



Statute Law (Miscellaneous Provisions) Act 1987

No. 141 of 1987

An Act to make various amendments of the statute law of the Commonwealth, and for related purposes

[Assented to 18 December 1987]

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 *Statute Law (Miscellaneous Provisions) Act 1987*.

Commencement

2. (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2) The amendments of section 34 of the *Audit Act 1901* made by this Act shall come into operation on a day to be fixed by Proclamation for the purposes of this subsection.

(3) The amendment of paragraph 49 (1) (a) of the *Audit Act 1901* made by this Act shall come into operation on 1 July 1988.

(4) The amendments of the *Australian Institute of Sport (Consequential Provisions) Act 1986* made by this Act shall be deemed to have come into operation on the commencement of the first-mentioned Act.

(5) The amendment of the *Australian Trade Commission (Transitional Provisions and Consequential Amendments) Act 1985* made by this Act shall be deemed to have come into operation on the commencement of section 42 of the first-mentioned Act.

(6) The amendments of subsection 3 (1) and sections 6, 7 and 8 (other than the amendment of subsection 7 (2)) of the *Bass Strait Freight Adjustment Trust Fund Act 1984* made by this Act shall be deemed to have come into operation on 1 December 1986.

(7) The amendment of subsection 3 (3) of the *Bass Strait Freight Adjustment Trust Fund Act 1984* made by this Act shall be deemed to have come into operation on the commencement of the first-mentioned Act.

(8) The amendment of subsection 7 (2) of the *Bass Strait Freight Adjustment Trust Fund Act 1984* made by this Act shall be deemed to have come into operation on the commencement of section 5 of the *Bass Strait Freight Adjustment Trust Fund Amendment Act 1985*.

(9) The amendments of the *Commonwealth Prisoners Act 1967* made by this Act shall come into operation on a day to be fixed by Proclamation for the purposes of this subsection.

(10) The amendment of the *Customs Administration (Transitional Provisions and Consequential Amendments) Act 1986* shall be deemed to have come into operation on 13 May 1986.

(11) The amendments of the *Customs Tariff (Miscellaneous Amendments) Act 1987* made by this Act shall come into operation on the commencement of the first-mentioned Act.

(12) The amendment of section 184 of the *Defence Force Re-organization Act 1975* made by this Act shall be deemed to have come into operation on the commencement of section 184 of the first-mentioned Act.

(13) The amendments of the *Export Inspection Charges Collection Act 1985* made by this Act shall come into operation on a day to be fixed by Proclamation for the purposes of this subsection.

(14) The amendments of the *Export Market Development Grants Act 1974* made by this Act (other than the omission and substitution of subsection 43 (6) of the first-mentioned Act) shall be deemed to have come into operation on 20 May 1985.

(15) The amendments of sections 25 and 27 of the *Health Legislation Amendment Act 1986* made by this Act shall come into operation or be deemed to have come into operation, as the case requires, on the respective commencements of those sections.

(16) The amendments of section 46 of, and Schedules 1 and 2 to, the *Health Legislation Amendment Act (No. 2) 1986* made by this Act shall be respectively deemed to have come into operation on the commencement of sections 46 and 37 of the first-mentioned Act.

(17) The amendment of the *Human Rights and Equal Opportunity Commission Act 1986* made by this Act shall be deemed to have come into operation on the commencement of the *Inspector-General of Intelligence and Security Act 1986*.

(18) The amendment of the *Income Tax Assessment Amendment (Capital Gains) Act 1986* made by this Act shall be deemed to have come into operation on the commencement of the first-mentioned Act.

(19) The amendment of the *Income Tax Assessment Amendment (Research and Development) Act 1986* made by this Act shall be deemed to have come into operation on the commencement of the first-mentioned Act.

(20) The amendments of the *Inspector-General of Intelligence and Security Act 1986* made by this Act shall be deemed to have come into operation on the commencement of the first-mentioned Act.

(21) The amendment of the *Intelligence and Security (Consequential Amendments) Act 1986* made by this Act shall be deemed to have come into operation on the commencement of the first-mentioned Act.

(22) The amendment of the *Local Government (Financial Assistance) Act 1986* made by this Act shall be deemed to have come into operation on the commencement of the first-mentioned Act.

(23) The amendments of paragraph 67 (1) (c) of the *Migration Act 1958* made by this Act shall come into operation on a day to be fixed by Proclamation for the purposes of this subsection.

(24) The amendments of the *National Companies and Securities Commission Act 1979* made by this Act shall be deemed to have come into operation on 1 February 1980.

(25) The following amendments of the *National Measurement Act 1960* made by this Act shall come into operation on 1 January 1988:

- (a) the insertion of the definition of "interest in land" in subsection 3 (1);
- (b) the amendment of section 12;
- (c) the insertion of section 12A.

(26) The amendments of paragraph 20 (2) (b) of, and Schedules 1, 2 and 8 to, the *Protection of the Sea Legislation Amendment Act 1986* made

by this Act shall respectively come into operation or be deemed to have come into operation, as the case requires, on the commencement of subsection 20 (2), subsection 15 (1), subsection 15 (2) and section 40 of the first-mentioned Act.

(27) The amendments of the *Public Service Legislation (Streamlining) Act 1986* made by this Act shall be deemed to have come into operation on the twenty-eighth day after the first-mentioned Act received the Royal Assent.

(28) The amendment of the *Social Security and Repatriation Legislation Amendment Act 1984* made by this Act shall be deemed to have come into operation on the commencement of section 86 of the first-mentioned Act.

(29) The amendment of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1986* made by this Act shall be deemed to have come into operation on the day on which the first-mentioned Act received the Royal Assent.

(30) The amendments of the *Superannuation Legislation Amendment Act (No. 2) 1986* made by this Act shall be deemed to have come into operation on the day on which the first-mentioned Act received the Royal Assent.

(31) The amendment of the *Taxation Laws Amendment Act (No. 2) 1986* made by this Act shall be deemed to have come into operation on the commencement of section 9 of the first-mentioned Act.

(32) The amendment of the *Trade Practices Act 1974* made by this Act shall come into operation on a day to be fixed by Proclamation for the purposes of this subsection, being a day not earlier than the day on which the United Nations Convention on Contracts for the International Sale of Goods, adopted at Vienna, Austria, on 10 April 1980, enters into force in respect of Australia.

(33) The amendment of the *Wildlife Protection (Regulation of Exports and Imports) Amendment Act 1986* made by this Act shall be deemed to have come into operation on the commencement of the first-mentioned Act.

Amendment of Acts

3. The Acts specified in Schedule 1 are amended as set out in that Schedule.

Repeals

4. The Acts specified in Schedule 2 are repealed.

Transitional and application provisions etc.

5. (1) Except as provided in this section, where this Act:

- (a) amends a provision of an Act; or
- (b) repeals and re-enacts (with or without modification) a provision of an Act;

any act done or decision made under the provision has effect after the amendment, or repeal and re-enactment, as if it had been done or made under the provision as so amended or re-enacted.

(2) Notwithstanding the repeal and re-enactment of sections 32 and 33 of the *Audit Act 1901* effected by this Act, those sections, as in force immediately before the commencement of this section, continue to apply, and the other provisions of the *Audit Act 1901* as amended by this Act apply, in relation to warrants issued by the Governor-General under subsection 32 (3) of the *Audit Act 1901* before the commencement of this section.

(3) Section 11A of the *Audit Act 1901* as amended by this Act applies in relation to the financial year that commenced on 1 July 1986 and subsequent financial years, and subsections 41D (2), (2A) and (2B) of that Act as so amended apply in relation to the financial year that commenced on 1 July 1987 and subsequent financial years.

(4) Where, immediately before the commencement of this section, a person was holding office as Chairman of the Australian Statistics Advisory Council, the person shall, on the commencement of this section, be deemed to have been appointed as Chairperson of that Council for the remainder of the term for which the person was appointed as Chairman.

(5) Subsection (4) of this section has effect notwithstanding anything contained in subsection 19 (2) of the *Australian Bureau of Statistics Act 1975* as amended by this Act.

(6) Section 47A of the *Crimes Act 1914* as amended by this Act applies only in relation to a person who, after the commencement of this section, commits an offence against section 47 of that Act as so amended.

(7) Section 47B of the *Crimes Act 1914* as amended by this Act applies only in relation to a person who becomes a prisoner unlawfully at large (within the meaning of that section) after the commencement of this section.

(8) Paragraph 38 (3) (aa) of the *Dairy Produce Act 1986* as amended by this Act applies only in relation to a person who is appointed or re-appointed as an appointed member of the Australian Dairy Corporation after the commencement of this section.

(9) Paragraph 25 (2) (da) of the *Export Control Act 1982* as amended by this Act applies only in relation to amounts that become payable to the Commonwealth after the commencement of this section.

(10) Nothing in this Act, or in paragraph 25 (2) (da) of the *Export Control Act 1982* as amended by this Act, shall be taken to imply that, before the commencement of this section, regulations made under the *Export Control Act 1982*, or orders made pursuant to those regulations, could not make provision for or in relation to the matter referred to in that paragraph.

(11) Subsections 14 (7) and (8) of the *First Home Owners Act 1983* as amended by this Act apply only in relation to contracts the date of which is not earlier than the day on which this section comes into operation.

(12) Notwithstanding the amendments of the *First Home Owners Act 1983* made by this Act, subsections 14 (7) and (8) of the first-mentioned Act, as in force immediately before the commencement of this section, continue to apply in relation to contracts the date of which is earlier than the day on which this section comes into operation.

(13) Where, immediately before the commencement of this section, a visa granted under subsection 11A (1) of the *Migration Act 1958* was in force, the visa shall, on the commencement of this section, be deemed to have been granted under subsection 11A (1) of the *Migration Act 1958* as amended by this Act.

(14) Notwithstanding the amendments of the *Migration Act 1958* made by this Act, the first-mentioned Act, as in force immediately before the commencement of this section, continues to apply in relation to return endorsements issued under the first-mentioned Act before the commencement of this section.

(15) Where, immediately before the commencement of this section, a standard of classification certificate issued by a survey authority was approved under section 187BA of the *Navigation Act 1912*, the Minister shall, on the commencement of this section, be deemed to have made the approval under section 187BA of the *Navigation Act 1912* as amended by this Act.

(16) Where, immediately before the commencement of this section, a corporation or association for the survey of shipping was approved as a survey authority under section 187BA of the *Navigation Act 1912*, the Minister shall, on the commencement of this section, be deemed to have made the approval for the purposes of the definition of "survey authority" in subsection 6 (1) of that Act as amended by this Act.

(17) Section 5B of the *Removal of Prisoners (Australian Capital Territory) Act 1968* as amended by this Act applies only in relation to a person who becomes a prisoner unlawfully at large (within the meaning of that section) after the commencement of this section.

(18) Section 7A of the *Removal of Prisoners (Territories) Act 1923* as amended by this Act applies only in relation to a person who, after the commencement of this section, commits an offence against subsection 7 (2) of that Act as so amended.

(19) Section 7B of the *Removal of Prisoners (Territories) Act 1923* as amended by this Act applies only in relation to a person who becomes a prisoner unlawfully at large (within the meaning of that section) after the commencement of this section.

(20) Subsection 31A (2) of the *Student Assistance Act 1973* as amended by this Act applies in relation to amounts referred to in paragraph 31A (1) (a) of that first-mentioned Act that are paid on or after 1 January 1987.

SCHEDULE 1

Section 3

AMENDMENTS OF ACTS

Aboriginal Land Rights (Northern Territory) Act 1976

Section 40:

Omit "section 44", substitute "this Part".

Paragraph 42 (5) (a):

Omit "(4) (a)", substitute "(4) (c)".

Subsections 44 (2) and (4):

Omit "paragraph 42 (7) (a)", substitute "subsection 42 (7)".

Subsection 44A (2):

Omit "section", substitute "Part".

Acts Interpretation Act 1901

Subsection 3 (2):

After "particular day" insert "(whether the expression 'come into operation' or 'commence' is used)".

After section 14:

Insert the following sections:

Definitions inserted by amending Act

"14A. Where an amending Act inserts a definition in a provision of the Act being amended, but does not specify the position in that provision where it is to be inserted, it shall be deemed to be inserted in the appropriate alphabetical position, determined on a letter-by-letter basis.

Commencement of paragraphs etc. in amending Act

"14B. Where:

- (a) an Act makes an amendment of another Act; and
- (b) the amendment is in the form of:
 - (i) a paragraph of a provision of the amending Act;
 - (ii) an item (whether or not so described) in a Schedule to the amending Act; or
 - (iii) a paragraph of such an item;

a separate commencement date may be given to the amendment, paragraph or item as if the paragraph or item were a self-contained provision of the amending Act."

SCHEDULE 1—continued

After section 15AB:

Insert the following sections:

Changes to style not to affect meaning

“15AC. Where:

- (a) an Act has expressed an idea in a particular form of words; and
- (b) a later Act appears to have expressed the same idea in a different form of words for the purpose of using a clearer style;

the ideas shall not be taken to be different merely because different forms of words were used.

Examples

“15AD. Where an Act includes an example of the operation of a provision:

- (a) the example shall not be taken to be exhaustive; and
- (b) if the example is inconsistent with the provision, the provision prevails.”.

After section 18A:

Insert the following section:

Chairperson may be referred to as Chairman or Chairwoman

“18B. Where an Act establishes an office of Chairperson of a body, the Chairperson may be referred to as the Chairman or Chairwoman, as the case requires.”.

Section 33:

After subsection (2) insert the following subsections:

“(2A) Where an Act assented to after the commencement of this subsection provides that a person, court or body may do a particular act or thing, and the word ‘may’ is used, the act or thing may be done at the discretion of the person, court or body.

“(2B) Where an Act confers a power or function, or imposes a duty, on a body, whether incorporated or unincorporated, the exercise of the power or the performance of the function or duty is not affected merely because of a vacancy or vacancies in the membership of the body.”.

Subsection 33 (3A):

After “particular matters” insert “(however the matters are described)”.

Section 33:

After subsection (4) insert the following subsection:

“(4A) In any Act, ‘appoint’ includes re-appoint.”.

SCHEDULE 1—continued

After section 33:

Insert the following section:

Acting appointments

“33A. Where a provision of an Act (other than subsection 33 (4) of this Act) confers on a person or body (in this section called the ‘appointer’) a power to appoint a person (in this section called the ‘appointee’) to act in a particular office, then, except so far as the Act otherwise provides, the following paragraphs apply in relation to an appointment made under the provision:

- (a) the appointment may be expressed to have effect only in the circumstances specified in the instrument of appointment;
- (b) the appointer may:
 - (i) determine the terms and conditions of the appointment, including remuneration and allowances; and
 - (ii) terminate the appointment at any time;
- (c) where the appointee is acting in an office other than a vacant office and the office becomes vacant while the appointee is acting, then, subject to paragraph (a), the appointee may continue so to act until:
 - (i) the appointer otherwise directs;
 - (ii) the vacancy is filled; or
 - (iii) a period of 12 months from the day of the vacancy ends; whichever happens first;
- (d) the appointment ceases to have effect if the appointee resigns in writing delivered to the appointer;
- (e) while the appointee is acting in the office:
 - (i) the appointee has and may exercise all the powers, and shall perform all the functions and duties, of the holder of the office; and
 - (ii) the Act applies in relation to the appointee as if the appointee were the holder of the office.”

After section 34AA:

Insert the following section:

Effect of delegation

“34AB. Where an Act confers power on a person or body (in this section called the ‘authority’) to delegate a function or power:

- (a) the delegation may be made either generally or as otherwise provided by the instrument of delegation;
- (b) the powers that may be delegated do not include that power to delegate;

SCHEDULE 1—continued

- (c) a function or power so delegated, when performed or exercised by the delegate, shall, for the purposes of the Act, be deemed to have been performed or exercised by the authority;
- (d) a delegation by the authority does not prevent the performance or exercise of a function or power by the authority; and
- (e) if the authority is not a person, section 34A applies as if it were.”.

After section 46:

Insert the following section:

Disallowable instruments

“46A. (1) Where a provision (in this subsection called the ‘enabling provision’) of a law confers power to make an instrument (however described) and expressly provides that the instrument is a disallowable instrument for the purposes of this section, then, except so far as the law otherwise provides:

- (a) sections 48, 49 and 50 apply in relation to the instrument as if:
 - (i) references to regulations were references to the instrument;
 - (ii) references to a regulation were references to a provision of the instrument;
 - (iii) references to repeal were references to revocation; and
 - (iv) where the enabling provision is a provision of regulations—references to an Act were references to regulations;
- (b) section 49A applies in relation to the instrument as if:
 - (i) the instrument were regulations under an Act; and
 - (ii) the reference in paragraph (1) (a) to regulations included a reference to other instruments made under the enabling provision;
- (c) the instrument shall not be taken to be a statutory rule within the meaning of the *Statutory Rules Publication Act 1903*, but subsections 5 (3) to (3C) (inclusive) of that Act apply in relation to the instrument as they apply in relation to statutory rules;
- (d) for the purposes of the application of subsection 5 (3B) of that Act under paragraph (c) of this subsection, the reference in that subsection to the Minister specified in that subsection shall be read as a reference to a Minister administering the enabling provision;
- (e) if the instrument is not an order made by or under the authority of a Minister, section 5 of the *Evidence Act 1905* applies in relation to the instrument as it applies in relation to such an order; and
- (f) if the enabling provision is a provision of regulations, the instrument shall be deemed to be an enactment for the purposes of the *Administrative Appeals Tribunal Act 1975*.

