



Acts Interpretation Amendment Act 1984

No. 27 of 1984

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Acts Interpretation Amendment Act 1984

No. 27 of 1984

An Act to amend the *Acts Interpretation Act 1901*

[Assented to 15 May 1984]

[Date of commencement 12 June 1984]

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 *Acts Interpretation Amendment Act 1984*.

(2) The *Acts Interpretation Act 1901*¹ is in this Act referred to as the Principal Act.

Application

2. Except as otherwise provided by this Act, the amendments made by this Act apply in relation to all Acts whether passed before or after the commencement of this Act.

Meaning of “commencement”

3. Section 3 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:

“(1) In every Act, ‘commencement’, in relation to an Act or a provision of an Act, means the time at which the Act or provision comes into operation.”.

4. After section 8 of the Principal Act the following sections are inserted:

Implied repeals, &c.

“8A. A reference in section 7 or 8 to the repeal of an Act or of a part of an Act includes a reference to—

- (a) a repeal effected by implication;
- (b) the abrogation or limitation of the effect of the Act or part; and
- (c) the exclusion of the application of the Act or part to any person, subject-matter or circumstance.

Effect of expiration of Act

“8B. Where an Act or a part of an Act expires, lapses or otherwise ceases to have effect, sections 7 and 8 apply as if the Act or part had been repealed by another Act.

References to part of an Act

“8C. A reference in section 7, 8, 8A or 8B to a part of an Act includes a reference to any provision of, or words, figures, drawings or symbols in, an Act.”.

5. After section 10 of the Principal Act the following section is inserted:

References to amended or re-enacted laws of States and Territories

“10A. Where an Act contains a reference to a short title or other citation that is or was provided by the law of a State or Territory for the citation of a law of that State or Territory as originally enacted or made, or as amended, then, except so far as the contrary intention appears—

- (a) the reference shall be construed as a reference to that law as originally enacted or made and as amended from time to time; and
- (b) where that law has been repealed and re-enacted or re-made, with or without modifications, the reference shall be construed as including a reference to the re-enacted or re-made law as originally enacted or made and as amended from time to time and, where, in connection with that reference, particular provisions of the repealed law are referred to, being provisions to which provisions of the re-enacted or re-made law correspond, the reference to those particular provisions shall be construed as including a reference to those corresponding provisions.”.

Regard to be had to purpose or object of Act

6. Section 15AA of the Principal Act is amended by omitting sub-section (2).

7. After section 15AA of the Principal Act the following section is inserted:

Use of extrinsic material in the interpretation of an Act

“15AB. (1) Subject to sub-section (3), in the interpretation of a provision of an Act, if any material not forming part of the Act is capable of assisting in the ascertainment of the meaning of the provision, consideration may be given to that material—

- (a) to confirm that the meaning of the provision is the ordinary meaning conveyed by the text of the provision taking into account its context in the Act and the purpose or object underlying the Act; or
- (b) to determine the meaning of the provision when—
 - (i) the provision is ambiguous or obscure; or
 - (ii) the ordinary meaning conveyed by the text of the provision taking into account its context in the Act and the purpose or object underlying the Act leads to a result that is manifestly absurd or is unreasonable.

“(2) Without limiting the generality of sub-section (1), the material that may be considered in accordance with that sub-section in the interpretation of a provision of an Act includes—

- (a) all matters not forming part of the Act that are set out in the document containing the text of the Act as printed by the Government Printer;
- (b) any relevant report of a Royal Commission, Law Reform Commission, committee of inquiry or other similar body that was laid before either House of the Parliament before the time when the provision was enacted;
- (c) any relevant report of a committee of the Parliament or of either House of the Parliament that was made to the Parliament or that House of the Parliament before the time when the provision was enacted;
- (d) any treaty or other international agreement that is referred to in the Act;
- (e) any explanatory memorandum relating to the Bill containing the provision, or any other relevant document, that was laid before, or furnished to the members of, either House of the Parliament by a Minister before the time when the provision was enacted;
- (f) the speech made to a House of the Parliament by a Minister on the occasion of the moving by that Minister of a motion that the Bill containing the provision be read a second time in that House;
- (g) any document (whether or not a document to which a preceding paragraph applies) that is declared by the Act to be a relevant document for the purposes of this section; and

- (h) any relevant material in the Journals of the Senate, in the Votes and Proceedings of the House of Representatives or in any official record of debates in the Parliament or either House of the Parliament.

“(3) In determining whether consideration should be given to any material in accordance with sub-section (1), or in considering the weight to be given to any such material, regard shall be had, in addition to any other relevant matters, to—

- (a) the desirability of persons being able to rely on the ordinary meaning conveyed by the text of the provision taking into account its context in the Act and the purpose or object underlying the Act; and
- (b) the need to avoid prolonging legal or other proceedings without compensating advantage.”.

