



Law and Justice Legislation Amendment Act 1993

No. 13 of 1994

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Law and Justice Legislation Amendment Act 1993

No. 13 of 1994

**An Act to amend various Acts relating to law and justice,
and for related purposes**

[Assented to 18 January 1994]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Law and Justice Legislation Amendment Act 1993*.

Commencement

2.(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Section 22 is taken to have commenced on 13 January 1993.

(3) Subject to subsection (4), Part 6 commences on a day to be fixed by Proclamation.

(4) If Part 6 does not commence under subsection (3) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

PART 2—AMENDMENTS OF THE DISABILITY DISCRIMINATION ACT 1992

Principal Act

3. In this Part, “**Principal Act**” means the *Disability Discrimination Act 1992*¹.

Registered determination has effect as an order of the Federal Court

4.(1) Section 104B of the Principal Act is amended by omitting subsections (3), (4), (5) and (6) and substituting the following subsections:

“(3) No action to enforce the determination may be taken before the end of the normal application and review period.

“(4) In the case of a determination under section 103, a failure by the respondent, during the normal application and review period, to comply with a positive requirement of the determination is not a contravention of the determination.

“(5) The respondent to a registered determination may apply to the Federal Court for review of the determination.

“(6) Subject to subsection (7), the respondent’s application for review must be made before the end of 28 days after the day the determination is registered.

“(7) After those 28 days, the respondent may apply for review only with the leave of the Federal Court. The Court may grant leave only in exceptional circumstances.

“(8) If the Court grants leave, it may make one or more of the following orders:

- (a) an order prohibiting action, or further action, to enforce the determination during a specified period ending no later than when proceedings on the review are completed or otherwise terminated;
- (b) an order staying, for such a period, action to enforce the determination that has already begun;
- (c) an order that failure to comply, during such a period, with specified positive requirements of the determination is not a contravention of the determination;
- (d) an order that a past failure to comply, during such a period, with such requirements is taken never to have been such a contravention.

“(9) The Court may make an order under subsection (8):

- (a) on such conditions, if any, as it thinks fit; and
- (b) whether or not it also makes an order under subsection 104C(3).

“(10) The Federal Court may vary or revoke an order under subsection (8).

“(11) In this section:

‘normal application and review period’ means the period starting when the determination is registered and finishing:

- (a) if the respondent applies in accordance with subsection (6) for a review of the determination—when proceedings on the review are completed or otherwise terminated; or
- (b) in any other case—at the end of the 28th day after the day the determination is registered.”.

(2) The amendment made by subsection (1) does not apply to a determination made before the commencement of this section.

Assistance in proceedings before the Federal Court

5. Section 106 of the Principal Act is amended:

- (a) by omitting from subsection (1) “who has.” and substituting “who.”;
- (b) by omitting paragraph (1)(a) and substituting the following paragraphs:

“(aa) has applied or proposes to apply to the Federal Court for leave to apply under section 104B for review of a determination; or

- (a) has applied or proposes to apply to the Court under section 104B for review of a determination; or”.

PART 3—AMENDMENTS OF THE PRIVACY ACT 1988

Principal Act

6. In this Part, “**Principal Act**” means the *Privacy Act 1988*².

Interpretation

7. Section 6 of the Principal Act is amended:

- (a) by omitting from subsection (1) the definition of “representative complaint” and substituting the following definition:

“**‘representative complaint’** means a complaint where the persons on whose behalf the complaint was made include persons other than the complainant, but does not include a complaint that the Commissioner has determined should no longer be continued as a representative complaint;”;

(b) by inserting in subsection (1) the following definition:

“‘**class member**’, in relation to a representative complaint, means any of the persons on whose behalf the complaint was lodged, but does not include a person who has withdrawn under section 38B;”.

Acts and practices of agencies etc.

8. Section 7 of the Principal Act is amended by omitting paragraph (2)(b) and substituting the following paragraph:

“(b) the Defence Intelligence Organisation or the Defence Signals Directorate of the Department of Defence; or”.

Limits on disclosure by credit providers of personal information contained in reports relating to credit worthiness etc.