SCHEDULE 1—continued

“(2) A reference in subsection (1) to a law is a reference to an Act or to regulations.”.

Paragraph 48 (1) (b):

Omit the paragraph, substitute the following paragraph:

“(b) shall, subject to this section, take effect from:

- (i) a specified date;
- (ii) a specified time on a specified date;
- (iii) the date, or date and time, of commencement of a specified Act or a specified provision of an Act; or
- (iv) in any other case—the date of notification; and”.

Administrative Decisions (Judicial Review) Act 1977

Sub-subparagraph (d) (i) (A) of Schedule 2:

Omit “or return endorsement”.

Paragraph (r) of Schedule 2:

- (a) Insert “temporary performance of duties,” after “transfers,”.
- (b) Insert “or selections for temporary performance of duties” after “promotions” (last occurring).
- (c) Insert “or by” after “of” (first occurring).

Anglo-Australian Telescope Agreement Act 1970

Title:

Add at the end “, and for other purposes”.

After section 8:

Insert the following section:

Additional functions and powers

“8A. (1) The Board has such additional functions as are conferred on it by the regulations.

“(2) The Board has power to do all things necessary or convenient to be done in connection with the performance of its additional functions and, in particular, to do such things as it is empowered under the regulations to do.”.

Subsection 13 (2):

Insert “in the performance of its functions under section 8” after “Board” (second occurring).

After section 19:

Insert the following section:

SCHEDULE 1—continued

Regulations

“20. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.”

Arbitration (Foreign Awards and Agreements) Act 1974

After section 10:

Insert the following section:

Delegation by Secretary to the Department of Foreign Affairs and Trade

“10A. (1) The Secretary may, either generally or as otherwise provided by the instrument of delegation, in writing, delegate to the person occupying a specified office in the Department of Foreign Affairs and Trade all or any of the Secretary’s powers under subsection 10 (1).

“(2) A power delegated under subsection (1) shall, when exercised by the delegate, be deemed to have been exercised by the Secretary.

“(3) The delegate is, in the exercise of a power delegated under subsection (1), subject to the directions of the Secretary.

“(4) The delegation of a power under subsection (1) does not prevent the exercise of the power by the Secretary.

“(5) In this section, ‘Secretary’ means the Secretary to the Department of Foreign Affairs and Trade.”

Audit Act 1901

Subsection 2 (1) (definition of “Ordinance”):

- (a) Insert “or an external Territory” after “Territory” (first occurring).
- (b) Omit “of a State” (wherever occurring).

Subsection 2 (1) (definition of “prescribed authority”):

- (a) Insert “or constituted” after “established” (wherever occurring).
- (b) Add at the end the following:

“and includes a branch of the Australian Public Service, or a class of such branches, prescribed for the purposes of this definition;”

After section 11:

Insert the following section:

Annual report of Auditor-General

“11A. (1) The Auditor-General shall, as soon as practicable after each 30 June, prepare a report on the operations of the Auditor-General’s Office during the year ending on that day.

SCHEDULE 1—continued

“(2) Where the Auditor-General prepares a report under subsection (1) in respect of a year, the Auditor-General:

- (a) may include in the report a report by the Auditor-General under subsection 48G (1) in respect of the year; and
- (b) shall sign copies of the report and transmit them to each House of the Parliament.”.

Sections 32 and 33:

Repeal the sections, substitute the following sections:

Minister may make payments from Commonwealth Public Account

“32. (1) The Minister may, subject to this section, make payments from the Commonwealth Public Account in accordance with an appropriation of the Consolidated Revenue Fund or Loan Fund.

“(2) The aggregate of the amounts paid under subsection (1) in relation to an appropriation shall not exceed the amount available for expenditure in accordance with the appropriation.

“(3) Where it appears to the Minister that an amount, not exceeding the amount available for expenditure in respect of any services or purposes in accordance with an appropriation of the Consolidated Revenue Fund or Loan Fund, is required, or likely to be required, to be drawn from the Commonwealth Public Account for expenditure in respect of the services or purposes, the Minister may, in writing, authorise the Secretary to the Department to draw the amount from the Commonwealth Public Account in respect of the services or purposes.

“(4) A reference in this section to an appropriation includes a reference to a contingent or conditional appropriation and, in relation to such an appropriation, a reference in this section to the amount available for expenditure in accordance with the appropriation is a reference to the amount that is, subject to the occurrence of the contingency or the fulfilment of the condition, available for expenditure in accordance with the appropriation.

“(5) This section does not authorise the payment of money out of a bank account comprised in the Commonwealth Public Account otherwise than in accordance with section 34.

Secretary may make allocations in accordance with authorisation of Minister

“33. (1) Where the Minister has, under subsection 32 (3), authorised the Secretary to the Department to draw an amount from the Commonwealth Public Account in respect of any services or purposes, the Secretary to the Department may draw the amount from the Commonwealth Public Account and make allocations from the amount in respect of the services or purposes.

SCHEDULE 1—continued

“(2) Money or a payment that is, under section 36C or 58A, taken in reduction of expenditure from an appropriation to which an authorisation under subsection 32 (3) relates shall, for the purposes of subsection (1) of this section, also be taken to be an amount allocated to the authority of the authorisation.

“(3) Where a payment is made out of a bank account comprised in the Commonwealth Public Account, the bank is not required to ascertain whether the payment was made on the authority of an authorisation under subsection 32 (3).”.

Paragraph 34 (2) (b):

- (a) Insert “, in writing,” after “appointed”.
- (b) Omit “certified”, substitute “indicated, in a manner approved in writing by the Minister,”.

Subsection 34 (4):

Omit “give a certificate under subsection (2) in relation to the payment of an amount”, substitute “indicate under paragraph (2) (b) that the payment of an amount may properly be made”.

Subsection 34 (5):

Omit “give a certificate under subsection (2)”, substitute “indicate under paragraph (2) (b) that the payment of an amount may properly be made”.

Subsection 34 (6):

Omit “give a certificate under subsection (2)”, substitute “indicate under paragraph (2) (b) that the payment of an amount may properly be made”.

Subsection 41D (2):

Omit the subsection, substitute the following subsections:

“(2) The Department referred to in subsection (1) shall, as soon as practicable after each 30 June, prepare and submit to the Minister administering that Department (in subsections (2A) and (2B) called the ‘appropriate Minister’) a report of those operations during the year ending on that day, together with financial statements in respect of the year in such form as the Minister administering this section approves, in writing.

“(2A) Before submitting the financial statements to the appropriate Minister, that Department shall submit them to the Auditor-General, who shall report to the appropriate Minister:

- (a) whether, in the opinion of the Auditor-General, the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and, in the opinion of the Auditor-General, show fairly the financial transactions and state of affairs of those operations; and

SCHEDULE 1—continued

(c) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the appropriate Minister.

“(2B) The appropriate Minister shall cause a copy of the report and financial statements, together with a copy of the report of the Auditor-General, to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the appropriate Minister.”.

Subsection 48C (3):

Omit the subsection, substitute the following subsection:

“(3) An arrangement made by the Auditor-General with an eligible incorporated company may be varied or revoked by the Auditor-General or the company:

- (a) in the case of an arrangement made at the request of a Minister—
with the approval of a Minister; or
- (b) in the case of an arrangement made at the request of the Parliament—with the approval of the Parliament given by resolution of both Houses of the Parliament.”.

Paragraph 48G (2) (a):

Insert “11A or” after “section”.

Section 48H:

Repeal the section.

Subsection 49 (1):

Omit “Form 4 in Schedule 2”, substitute “the form in the Schedule”.

Paragraph 49 (1) (a):

Omit “outlays and receipts of the Commonwealth for”, substitute “receipts and expenditure of the Commonwealth Public Account during”.

Subsection 49 (2):

Omit “Form 4 in Schedule 2”, substitute “the form in the Schedule”.

Paragraph 51 (1) (b):

Omit the paragraph, substitute the following paragraph:

“(b) setting out particulars of cases in which, in the opinion of the Auditor-General, the provisions of the Constitution or any law of the Commonwealth have not been carried out, being cases that are, in the opinion of the Auditor-General, of sufficient importance to justify particulars of the cases being set out in the report; and”.

Section 54:

Insert “11A or” after “section”.

SCHEDULE 1—continued

Subsection 57 (2):

Omit the subsection.

Subsection 63C (2):

Insert “or an external Territory” after “Territory”.

After subsection 63H (2):

Insert the following subsection:

“(2A) Nothing in paragraph (2) (c) shall be taken to require the Auditor-General to mention in the report cases in which, in the opinion of the Auditor-General, the receipt, expenditure or investment of moneys, or the acquisition or disposal of assets, by the authority during the year were not in accordance with the enactment establishing the authority unless those cases are, in the opinion of the Auditor-General, of sufficient importance to justify doing so.”.

After subsection 63M (2):

Insert the following subsection:

“(2A) Nothing in paragraph (2) (c) shall be taken to require the Auditor-General to mention in the report cases in which, in the opinion of the Auditor-General, the receipt, expenditure or investment of moneys, or the acquisition or disposal of assets, by the authority during the year were not in accordance with the enactment establishing the authority unless those cases are, in the opinion of the Auditor-General, of sufficient importance to justify doing so.”.

Before paragraph 63P (1) (a):

Insert the following paragraph:

“(aa) of the audit of all or any of the financial statements of a body:

- (i) where a Minister requests the Auditor-General to carry out the audit and arranges with the body for the financial statements, and any necessary accounts and records, to be made available for the purpose; or
- (ii) in accordance with an arrangement made under subsection (2);”.

Paragraph 63P (1) (a):

- (a) Insert “or the inspection and audit” after “an inspection and audit”.
- (b) Insert “or inspections and audits, as the case may be,” after “the inspection and audit”.

Subsection 63P (2):

Insert “the audit of financial statements of the body or” after “of” (second occurring).

SCHEDULE 1—continued

After subsection 63P (2):

Insert the following subsection:

“(2A) Where, under subsection (1), the Auditor-General audits financial statements of a body, or inspects and audits accounts and records of a body, at the request of a Minister or pursuant to an arrangement entered into with the body at the request of a Minister, the Auditor-General shall report to the Minister on the audit or inspection and audit, as the case may be.”.

Subsection 63P (3):

Omit “(1) (a) (i)”, substitute “(1) (aa) (i) or (a) (i)”.

Subsection 64 (1):

Omit “Imprisonment for 7 years”, substitute “\$20,000 or imprisonment for 7 years, or both”.

Subsection 64 (2):

Omit “Imprisonment for 2 years”, substitute “\$5,000 or imprisonment for 2 years, or both”.

Section 65:

Omit all the words after “indictable”, substitute “offence punishable, on conviction, by a fine not exceeding \$20,000 or imprisonment for a period not exceeding 10 years, or both”.

Subsection 66 (2):

Omit all the words after “offence”, substitute “punishable, on conviction, by a fine not exceeding \$10,000 or imprisonment for a period not exceeding 5 years, or both”.

Subsection 67 (1):

Omit “\$200”, substitute “\$1,000”.

Subsection 68 (1):

Omit all the words after “indictable”, substitute “offence punishable, on conviction, by a fine not exceeding \$10,000 or imprisonment for a period not exceeding 5 years, or both”.

Subsection 70AA (1) (paragraph (c) of the definition of “Department”):

Omit “Permanent Head of”, substitute “Secretary to”.

SCHEDULE 1—continued

Subsection 70AA (1) (paragraphs (a) and (b) of the definition of “Permanent Head”):

Omit “Permanent Head of”, substitute “Secretary to”.

Subsection 70AA (1) (paragraph (f) of the definition of “Permanent Head”):

Omit “Productivity”, substitute “Defence”.

Subsection 70AB (1):

Insert “and any other regulations made for the purposes of this section” after “under subsection (12)”.

After subsection 72 (5):

Insert the following subsection:

“(5A) The delegate is, in the exercise of a power delegated under subsection (4), subject to the directions of the Secretary to the Department of Finance.”.

Heading to Schedules:

Omit the heading.

Heading to Schedule 2:

Omit the heading, substitute “SCHEDULE”.

Forms 1, 2 and 3 in Schedule 2:

Omit the Forms.

Heading to Form 4 in Schedule 2:

Omit “FORM 4”.

Australia-Japan Foundation Act 1976

After section 24:

Insert the following sections:

Proper accounts to be kept

“24A. The Foundation shall cause to be kept proper accounts and records of the transactions and affairs of the Foundation, and shall do all things necessary to ensure that all payments out of the Fund are correctly made and properly authorised and that adequate control is maintained over

SCHEDULE 1—continued

the assets of, or in the custody of, the Foundation and over the incurring of liabilities by the Foundation.

Audit

“24B. (1) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Foundation and records relating to assets of, or in the custody of, the Foundation, and shall forthwith draw the Minister’s attention to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify doing so.

“(2) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

“(3) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under subsection (1).

“(4) An authorised auditor is entitled, at all reasonable times, to full and free access to all accounts and records of the Foundation, being accounts and records relating directly or indirectly to the receipt or payment of money by the Foundation or to the acquisition, receipt, custody or disposal of assets by the Foundation.

“(5) An authorised auditor may make copies of, or take extracts from, any accounts and records referred to in subsection (4).

“(6) An authorised auditor may require any person to furnish such information in the possession of the person, or to which the person has access, as the authorised auditor considers necessary for the purposes of the functions of the Auditor-General under this Act.

“(7) A person who contravenes a requirement made under subsection (6) is guilty of an offence punishable, on conviction, by a fine not exceeding \$1,000.

“(8) In this section, ‘authorised auditor’ means:

- (a) the Auditor-General; or
- (b) a person authorised, in writing, by the Auditor-General.”.

Paragraphs 25 (3) (a) and (c):

Insert “, in the opinion of the Auditor-General,” after “whether”.

Australian Apple and Pear Corporation Act 1973

Paragraph 37 (3) (a):

Insert “, in the opinion of the Auditor-General,” after “whether”.

Paragraph 37 (3) (b):

Omit “in respect of the trading activities of the Corporation (if any)”, substitute “in the opinion of the Auditor-General”.

SCHEDULE 1—continued

Paragraph 37 (3) (c):

Insert “, in the opinion of the Auditor-General,” after “whether”.

Australian Bureau of Statistics Act 1975

Section 3 (definition of “Chairman”):

Omit the definition, substitute the following definition:

“‘Chairperson’ means the Chairperson of the Council holding office under subsection 19 (2);”.

Section 3:

Add at the end the following subsection:

“(2) The Chairperson may be referred to as the Chairman or Chairwoman, as the case requires.”.

Subsection 4 (1):

Omit the subsection.

Paragraph 4 (2) (a):

Omit “the *Census and Statistics Act 1905-1973*, by any other Act”, substitute “any Act”.

Paragraph 4 (2) (b):

Omit “the *Census and Statistics Act 1905-1973*, in any other Act”, substitute “any Act”.

Subsection 5 (4):

Omit “him” (wherever occurring), substitute “the Statistician”.

Subsection 6 (4):

Omit “he”, substitute “the Minister”.

Subsection 7 (1):

Insert “or her” after “his”.

Subsection 7 (2):

Omit “he”, substitute “the person”.

Section 8:

Insert “or her” after “his”.

Subsection 9 (1):

Omit “he”, substitute “the Statistician”.

Subsection 9 (3):

Omit “— 1974”.

SCHEDULE 1—continued

Section 11:

Repeal the section, substitute the following section:

Resignation

“11. The Statistician may resign his or her office by writing signed by the Statistician and delivered to the Governor-General.”.

Subsection 12 (1):

Insert “or her” after “his”.

Subsection 12 (7):

- (a) Insert “or her” after “his” (wherever occurring).
- (b) Omit “him”, substitute “the Statistician”.

Subsection 12 (8):

Omit “him”, substitute “the Statistician”.

Section 14:

Repeal the section.

Subsection 15 (1):

Insert “or her” after “his”.

Subsection 15 (5):

Omit “he”, substitute “the person”.

Subsection 15 (6):

Omit “his”, substitute “the”.

Subsection 16 (1):

Omit “— 1974”.

Subsection 16 (2):

Omit the subsection, substitute the following subsections:

“(2) Subject to subsection (2A), the Statistician may engage persons, including persons referred to in subsection (1), to assist in carrying out the functions of the Bureau.

“(2A) Persons referred to in subsection (1) may be engaged under subsection (2) only in relation to:

- (a) the taking of the Census mentioned in the *Census and Statistics Act 1905*; and
- (b) the collection of other statistics and related information.”.

Subsections 16 (4) and (5):

Omit “— 1974”.

SCHEDULE 1—continued

Paragraph 19 (1) (a):

Omit “a Chairman”, substitute “the Chairperson”.

Subsection 19 (2):

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

Paragraph 19 (2) (b):

Insert “or her” after “his”.

Subsection 19 (3):

- (a) Insert “or the Chief Minister of the Northern Territory” after “State” (first occurring).
- (b) Insert “or the Chief Minister of the Northern Territory, as the case may be” after “State” (last occurring).

Subsection 20 (1):

Omit the subsection, substitute the following subsection:

“(1) A member may resign his or her office by writing signed by the member and delivered to the Minister.”.

