the Principal Act are repealed and the following Part, heading and sections are substituted:

### “PART III—STATISTICS

#### Statistical information to be collected

“9. (1) The Statistician—

- (a) may from time to time collect such statistical information in relation to the matters prescribed for the purposes of this section as he considers appropriate; and
- (b) shall, if the Minister so directs by notice in writing, collect such statistical information in relation to the matters so prescribed as is specified in the notice.

“(2) The Statistician shall collect such statistical information as is necessary for the purposes of the compilation and analysis, under section 12, of statistics of the number of the people of each State as on the last day of March, June, September and December in each year, but nothing in this sub-section shall be taken to limit the generality of sub-section (1).

### “PART IV—ADMINISTRATION

#### Forms to be filled up

“10. (1) The Statistician may prepare forms relating to the collection of statistical information in relation to any matter referred to in section 8 or 9.

“(2) For the purposes of section 8, the Statistician may, by notice published in the *Gazette*, require persons included in a specified class of persons to fill up and supply, in accordance with instructions contained in or accompanying a specified form, the particulars specified in that form and to cause the form so filled up to be furnished to the Statistician, or to an authorized officer, in accordance with those instructions.

“(3) For the purposes of section 8 or 9, the Statistician or an authorized officer may, either orally or in writing, request a person—

- (a) to fill up and supply, in accordance with instructions contained in or accompanying a form, the particulars specified in that form; and
- (b) to cause the form so filled up to be furnished to the Statistician, or to an authorized officer, in accordance with those instructions.

“(4) For the purposes of section 8 or 9, the Statistician may, by notice in writing served either personally or by post on a person, direct the person—

- (a) to fill up and supply, in accordance with instructions contained in or accompanying a form accompanying the notice, within such period after the service of the notice, being not less than 14 days, as is specified in the notice, the particulars specified in that form; and
- (b) to cause the form so filled up to be furnished to the Statistician, or to an authorized officer, in accordance with those instructions.

“(5) A notice referred to in sub-section (4) shall set out the effect of the provisions of section 14.

**Answering of questions**

“11. (1) For the purposes of section 8 or 9, the Statistician or an authorized officer may, either orally or in writing, request a person to answer a question that is necessary to obtain any statistical information in relation to any matter referred to in section 8 or 9.

“(2) For the purposes of section 8 or 9, the Statistician may, by notice in writing served either personally or by post on a person, direct the person to answer, within such period after service of the notice, being not less than 14 days, as is specified in the notice, a specified question that is necessary to obtain any statistical information in relation to any matter referred to in section 8 or 9.

“(3) A notice referred to in sub-section (2) shall set out the effect of the provisions of section 14.

**Publication, &c., of statistics**

“12. (1) The Statistician shall compile and analyse the statistical information collected under this Act and shall publish and disseminate the results of any such compilation and analysis, or abstracts of those results.

“(2) The results or abstracts referred to in sub-section (1) shall not be published or disseminated in a manner that is likely to enable the identification of a particular person or organization.

**Release of information**

“13. (1) Notwithstanding anything in this Act (other than this section), the Minister may, by instrument in writing, make determinations providing for and in relation to the disclosure, with the approval in writing of the Statistician, of information included in a specified class of information furnished in pursuance of this Act.

“(2) Without limiting the generality of sub-section (1), determinations may make provision—

- (a) as to the persons to whom the information may be disclosed;
- (b) as to the persons, being the persons from whom the information has been obtained, whose consent is required for the disclosure of the information; and
- (c) specifying terms and conditions subject to which the information may be disclosed, including, but without limiting the generality of the foregoing, terms and conditions as to the requiring of a person to whom the information is, or is to be, disclosed to give an undertaking, in writing with respect to the disclosure of the information by that person, including an undertaking not to disclose any of the information to any person.

“(3) Information of a personal or domestic nature relating to a person shall not be disclosed in accordance with a determination in a manner that is likely to enable the identification of that person.

“(4) Sections 48, 49 and 50 of the *Acts Interpretation Act* 1901 apply in relation to determinations as if, in those sections, references to regulations were references to determinations and references to a regulation were references to a provision of a determination.

“(5) Determinations shall be deemed to be statutory rules within the meaning of the *Statutory Rules Publication Act* 1903.

**Refusal or failure to answer questions, &c.**

“14. (1) A person who, without reasonable excuse, refuses or fails to comply with a direction served on him under sub-section 10 (4) or 11 (2) is, in respect of each day during which he so refuses or fails to comply with the direction (including the day of a conviction under this section or any subsequent day), guilty of an offence punishable on conviction by a fine not exceeding \$100.

“(2) Without limiting the meaning of the expression ‘reasonable excuse’ in sub-section (1), it is a reasonable excuse for the purposes of that sub-section if a person refuses or fails to answer a question or to supply particulars relating to his religious beliefs.

**False or misleading statements, &c.**

“15. A person shall not, in connection with—

- (a) a requirement made of him under sub-section 10 (2);
- (b) a request made of him under sub-section 10 (3) or 11 (1); or
- (c) a direction served on him under sub-section 10 (4) or 11 (2),

make a statement, either orally or in writing, or furnish a document containing information, that is to his knowledge false or misleading in a material particular.

Penalty: \$1,000.

**Authorized officers**

“16. The Statistician may, by instrument in writing, appoint a specified officer, or officers included in a specified class of officers, to be an authorized officer or authorized officers, as the case may be, for the purposes of this Act.

**Delegation**

“17. (1) The Statistician may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to an officer all or any of his powers under this Act or any other law, other than this power of delegation.