8. After section 15B of the Principal Act the following section is inserted in Part IV:

Jurisdiction of courts

“15C. Where a provision of an Act, whether expressly or by implication, authorizes a civil or criminal proceeding to be instituted in a particular court in relation to a matter—

- (a) that provision shall be deemed to vest that court with jurisdiction in that matter;
- (b) except so far as the contrary intention appears, the jurisdiction so vested is not limited by any limits to which any other jurisdiction of the court may be subject; and
- (c) in the case of a court of a Territory, that provision shall be construed as providing that the jurisdiction is vested so far only as the Constitution permits.”.

Mention of an officer in general terms

9. Section 20 of the Principal Act is amended by inserting “, or perform for the time being the duties of,” after “occupy for the time being”.

Meaning of certain words

10. Section 22 of the Principal Act is amended—

- (a) by omitting paragraph (e) and substituting the following paragraph:
 - “(e) ‘Financial year’ means a period of 12 months commencing on 1 July;”;
- (b) by adding after paragraph (f) the following paragraphs:
 - “(g) ‘Calendar month’ means a period commencing at the beginning of a day of one of the 12 months of the year and ending immediately before the beginning of the corresponding day of the next month or, if there is no such corresponding day, ending at the expiration of the next month;
 - (h) ‘Calendar year’ means a period of 12 months commencing on 1 January; and

- (j) 'Contravene' includes fail to comply with."; and
- (c) by adding at the end thereof the following sub-section:

"(2) Express references in an Act to companies, corporations or bodies corporate shall not be taken to imply that references in the Act to persons do not also include references to companies, corporations or bodies corporate."

11. Section 23 of the Principal Act is repealed and the following section is substituted:

Rules as to gender and number

"23. In any Act, unless the contrary intention appears—

- (a) words importing a gender include every other gender; and
- (b) words in the singular number include the plural and words in the plural number include the singular."

Corporation liable to and may sue for penalties

12. (1) Section 24 of the Principal Act is amended by omitting paragraphs (a) to (d), inclusive, and substituting the following paragraphs:

- "(a) where the term of imprisonment does not exceed 6 months—\$5,000;
- (b) where the term of imprisonment exceeds 6 months but does not exceed 1 year—\$10,000;
- (c) where the term of imprisonment exceeds 1 year but does not exceed 2 years—\$25,000;
- (d) where the term of imprisonment exceeds 2 years but does not exceed 5 years—\$50,000; and
- (e) where the term of imprisonment exceeds 5 years—\$100,000."

(2) The amendment made by sub-section (1) applies only in respect of offences committed after the commencement of this Act.

13. (1) Section 25 of the Principal Act is repealed and the following sections are substituted:

References to writing and documents

"25. In any Act, unless the contrary intention appears—

'document' includes—

- (a) any paper or other material on which there is writing;
- (b) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and
- (c) any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device;

'writing' includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form.

Production of records kept in computers, &c.

“25A. Where a person who keeps a record of information by means of a mechanical, electronic or other device is required by or under an Act to produce the information or a document containing the information to, or make a document containing the information available for inspection by, a court, tribunal or person, then, unless the court, tribunal or person otherwise directs, the requirement shall be deemed to oblige the person to produce or make available for inspection, as the case may be, a writing that reproduces the information in a form capable of being understood by the court, tribunal or person, and the production of such a writing to the court, tribunal or person constitutes compliance with the requirement.

Alterations of names and constitutions

“25B. (1) Where an Act alters the name of a body (whether or not the body is incorporated) or alters the name of an office, then, unless the contrary intention appears—

- (a) the body or office continues in existence under the new name so that its identity is not affected; and
- (b) in any Act, in any instrument under an Act, in any award or other industrial determination or order or any industrial agreement, in any other order (whether executive, judicial or otherwise), in any contract, in any pleading in, or process issued in connection with, any legal or other proceedings or in any other instrument, a reference to the body or the office under the former name shall, except in relation to matters that occurred before the alteration took place, be construed as a reference to the body or the office under the new name.

“(2) Where an Act alters the constitution of a body (whether or not the body is incorporated), then, unless the contrary intention appears—

- (a) the body continues in existence as newly constituted so that its identity is not affected;
- (b) the alteration does not affect any functions, powers, property, rights, liabilities or obligations of the body;
- (c) the alteration does not affect any legal or other proceedings instituted or to be instituted by or against the body, and any legal or other proceedings that might have been continued or commenced by or against the body as previously constituted may be continued or commenced by or against the body as newly constituted; and
- (d) the alteration does not affect any investigation or inquiry being or proposed to be undertaken by any tribunal, authority or person into any action taken or practice engaged in by the body before the alteration took place, and any investigation or inquiry that might have been continued or commenced into any such action or practice may be continued or commenced as if the action had been taken or the practice had been engaged in by the body as newly constituted.

Compliance with forms

“25C. Where an Act prescribes a form, then, unless the contrary intention appears, strict compliance with the form is not required and substantial compliance is sufficient.