Subsection 21 (1):

Omit “he”, substitute “the member”.

Subsection 21 (3):

Omit “—1974”.

Subsection 22 (1):

Insert “calendar” after “every”.

Subsection 22 (2):

Omit “Chairman”, substitute “Chairperson”.

Subsection 22 (4):

- (a) Omit “Chairman”, substitute “Chairperson”.
- (b) Omit “he”, substitute “the Chairperson”.

Subsection 22 (5):

Omit “Chairman”, substitute “Chairperson”.

Subsection 22 (8):

Omit the subsection.

Section 23:

Repeal the section.

SCHEDULE 1—continued

Subsection 24 (4):

Omit the subsection.

Australian Capital Territory Electricity Supply Act 1962

Section 4 (definition of “financial year”):

Omit the definition.

Section 4 (definition of “House of Assembly”):

Omit the definition.

Section 4 (definition of “the elected member”):

Omit the definition.

Subsection 6 (3):

Omit the subsection, substitute the following subsection:

“(3) One member shall be a person appointed by the Governor-General and shall, subject to this Act, hold office for such period, not exceeding 3 years, as the Governor-General specifies at the time of the appointment.”.

Subsection 6 (5):

Omit all the words after “re-appointment”.

Subsection 6 (6):

Omit “or election”.

Subsections 6 (7), (8), (10) and (11):

Omit the subsections.

Subsection 10 (3):

Omit the subsection.

Subsection 11 (4):

Omit “elected member”, substitute “member referred to in subsection 6 (3)”.

Subsection 11 (5):

- (a) Omit “elected member” (first occurring), substitute “member referred to in subsection 6 (3)”.
- (b) Omit “the elected” (last occurring), substitute “that”.

SCHEDULE 1—continued

Australian Centre for International Agricultural Research Act 1982

Before section 39:

Insert the following sections in Part VIII:

Proper accounts to be kept

“38A. The Centre shall cause to be kept proper accounts and records of the transactions and affairs of the Centre, and shall do all things necessary to ensure that all payments out of the Fund are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the Centre and over the incurring of liabilities by the Centre.

Audit

“38B. (1) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Centre and records relating to assets of, or in the custody of, the Centre, and shall forthwith draw the Minister’s attention to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify doing so.

“(2) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

“(3) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under subsection (1).

“(4) An authorised auditor is entitled, at all reasonable times, to full and free access to all accounts and records of the Centre, being accounts and records relating directly or indirectly to the receipt or payment of money by the Centre or to the acquisition, receipt, custody or disposal of assets by the Centre.

“(5) An authorised auditor may make copies of, or take extracts from, any accounts and records referred to in subsection (4).

“(6) An authorised auditor may require any person to furnish such information in the possession of the person, or to which the person has access, as the authorised auditor considers necessary for the purposes of the functions of the Auditor-General under this Act.

“(7) A person who contravenes a requirement made under subsection (6) is guilty of an offence punishable, on conviction, by a fine not exceeding \$1,000.

“(8) In this section, ‘authorised auditor’ means:

- (a) the Auditor-General; or
- (b) a person authorised, in writing, by the Auditor-General.”.

SCHEDULE 1—continued
Australian Citizenship Act 1948

Subsection 5 (1) (definition of “return endorsement”):

Omit “within the meaning of the *Migration Act 1958*”, substitute “issued under section 11A of the *Migration Act 1958* before the day on which the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1987* received the Royal Assent (being a return endorsement that has not expired or been cancelled),”.

Subsection 5 (1):

Add at the end the following definition:

“‘visa’ has the same meaning as in the *Migration Act 1958*.”.

Sub-subparagraph 5A (1) (d) (i) (A):

Insert “a visa that is in a class of visas prescribed for the purposes of this sub-subparagraph or” before “a return endorsement”.

Sub-subparagraph 5A (1) (d) (i) (B):

Insert “a visa referred to in sub-subparagraph (A) or” after “equivalent of”.

Australian Institute of Sport (Consequential Provisions) Act 1986

Paragraph 17 (a):

- (a) Omit “section 12 of that Act”, substitute “section 12 of the *Australian Institute of Sport (Consequential Provisions) Act 1986*”.
- (b) Omit “*Australian Institute of Sport Act 1986*” (last occurring), substitute “*Australian Institute of Sport (Consequential Provisions) Act 1986*”.

Paragraph 17 (b):

Omit “*Australian Institute of Sport Act 1986*” (last occurring), substitute “*Australian Institute of Sport (Consequential Provisions) Act 1986*”.

Australian Security Intelligence Organization Act 1979

Subsection 9 (1):

Insert “or her” after “his”.

Subsection 9 (2):

Insert “or she” after “he”.

Subsection 10 (1):

Insert “or she” after “he”.

SCHEDULE 1—continued

Section 12:

Omit “his office by writing signed by him”, substitute “from office by writing signed by the Director-General”.

Subsection 13 (2):

- (a) Omit “absents himself”, substitute “is absent”.
- (b) Insert “or her” after “his” (wherever occurring).

Paragraph 14 (1) (b):

Insert “or her” after “his”.

Subsection 14 (6):

- (a) Omit “he resigns his”, substitute “the person resigns the”.
- (b) Omit “him”, substitute “the person”.

Subsection 14 (7):

Insert “or she” after “he”.

Subsection 15 (1):

Insert “or her” after “his” (wherever occurring).

Subsection 15 (2):

Insert “or she” after “he”.

Subsection 15 (3):

- (a) Insert “or she” after “he” (wherever occurring).
- (b) Insert “or her” after “him” (wherever occurring).

Subsection 18 (1):

Omit “him”, substitute “the officer”.

Subsection 18 (2):

- (a) Omit “his knowledge or into his possession”, substitute “the knowledge or into the possession of the person”.
- (b) Insert “or her” after “his” (third and fourth occurring).
- (c) Omit “his duties”, substitute “the duties of the officer or employee”.
- (d) Omit “him”, substitute “the officer”.
- (e) Omit “he”, substitute “the first-mentioned person”.

Subsection 18 (3):

- (a) Insert “or an officer authorised for the purpose by the Director-General” after “Director-General” (first occurring).
- (b) Omit “by himself or by an officer authorized by him,”.

SCHEDULE 1—continued

Section 21:

Insert “or her” after “him”.

Section 24:

Omit “him”, substitute “the Director-General”.

Subsection 25 (1):

Insert “or her” after “his”.

Subsection 25 (3):

Omit “he”, substitute “the Minister”.

Subsections 26 (3) and (4):

Insert “or her” after “his”.

Subsection 26 (5):

Omit “he”, substitute “the Minister”.

Paragraph 27 (1) (a):

Insert “or her” after “his”.

Subsections 27 (2) and (3):

Insert “or her” after “his”.

Subsection 27 (6):

(a) Omit “he”, substitute “the Minister”.

(b) Omit “him”, substitute “the Minister”.

Subsection 29 (1):

Insert “or her” after “his”.

Subsection 29 (3):

Omit “he” (wherever occurring), substitute “the Director-General”.

Section 30:

Omit “he”, substitute “the Director-General”.

Subsection 32 (1):

Omit “he”, substitute “the Director-General”.

Subsection 32 (2):

Omit “he”, substitute “the Minister”.

Subsection 32 (3):

(a) Omit “him”, substitute “the Minister”.

SCHEDULE 1—continued

(b) Omit “his”, substitute “the Minister’s”.

Subsection 32 (4):

Omit “him” (wherever occurring), substitute “the Director-General”.

Subsection 38 (1):

(a) Insert “or her” after “him”.

(b) Insert “or her” after “his”.

Subsection 38 (2):

(a) Insert “or her” after “his”.

(b) Omit “he”, substitute “the Attorney-General”.

Subsection 38 (3):

Insert “or she” after “he”.

Subsection 38 (6):

Omit “him personally or by sending it to him by registered post at his”, substitute “him or her personally or by sending it to the person by registered post at his or her”.

Subsection 42 (1):

Insert “or she” after “he”.

Subsection 43 (1):

Insert “or her” after “his”.

Subsection 43 (2):

Insert “or she” after “he”.

Subsections 45 (3) and (6):

Insert “or her” after “his”.

Subsection 46 (1):

Insert “or she” after “he”.

Subsection 46 (4):

(a) Omit “he” (first occurring), substitute “the person”.

(b) Insert “or she” after “he” (second occurring).

Section 47:

Insert “or her” after “his” (wherever occurring).

Subsection 48 (3):

Insert “or her” after “his”.

SCHEDULE 1—continued

Subsection 49 (1):

Omit “his”, substitute “the member’s”.

Subsection 49 (7):

(a) Insert “or her” after “his” (wherever occurring).

(b) Omit “him”, substitute “the member”.

Section 50:

Omit “his office by writing signed by him”, substitute “the office of member by writing signed by the member”.

Subsection 52 (2):

(a) Omit “him”, substitute “the President”.

(b) Omit “his”, substitute “the President’s”.

Section 54:

(a) Insert “or her” after “him” (wherever occurring).

(b) Insert “or her” after “his”.

Subsection 58 (3):

Omit “him”, substitute “the Director-General”.

Subsection 58 (4):

Omit “him” (wherever occurring), substitute “the member”.

Subsection 58 (10):

Insert “or she” after “he”.

Subsections 58 (12) and (15):

Insert “or her” after “his”.

Subsection 59 (1):

Omit “him”, substitute “the Attorney-General”.

Subsections 59 (3), (5) and (6):

Insert “or her” after “his”.

Subsection 59 (4):

Omit “he”, substitute “the President”.

Subsection 60 (4):

(a) Insert “or she” after “he”.

(b) Insert “or her” after “him”.

Subsection 63 (1):

Insert “or she” after “he”.

SCHEDULE 1—continued

Subsection 65 (1):

- (a) Omit “he is”.
- (b) Omit “him”, substitute “the Minister”.

Subsection 65 (3):

Omit “he”, substitute “the Minister”.

Subsections 69 (1) and (2):

Insert “or her” after “him”.

Subsection 70 (4):

- (a) Omit “he”, substitute “the person”.
- (b) Insert “or her” after “him”.

Subsection 70 (5):

Insert “or she” after “he”.

Subsection 70 (6):

Omit “him”, substitute “the President”.

Subsection 72 (2):

Omit “he is”.

Subsection 73 (1):

Insert “or her” after “his” (wherever occurring).

Paragraph 74 (b):

Omit “himself”.

Section 75:

- (a) Insert “or she” after “he” (wherever occurring).
- (b) Insert “or her” after “him”.

Section 76:

Omit “his”, substitute “the member’s”.

Subsection 77 (1):

Omit “he”, substitute “the Governor-General”.

Subsection 81 (1):

Omit “by reason of his office”, substitute “or her by reason of his or her office”.

Subsection 81 (2):

- (a) Omit “he” (wherever occurring), substitute “the person”.

SCHEDULE 1—continued

(b) Insert “or her” after “his”.

(c) Insert “or her” after “him”.

Subsection 84 (1):

Omit “he” (wherever occurring), substitute “the Director-General”.

Subsection 87 (1):

Insert “or she” after “he”.

Subsection 87 (2):

Insert “or her” after “him” (wherever occurring).

Section 89:

Insert “or her” after “his”.

Australian Tourist Commission Act 1967

Subsection 10 (3):

Omit “6”, substitute “12”.

Subsection 14 (4):

Omit the subsection, substitute the following subsection:

“(4) Where the Chairman is not present at a meeting of the Commission, the Deputy Chairman shall preside, or, if the Deputy Chairman is not present, the members present shall elect one of their number to preside.”.

Subsection 14 (5):

Omit all the words after “Commission,”, substitute “a quorum is constituted by the number of members that is not less than one-third of the number of members for the time being holding office”.

Australian Trade Commission Act 1985

After subsection 12 (1):

Insert the following subsection:

“(1A) Nothing in subsection (1) prevents the appointment of the Managing Director as Chairperson.”.

Australian Trade Commission (Transitional Provisions and Consequential Amendments) Act 1985

Part II of Schedule 3:

Omit “39 (1)”, substitute “39 (1A)”.

SCHEDULE 1—continued

Automotive Industry Authority Act 1984

Subsection 4 (1) (definition of “Australian company”):

Omit the definition.

Subsection 4 (1) (definition of “eligible company”):

Omit “an Australian”, substitute “a”.

Subsections 26B (1) and (2):

Omit “an Australian”, substitute “a”.

Barley Research Levy Act 1980

Subsection 4 (1) (definition of “growers organization”):

Omit “Australian Wheatgrowers’ Federation”, substitute “Grains Council of Australia”.

Bass Strait Freight Adjustment Trust Fund Act 1984

After the definition of “prescribed oil” in subsection 3 (1):

Insert the following definition:

“‘prescribed refiner’ means a person who operates a refinery;”.

Subsection 3 (3):

Omit the subsection, substitute the following subsection:

“(3) For the purposes of this Act, prescribed oil transported to a refinery for refining shall be taken to have been transported on behalf of a person if, and only if, the oil was owned by the person immediately after its delivery to the refinery.”.

After paragraph 6 (2) (a):

Insert the following paragraph:

“(aa) prescribed refiners who, during the month immediately preceding the relevant month, exported prescribed oil;”.

After subsection 7 (1):

Insert the following subsection:

“(1A) The amount payable to a prescribed refiner at the end of a particular month under paragraph 6 (2) (aa) is an amount calculated at the relevant rate for that month of the prescribed oil exported by the prescribed refiner by virtue of which the prescribed refiner is entitled to payment under that paragraph at the end of that month.”.

Subsection 7 (2):

Omit “rate of”.

SCHEDULE 1—continued

Section 8:

Insert “(aa),” after “6 (2) (a),”.

Canned Fruits Marketing Act 1979

Subsection 3 (1) (definition of “season”):

Omit “7”, substitute “8”.

Subsection 21A (1):

Omit “, for the period of 3 years commencing on 1 January 1985,”.

Cheques and Payment Orders Act 1986

Subsection 32 (2):

Insert “and 98 (1)” after “(3)”.

Subsection 95 (3):

Omit “bank” (second occurring), substitute “financial institution”.

Subsection 95 (4):

- (a) Omit “bank” (second and third occurring), substitute “financial institution”.
- (b) Omit “first-mentioned”.

Paragraph 110 (3) (b):

Omit “if”, substitute “it”.

Section 115:

Add at the end the following subsection:

“(10) In this section:

‘court of competent jurisdiction’, in relation to an application for an order of a kind referred to in subsection (8) in relation to a replacement cheque, includes an inferior court of a State or Territory that has jurisdiction for the recovery of debts up to an amount not less than the sum (if any) that is, or it is claimed should be, ordered to be paid by the replacement cheque;

‘inferior court’ means:

- (a) a County Court, District Court or Local Court; or
- (b) a court of summary jurisdiction exercising civil jurisdiction.”.

Schedule:

After the modifications of subsection 6 (2), insert the following:

“Subsection 32 (2):

Omit ‘and 98 (1)’.”.

Schedule:

After the modification of section 95, insert the following:

SCHEDULE 1—continued

“Subsection 95 (4):

Insert ‘first-mentioned’ before ‘bank’ (last occurring).”.

Commonwealth Electoral Act 1918

Section 18:

Add at the end the following subsection:

“(3) The Electoral Commissioner may give written directions to officers with respect to the performance of their functions, and the exercise of their powers, under this Act.”.

Subsection 20 (1):

Omit “Commission”, substitute “Commissioner”.

Section 20:

Add at the end the following subsection:

“(3) An Australian Electoral Officer for a State may, subject to any directions given by the Electoral Commissioner, give written directions to officers with respect to the performance of their functions and the exercise of their powers under this Act in, or in relation to, the State.”.

Section 32:

Add at the end the following subsection:

“(2) A Divisional Returning Officer for a Division may, subject to any directions given by the Electoral Commissioner and, if the Division is part of a State, the Australian Electoral Officer for the State, give written directions to officers with respect to the performance of their functions and the exercise of their powers under this Act in, or in relation to, the Division.”.

Commonwealth Prisoners Act 1967

After the definition of “offence” in subsection 3 (1):

Insert the following definition:

“‘parole’ includes probation;”.

Subsection 3 (1) (definition of “parole officer”):

Omit the definition, substitute the following definition:

“‘parole officer’ means:

- (a) an officer of a State or the Northern Territory in respect of whom an arrangement in force under paragraph 21 (1) (b) applies; or
- (b) an officer of the Australian Public Service in respect of whom an appointment under subsection 21 (2) is in force;”.

SCHEDULE 1—continued

Subsection 3 (1) (definition of “prescribed authority”):

- (a) Insert “or the Northern Territory” after “a State”.
- (b) Insert “(other than the Northern Territory)” after “a Territory”.

Subsection 3 (2):

Omit “section 21”, substitute “in section 21 or 23”.

Subsection 4 (4):

Omit “only one offence and is not already serving a term of imprisonment for another offence”, substitute “an offence or offences”.

After subsection 4 (4):

Insert the following subsection:

“(4A) Nothing in subsection (1), (3) or (4) shall be taken to authorise a court to fix a single minimum term of imprisonment in respect of an offence or offences against the laws of the Commonwealth and another offence or other offences.”.

Subsection 15 (2):

Omit “the next succeeding subsection”, substitute “subsections (3) and (3A)”.