“(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act or that other law, as the case may be, be deemed to have been exercised by the Statistician.

“(3) A delegation under this section does not prevent the exercise of a power by the Statistician.

**Powers of entry**

“18. (1) The Statistician or an authorized officer may, at all reasonable times, enter any premises included in a prescribed class of premises for the purpose of—

- (a) supplying persons with forms;
- (b) collecting forms that have been supplied to persons; and
- (c) making inquiries for the purposes of this Act.

“(2) In sub-section (1), ‘premises’ means premises other than—

- (a) a dwelling-house (including a flat or home unit); or
- (b) a part of any other premises that is separately occupied or used for the purposes of the residence or sleeping accommodation of a person or persons.

**Secrecy**

“19. (1) A person who is, or has been, the Statistician or an officer shall not, except—

- (a) in accordance with a determination; or
- (b) for the purposes of this Act,

either directly or indirectly, divulge or communicate any information furnished in pursuance of this Act to any person (other than the person from whom the information was obtained).

“(2) A person who contravenes sub-section (1) or fails to comply with an undertaking of the kind referred to in paragraph 13 (2) (c) given by him in relation to information disclosed to him in accordance with a determination is guilty of an indictable offence punishable on conviction by a fine not exceeding \$5,000 or imprisonment for a period not exceeding 2 years, or both.

**Prosecution of offences**

“20. (1) An offence against this Act, other than an offence against sub-section 19 (2), shall be prosecuted summarily.

“(2) Notwithstanding that an offence against sub-section 19 (2) is expressed by this Act to be an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.

“(3) Where, in accordance with sub-section (2), a court of summary jurisdiction convicts a person of an offence against sub-section 19 (2), the penalty that the court may impose is a fine not exceeding \$2,000 or imprisonment for a period not exceeding 12 months, or both.

**Continuing offences**

“21. Where under sub-section 10 (4) or 11 (2) an act or thing is required to be done within a particular period or before a particular time, the obligation to



do that act or thing continues, notwithstanding that that period has expired or that time has passed, until that act or thing is done.

**Joinder of charges and penalties for certain offences**

“22. (1) Charges against the same person for any number of offences against section 14 may be joined in the same information or complaint if those offences relate to a failure to do the same act or thing.

“(2) If a person is convicted of 2 or more offences referred to in sub-section (1), being offences related to a failure to do the same act or thing, the court may impose one penalty in respect of both or all of those offences, but that penalty shall not exceed the sum of the maximum penalties that could be imposed if a penalty were imposed in respect of each offence separately.”.

**Regulations**

11. Section 27 of the Principal Act is amended by omitting “One hundred dollars for breaches of the regulations” and substituting “\$500 for offences against the regulations”.

**Transitional**

12. (1) Notwithstanding the repeal of section 5 of the Principal Act by this Act, a delegation in force under that section immediately before the commencement of this Act, being a delegation to an officer, continues in force as if it had been made under section 17 of the Principal Act as amended by this Act.

(2) If, before the commencement of this Act, the Statistician purported to delegate all of his powers under the Principal Act or the regulations to an officer, the purported delegation shall be deemed to have been, and, for the purposes of sub-section (1), to be, as valid and effectual as it would have been if the reference in section 5 of the Principal Act to any of the Statistician’s powers under the Principal Act or the regulations were, at the time the purported delegation was made, read and construed as including a reference to all of the Statistician’s powers under the Principal Act or the regulations.

(3) For the purposes of the Principal Act as amended by this Act, the contents of any form filled up or any information furnished, at the request of the Statistician made before the commencement of this Act, for statistical purposes, shall be deemed to be information furnished in pursuance of that Act as so amended.

**PART III—CONSEQUENTIAL AMENDMENTS OF OTHER ACTS**

**Proof of statistics**

13. Section 10A of the *Evidence Act 1905*<sup>2</sup> is amended—

- (a) by omitting from sub-section (1) “tabulated” (wherever occurring) and substituting “analysed”; and
- (b) by omitting sub-section (2) and substituting the following sub-section :

“(2) In sub-section (1), ‘Statistician’ means the Australian Statistician referred to in sub-section 5 (2) of the *Australian Bureau of Statistics Act 1975* and includes any person to whom the powers of the Statistician under section 12 of the *Census and Statistics Act 1905* have been delegated.”.

### **Statistics**

14. Section 127 of the *Insurance Act 1973*<sup>3</sup> is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) Section 19 of the *Census and Statistics Act 1905* applies in relation to information furnished under sub-section (1) of this section as if that information had been collected under that Act.”.

### **Australian Statistician**

15. Section 9 of the *Port Statistics Act 1977*<sup>4</sup> is amended by omitting sub-section (3) and substituting the following sub-section:

“(3) Any information furnished to the Australian Statistician in pursuance of sub-section (2) shall, for the purposes of section 19 of the *Census and Statistics Act 1905*, be deemed to have been collected under that Act.”.

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### **NOTES**

1. No. 15, 1905, as amended. For previous amendments, see No. 33, 1920; No. 18, 1930; No. 17, 1938; No. 74, 1946; No. 34, 1949; No. 93, 1966; No. 216, 1973; No. 15, 1977; and No. 48, 1981.
2. No. 4, 1905, as amended. For previous amendments, see No. 43, 1934; No. 80, 1950; No. 48, 1956; No. 28, 1963; No. 53, 1964; No. 80, 1973; No. 216, 1973; No. 31, 1974; No. 14, 1978; and No. 139, 1979.
3. No. 76, 1973, as amended. For previous amendments, see No. 216, 1973; No. 157, 1976; and No. 31, 1977.
4. No. 125, 1977.