Content of statements of reasons for decisions

“25D. Where an Act requires a tribunal, body or person making a decision to give written reasons for the decision, whether the expression ‘reasons’, ‘grounds’ or any other expression is used, the instrument giving the reasons shall also set out the findings on material questions of fact and refer to the evidence or other material on which those findings were based.

Attainment of particular age

“25E. For the purposes of any Act, unless the contrary intention appears, the time at which a person attains a particular age expressed in years is the commencement of the relevant anniversary of the date of the birth of that person.”.

(2) Section 25E of the Principal Act as amended by this Act applies only where the relevant anniversary falls on or after 1 January 1985.

Judicial definitions

14. Section 26 of the Principal Act is amended—

- (a) by inserting in paragraph (d) “or of an external Territory,” before “sitting”; and
- (b) by omitting from paragraph (d) “the law of a State” and substituting “the law of the State or external Territory”.

15. After section 28 of the Principal Act the following section is inserted:

Service of documents

“28A. (1) For the purposes of any Act that requires or permits a document to be served on a person, whether the expression ‘serve’, ‘give’ or ‘send’ or any other expression is used, then, unless the contrary intention appears, the document may be served—

- (a) on a natural person—
 - (i) by delivering it to the person personally; or
 - (ii) by leaving it at, or by sending it by pre-paid post to, the address of the place of residence or business of the person last known to the person serving the document; or
- (b) on a body corporate—by leaving it at, or sending it by pre-paid post to, the head office, a registered office or a principal office of the body corporate.

“(2) Nothing in sub-section (1)—

- (a) affects the operation of any other law of the Commonwealth, or any law of a State or Territory, that authorizes the service of a document otherwise than as provided in that sub-section; or
- (b) affects the power of a court to authorize service of a document otherwise than as provided in that sub-section.”.

Exercise of powers and duties

16. Section 33 of the Principal Act is amended—

- (a) by inserting after sub-section (3) the following sub-sections:

“(3A) Where an Act confers a power to make, grant or issue any instrument (including rules, regulations or by-laws) with respect to particular matters, the power shall be construed as including a power to make, grant or issue such an instrument with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.

“(3B) Where an Act confers a power to make, grant or issue any instrument (including rules, regulations or by-laws), the power shall not be taken, by implication, not to include the power to make provision for or in relation to a particular aspect of a matter by reason only that provision is made by the Act in relation to another aspect of that matter or in relation to another matter.”;

- (b) by inserting in sub-section (4) “to appoint a person to act in the office or place until—

- (a) a person is appointed to the office or place; or

- (b) the expiration of 12 months after the office or place was created or became vacant, as the case requires,

whichever first happens, and as also including a power” after “as including a power”;

- (c) by inserting in the proviso to sub-section (4) “such power to make an appointment to act in an office or place or” before “such power of removal”; and

- (d) by adding at the end thereof the following sub-section:

“(5) Where an Act confers a power to make, grant or issue an instrument (including rules, regulations or by-laws) prescribing penalties not exceeding a specified amount or imprisonment for a specified period, that limitation on the penalties that may be prescribed does not prevent the instrument from requiring the making of a statutory declaration.”.

17. After section 34 of the Principal Act the following section is inserted:

Delegations

“34AA. Where an Act confers power to delegate a function or power, then, unless the contrary intention appears, the power of delegation shall not be construed as being limited to delegating the function or power to a specified person but shall be construed as including a power to delegate the function or power to any person from time to time holding, occupying, or performing the duties of, a specified office or position.”.

18. After section 45 of the Principal Act the following sections are inserted in Part X:

Effect of alterations in penalties

“45A. (1) Where an Act increases the penalty or maximum penalty for an offence, the penalty or maximum penalty as increased applies only to offences committed after the commencement of the provision of the Act increasing the penalty or maximum penalty.

“(2) Where an Act reduces the penalty or maximum penalty for an offence, the penalty or maximum penalty as reduced extends to offences committed before the commencement of the provision of the Act reducing the penalty or maximum penalty, but the reduction does not affect any penalty imposed before that commencement.

Continuing offences

“45B. (1) Where, by or under a provision of an Act, an act or thing is required to be done within a particular period or before a particular time, unless the contrary intention appears, 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.

“(2) Charges against the same person for any number of offences against the same provision of an Act may be joined in the same information, complaint or summons if those charges are founded on the same facts or form, or are part of, a series of offences of the same or a similar character.

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

Construction of rules, regulations and by-laws

19. Section 46 of the Principal Act is amended by inserting in paragraph (b) “granted or issued,” after “made” (second occurring).

Acts Interpretation Amendment No. 27, 1984

NOTE

1. No. 2, 1901, as amended. For previous amendments, see 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; Nos. 79 and 216, 1973; No. 144, 1976; No. 35, 1978; No. 1, 1980; No. 61, 1981; Nos. 26 and 80, 1982; and No. 39, 1983.