After subsection 15 (3):

Insert the following subsection:

“(3A) Where a person to whom this section applies has been sentenced to a term of imprisonment in a State or Territory (in this subsection called the ‘relevant State or Territory’) other than the State or Territory in which the person was imprisoned immediately before being released from prison pursuant to the parole order, a prescribed authority in the relevant State or Territory shall, if there is produced to the prescribed authority a document signed by the Attorney-General so requesting, issue a warrant:

- (a) authorising any constable to convey the person to such prison in the relevant State or Territory as is specified in the warrant; and
- (b) directing that the person, having been conveyed to that prison in accordance with the warrant, be detained in prison in the relevant State or Territory to undergo imprisonment for the part of the term of imprisonment to which the parole order related that the person has not served.”.

Subsection 15 (4):

Omit “the last preceding subsection”, substitute “subsection (3) or (3A)”.

Subsection 21 (1):

- (a) Insert “or the Administrator of the Northern Territory” after “State” (first occurring).
- (b) Insert “or Territory” after “that State” (wherever occurring).

SCHEDULE 1—continued

Subsection 21 (2):

Omit “Public Service of the Commonwealth and officers of a Territory”, substitute “Australian Public Service”.

Complaints (Australian Federal Police) Act 1981

After the definition of “member of the Australian Federal Police” in subsection 3 (1):

Insert the following definition:

“‘minor complaint’ means a complaint:

- (a) concerning action taken by a member, being action that is or involves discourtesy to a person; or
- (b) that arises out of a misunderstanding of the law, of the policy or procedures of the Australian Federal Police, or of any other matter;

but does not include a complaint concerning action that is or involves:

- (c) serious ill-treatment of a person by a member; or
- (d) an assault on a person by a member;”.

After paragraph 3 (3) (b):

Insert the following paragraphs:

- “(ba) a reference to cautioning a member for a breach of discipline shall be construed as a reference to cautioning a member for a breach of discipline in accordance with regulations made under the *Australian Federal Police Act 1979*;
- (bb) a reference to a member being offered or accepting a caution shall be construed as a reference to a member being offered or accepting, as the case may be, a caution in accordance with regulations made under the *Australian Federal Police Act 1979*;”.

Subsection 5 (1):

- (a) Insert “or complains to the Ombudsman concerning action taken by a member,” after “or by another member,”.
- (b) Omit “whether”.

Paragraph 5 (1) (a):

Insert “whether” before “the complaint”.

Paragraph 5 (1) (b):

Insert “whether or not” before “the member”.

Paragraph 5 (1) (c):

Insert “whether or not” before “the identity”.

Subsection 5 (2):

Omit the subsection.

SCHEDULE 1—continued

Subsection 6 (1):

Omit all the words after “complaint is made”, substitute the following:
“shall:

- (a) if the member is authorised by the General Orders or General Instructions to make determinations under this paragraph—determine whether the complaint is a minor complaint and:
 - (i) where the member determines that the complaint is a minor complaint, refer it to a member designated by the Commissioner for the purposes of section 6A; or
 - (ii) in any other case—refer the complaint, by the most expeditious means available to the member, to the Investigation Division for investigation; or
- (b) if the member is not so authorised—refer the complaint to a member who is so authorised”.

Subsection 6 (2):

Omit the subsection.

After section 6:

Insert the following sections:

Procedure for minor complaints

“6A. (1) A member designated by the Commissioner for the purposes of this section shall, as soon as practicable after receiving a minor complaint:

- (a) discuss the complaint with the complainant; and
- (b) inform the complainant that the complaint:
 - (i) is being dealt with as a minor complaint; and
 - (ii) will, if the complainant at any time requests, be referred to the Investigation Division for investigation.

“(2) Subject to subsection (3), the member may, in the discussion or otherwise, attempt to resolve the complaint by conciliation.

“(3) If:

- (a) the member has not discussed the complaint with the complainant within 24 hours after receiving the complaint;
- (b) the member is satisfied, after discussion with the complainant, that the complaint is not likely to be resolved by conciliation; or
- (c) the complainant so requests;

the member shall refer the complaint, by the most expeditious means available to the member, to the Investigation Division for investigation and, if paragraph (a) applies, shall accompany the complaint with a statement of the reasons why the complaint has not been discussed with the complainant.

“(4) Where the complaint is resolved by conciliation:

- (a) the member shall:
 - (i) inform the officer in charge; and

SCHEDULE 1—continued

- (ii) provide the officer with any information about the complaint, and about the action taken by the member, that the officer requests;
- (b) the officer in charge shall:
 - (i) notify the Ombudsman of the complaint and of the resolution of the complaint; and
 - (ii) furnish the Ombudsman with particulars of both; and
- (c) the officer in charge shall take no action, or further action, by way of investigating or further investigating the complaint unless the Ombudsman requests the Commissioner, in writing, to cause it to be investigated or further investigated by the Investigation Division.

Conciliation

“6B. (1) Where the Commissioner or officer in charge considers that the whole or part of a complaint (whether made under section 6 or 22, but not including a complaint that is being dealt with under subsection 6A (2)) may properly be dealt with by attempting to resolve the complaint by conciliation, the Commissioner or officer in charge may, after notifying the Ombudsman, direct a senior member to attempt to resolve the complaint by conciliation.

“(2) Where the Commissioner or officer in charge:

- (a) is satisfied that the complaint has been resolved by conciliation; or
- (b) is satisfied, after discussion with the complainant, that the complaint is not likely to be resolved by conciliation;

the Commissioner shall inform the Ombudsman accordingly and, where paragraph (a) applies, furnish particulars of the resolution of the complaint to the Ombudsman.

“(3) Except where the officer in charge is satisfied as provided in paragraph (2) (b), the officer in charge may, in his or her discretion, defer the investigation or further investigation of the whole or part of the complaint pending the outcome of an attempt under this section to resolve the complaint by conciliation.

“(4) Where the officer in charge is satisfied that the whole or part of the complaint has been resolved by conciliation, the officer in charge shall take no action, or further action, by way of investigating or further investigating the whole or that part of the complaint unless the Ombudsman requests the Commissioner, in writing, to cause it to be investigated or further investigated by the Investigation Division.

“(5) Evidence of a statement made by a member, or of an answer given by a member to a question asked of the member, in the course of an attempt under this section to resolve a complaint by conciliation is not admissible against the member in any proceedings (including proceedings for or in relation to a breach of discipline).

SCHEDULE 1—continued

“(6) This section shall not be taken to prevent the Ombudsman from investigating under Part III a complaint made under section 6 that is, in substance, a complaint concerning the practices and procedures of the Australian Federal Police.

“(7) For the purposes of subsection (1), a senior member is a member (other than the member against whom the complaint is made) whose substantive rank:

- (a) is not lower than Senior Sergeant; and
- (b) is at least a substantive rank senior to that of the member against whom the complaint is made.”.

Subsection 10 (2):

- (a) Insert “or referred to the Commissioner under section 23 and following consultation with the Ombudsman about the results of the investigation” after “section 6”.
- (b) Omit “and, unless the identity of the complainant is not known, to the complainant”.

Subsections 11 (1) and (2):

Insert “or cautioning” after “charging”.

Subsection 11 (3):

Omit paragraphs (a) and (b), substitute the following paragraphs:

- “(a) that a member or members be charged;
- (b) that a member or members be cautioned; or
- (c) that no action be taken by way of charging or cautioning a member or members;”.

Subsection 11 (7):

Insert “or cautioning” after “charging” (wherever occurring).

After paragraph 11 (9) (b):

Insert the following paragraph:

- “(ba) a reference to the cautioning of a member shall be construed as a reference to the cautioning of a member for a breach of discipline;”.

Paragraph 11A (2) (c):

Omit the paragraph, substitute the following paragraph:

- “(c) in the case of proceedings instituted pursuant to a proposal put by the Commissioner as mentioned in subsection 11 (4)—without the consent of the Ombudsman.”.

SCHEDULE 1—continued

Section 12:

- (a) Insert “, or accepts a caution for a breach of discipline,” after “discipline”.
- (b) Insert “or cautioned, as the case may be” after “charged” (last occurring).

Section 13:

- (a) Insert “, or accepts a caution for a breach of discipline,” after “discipline”.
- (b) Insert “or cautioned” after “so charged”.
- (c) Insert “or caution” after “charge” (wherever occurring).

Section 19:

Repeal the section.

Paragraph 24 (1) (c):

Insert “, or cautioned for a breach of discipline,” after “discipline”.

Paragraph 24 (1) (d):

Omit “unnecessary”, substitute “not warranted”.

Subsection 24 (3):

Omit the subsection, substitute the following subsection:

“(3) Where the Ombudsman does not, for any reason, investigate, or continue to investigate, any action, the Ombudsman shall, as soon as practicable and in such manner as the Ombudsman thinks fit, inform the complainant and (except where an arrangement with the Commissioner is in force under subsection (4A) relating to a class of actions in which that action is included) the Commissioner of the decision and of the reasons for the decision.”.

Subsection 26 (3):

Insert “, or cautioned for a breach of discipline,” after “discipline”.

Subsection 34 (1):

Omit “, to the member concerned”.

Paragraph 34 (5) (a):

Omit “—furnish to the member concerned and, unless the identity of the complainant is not known,”, substitute “and the identity of the complainant is known—furnish”.

Paragraph 34 (5) (b):

- (a) Insert “where the identity of the complainant is known” after “case”.

SCHEDULE 1—continued

(b) Omit “the member concerned and”.

Paragraph 36 (1) (a):

Omit “has not been adequately investigated”, substitute “requires further investigation”.

Paragraph 36 (1) (c):

Insert “, or cautioned for a breach of discipline,” after “discipline”.

Paragraph 36 (2) (a):

Omit “has still not been adequately investigated”, substitute “still requires further investigation”.

Paragraph 36 (2) (c):

Insert “, or cautioned for a breach of discipline,” after “discipline”.

Subsection 36 (3):

Omit the subsection, substitute the following subsections:

“(3) The Ombudsman may, in a notification given or recommendation made under subsection (1) or (2), include any recommendation (not being a recommendation that a member be charged with an offence or breach of discipline or cautioned for a breach of discipline) that the Ombudsman thinks fit to make, and may also request the Commissioner to give to the Ombudsman, within a specified time, particulars of any action that the Commissioner proposes to take in consequence of the recommendation.

“(3A) The Ombudsman may (otherwise than in a notification given or recommendation made under subsection (1) or (2)) make, in writing, any recommendation to the Commissioner (not being a recommendation that a member be charged with an offence or breach of discipline or cautioned for a breach of discipline) that the Ombudsman thinks fit to make, and may also request the Commissioner to give to the Ombudsman, within a specified time, particulars of any action that the Commissioner proposes to take in consequence of the recommendation.”.

Subsection 36 (4):

Add at the end “or a recommendation made under subsection (3) or (3A)”.

Subsection 36 (5):

Omit “in a notification under paragraph (1) (b) or (2) (b)”, substitute “under subsection (3) or (3A)”.

Paragraph 37 (1) (a):

(a) Omit “to the member concerned and”.

SCHEDULE 1—continued

- (b) Omit “concerning the charging of a member with an offence or breach of discipline”.

Paragraph 37 (1) (b):

- (a) Insert “ or cautioned for a breach of discipline” after “discipline”.
(b) Insert “, or caution accepted,” after “any charge laid”.

Paragraphs 37 (2) (a) and (b):

Omit “to the member concerned and”.

Section 42:

Repeal the section.

Subsection 49 (4):

Insert “or cautioned for a breach of discipline” after “discipline”.

Paragraph 52 (2) (b):

Add at the end “or cautioned for a breach of discipline”.

After section 66:

Insert the following section:

Proceedings for charge where caution not accepted

“66A. Where:

- (a) a member is offered a caution for a breach of discipline; and
(b) the member does not accept the caution;

the Commissioner shall institute proceedings against the member in respect of the breach of discipline.”.

Subsection 67 (1):

Insert “(whether or not also as a result of the member not accepting a caution)” before “the proceedings”.

Subsection 71 (2):

Omit “under the hand of a”, substitute “signed by”.

Subsection 76 (4):

After paragraph (a) insert the following paragraph:

“(aa) the standard of proof required in proceedings before the Tribunal;”.

Conciliation and Arbitration Act 1904

Section 139

Add at the end the following subsections:

“(7) A certification made by the Registrar under subsection (4) before the commencement of this subsection is not, and shall be deemed never to

SCHEDULE 1—continued

have been, invalid merely because it was a certification of only part of an alteration.

“(8) Subsection (7) does not apply in relation to a certification the validity of which has, before the commencement of that subsection, been called in question, on the ground that it was a certification of only part of an alteration, in any proceedings (whether or not the proceedings have been completed before that commencement), except proceedings in which the court holds that it is just and equitable that the certification should be treated as valid.”.

Crimes Act 1914

Section 3 (definition of “Commonwealth officer”):

Add at the end the following word and paragraph:

“and (c) for the purposes of sections 70, 72, 73, 74 and 75, a person who, although not holding office under, or employed by, the Commonwealth, a Territory or a public authority under the Commonwealth, performs services for or on behalf of the Commonwealth, a Territory or a public authority under the Commonwealth;”.

Before section 49:

Insert the following sections:

Sentence ceases to run while escaped prisoner at large

“48A. A person who commits an offence against section 47 shall, upon being returned to lawful custody, undergo, in addition to any punishment imposed for that offence, the punishment that the person would have undergone if the person had not escaped.

Arrest of prisoner unlawfully at large

“48B. (1) A constable may, without warrant, apprehend a person whom the constable, with reasonable cause, suspects is a prisoner unlawfully at large.

“(2) The constable shall forthwith take the person before a Magistrate.

“(3) If the Magistrate is satisfied that the person is a prisoner unlawfully at large, the Magistrate may issue a warrant:

- (a) authorising any constable to convey the person to a prison specified in the warrant; and
- (b) directing that the person, having been conveyed to that prison in accordance with the warrant, be detained in prison to undergo the term of imprisonment or other detention that the person is required by law to undergo.

SCHEDULE 1—continued

“(4) In this section, ‘prisoner unlawfully at large’ means a person who is at large (otherwise than by reason of having escaped from lawful custody) at a time when the person is required by law to be in custody for an offence against the law of the Commonwealth.”.

Subsection 70 (1):

Omit “his office”, substitute “being a Commonwealth officer”.

Subsection 70 (2):

Omit “his office”, substitute “having been a Commonwealth officer”.

Subsection 73 (1):

Omit the subsection.

Paragraph 75 (a):

Omit “his office or employment”, substitute “being a Commonwealth officer”.

Paragraph 75 (b):

Omit “his pretended office or employment”, substitute “pretending to be a Commonwealth officer”.

Subsection 89 (2):

Insert “, a protective service officer” after “constable” (first occurring).

After the definition of “prohibited Commonwealth land” in subsection 89 (5):

Insert the following definition:

“‘protective service officer’ has the same meaning as in the *Australian Protective Service Act 1987*.”.

Currency Act 1965

Section 13:

Add at the end the following subsection:

“(3) Regulations made for the purposes of this section may specify more than one standard composition or weight in relation to coins of a particular denomination.”.

After subsection 14 (2):

Insert the following subsection:

“(2A) Regulations made for the purposes of paragraph (2) (b) may prescribe, in relation to a coin, more than one standard weight, design or set of dimensions.”.

SCHEDULE 1—continued

Subsection 14A (1):

Omit the subsection, substitute the following subsection:

“(1) Coins:

- (a) of a denomination of \$5 or more; or
- (b) whose standard composition consists of, or includes, gold, silver or platinum;

shall be issued at prices:

- (c) determined, in writing, by the Treasurer; or
- (d) calculated in accordance with a method determined, in writing, by the Treasurer.”.

Customs Act 1901

After section 243N:

Insert the following sections:

Indemnification of Official Trustee

“243NA. (1) The Commonwealth is by force of this subsection liable to indemnify the Official Trustee against any personal liability (including any personal liability as to costs) incurred by it for any act done, or omitted to be done, by it in the exercise, or purported exercise, of its powers and duties under this Division.

“(2) Nothing in subsection (1) affects:

- (a) any right that the Official Trustee has, apart from that subsection, to be indemnified in respect of any personal liability referred to in that subsection; or
- (b) any other indemnity given to the Official Trustee in respect of any such personal liability.

“(3) Where the Commonwealth makes a payment in accordance with the indemnity referred to in subsection (1), the Commonwealth has the same right of reimbursement in respect of the payment (including reimbursement under another indemnity given to the Official Trustee) as the Official Trustee would have if the Official Trustee had made the payment.

Indemnification of Official Receivers etc.

“243NB. (1) The Commonwealth shall indemnify a person to whom this subsection applies against any liability incurred by the person:

- (a) for any act done negligently, or negligently omitted to be done, by the person in the performance of the person’s duties in relation to this Division; or
- (b) for any act done by the person in good faith in the purported performance of the person’s duties in relation to this Division.

SCHEDULE 1—continued

“(2) Subsection (1) applies to:

- (a) persons who are Official Receivers under the *Bankruptcy Act 1966*;
- (b) persons who perform any of the duties of such an Official Receiver in relation to this Division; or
- (c) persons who assist such an Official Receiver in the performance of the Official Receiver’s duties in relation to this Division.”.

Customs Administration (Transitional Provisions and Consequential Amendments) Act 1986

The part of the Schedule that amends Schedule 3 to the *Customs Tariff Act 1982*:

Omit “paragraph”, substitute “sub-item”.

