



Australian Government Solicitor (Consequential Amendments) Act 1984

No. 10 of 1984

An Act to amend certain Acts in consequence of the establishment of the Australian Government Solicitor

[Assented to 10 April 1984]

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

Short title

1. This Act may be cited as the *Australian Government Solicitor (Consequential Amendments) Act 1984*.

Commencement

2. (1) Subject to sub-section (2), this Act shall come into operation, or shall be deemed to have come into operation, as the case requires, on the day on which section 7 of the *Judiciary Amendment Act (No. 2) 1984* comes into operation.

(2) If sub-section 8 (1) of the *Director of Public Prosecutions (Consequential Amendments) Act 1983* does not come into operation before the commencement of section 7 of the *Judiciary Amendment Act (No. 2) 1984*, the amendment of the *Crimes Act 1914* made by this Act shall come into operation, or shall be deemed to have come into operation, as the case requires, immediately after the commencement of that sub-section.

Amendment of Acts

3. The Acts specified in the Schedule are amended as set out in that Schedule.

Application of certain amendments

4. (1) Where—

- (a) this Act amends a provision of an Act; and
- (b) immediately before the commencement of this section, the Crown Solicitor—
 - (i) was empowered or required to lodge, under the provision as in force immediately before that commencement, a certificate or notice relating to a matter, or a certified copy of a document; and
 - (ii) had not so lodged a certificate or notice relating to the matter, or a certified copy of the document,

the provision, as amended by this Act, applies after that commencement in relation to the matter, or in relation to the document, as the case may be, and so applies, in a case where, immediately before that commencement, a certificate or notice relating to the matter had been prepared, or a copy of the document had been certified, under the provision as in force immediately before that commencement, as if the certificate or notice had been prepared, or the copy of the document had been certified, under the provision as amended by this Act.

(2) Where, at the commencement of this section—

- (a) a bankruptcy notice under the *Bankruptcy Act 1966* has been served on a debtor by the Commonwealth; and
- (b) the debtor has not made sufficient compliance with the notice for the purposes of that Act,

sub-section 42 (1) of that Act, as amended by this Act, applies in relation to the notice after that commencement.

(3) Where, at the time (in this sub-section referred to as the “relevant time”) when the amendment of the *Crimes Act 1914* made by this Act comes into operation—

- (a) an application has been made as mentioned in sub-section 20AA (6) of that Act, being that sub-section as in force at any time before the relevant time; and
- (b) notice in relation to the application has been served neither on the Director of Public Prosecutions nor on the Deputy Crown Solicitor in the State or Territory in which the application was made,

that sub-section, as amended by this Act, applies after the relevant time in relation to the application.

(4) Where, at the commencement of this section—

- (a) an amount of compensation to which a person is entitled under section 11 of the *Lands Acquisition Act 1955* has been determined; and

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- (b) the person has, in relation to the compensation, complied with—
- (i) none of the paragraphs of sub-section 32 (1) of that Act, being that sub-section as in force immediately before that commencement;
 - (ii) in a case where paragraph (a) of that sub-section as so in force applied immediately before that commencement—one or more, but not all, of the paragraphs of that sub-section as so in force; or
 - (iii) in a case where paragraph (a) of that sub-section as so in force did not apply immediately before that commencement—either, but not both, of paragraphs (b) and (c) of that sub-section as so in force,

sub-section 32 (1) of that Act as so in force applies after that commencement in relation to the person in relation to the compensation and so applies, in a case where sub-paragraph (b) (ii) or (iii) of this sub-section applies, as if a reference to the Crown Solicitor in the paragraph, or in each paragraph, of sub-section 32 (1) of that Act as so in force with which the person has not complied at that commencement were a reference to the Secretary to the Attorney-General's Department or to a person authorized under sub-section 55E (4) of the *Judiciary Act 1903*.

(5) Where, at the commencement of this section, an amount of compensation has been deposited in the Treasury under sub-section 33 (1) of the *Lands Acquisition Act 1955* and has not been paid to a person under section 34 of that Act, being that section as in force at any time before that commencement, that section, as amended by this Act, applies after that commencement in relation to the amount.

(6) Section 58 of the *Lands Acquisition Act 1955*, being that section as amended by this Act, applies after the commencement of this section in relation to land acquired under that Act by compulsory process, whether the land was so acquired before or after that commencement.