Customs Tariff (Miscellaneous Amendments) Act 1987

Subsection 10 (2):

Omit “1982”, substitute “1975”.

Schedule 2:

Omit “*Bounty (Computers) Act 1985*”, substitute “*Bounty (Computers) Act 1984*”.

The part of Schedule 2 that amends the *Bounty (Computers) Act 1984*:

- (a) Omit “Paragraph 6 (1) (b)”, substitute “Paragraph 6 (5) (b)”.
- (b) Omit “section 29”, substitute “section 19”.

The part of Schedule 2 that amends subsection 4 (1) of the *Subsidy (Cultivation Machines and Equipment) Act 1986*:

Omit “machines”, substitute “machine”.

Dairy Produce Act 1986

Subsection 3 (1) (definition of “first levy Act”):

Omit “levy”, substitute “Levy”.

Subsection 3 (1) (definition of “relevant fund”):

Insert “the” before “Supplementary”.

Subsection 12 (5):

Omit “limited”, substitute “Limited”.

After subsection 33 (3):

Insert the following subsection:

“(3A) The Minister shall not appoint a member of the executive council as a member of the Corporation.”.

SCHEDULE 1—continued

After paragraph 38 (3) (a):

Insert the following paragraph:

“(aa) becomes a member of the executive council;”.

Subsection 51 (1) (definition of “export licence”):

Omit “grant”, substitute “granted”.

Subsection 82 (11):

Insert “or firm” after “person”.

Paragraph 88 (1) (h):

Omit “other relevant fund.”, substitute “other relevant fund;”.

Defence Force Re-organisation Act 1975

Subsection 184 (1):

Omit “*Re-establishment*”, substitute “(*Re-establishment*)”.

Director of Public Prosecutions Act 1983

Subsection 6 (2A):

Insert “or (2C)” after “(2B)”.

After subsection 6 (2B):

Insert the following subsection:

“(2C) Where:

- (a) a person has been committed for trial otherwise than in respect of an offence against the laws of the Commonwealth; and
- (b) the Director is satisfied:

- (i) that the facts or evidence on the basis of which the person was committed for trial disclose the commission of an indictable offence or indictable offences against the laws of the Commonwealth; and
- (ii) that, had the person’s committal for trial for the indictable offence or indictable offences been sought on the basis of those facts or that evidence, the person could have been committed for trial for the indictable offence or indictable offences;

the Director may institute a prosecution on indictment of the person for the indictable offence or indictable offences or any of the indictable offences.”.

Subsection 9 (6):

Insert “proceedings in Australia under the *Extradition (Commonwealth Countries) Act 1966*, the *Extradition (Foreign States) Act 1966* or the *Mutual Assistance in Criminal Matters Act 1987*, or proceedings by way

SCHEDULE 1—continued

of a coronial inquest or inquiry conducted under the laws of the Commonwealth,” after “of, the Director,”.

Export Control Act 1982

After the definition of “enter for export” in section 3:

Insert the following definition:

“ ‘establishment’ includes:

- (a) premises and any other place; and
- (b) a vehicle, ship and aircraft;”.

After subsection 15 (1):

Insert the following subsection:

“(1A) A person shall not:

- (a) apply a false trade description to any prescribed goods in respect of which:
 - (i) notice of intention to export the goods has been given under subsection 6 (1) by the person or another person; and
 - (ii) notice has not been given, in accordance with the regulations, that the intention to export the goods has been abandoned;or
 - (b) give, under subsection 6 (1), a notice of intention to export any prescribed goods to which a false trade description is applied.
- Penalty: \$100,000 or imprisonment for 5 years, or both.”.

Subsection 24 (1):

Omit the subsection, substitute the following subsection:

“(1) Except as approved in writing by the Secretary, the registered owner of a registered establishment, or an employee or agent of such a person, shall not supply any goods or services to a person whom the owner, employee or agent, as the case may be, knows is an authorized officer.

Penalty: \$2,000 or imprisonment for 12 months, or both.”.

Before the definition of “registered establishment” in subsection 24 (3):

Insert the following definition:

“ ‘goods’ includes any article, substance or commodity;”.

After paragraph 25 (2) (d):

Insert the following paragraph:

“(da) the refusal to register an establishment, the refusal to renew the registration of an establishment, the cancellation or suspension of the registration of an establishment, or the refusal to approve or permit the assignment of the registration of an establishment, by reason of the non-payment of:

SCHEDULE 1—continued

- (i) an amount that is or was payable to the Commonwealth in relation to the registration of the establishment or anything done at or in connection with the establishment; or
- (ii) an amount that is or was payable to the Commonwealth, by way of penalty, in relation to the failure to discharge a liability to pay an amount referred to in subparagraph (i); whether the amount is or was payable by the applicant for registration or renewal or the person in whose name the establishment is registered, as the case may be, or by another person, and whether the amount became payable in connection with the export of goods or otherwise;”.

Export Inspection Charges Collection Act 1985

Subsection 6 (1):

Omit “the particulars specified in subsection (2)”, substitute “such particulars as are required by the regulations to be specified in the return”.

Subsections 6 (2), (3), (4) and (5):

Omit the subsections.

Section 6A:

Omit all the words from and including “the following particulars”, substitute “such particulars as are required by the regulations to be specified in the return.”.

Section 7:

Repeal the section, substitute the following section:

Execution and lodgment of returns

“7. Returns under sections 6 and 6A shall be signed, and submitted to the Secretary, as required by the regulations.”.

Subsection 11 (3):

Omit “\$1,000”, substitute “the prescribed amount”.

Section 14:

Omit “Minister” (wherever occurring), substitute “Secretary”.

Export Market Development Grants Act 1974

After the definition of “eligible expenditure” in subsection 3 (1):

Insert the following definition:

“ ‘eligible external governmental educational services’ means services that are eligible external governmental educational services by virtue of regulations made under subsection 43 (3A);”.

SCHEDULE 1—continued

Paragraph 3A (1) (f):

Insert “grant” before “year”.

After subsection 3A (2):

Insert the following subsection:

“(2A) In the application of this section to eligible external governmental educational services or eligible internal educational services that are supplied by the Commonwealth, a State or the Northern Territory, subsection (2) shall be disregarded.”.

Subparagraph 4 (1) (c) (ii):

Insert “, eligible internal educational services” after “Australia” (last occurring).

After subsection 4 (1):

Insert the following subsection:

“(1A) In the application of subsection (1) to eligible external governmental educational services or eligible internal educational services that are supplied by the Commonwealth, a State or the Northern Territory:

- (a) the words ‘, in the course of their carrying on business in Australia,’ in subparagraph (c) (ii) shall be disregarded;
- (b) the words ‘, in the course of carrying on business in Australia,’ in paragraphs (e) and (f) shall be disregarded; and
- (c) paragraphs (k) and (l) shall be disregarded except in relation to a person who is an approved body.”.

Subsection 4 (2AB):

- (a) Insert “travel,” before “accommodation”.
- (b) Insert “(other than fares)” after “entertainment”.

Subsection 4 (2C):

Insert “, or the majority of,” after “all”.

Paragraph 14 (1) (a):

Omit the paragraph, substitute the following paragraph:

- “(a) the Commonwealth, a State or the Northern Territory, otherwise than in relation to eligible external governmental educational services and eligible internal educational services; or”.

Subsection 16 (3):

Insert “of export earnings” after “an amount”.

SCHEDULE 1—continued

Subsection 38 (2):

Omit “expenditure incurred, or of any income received,” substitute “expenditure or income”.

Paragraph 38 (7) (c):

Omit the paragraph, substitute the following paragraphs:

- “(c) the only expenditure of the person were the sum of the actual expenditure (if any) of the person in respect of the grant year and the expenditure re-allocated to the person; and
- (d) the only income of the person were the sum of the actual income (if any) of the person in respect of the grant year and the income re-allocated to the person.”.

After subsection 43 (3):

Insert the following subsection:

“(3A) The regulations may declare that services of a specified kind, being services of an educational nature that are supplied by the Commonwealth, a State or the Northern Territory to students outside Australia, are eligible external governmental educational services.”.

Subsection 43 (6):

Omit the subsection, substitute the following subsection:

“(6) Regulations referred to in subsection (3), (3A), (4) or (5) that are made after the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1987* receives the Royal Assent and before 1 July 1988 may be expressed to have taken effect from 20 May 1985.”.

Extradition (Commonwealth Countries) Act 1966

After item 31A in the Schedule:

Insert the following item:

“31B. An offence of a kind referred to in paragraph 1 of Article 7 of the Convention on the Physical Protection of Nuclear Material, a copy of the English text of which is set out in Schedule 4 to the *Nuclear Non-Proliferation (Safeguards) Act 1987*.”.

Family Law Act 1975

After subsection 94 (1):

Insert the following subsection:

“(1AA) An appeal lies to a Full Court of the Family Court from a decree or decision of a Judge exercising original or appellate jurisdiction under this Act rejecting an application that he or she disqualify himself or herself from further hearing a matter.”.

SCHEDULE 1—continued

Subsection 94 (1A):

Insert “or (1AA)” after “(1)”.

Subsection 94 (2):

Insert “or decision” after “decree” (wherever occurring).

Subsection 94A (1):

- (a) Insert “or decision” after “decree”.
- (b) Insert “or (1AA)” after “94 (1)”.

Federal Court of Australia Act 1976

Subsection 5 (3):

Insert “, who shall be called Chief Justice of the Court,” after “Chief Judge”.

First Home Owners Act 1983

Paragraphs 14 (1) (e) and (f):

Omit the paragraphs, substitute the following word and paragraph:

“and (e) any person who, on the date of the contract, or the date on which construction commenced, as the case may be, was the spouse of the home acquirer or of any of the home acquirers, as the case may be;”.

Subparagraph 14 (2) (b) (ii):

Insert “in Australia” after “dwelling”.

Paragraphs 14 (7) (a) and (b):

Omit the paragraphs, substitute the following paragraphs:

- “(a) in the case of a contract for the purchase of a dwelling (other than a contract that provides for payment of the whole or part of the purchase price by instalments)—not earlier than 3 months after the date of the contract and not later than the day on which the vendor completes performance of the contract;
- (b) in the case of a contract for the purchase of a dwelling, being a contract that provides for payment of the whole or part of the purchase price by instalments—not earlier than 3 months after, and not later than 12 months after, the date of the contract; or
- (c) in the case of a contract for the construction of a dwelling by a building contractor—not earlier than 6 months after the date of the contract and not later than:
 - (i) the day on which a certificate of occupancy (however described) is issued in relation to the dwelling by a local government authority; or

SCHEDULE 1—continued

(ii) the day on which the applicant takes possession of the dwelling;
whichever happens first.”.

Subsection 14 (8):

Omit the subsection, substitute the following subsections:

“(8) The Secretary shall not make a determination under subsection (7) in relation to a contract unless the Secretary is satisfied:

- (a) that it is appropriate to make the determination because of unusual circumstances relating to the contract and the manner of its performance; and
- (b) that the making of the determination would be to the advantage of the person or persons affected.

“(8A) Where the Secretary is satisfied that:

- (a) on the date on which a person entered into a contract or commenced the construction of a dwelling as mentioned in paragraph (1) (a), (b) or (c), the person and another person intended to become spouses of each other; and
- (b) that other person has consented to be treated as the spouse of the first-mentioned person for the purposes of this section;

the Secretary may direct that, for the purposes of this section, the other person shall be taken to have been the spouse of the first-mentioned person on that date.

“(8B) In relation to the requirement set out in paragraph (8A) (a), the Secretary may have regard to such matters as the Secretary thinks appropriate.”.

Foreign States Immunities Act 1985

Section 22:

Omit “subsection 16 (1)”, substitute “paragraph 16 (1) (a)”.

Health Insurance Act 1973

Subsection 3 (1) (definition of “net operating costs”):

Omit the definition.

Section 23EA:

Add at the end the following subsection:

“(3) A declaration under subsection (1) may be expressed to take effect from a day earlier than the day on which the declaration is made (not being a day earlier than the day on which the premises specified in the declaration

SCHEDULE 1—continued

were licensed, under the law of the State in which they are located, to operate as a private hospital).”.

After subsection 97 (2):

Insert the following subsections:

“(2A) The quorum for a hearing is 3 members.

“(2B) A question arising at a hearing shall be decided by a majority of the votes of the members present and voting and, for that purpose, the member presiding shall have a deliberative vote only.

“(2C) In the event of an equality of votes on a question before a hearing, the question shall be deemed to be unresolved and the member presiding may direct that the question be reconsidered at a time and place fixed by the member presiding.”.

Health Legislation Amendment Act 1986

Paragraph 25 (b):

Omit “and”, substitute “or”.

Paragraph 27 (a):

Omit “and”, substitute “or”.

Health Legislation Amendment Act (No. 2) 1986

Paragraph 46 (b):

Omit “28EA (5)”, substitute “23EA (5)”.

The part of Schedule 1 that amends subsection 40AE (5) of the *National Health Act 1953*:

Omit “preceding subsection”, substitute “preceding section”.

The part of Schedule 1 that amends subsection 76 (4) of the *National Health Act 1953*:

Omit “76 (4)”, substitute “76A (4)”.

The part of Schedule 2 that amends references to “pharmaceutical chemists” in the *National Health Act 1953*:

(a) Omit “113 (1) and”, substitute “113 (1).”.

(b) Insert “and subsection 125 (7)” after “116”.

Honey Industry Act 1962

Section 7:

Add at the end the following subsections:

“(12) Notwithstanding subsections (6) and (8), the Minister may, under this subsection, re-appoint the person who was, on 30 June 1987, the member representing honey producers in a State to be that member.

SCHEDULE 1—continued

“(13) Notwithstanding subsections (3), (4), (5) and (9), the Minister may, under this subsection, re-appoint a person who was, on 1 August 1987, a member representing honey packers to be such a member.

“(14) If, on or at any time after the commencement of this subsection but before 1 January 1989, there is a vacancy in the office of a member, the Minister may, under this subsection, appoint a person to fill the vacancy.

“(15) An appointment under subsection (12), (13) or (14) shall be for a term ending on 31 December 1988.”

Housing Loans Insurance Act 1965

Paragraph 5 (4) (b):

Insert “or re-insurance” after “insurance”.

Section 8A:

Repeal the section, substitute the following section:

Acting Chairman and Deputy Chairman

“8A. (1) The Minister may appoint a person to act as Chairman:

- (a) during a vacancy in the office of Chairman; or
- (b) during any period, or during all periods, when the Chairman is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office.

“(2) The Minister may appoint a person to act as Deputy Chairman:

- (a) during a vacancy in the office of Deputy Chairman; or
- (b) during any period, or during all periods, when the Deputy Chairman is absent from duty or from Australia, is acting as Chairman or is, for any other reason, unable to perform the duties of the office.

“(3) An appointment of a person under subsection (1) or (2) may be expressed to have effect only in specified circumstances.

“(4) A person appointed under subsection (1) or (2) to act during a vacancy in the office of Chairman or Deputy Chairman shall not continue to act for more than 12 months.

“(5) Where:

- (a) a person is acting as Chairman under paragraph (1) (b) or as Deputy Chairman under paragraph (2) (b); and
- (b) the office of Chairman or Deputy Chairman, as the case may be, becomes vacant;

then, subject to subsection (3), the person may continue to act until:

- (c) the Minister otherwise directs in writing;
- (d) the vacancy is filled; or

SCHEDULE 1—continued

- (e) a period of 12 months from the day on which the vacancy occurred expires;

whichever happens first.

“(6) A person acting as Chairman or Deputy Chairman has all the powers and duties of the Chairman and Managing Director, or Deputy Chairman and Deputy Managing Director, as the case may be.

“(7) The Minister may:

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed to act as Chairman or Deputy Chairman; and
(b) terminate the appointment at any time.

“(8) A person appointed to act as Chairman or Deputy Chairman may resign the appointment by writing signed by the person and delivered to the Minister.

“(9) Anything done by or in relation to a person purporting to act as Chairman or Deputy Chairman is not invalid because:

- (a) the occasion for the appointment had not arisen;
(b) there was a defect or irregularity in connection with the appointment;
(c) the appointment had ceased to have effect; or
(d) the occasion for the person to act had not arisen or had ceased.”.

Subsection 9 (10):

Omit the subsection.

Section 11:

Repeal the section, substitute the following section:

Termination of appointment

“11. (1) The Governor-General may terminate the appointment of a member for misbehaviour or physical or mental incapacity.

“(2) If:

- (a) a member becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
(b) a member, without reasonable excuse, contravenes section 10;
(c) the Chairman or Deputy Chairman:
(i) engages in paid employment outside the duties of his or her office without the approval of the Minister; or
(ii) is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or 28 days in any 12 months; or

SCHEDULE 1—continued

(d) a member (other than the Chairman or Deputy Chairman) is absent, except on leave of absence granted by the Minister, from 3 consecutive meetings of the Corporation;
the Governor-General shall terminate the member's appointment.”.

After section 17:

Insert the following section:

Re-insurance business

“17A. (1) Where:

(a) a company has entered into, or proposes to enter into, a contract of insurance insuring an approved lender against the whole or part of any insurable loss in respect of an insurable loan made, or proposed to be made, by the lender; and

(b) the company is a subsidiary of the approved lender;

the Corporation may enter into a contract re-insuring the whole or part of any loss of the company under the contract of insurance.

“(2) Subject to this Act, the terms and conditions to be included in contracts of re-insurance to be entered into by the Corporation shall be such as are determined by the Corporation.

“(3) Notwithstanding that a company ceases to be a subsidiary of an approved lender, the company shall, for the purposes of subsection (1), continue to be a subsidiary of the approved lender in relation to any contract of insurance that is the subject of a contract of re-insurance entered into by the Corporation before the company ceased to be a subsidiary of the approved lender.

“(4) The question whether a company is a subsidiary of an approved lender shall be determined in the same manner as the question whether a corporation is a subsidiary of another corporation is determined for the purposes of the *Companies Act 1981*.

“(5) In subsection (1):

‘insurable loss’, in relation to an insurable loan, includes:

(a) loss of moneys constituting the loan;

(b) loss of interest and other charges on or in relation to the loan;
and

(c) any other loss arising from any default in relation to the loan.”.

Section 20:

Add at the end the following subsection:

“(3) The Minister may direct the Corporation, in writing, not to enter into specified classes of contracts of re-insurance, and the Corporation shall comply with the direction.”.

SCHEDULE 1—continued

Subsection 25 (5):

Insert “or re-insurance” after “insurance” (wherever occurring).

Subsection 26 (1):

Insert “or re-insurance” after “insurance”.

Subsection 27 (1):

Insert “or re-insurance” after “insurance”.

Section 37A:

Insert “17A,” after “section 17,”.

Section 40A:

Insert “and re-insurance” after “insurance” (wherever occurring).

Section 41:

Insert “or re-insurance” after “insurance”.

Subsection 43 (3):

Omit the subsection.

Human Rights and Equal Opportunity Commission Act 1986

Section 11:

Add at the end the following subsections:

“(3) Notwithstanding paragraphs (1) (a), (d) and (f), the functions of the Commission do not include inquiring into an act or practice of an intelligence agency, and, where a complaint is made to the Commission alleging that an act or practice of such an agency is inconsistent with or contrary to any human right, constitutes discrimination, or is unlawful under the *Racial Discrimination Act 1975* or the *Sex Discrimination Act 1984*, the Commission shall refer the complaint to the Inspector-General of Intelligence and Security.

“(4) A reference in subsection (3) to an intelligence agency is a reference to the Australian Secret Intelligence Service, the Australian Security Intelligence Organization, the Office of National Assessments, that part of the Department of Defence known as the Defence Signals Directorate (including any part of the Defence Force that performs functions on behalf of that part of the Department) or that part of the Department of Defence known as the Joint Intelligence Organisation.”.

Income Tax Assessment Amendment (Capital Gains) Act 1986

Section 34:

Insert “(wherever occurring)” after “‘income’”.

SCHEDULE 1—continued

Income Tax Assessment Amendment (Research and Development) Act 1986

Section 8:

Omit “70A”, substitute “70A,”.

Inspector-General of Intelligence and Security Act 1986

After the definition of “Commonwealth agency” in subsection 3 (1):

Insert the following definition:

“‘discrimination’ has the same meaning as in the *Human Rights and Equal Opportunity Commission Act 1986*,”.

Subsection 3 (1) (definition of “human rights”):

Omit “*Human Rights Commission Act 1981*”, substitute “*Human Rights and Equal Opportunity Commission Act 1986*”.

Subparagraphs 8 (1) (a) (v), (2) (a) (iv) and (3) (b) (i):

- (a) Insert “, that constitutes or may constitute discrimination, or that is or may be unlawful under the *Racial Discrimination Act 1975* or the *Sex Discrimination Act 1984*” after “human right”.
- (b) Omit “Human Rights Commission”, substitute “Human Rights and Equal Opportunity Commission”.

Intelligence and Security (Consequential Amendments) Act 1986

Part VII:

Repeal the Part.

International Organizations (Privileges and Immunities) Act 1963

Section 2:

Repeal the section.

Subsection 3 (1) (definition of “envoy”):

Omit the definition, substitute the following definitions:

“‘diplomatic agent’ and ‘diplomatic mission’ have the same respective meanings as in the *Diplomatic Privileges and Immunities Act 1967*,”.

After the definition of “international organization to which this Act applies” in subsection 3 (1):

Insert the following definition:

“‘member of the administrative and technical staff’, in relation to a diplomatic mission, has the same meaning as in the *Diplomatic Privileges and Immunities Act 1967*,”.

Paragraph 7 (2) (a):

Omit “an envoy”, substitute “a diplomatic agent”.

SCHEDULE 1—continued

Paragraph 7 (2) (b):

Omit “retinue of an envoy”, substitute “administrative and technical staff of a diplomatic mission”.

Subsections 12 (1) and (2):

Omit “\$100”, substitute “\$1,000”.

Part I of the Second Schedule:

Omit “an envoy”, substitute “a diplomatic agent”.

Clause 7 of the Third Schedule:

Omit “an envoy”, substitute “a diplomatic agent”.

Clause 6 of Part I of the Fourth Schedule:

Omit “an envoy”, substitute “a diplomatic agent”.

Clause 6 of Part I of the Fifth Schedule:

Omit “an envoy”, substitute “a diplomatic agent”.

Local Government (Financial Assistance) Act 1986

Subsection 16 (1):

Insert “*Amendment*” before “*Act 1984*”.

Management and Investment Companies Act 1983

Subsection 21 (5):

Omit the subsection, substitute the following subsection:

“(5) The Board may:

- (a) impose conditions when granting a licence under this section or, by notice in writing served on the licensee, at any time when the licence is in force; and
- (b) at any time when the licence is in force, by notice in writing served on the licensee, vary or revoke any of the conditions of the licence or impose further conditions.”.

Section 22:

Repeal the section, substitute the following section:

Furnishing of information to Board

“22. The Board may, from time to time, direct a licensee, or a business entity that manages a licensee, to furnish to the Board, within such time as is specified in the direction or such further time as the Board allows, such information as the Board requires for the purpose of performing its duties and functions under this Act, being information relating to the licensee or its operations.”.

SCHEDULE 1—continued

After subsection 29 (8):

Insert the following subsection:

“(8A) Subsection (8) does not apply in relation to a person who has been an officer of the business entity if the Board is satisfied that there is no actual conflict of interest as a result of the person having been such an officer.”.

Section 31:

Add at the end the following subsection:

“(3) Subsection (2) does not apply in relation to shares in the eligible business entity that have been, or are to be, acquired by the licensee if the Board is satisfied that the money spent in acquiring those shares has increased, or will increase, the value of the eligible business entity.”.

After subsection 37 (3):

Insert the following subsection:

“(3A) Notwithstanding subsection (3), the Board may, having regard to business cycles or fluctuations in the market place, extend the period of 18 months referred to in that subsection in relation to any particular licensee.”.

Meat Inspection Act 1983

Section 4:

Add at the end the following subsection:

“(8) Where:

- (a) the Governor-General has, by Proclamation under subsection (4), declared that this Act extends to the Northern Territory; and
- (b) the Administrator of the Northern Territory requests the Governor-General to revoke the Proclamation either forthwith or from such day as is specified in the request;

the Governor-General shall give effect to the request.”.

Subsection 35 (1):

Omit “meat”, substitute “any goods or services”.

Migration Act 1958

Subsection 5 (1) (definition of “return endorsement”):

Omit the definition.

Subsection 5 (6):

Omit “or return endorsement” (wherever occurring).

Paragraph 6A (4) (a):

Omit “Services”, substitute “Security”.

SCHEDULE 1—continued

Paragraph 11 (2) (a):

Omit “or return endorsement”.

Heading to Division 1A of Part II:

Omit “*and Return Endorsements*”.

Subsection 11A (1):

Omit the subsection, substitute the following subsection:

“(1) An authorized officer may, in accordance with this section, grant to a person, on request by the person, a visa with respect to travel to Australia by the person and any other person whose name is included in the visa:

- (a) on a single occasion;
 - (b) on occasions aggregating not more than a specified number of occasions; or
 - (c) on any number of occasions;
- while the visa remains in force.”.

Subsections 11A (2), (3) and (4):

Omit “or return endorsement” (wherever occurring).

Subsection 11A (5):

Omit the subsection.

Section 11B:

Omit “or return endorsement”.

Paragraph 11C (1) (a):

Omit “or return endorsement”.

Subsection 11C (4):

Omit “or return endorsement” (wherever occurring).

Paragraph 11C (5) (a):

Omit “or return endorsement” (wherever occurring).

Subsection 11C (6):

Omit “or return endorsement” (wherever occurring).

Sub-subparagraph 16 (1) (b) (i) (A):

Omit “return endorsement,”.

Paragraph 16 (1) (ba):

- (a) Omit “or a return endorsement”.
- (b) Omit “or return endorsement” (wherever occurring).

Subsection 16 (1C):

Omit the subsection, substitute the following subsection:

SCHEDULE 1—continued

“(1C) A reference in subsection (1) to a visa includes a reference to:

- (a) a visa or similar notation, or a form of provisional authority to enter Australia, that was issued on behalf of the Commonwealth before 1 November 1979; or
- (b) a document or notation that was issued on behalf of the Commonwealth before 1 November 1979 in respect of the return of a person to Australia.”.

Paragraph 55 (1) (g):

Omit “return endorsement,”.

Subparagraph 67 (1) (a) (i):

Omit “, visas or return endorsements”, substitute “or visas”.

Paragraph 67 (1) (c):

- (a) Omit “maintenance guarantees”, substitute “assurances of support”.
- (b) Omit “such guarantees” (wherever occurring), substitute “assurances of support”.
- (c) Omit “the guarantees”, substitute “the assurances of support”.

Minerals (Submerged Lands) Act 1981

Section 2:

Repeal the section, substitute the following section:

Commencement

“2. The provisions of this Act shall come into operation on a day, or on respective days, fixed by Proclamation.”.

Mutual Assistance in Criminal Matters (Consequential Amendments) Act 1987

The amendment of subsection 9 (6) of the *Director of Public Prosecutions Act 1983* made by the Schedule:

Omit the amendment.

National Companies and Securities Commission Act 1979

Section 14:

Add at the end the following subsections:

“(4) The Ministerial Council may, by resolution, make a determination about the provision of superannuation benefits for or in relation to a specified full-time member who, when the resolution is passed, is not an eligible employee within the meaning of the *Superannuation Act 1976*.

“(5) The Ministerial Council may, by resolution, vary or revoke a determination made under subsection (4), including such a determination that has previously been varied on at least one occasion.

SCHEDULE 1—continued

“(6) The Ministerial Council shall not make a determination under subsection (4), or vary or revoke a determination so made, except in accordance with arrangements approved by the Minister for Finance.

“(7) Superannuation benefits may be provided in accordance with a determination made under subsection (4) as that determination is in force when the benefits are provided.

“(8) In subsections (4) and (7), ‘superannuation benefits’ includes:

- (a) benefits in the nature of superannuation benefits; and
- (b) benefits similar to benefits provided under the *Superannuation Act 1976*.”

Paragraph 29 (1) (b):

Omit “and”.

After paragraph 29 (1) (b):

Insert the following paragraph:

“(ba) without limiting the generality of paragraph (a):

- (i) in connection with the provision, in accordance with subsection 14 (7), of superannuation benefits within the meaning of that subsection; and
- (ii) in making, in respect of a full-time member who is not an eligible employee within the meaning of the *Superannuation Act 1976*, contributions under a superannuation or retirement scheme, however established; and”.

National Crime Authority Act 1984

Subsection 4 (1) (definition of “member of the staff of the Authority”):

- (a) Omit “or” from paragraph (b).
- (b) Add at the end the following paragraphs:
 - “(d) a member of a Task Force established pursuant to paragraph 11 (1) (c); or
 - (e) a legal practitioner appointed under section 50 to assist the Authority as counsel;”.

Subsection 25 (7):

Omit “counsel assisting the Authority in relation to the matter that is the subject of the hearing”.

Subsection 31 (1):

Omit the subsection, substitute the following subsection:

“(1) Where, upon application by or on behalf of the Authority, a Judge of the Federal Court sitting in chambers is satisfied by evidence on oath that there are reasonable grounds to believe:

SCHEDULE 1—continued

- (a) that a person who has been ordered, under section 24, to deliver his or her passport to the Authority, whether or not the person has complied with the order, is nevertheless likely to leave Australia for the purpose of avoiding giving evidence before the Authority; or
- (b) that a person in relation to whom a summons has been issued under subsection 28 (1):
 - (i) has absconded or is likely to abscond; or
 - (ii) is otherwise attempting, or is otherwise likely to attempt, to evade service of the summons;

the Judge may issue a warrant for the apprehension of the person.”.

After subsection 31 (2):

Insert the following subsection:

“(2A) The warrant may be executed notwithstanding that the warrant is not at the time in the possession of the person executing it.”.

After the definition of “court” in subsection 51 (4):

Insert the following definition:

“‘member of the staff of the Authority’ means:

- (a) a person referred to in the definition of ‘member of the staff of the Authority’ in subsection 4 (1); or
- (b) a person who assists, or performs services for or on behalf of, a legal practitioner appointed under section 50 in the performance of the legal practitioner’s duties as counsel to the Authority;”.

National Measurement Act 1960

After the definition of “instrument” in subsection 3 (1):

Insert the following definition:

“‘interest in land’ includes an interest by way of stratum title (by whatever name known), an interest by way of strata title (by whatever name known) and a time-sharing interest in land (by whatever name known);”.

Subsection 3 (1) (definitions of “Australian primary standard of measurement”, “Australian secondary standard of measurement” and “the Organization”):

Omit “Organization” (wherever occurring), substitute “Organisation”.

Section 8:

Omit “Organization” (wherever occurring), substitute “Organisation”.

Subsections 9 (1) and (3):

Omit “Organization” (wherever occurring), substitute “Organisation”.

SCHEDULE 1—continued

After subsection 12 (1):

Insert the following subsection:

“(1A) Subsection (1) does not apply, and shall be deemed never to have applied, in relation to a contract, dealing or other transaction made or entered into with respect to an interest in land.”

After section 12:

Insert the following section:

Contracts etc. with respect to interests in land to be expressed in Australian legal units of measurement

“12A. (1) After the commencement of this section, every contract, dealing or other transaction made or entered into with respect to an interest in land that refers to any measurement of a physical quantity (including a reference to a measurement of a physical quantity for descriptive purposes only) shall refer to Australian legal units of measurement of that physical quantity.

“(2) Where, in a contract, dealing or other transaction to which subsection (1) applies:

- (a) reference is made to a unit of measurement of a physical quantity; and
- (b) there is an Australian legal unit of measurement of that physical quantity of the same name;

the reference shall, unless the contrary intention appears, be deemed to be a reference to that Australian legal unit of measurement.

“(3) Where a contract, dealing or other transaction in relation to which an additional unit of measurement is applicable under regulations made for the purposes of subsection 7 (3) refers to that additional unit of measurement, then, notwithstanding subsection 7 (2) and subsection (1) of this section, the contract, dealing or other transaction does not contravene subsection (1) merely because it refers exclusively to that additional unit of measurement.

“(4) Notwithstanding subsection 7 (2) and subsection (1) of this section, a contract, dealing or other transaction made or entered into with respect to an interest in land does not contravene subsection (1) merely because it refers to units of measurement other than Australian legal units of measurement if:

- (a) in the case of land that is registered under a law of a State or Territory relating to the registration of interests in land—the folium of the register in which interests in the land are registered, or the duplicate certificate of title for the land, is expressed in, or contains or refers to a plan expressed in, units of measurement other than Australian legal units of measurement (whether or not also expressed in Australian legal units of measurement); or

SCHEDULE 1—continued

(b) in any other case—all the muniments of title for the land are expressed in, or contain or refer to a plan expressed in, units of measurement other than Australian legal units of measurement (whether or not some of the muniments of title are also expressed in, or contain or refer to a plan that is also expressed in, Australian legal units of measurement).

“(5) Nothing in this section shall be taken to affect the validity of a contract, dealing or other transaction, or any interest derived under a contract, dealing or other transaction, merely because the contract, dealing or other transaction contravenes subsection (1).

“(6) A person who makes or enters into a contract, dealing or other transaction that contravenes subsection (1) is guilty of an offence punishable on conviction by a fine not exceeding \$500.”.

After section 13:

Insert the following section:

Futures contracts and contracts etc. relating to futures contracts

“13A. (1) Subsections 7 (2) and 12 (1) do not apply in relation to a futures contract or a contract, dealing or transaction made or entered into in connection with a futures contract.

“(2) In subsection (1), ‘futures contract’ has the same meaning as in the *Futures Industry Act 1986*.”.

Subsection 17 (1):

Insert “, the Executive Director” after “Chairman”.

Subsection 17 (2):

Insert “(other than the Executive Director)” after “members” (first occurring).

Subsection 17 (3):

Insert “appointed by the Governor-General” after “members”.

Subsection 17 (5):

Insert “appointed by the Governor-General” after “member”.

Subsections 18AA (1) and (2):

Insert “appointed by the Governor-General” after “member”.

Section 18AB:

Insert “appointed by the Governor-General” after “member”.

Subsections 18AC (1) and (2):

Insert “appointed by the Governor-General” after “member”.

SCHEDULE 1—continued

Subsection 18AE (3):

Omit “4”, substitute “5”.