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SCHEDULE

Section 3

AMENDMENT OF ACTS

Acts	Amendments
<i>Aboriginal Councils and Associations Act 1976</i>	<p>Sub-section 27 (5)—</p> <p>(a) Omit "Crown Solicitor" (first occurring), substitute "Secretary to the Attorney-General's Department or a person authorized under sub-section 55E (4) of the <i>Judiciary Act 1903</i>".</p> <p>(b) Omit "under the hand of the Crown Solicitor or an officer of the Attorney-General's Department authorized by the Crown Solicitor to issue such certificates", substitute "signed by the Secretary or by a person so authorized".</p>
<i>Australian National Airlines Repeal Act 1981</i>	<p>Section 7—</p> <p>(a) Omit "Crown Solicitor" (first occurring), substitute "Secretary to the Attorney-General's Department or a person authorized under sub-section 55E (4) of the <i>Judiciary Act 1903</i>".</p> <p>(b) Omit "Crown Solicitor or by an officer of the Attorney-General's Department authorized by the Crown Solicitor for the purpose", substitute "Secretary or by a person so authorized".</p>
<i>Bankruptcy Act 1966</i>	<p>Paragraph 42 (1) (a)—</p> <p>Omit the paragraph, substitute the following paragraph: " (a) the Secretary to the Attorney-General's Department, or the Crown Solicitor of the State, as the case may be; or".</p> <p>Paragraph 42 (1) (b)—</p> <p>Omit "or of the State", substitute ", or of the State, as the case may be,".</p>
<i>Broadcasting and Television Act 1942</i>	<p>Sub-section 21A (1)—</p> <p>Omit "Crown Solicitor for the Commonwealth", substitute "Secretary to the Attorney-General's Department".</p>
<i>Commonwealth Functions (Statutes Review) Act 1981</i>	<p>Sub-section 16 (1)—</p> <p>(a) Omit "Crown Solicitor" (first occurring), substitute "Secretary to the Attorney-General's Department or a person authorized under sub-section 55E (4) of the <i>Judiciary Act 1903</i>".</p> <p>(b) Omit "Crown Solicitor or by an officer of the Attorney-General's Department authorized by the Crown Solicitor for the purpose", substitute "Secretary or by a person so authorized".</p> <p>Sub-section 30 (1)—</p> <p>(a) Omit "Crown Solicitor" (first occurring), substitute "Secretary to the Attorney-General's Department or a person authorized under sub-section 55E (4) of the <i>Judiciary Act 1903</i>".</p> <p>(b) Omit "Crown Solicitor or by an officer of the Attorney-General's Department authorized by the Crown Solicitor for the purpose", substitute "Secretary or by a person so authorized".</p>
<i>Crimes Act 1914</i>	<p>Sub-section 20AA (6)—</p> <p>Omit "Deputy Crown Solicitor in that State or Territory", substitute "Director of Legal Services, in that State or Territory, in the Attorney-General's Department".</p>
<i>Defence (Visiting Forces) Act 1963</i>	<p>Sub-section 17 (2)—</p> <p>Omit "Crown Solicitor for the Commonwealth", substitute "Australian Government Solicitor".</p> <p>Sub-section 28 (2)—</p> <p>Omit the sub-section, substitute the following sub-section: "(2) The Attorney-General shall not delegate any of his powers and functions in relation to a State except to the Secretary to the Attorney-General's Department or to a person authorized under sub-section 55E (4) of the <i>Judiciary Act 1903</i>."</p>