Heading to Part IV:

Omit the heading, substitute the following headings and sections:

“PART IV—EXECUTIVE DIRECTOR AND STAFF

“Division 1—Executive Director

Executive Director

“18AG. There shall be an Executive Director of the Commission.

Duties

“18AH. (1) The Executive Director shall conduct the affairs of the Commission.

“(2) The Executive Director shall act in accordance with any policies determined by, and any directions given by, the Commission.

“(3) All acts and things done in the name of, or on behalf of, the Commission by the Executive Director shall be deemed to have been done by the Commission.

Appointment

“18AI. (1) The Executive Director shall be appointed by the Commission.

“(2) A person who has attained 65 years of age shall not be appointed as Executive Director.

“(3) The appointment of a person as Executive Director is not invalid because of a defect or irregularity in connection with the person’s appointment.

Term of office etc.

“18AJ. (1) The Executive Director:

- (a) shall be appointed with effect from such day as is specified in the instrument of his or her appointment; and
- (b) holds office during the Commission’s pleasure.

“(2) The Executive Director ceases to hold office on attaining 65 years of age.

Executive Director not to engage in other paid employment

“18AK. The Executive Director shall not engage in paid employment outside the duties of his or her office except with the approval of the Commission.

Remuneration and allowances

“18AL. (1) The Executive Director shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of

SCHEDULE 1—continued

that remuneration by the Tribunal is in operation, the Executive Director shall be paid such remuneration as is prescribed.

“(2) The Executive Director shall be paid such allowances as are prescribed.

“(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.

Leave of absence

“18AM. The Chairman may grant leave of absence to the Executive Director on such terms and conditions, whether as to remuneration or otherwise, as are determined by the Commission.

Resignation

“18AN. The Executive Director may resign his or her office by writing signed by the Executive Director and delivered to the Chairman.

Disclosure of interests

“18AO. The Executive Director shall give written notice to the Chairman of all direct or indirect pecuniary interests that the Executive Director has or acquires in any business or in any body corporate carrying on any business.

Acting Executive Director

“18AP. (1) The Commission may appoint a person (other than a member) to act as Executive Director:

- (a) during a vacancy in the office of Executive Director (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the Executive Director is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office;

but a person appointed to act during a vacancy shall not continue to act as Executive Director for more than 12 months.

“(2) The appointment may be expressed to have effect only in specified circumstances.

“(3) Where:

- (a) a person is acting under paragraph (1) (b); and
- (b) the office of Executive Director becomes vacant;

then, subject to subsection (2), the person may continue to act until:

- (c) the Commission otherwise resolves;
- (d) the vacancy is filled; or
- (e) a period of 12 months from the day on which the vacancy occurred expires;

whichever happens first.

SCHEDULE 1—continued

“(4) A person acting as Executive Director has all the powers and duties of the Executive Director.

“(5) The Commission may:

- (a) with the written approval of the Minister, determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed to act as Executive Director; and
- (b) terminate the appointment at any time.

“(6) A person appointed to act as Executive Director may resign the appointment by writing signed by the person and delivered to the Chairman.

“(7) Anything done by or in relation to a person purporting to act as Executive Director is not invalid because:

- (a) the occasion for the appointment had not arisen;
- (b) there was a defect or irregularity in connection with the appointment;
- (c) the appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

Exclusion of Executive Director etc. from certain deliberations

“18AQ. (1) The Executive Director shall not be present during any deliberation of the Commission, or take part in any decision of the Commission, with respect to:

- (a) the appointment of any person as Executive Director;
- (b) the determination or application of any terms and conditions on which a person appointed as Executive Director holds office or may be granted leave;
- (c) the termination of the appointment of the Executive Director; or
- (d) the giving or refusing of approval for the Executive Director to engage in paid employment outside the duties of his or her office.

“(2) A person appointed to act as Executive Director shall not be present during any deliberation of the Commission, or take part in any decision of the Commission, with respect to:

- (a) the appointment of any person as Executive Director or to act as Executive Director;
- (b) the determination or application of any terms and conditions on which a person appointed as Executive Director, or to act as Executive Director, holds office or may be granted leave;
- (c) the termination of the appointment of the person or of a person appointed as Executive Director; or
- (d) the giving or refusing of approval for the Executive Director, or a person acting as Executive Director, to engage in paid employment outside the duties of his or her office.

SCHEDULE 1—continued

Terms and conditions of appointment not provided for by Act

“18AR. The Executive Director holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined by the Commission, with the written approval of the Minister.

“Division 2—Staff”.

Section 18F:

Omit “\$50,000”, substitute “\$100,000”.

National Museum of Australia Act 1980

Subsection 7 (3):

Insert “or 9A” after “9”.

After section 9:

Insert the following section:

Disposal of historical material not in national historical collection

“9A. (1) Subject to subsection (2), the Council may resolve that historical material owned by or in the possession of the Museum, but not in the national historical collection, be disposed of by sale, gift, exchange for other historical material, or destruction.

“(2) The Council shall not resolve that historical material be disposed of by destruction unless the Council is satisfied that the material has no saleable value and cannot be disposed of in any other way.

“(3) Where:

- (a) the Council has resolved, in accordance with this section, that historical material be disposed of; and
- (b) if the value of the historical material exceeds \$5,000, the Minister has approved of the disposal;

the Museum may dispose of the historical material accordingly.”.

National Water Resources (Financial Assistance) Act 1978

Sections 8 to 11 (inclusive), except paragraph 9 (a):

Omit “for Finance” (wherever occurring).

Navigation Act 1912

After the definition of “superintendent” in subsection 6 (1):

Insert the following definition:

“‘survey authority’ means a corporation or association for the survey of shipping, approved by the Minister, in writing, for the purposes of this definition;”.

SCHEDULE 1—continued

After the definition of “the Merchant Shipping Act” in subsection 6 (1):

Insert the following definition:

“‘the regulations’, except in sections 425 and 426 or to the extent that the regulations provide otherwise, includes orders made under this Act or pursuant to the regulations;”.

Section 113:

Omit “the forfeiture of or”.

Subsection 148D (3):

Omit the subsection, substitute the following subsection:

“(3) Where a court has, under or in connection with this Act, imposed a pecuniary penalty on a seaman or apprentice and the liability in respect of the penalty has not been otherwise discharged, the Minister may apply the whole or any part of an amount of wages of the seaman or apprentice held by the Minister under this section in paying to the Consolidated Revenue Fund an amount not exceeding the amount of the penalty.”.

Subsection 187A (1) (definitions of “certificate of equipment” and “certificate of survey”):

Omit the definitions, substitute the following definitions:

“‘certificate of equipment’ means:

- (a) a certificate of equipment issued under subsection 194 (4);
or
- (b) a certificate, or a certificate in a class of certificates, recognised in a determination made under subsection 194 (6) as equivalent to a certificate of equipment, or a class of certificates of equipment, issued under subsection 194 (4);

‘certificate of survey’ means:

- (a) a certificate of survey issued under subsection 194 (4); or
- (b) a certificate, or a certificate in a class of certificates, recognised in a determination made under subsection 194 (6) as equivalent to a certificate of survey, or a class of certificates of survey, issued under subsection 194 (4);”.

Subparagraph (b) (iv) of the definition of “international voyage” in subsection 187A (1):

Omit the subparagraph, substitute in paragraph (b) the following:

“(iv) to a port in a country to which the Safety Convention applies from a port outside that country;

other than a voyage in the course of which the ship concerned:

- (v) is not at any time more than 600 nautical miles from the nearest point on the coast of Australia; and

SCHEDULE 1—continued

(vi) does not call at a port in a country other than Australia;”.

Subsection 187A (1) (definition of “survey authority”):

Omit the definition.

Section 187BA:

Repeal the section, substitute the following section:

Approval of classification certificates

“187BA. The Minister may, for the purposes of this Part, approve, in writing, a standard of classification certificate issued by a survey authority.”.

Subsection 194 (4):

Omit “a certificate” (last occurring), substitute “certificates”.

Section 194:

Add at the end the following subsection:

“(6) Where the Minister is of the opinion:

- (a) that a certificate issued under the law of a State or Territory or of a country other than Australia is equivalent to a certificate of survey or certificate of equipment issued under subsection (4); or
- (b) that a class of certificates issued under the law of a State or Territory or of a country other than Australia is equivalent to a class of certificates of survey or certificates of equipment issued under subsection (4);

the Minister may determine, in writing:

- (c) that the certificate or class of certificates is so recognised; or
- (d) that, if specified conditions are satisfied in relation to the ship in respect of which the certificate was issued or in relation to a ship in respect of which a certificate in the class of certificates was issued, the certificate is so recognised.”.

Subparagraph 206T (2) (a) (ii):

Omit “a certificate”, substitute “certificates”.

Paragraphs 206T (3) (b) and (c):

Omit “a certificate”, substitute “certificates”.

Subparagraph 206V (1) (b) (ii):

Omit “a certificate”, substitute “certificates”.

Subsection 221 (1):

Omit “this Division and the regulations or orders that relate to load

SCHEDULE 1—continued

lines”, substitute “any provision of this Division, or any provision of the regulations, that gives effect to the provisions of the Convention”.

After subsection 221 (1):

Insert the following subsections:

“(1A) An exemption granted by the Minister under subsection (1) may be granted subject to the condition that such safety requirements as are specified by the Minister in relation to the ship are complied with.

“(1B) The powers of the Minister under subsection (1) to grant an exemption in respect of a ship extend to granting exemptions in respect of ships included in a class of ships.

“(1C) Where safety requirements specified by the Minister under subsection (1A) in relation to a ship are not complied with, the master and owner of the ship are each guilty of an offence.”.

Paragraph 227A (1) (b):

Omit the paragraph, substitute the following paragraph:

“(b) in any other case—there is in force in respect of the ship:

- (i) an Australian load line certificate; or
- (ii) a certificate, or a certificate in a class of certificates, recognised in a determination made under subsection (1AA) as equivalent to an Australian load line certificate.”.

After subsection 227A (1):

Insert the following subsection:

“(1AA) Where the Minister is of the opinion that a certificate issued under the law of a State or Territory or of a country other than Australia is equivalent to an Australian load line certificate, the Minister may determine, in writing:

- (a) that the certificate is so recognised; or
- (b) that, if specified conditions are satisfied in relation to the ship in respect of which the certificate was issued, the certificate is so recognised.”.

Section 229:

- (a) Insert “and misuse” after “use”.
- (b) Add at the end the following subsection:

“(2) Section 2 does not apply in relation to this section and regulations made by virtue of this section.”.

Subsections 258 (3) and (5):

Omit “258 (1) (fe)”, substitute “425 (1) (fe)”.

SCHEDULE 1—continued

Section 267B:

Add at the end the following subsection:

“(2) Where, after the survey of an Australian ship (being an oil tanker) carried out by a survey authority, the authority is satisfied that the ship is constructed in accordance with the provisions of Annex I, the authority may, whether or not the ship is required by Annex I to be constructed in accordance with those provisions, issue in respect of the ship a ship construction certificate, in the prescribed form, attesting such compliance.”.

Section 267Q:

Add at the end the following subsection:

“(2) Where, after the survey of an Australian ship carried out by a survey authority, the authority is satisfied that the ship is constructed in accordance with the provisions of Annex II, the authority may, whether or not the ship is required by Annex II to be constructed in accordance with those provisions, issue in respect of the ship a chemical tanker construction certificate, in the prescribed form, attesting such compliance.”.

Subsection 269H (1):

Omit “The”, substitute “Subject to subsection (1A), the”.

After subsection 269H (1):

Insert the following subsection:

“(1A) Where the master of a ship furnishes a deviation report under this section within 2 hours before the time of day nominated for the furnishing of the position report under subsection (1), the master is not required to furnish the position report.”.

Subsection 269H (2):

Omit “position report”, substitute “deviation report”.

Subsections 269H (3) and (5):

Insert “or deviation report” after “position report”.

Subsection 269H (6):

Insert “and deviation reports” after “position reports” (last occurring).

Subsection 392 (2):

Omit “217 (2)”, substitute “217 (1), (2) and (3), 221 (1C)”.

Paragraph 394 (4) (b):

Insert “221 (1C),” after “192C (4),”.

Paragraph 394 (4) (c):

Omit “217 (2)”, substitute “217 (1), (2) and (3)”.

SCHEDULE 1—continued

Subsection 397 (2):

- (a) Omit “items 4, 6 and 8 of the table at the foot of section 100”.
- (b) Omit “217 (2), 221 (4)”, substitute “217 (1), (2) and (3), 221 (1C), (4)”.

Subsection 405B (1) (definition of “survey authority”):

Omit the definition.

Subsection 427 (1) (definition of “Council”):

Omit “Marine and Ports Council of Australia”, substitute “Australian Transport Advisory Council”.

Non-government Schools (Loans Guarantee) Act 1977

Section 3 (definition of “Commonwealth Schools Commission”):

Omit the definition.

Subsection 4 (1):

Omit “Commonwealth Schools Commission”, substitute “Minister”.

Subsection 4 (2):

Omit “Commission”, substitute “Minister”.

Section 10:

Repeal the section, substitute the following section:

Delegation by Minister

“10. (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Minister, delegate to the person occupying a specified office in the Department all or any of the Minister’s powers under sections 4 and 5.

“(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.

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

Pig Industry Act 1986

Subsections 30 (3) and (4):

Omit the subsections, substitute the following subsections:

“(3) The Auditor-General shall:

- (a) consider whether the company auditor is suitable to be auditor of the Corporation; and

SCHEDULE 1—continued

(b) advise the Minister, in writing, of his or her opinion and of the reasons for the opinion.

“(4) If the Auditor-General advises the Minister that he or she is of the opinion that the company auditor is suitable to be the auditor of the Corporation, the Minister shall cause particulars of the request, and of the Auditor-General’s advice, to be given to the Joint Committee of Public Accounts.”.

Subsection 30 (5):

Omit “decision”, substitute “advice”.

Subsections 30 (8) and (9):

Omit the subsections, substitute the following subsections:

“(8) The Minister shall inform the Corporation, in writing, of the outcome of a request made by it under subsection (1) and of the reasons for the outcome.

“(9) Where the Minister revokes an appointment made under subsection (6), the Minister shall inform the Corporation, in writing, of the decision and of the reasons for the decision.”.

Paragraph 39 (2) (a):

Insert “or” after “Committee;”.

Paragraph 39 (2) (b):

Omit “Minister; or”, substitute “Minister.”.

Paragraph 39 (2) (c):

Omit the paragraph.

Protection of the Sea Legislation Amendment Act 1986

Paragraph 20 (2) (b):

Omit “and” (first occurring), substitute “and,”.

The part of Schedule 1 that amends section 267J of the *Navigation Act 1912*:

Omit “\$200”, substitute “Penalty: \$200.”.

The part of Schedule 2 that amends section 267X of the *Navigation Act 1912*:

Omit “\$200”, substitute “Penalty: \$200.”.

The part of Schedule 8 that contains the preamble to the Protocol set out in the Schedule substituted by Schedule 8:

Omit “enhance”, substitute “enhanced”.

SCHEDULE 1—continued

After the part of Schedule 8 that contains Article 18 to the Protocol set out in the Schedule substituted by Schedule 8:

Omit the following:

“IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Protocol.”

Substitute the following:

“IN WITNESS WHEREOF the undersigned,* being duly authorized by their respective Governments for that purpose, have signed this Protocol.

* *Signatures omitted.*”

The part of Schedule 8 that contains the Annex to the Protocol set out in the Schedule substituted by Schedule 8:

Omit “Number of”, substitute “Number or”.

Protection of the Sea (Prevention of Pollution from Ships) Act 1983

After the definition of “the 1978 Protocol” in subsection 3 (1):

Insert the following definition:

“‘the regulations’, except in sections 33 and 34 or to the extent that the regulations provide otherwise, includes orders made pursuant to the regulations;”

Subsection 11 (8):

Insert “knowingly or recklessly” before “make”.

Subsection 22 (8):

Insert “knowingly or recklessly” before “make”.

Subsection 26B (10):

Insert “knowingly or recklessly” before “make”.

Paragraph 33 (1) (d):

Omit the paragraph, substitute the following paragraph:

“(d) empowering the Minister to make orders with respect to any matter for or in relation to which provision may be made by the regulations (other than matters referred to in paragraph (f));”

After subsection 34 (3):

Insert the following subsection:

“(3A) Where regulations made by virtue of paragraph 33 (1) (d) empower the Minister to make orders with respect to any matter, the orders may, except to the extent that the regulations provide otherwise or the operation of this subsection is expressly excluded by a provision of this Act, make such provision with respect to that matter as could be made by regulation.”

SCHEDULE 1—continued

Subsection 34 (6):

Insert “a provision of” after “Where”.

Public Order (Protection of Persons and Property) Act 1971

After the definition of “protected premises” in subsection 4 (1):

Insert the following definition:

“‘protective service officer’ has the same meaning as in the *Australian Protective Service Act 1987*”.

Paragraph 12 (2) (c):

Insert “, by a protective service officer,” after “constable”.

Paragraph 20 (2) (c):

Insert “by a protective service officer,” after “constable,”.