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SCHEDULE—continued

Acts	Amendments
<i>Director of Public Prosecutions Act 1983</i>	<p>Paragraph 11 (1) (b)— Omit the paragraph, substitute the following paragraph: “(b) a person authorized under sub-section 55E (4) of the <i>Judiciary Act 1903</i>; or”.</p> <p>Paragraph 15 (d)— Omit “or”.</p> <p>Paragraph 15 (e)— Omit the paragraph, substitute the following paragraphs: “(e) by counsel or solicitor; or (f) by a prescribed person.”.</p> <p>New sub-sections 15 (2) and (3)— At the end of section 15, add the following sub-sections: “(2) Where, in relevant proceedings, the Director is represented by a prescribed person, section 16 applies, for the purposes of the relevant proceedings, as if a reference in that section to a member of the staff of the Office who is a legal practitioner included a reference to the prescribed person. “(3) In this section— 'prescribed person' means— (a) a person authorized under sub-section 55E (4) of the <i>Judiciary Act 1903</i>; or (b) an officer of the Attorney-General's Department who is a legal practitioner and is authorized in writing by the Secretary to that Department, or by a person of the kind referred to in paragraph (a), to represent the Director in relevant proceedings; 'relevant proceedings' means— (a) proceedings of a kind referred to in paragraph (1) (a) or (c); or (b) an inquest or inquiry of the kind referred to in paragraph (1) (b), whether instituted or commenced before or after the commencement of this sub-section.”.</p> <p>Sub-section 32 (1)— Omit “Crown Solicitor for the Crown Solicitor or a Deputy Crown Solicitor”, substitute “Secretary to the Attorney-General's Department for a person (in this sub-section referred to as the 'relevant person') authorized under sub-section 55E (4) of the <i>Judiciary Act 1903</i>”.</p> <p>Paragraphs 32 (1) (a) and (b)— Omit the paragraphs, substitute the following paragraphs: “(a) the relevant person may perform or exercise those functions or powers accordingly; and (b) sections 15 and 16 apply, for the purposes of the performance or exercise of those functions or powers by the relevant person, as if— (i) a reference in those sections to the Director included a reference to the relevant person; and (ii) a reference in those sections to a member of the staff of the Office included a reference to an officer of the Attorney-General's Department who is authorized in writing by the relevant person to act on behalf of the relevant person in the performance or exercise of those functions or powers.”.</p> <p>Sub-section 32 (3)— Omit “the Crown Solicitor or a Deputy Crown Solicitor”, substitute “a person authorized under sub-section 55E (4) of the <i>Judiciary Act 1903</i>, or an officer of the Attorney-General's Department”.</p>

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SCHEDULE—continued

Acts	Amendments
	Paragraph 32 (3) (b)— At the end of the paragraph, add “, or, in the case of an act done by an officer of the Attorney-General’s Department, that the officer was not authorized as mentioned in sub-paragraph (1) (b) (ii)”.
<i>Lands Acquisition Act 1955</i>	Sub-section 15 (1)— (a) Omit “Crown Solicitor” (first occurring), substitute “Secretary to the Attorney-General’s Department or a person authorized under sub-section 55E (4) of the <i>Judiciary Act 1903</i> ”. (b) Omit all the words after “certified”, substitute “by writing signed by the Secretary or by a person so authorized”. Paragraph 32 (1) (a)— Omit “Crown Solicitor”, substitute “Secretary to the Attorney-General’s Department or of a person authorized under sub-section 55E (4) of the <i>Judiciary Act 1903</i> ”. Paragraph 32 (1) (b)— Omit “Crown Solicitor”, substitute “Secretary or a person so authorized”. Paragraph 32 (1) (c)— Omit “Crown Solicitor”, substitute “Secretary or a person so authorized”. Section 34— Omit “Crown Solicitor”, substitute “Secretary to the Attorney-General’s Department or of a person authorized under sub-section 55E (4) of the <i>Judiciary Act 1903</i> ”. Section 58— Omit “Crown Solicitor”, substitute “Secretary to the Attorney-General’s Department or a person authorized under sub-section 55E (4) of the <i>Judiciary Act 1903</i> ”.
<i>Lands Acquisition (Northern Territory Pastoral Leases) Act 1981</i>	Sub-section 9 (1)— (a) Omit “Crown Solicitor” (first occurring), substitute “Secretary to the Attorney-General’s Department or a person authorized under sub-section 55E (4) of the <i>Judiciary Act 1903</i> ”. (b) Omit all the words after “certified”, substitute “by writing signed by the Secretary or by a person so authorized”.
<i>National Parks and Wildlife Conservation Act 1975</i>	Section 8— (a) Omit “Crown Solicitor” (first occurring), substitute “Secretary to the Attorney-General’s Department or a person authorized under sub-section 55E (4) of the <i>Judiciary Act 1903</i> ”. (b) Omit “under the hand of the Crown Solicitor or of an officer of the Attorney-General’s Department authorized by the Crown Solicitor to certify such copies”, substitute “by writing signed by the Secretary or by a person so authorized”.
<i>Northern Territory (Self-Government) Act 1978</i>	Sub-section 70 (7)— Omit the sub-section, substitute the following sub-section: “(7) The Secretary to the Attorney-General’s Department or a person authorized under sub-section 55E (4) of the <i>Judiciary Act 1903</i> shall lodge with the registrar of titles of the Territory a copy of a notice published under this section, certified by writing signed by the Secretary or by a person so authorized.”.