Public Service Act 1922

After section 9A:

Insert the following section:

Certain acting appointments in Parliamentary Departments

“9AA. (1) In this section, ‘responsible authority’ means:

- (a) in relation to an office in the Department of the Senate—the President of the Senate;
- (b) in relation to an office in the Department of the House of Representatives—the Speaker of the House of Representatives; and
- (c) in relation to an office in the Department of the Parliamentary Library, the Department of the Parliamentary Reporting Staff or the Joint House Department—the President of the Senate and the Speaker of the House of Representatives.

“(2) The responsible authority may, in writing, appoint a person who is an officer or employee to act as Clerk of the Senate, Clerk of the House of Representatives, Parliamentary Librarian, Principal Parliamentary Reporter or Secretary to the Joint House Department:

- (a) during a vacancy in the office;
- (b) during a period when the holder of the office is suspended from duty under section 57 or 59; or
- (c) during any period, or during all periods, when the holder of the office is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office;

but a person appointed to act during a vacancy shall not continue to act for more than 12 months.

“(3) The appointment may be expressed to have effect only in specified circumstances.

SCHEDULE 1—continued

“(4) Where:

- (a) a person is acting in an office under paragraph (2) (b) or (c); and
- (b) the office becomes vacant;

then, subject to subsection (3), the person may continue to act until:

- (c) the responsible authority otherwise directs, in writing;
- (d) the vacancy is filled; or
- (e) a period of 12 months from the day on which the vacancy occurred expires;

whichever happens first.

“(5) A person acting in an office under subsection (2) has all the powers and duties of the holder of the office.

“(6) The responsible authority may, in writing, at any time terminate an appointment made under subsection (2).

“(7) Anything done by or in relation to a person purporting to act in an office under subsection (2) is not invalid because:

- (a) the occasion for the appointment had not arisen;
- (b) there was a defect or irregularity in connection with the appointment;
- (c) the appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.”.

Subsection 39 (8):

Omit the subsection.

After section 49D:

Insert the following section:

Cancellation of transfer or promotion

“49DA. Before the transfer or promotion of an officer to a vacant Senior Executive Service office takes effect, the Commissioner may cancel the transfer or promotion.”.

Subsections 50DA (1) and (3):

Omit “vacancy” (wherever occurring), substitute “vacant office”.

Paragraph 50DA (4) (c):

Omit “vacancy” (last occurring), substitute “vacant office”.

Paragraph 50DA (4) (d):

Omit “vacancy”, substitute “vacant office”.

Subsections 50DA (5), (6), (9) and (10):

Omit “vacancy” (wherever occurring), substitute “vacant office”.

Subsections 50DB (1) and (2):

Omit “vacancy” (wherever occurring), substitute “vacant office”.

After subsection 50H (2):

Insert the following subsection:

SCHEDULE 1—continued

“(2A) Subsection (2) does not apply in relation to a promotion that, under this Act, is not subject to appeal under section 50B.”.

Subsection 52 (3):

Insert “or the relevant Secretary” after “the Board”.

Subsection 55 (1) (definition of “Disciplinary Appeal Committee”):

Omit “*Merit Protection (Australian Government Employees) Act 1984*”, substitute “Merit Protection Act”.

Subsection 57 (6):

Omit “Chairman”, substitute “Convenor”.

Paragraph 76L (3) (b):

Insert “and, in either case, that the officer is included in the Department specified in the notice” after “classification” (last occurring).

After subsection 76L (3):

Insert the following subsection:

“(3A) An officer may, before being given a notice under subsection (3), consent, by notice in writing given to the Commissioner, to the giving of the first-mentioned notice.”.

Subsection 76L (5):

Omit “A notice”, substitute “Subject to subsection (5A), a notice”.

After subsection 76L (5):

Insert the following subsection:

“(5A) A notice under subsection (3) to an officer who has, under subsection (3A), consented to the giving of the notice shall state that the notice will take effect on a specified day, being a day not earlier than the day on which the notice is given to the officer.”.

Subsection 76L (13):

Omit “subsection (11)”, substitute “paragraph (6) (b)”.

Subsection 76M (3):

Insert “(other than an officer who has, under subsection 76L (3A), consented to the giving of the notice)” after “given”.

Section 87KAA:

Omit “*Merit Protection (Australian Government Employees) Act 1984*”, substitute “Merit Protection Act”.

Paragraph 97 (1) (l):

Omit the paragraph.

SCHEDULE 1—continued

Public Service Legislation (Streamlining) Act 1986

Subsection 33 (3):

- (a) Insert “(otherwise than for the purposes of the *Superannuation Act 1976*)” after “deemed” (second occurring).
- (b) Insert “on and from that day” after “appointed to the Service”.

After subsection 33 (3):

Insert the following subsection:

“(4) For the purposes of the *Superannuation Act 1976*, a person referred to in subsection (3) of this section (other than a person who, immediately before the commencement of this section, was an eligible employee within the meaning of that Act) shall be deemed to have been appointed to the Service on the commencement of this section.”.

Quarantine Act 1908

Section 46:

- (a) Omit “installation or persons”, substitute “, installation or person”.
- (b) Omit “such vessel installation and persons”, substitute “the vessel, installation or person, as the case may be,”.

Subsection 70A (4):

Add at the end the following definition:

“‘oversea vessel’ includes a vessel that voyages or plies to or from a place in Australia that is in the Protected Zone.”.

Removal of Prisoners (Australian Capital Territory) Act 1968

Subsection 3 (1) (definition of “constable”):

Add at the end “and, in section 5B, includes a member of the police force of a State or Territory”.

Subsection 3 (1) (definition of “magistrate”):

Add at the end “and, in section 5B, includes:

- (a) a Chief, Police, Stipendiary, Resident or Special Magistrate of a State or Territory (other than the Australian Capital Territory or Jervis Bay Territory); or
- (b) any other Magistrate of a State or Territory (other than the Australian Capital Territory or Jervis Bay Territory) in respect of whose office an annual salary is payable”.

After section 5A:

Insert the following section:

Arrest of prisoner unlawfully at large

“5B. (1) A constable may, without warrant, apprehend a person whom

SCHEDULE 1—continued

the constable, with reasonable cause, suspects is a prisoner unlawfully at large.

“(2) The constable shall forthwith take the person before a magistrate.

“(3) If the magistrate is satisfied that the person is a prisoner unlawfully at large, the magistrate may issue a warrant:

- (a) authorising any constable to convey the person to a prison specified in the warrant; and
- (b) directing that the person, having been conveyed to that prison in accordance with the warrant, be detained in prison to undergo the term of imprisonment or other detention that the person is required by law to undergo.

“(4) In this section, ‘prisoner unlawfully at large’ means a person who is at large (otherwise than by reason of having escaped from lawful custody) at a time when the person is required by law to be in custody for an offence against a law as in force in the Territory.”.

Removal of Prisoners (Territories) Act 1923

After section 7:

Insert the following sections:

Sentence ceases to run while escaped prisoner at large

“7A. A person who commits an offence against subsection 7 (2) by escaping shall, upon being returned to lawful custody, undergo, in addition to any punishment imposed for that offence, the punishment that the person would have undergone if the person had not escaped.

Arrest of prisoner unlawfully at large

“7B. (1) A constable may, without warrant, apprehend a person whom the constable, with reasonable cause, suspects is a prisoner unlawfully at large.

“(2) The constable shall forthwith take the person before a Magistrate.

“(3) If the Magistrate is satisfied that the person is a prisoner unlawfully at large, the Magistrate may issue a warrant:

- (a) authorising any constable to convey the person to a prison specified in the warrant; and
- (b) directing that the person, having been conveyed to that prison in accordance with the warrant, be detained in prison to undergo the term of imprisonment or other detention that the person is required by law to undergo.

“(4) In this section, ‘prisoner unlawfully at large’ means a person who is at large (otherwise than by reason of having escaped from lawful custody) at a time when the person is required by law to be in custody pursuant to this Act or a warrant issued pursuant to this Act.”.

SCHEDULE 1—continued

Shipping Registration Act 1981

Subsection 3 (1) (definition of “owner”):

Omit “and 30”, substitute “, 30 and 58”.

Subsection 12 (3):

Insert “, in respect of each day on which the ship remains unregistered (including the day of a conviction for an offence against this subsection or any subsequent day),” after “the ship is”.

Section 62 (definition of “unregistered ship”):

Omit the definition.

Subsections 68 (1) and (3):

Omit “entitled to be registered”.

Subsection 69 (1):

Omit “entitled to be registered”.

Subsection 74 (1):

(a) Omit “or fails to comply with”.

(b) Omit “64 (2), 65 (5) or 66 (1) or”, substitute “65 (5) or 66”.

After subsection 74 (1):

Insert the following subsection:

“(1A) A person who contravenes subsection 64 (2) or 66 (1) is, in respect of each day on which the person contravenes the subsection (including the day of a conviction for an offence against this subsection or any subsequent day), guilty of an offence.”.

Subsection 74 (2):

Insert “, or arising out of a contravention of,” after “against”.

Subsection 74 (4):

Omit the subsection, substitute the following subsections:

“(4) An offence against subsection 12 (3) is punishable on conviction:

(a) if the offender is a natural person—by a fine not exceeding \$1,000;
or

(b) if the offender is a body corporate—by a fine not exceeding \$2,000.

“(4A) An offence against section 25, 32 or 33 or subsection 73 (1) is an indictable offence and, subject to subsection 75 (3), is punishable on conviction:

(a) if the offender is a natural person—by a fine not exceeding \$5,000 or imprisonment for a period not exceeding 2 years, or both; or

(b) if the offender is a body corporate—by a fine not exceeding \$20,000.

“(4B) An offence against subsection 64 (2) or 66 (1) is punishable on conviction:

SCHEDULE 1—continued

- (a) if the offender is a natural person—by a fine not exceeding \$500;
or
(b) if the offender is a body corporate—by a fine not exceeding \$1,000.”.

Subsections 75 (1) and (2):

Omit “74 (4)”, substitute “74 (4A)”.

Paragraph 75 (3) (a):

Omit the paragraph, substitute the following paragraph:

“(a) if the offender is a natural person—a fine not exceeding \$2,000 or imprisonment for a period not exceeding 12 months, or both; or”.

Social Security and Repatriation Legislation Amendment Act 1984

Paragraph 86 (a):

Omit “service”, substitute “services”.

South Pacific Nuclear Free Zone Treaty Act 1986

Subsection 4 (1) (definitions of “identity card” and “inspector”):

Omit “1986”, substitute “1987”.

Statute Law (Miscellaneous Provisions) Act (No. 1) 1986

Subsection 2 (23):

Omit the subsection, substitute the following subsection:

“(23) The amendment of subsection 47A (1) of the *Shipping Registration Act 1981* made by this Act shall be deemed to have come into operation on 1 October 1985.”.

Statute Law (Miscellaneous Provisions) Act (No. 2) 1986

The part of Schedule 1 that amends subsection 20 (5) of the *Australian Institute of Marine Science Act 1972*:

Omit “three”, substitute “3”.

Student Assistance Act 1973

Section 31A:

Add at the end the following subsection:

“(2) For the purposes of paragraph (1) (b), a person to whom a grant of Education Assistance has been approved under Part III shall be deemed to be receiving or to be entitled to receive, as the case requires, benefit payable under student assistance notwithstanding that a determination under section 32 directs that that benefit be paid to another person.”.

SCHEDULE 1—continued

Subsection 32 (1):

Insert “, in writing” after “determines”.

Superannuation Legislation Amendment Act (No. 2) 1986

Paragraph 30 (2) (b):

- (a) Omit “years” (first occurring).
- (b) Omit “8” (first occurring), substitute “8,”.

Taxation Laws Amendment Act (No. 2) 1986

Section 9:

Omit “(5) (b)”, substitute “(5) (c)”.

Trade Practices Act 1974

After section 66:

Insert the following section:

Convention on Contracts for the International Sale of Goods

“66A. The provisions of the United Nations Convention on Contracts for the International Sale of Goods, adopted at Vienna, Austria, on 10 April 1980, prevail over the provisions of this Division to the extent of any inconsistency.”.

Wheat Tax Act 1957

Subsection 5 (2):

Omit “Australian Wheatgrowers’ Federation”, substitute “Grains Council of Australia or, if another organisation is prescribed for the purposes of this subsection, the other organisation”.

Wildlife Protection (Regulation of Exports and Imports) Amendment Act 1986

Paragraph 22 (f):

- (a) Omit “a” (first occurring), substitute “A”.
- (b) Omit “subject”, substitute “Subject”.

Wine Grapes Levy Collection Act 1979

Subsection 9 (5):

Omit “\$1,000”, substitute “\$1,000 or imprisonment for 6 months, or both”.

SCHEDULE 1—continued

Subsection 10 (1):

Omit “Penalty: \$500.”, substitute the following:

“Penalty:

- (a) in the case of a natural person—\$1,000 or imprisonment for 6 months, or both; or
- (b) in the case of a body corporate—\$5,000.”.

Subsections 10 (2), (3) and (4):

Omit the subsections, substitute the following subsection:

“(2) A person is not excused from furnishing a return or information that the person is required under this Act or the regulations to furnish on the ground that the return or information might tend to incriminate the person, but any such return or information that is furnished, and any information or thing (including any document) obtained as a direct or indirect consequence of the furnishing of the return or information, is not admissible in evidence against the person in:

- (a) criminal proceedings other than proceedings for an offence against subsection (1) or (5); or
- (b) proceedings for the recovery of a penalty payable under section 5.”.

Subsection 10 (5):

Omit “Penalty: \$500.”, substitute the following:

“Penalty:

- (a) in the case of a natural person—\$1,000 or imprisonment for 6 months, or both; or
- (b) in the case of a body corporate—\$5,000.”.

Subsection 10 (6):

Omit the subsection, substitute the following subsection:

“(6) A prosecution for an offence against subsection (1) or (5) may be commenced at any time within 3 years after the commission of the offence.”.

SCHEDULE 2

Section 4

REPEAL OF ACTS

Commonwealth Aid Roads Act 1969
Dairy Products (Export Inspection Charge) Act 1982
Dairy Products (Export Inspection Charge) Amendment Act 1984
Dairy Products (Export Inspection Charge) Collection Act 1982
Dairy Products (Export Inspection Charge) Collection Amendment Act 1984
Dried Fruit (Export Inspection Charge) Act 1981
Dried Fruit (Export Inspection Charge) Collection Act 1981
Eggs (Export Inspection Charge) Act 1982
Eggs (Export Inspection Charge) Amendment Act 1983
Eggs (Export Inspection Charge) Amendment Act 1984
Eggs (Export Inspection Charge) Collection Act 1982
Eggs (Export Inspection Charge) Collection Amendment Act 1984
Egg Export Legislation Repeal Act 1984
Export Inspection Legislation (Consequential Amendments) Act 1985
Fish (Export Inspection Charge) Act 1981
Fish (Export Inspection Charge) Collection Act 1981
Grain (Export Inspection Charge) Act 1979
Grain (Export Inspection Charge) Amendment Act 1983
Grain (Export Inspection Charge) Collection Act 1979
Railway Agreement (New South Wales and South Australia) Act 1968
Railway Agreement (Queensland) Act 1961
Railway Agreement (Queensland) Act 1968
Railway Agreement (Tasmania) Act 1971
Railway Equipment Agreement (South Australia) Act 1961

NOTES

1. On the day on which sections 32 and 33 of the *Audit Act 1901* are repealed and re-enacted by this Act, the heading to section 33A of the first-mentioned Act is altered by omitting "Warrant" and substituting "Authorisation" and the heading to section 33B of the first-mentioned Act is altered by omitting "Warrants" and substituting "Authorisations".
2. On the day on which this Act receives the Royal Assent:
 - (a) the heading to section 7 of the *Bass Strait Freight Adjustment Trust Fund Act 1984* is altered by adding at the end "and prescribed refiners"; and
 - (b) the heading to section 8 of the *Bass Strait Freight Adjustment Trust Fund Act 1984* is altered by inserting "relevant" before "refiners".

NOTES—continued

3. On the day on which section 11 of the *Complaints (Australian Federal Police) Act 1981* is amended by this Act, the heading to that section is altered by omitting “Charges” and substituting “Action”.
4. On the day on which section 24 of the *Export Control Act 1982* is amended by this Act, the heading to that section is altered by inserting “or services” after “goods”.
5. On the day on which section 6 of the *Export Inspection Charges Collection Act 1985* is amended by this Act, the heading to that section is altered by adding “in respect quantity charge” at the end.
6. On the day on which sections 11A and 11B of the *Migration Act 1958* are amended by this Act, the headings to those sections are altered by omitting “and return endorsements”.
7. On the day on which section 35 of the *Meat Inspection Act 1983* is amended by this Act, the heading to that section is altered by omitting “meat” and substituting “goods or services”.
8. On the day on which the *National Museum of Australia Act 1980* is amended by this Act, the heading to section 9 of the first-mentioned Act is altered by omitting “owned by Museum” and substituting “in national historical collection”.
9. On the day on which the *Navigation Act 1912* is amended by this Act:
 - (a) the heading to section 113 of the first-mentioned Act is altered by omitting “forfeiture and”; and
 - (b) the heading to section 269J of the first-mentioned Act is altered by omitting “Arrival” and substituting “Final”.
10. On the day on which the *Shipping Registration Act 1981* is amended by this Act, the headings to sections 68 and 69 of the first-mentioned Act are altered by omitting “entitled to be registered”.

[*Minister's second reading speech made in—
Senate on 24 September 1987
House of Representatives on 25 November 1987*]