9. Section 18N of the Principal Act is amended by omitting paragraph (1)(bd) and substituting the following paragraphs:

“(bd) the report or information is disclosed:

- (i) to a Minister, Department or authority, of a State or Territory whose functions or responsibilities include giving assistance (directly or indirectly) that facilitates the giving of mortgage credit to individuals; and
- (ii) for the purpose of enabling the Minister, Department or authority to determine the extent of assistance (if any) it will give in relation to the giving of mortgage credit to the individual concerned; or

(bda) the report or information is disclosed:

- (i) to a Minister, Department or authority, of a State or Territory whose functions or responsibilities include the management or supervision of schemes or arrangements under which assistance is given (directly or indirectly) that facilitates the giving of mortgage credit to individuals; and
- (ii) for the purpose of enabling the Minister, Department or authority to manage or supervise any such scheme or arrangement; or”.

Complaints

10. Section 36 of the Principal Act is amended by inserting after subsection (2) the following subsection:

“(2A) In the case of a representative complaint, this section has effect subject to section 38.”.

11. Sections 38 and 39 of the Principal Act are repealed and the following sections are substituted:

Conditions for making a representative complaint

“38.(1) A representative complaint may be lodged under section 36 only if:

- (a) the class members have complaints against the same person; and
- (b) all the complaints are in respect of, or arise out of, the same, similar or related circumstances; and
- (c) all the complaints give rise to a substantial common issue of law or fact.

“(2) A representative complaint under section 36 must:

- (a) describe or otherwise identify the class members; and
- (b) specify the nature of the complaints made on behalf of the class members; and
- (c) specify the nature of the relief sought; and
- (d) specify the questions of law or fact that are common to the complaints of the class members.

In describing or otherwise identifying the class members, it is not necessary to name them or specify how many there are.

“(3) A representative complaint may be lodged without the consent of class members.

Commissioner may determine that a complaint is not to continue as a representative complaint

“38A.(1) The Commissioner may, on application by the respondent or on his or her own initiative, determine that a complaint should no longer continue as a representative complaint.

“(2) The Commissioner may only make such a determination if the Commissioner is satisfied that it is in the interests of justice to do so for any of the following reasons:

- (a) the costs that would be incurred if the complaint were to continue as a representative complaint are likely to exceed the costs that would be incurred if each class member lodged a separate complaint;
- (b) the representative complaint will not provide an efficient and effective means of dealing with the complaints of the class members;
- (c) the complaint was not brought in good faith as a representative complaint;
- (d) it is otherwise inappropriate that the complaints be pursued by means of a representative complaint.

“(3) If the Commissioner makes such a determination:

- (a) the complaint may be continued as a complaint by the complainant on his or her own behalf against the respondent; and

- (b) on the application of a person who was a class member for the purposes of the former representative complaint, the Commissioner may join that person as a complainant to the complaint as continued under paragraph (a).

Additional rules applying to the determination of representative complaints

“38B.(1) The Commissioner may, on application by a class member, replace the complainant with another class member, where it appears to the Commissioner that the complainant is not able adequately to represent the interests of the class members.

“(2) A class member may, by notice in writing to the Commissioner, withdraw from a representative complaint at any time before the Commissioner begins to hold an inquiry into the complaint.

“(3) The Commissioner may at any stage direct that notice of any matter be given to a class member or class members.

Amendment of representative complaints

“38C. If the Commissioner is satisfied that a complaint could be dealt with as a representative complaint if the class of persons on whose behalf the complaint is lodged is increased, reduced or otherwise altered, the Commissioner may amend the complaint so that the complaint can be dealt with as a representative complaint.

Class member for representative complaint not entitled to lodge individual complaint

“39. A person who is a class member for a representative complaint is not entitled to lodge a complaint in respect of the same subject matter.”

Determination of the Commissioner

12. Section 52 of the Principal Act is amended:

- (a) by omitting from subparagraph (1)(b)(iii) “except where the complaint was dealt with as a representative complaint—”;
- (b) by inserting after subsection (1) the following subsections:

“(1A) The loss or damage referred to in paragraph (1)(b) includes injury to the complainant’s feelings or humiliation suffered by the complainant.

“(1B) A determination of the Commissioner under subsection (1) is not binding or conclusive between any of the parties to the determination.”;

- (c) by omitting subsection (4) and substituting the following subsections:

“(4) A determination by the Commissioner under subparagraph (1)(b)(iii) on a representative complaint:

- (a) may provide for payment of specified amounts or of amounts worked out in a manner specified by the Commissioner; and
- (b) if the Commissioner provides for payment in accordance with paragraph (a), must make provision for the payment of the money to the complainants concerned.

“(5) If the Commissioner makes a determination under subparagraph (1)(b)(iii) on a representative complaint, the Commissioner may give such directions (if any) as he or she thinks just in relation to:

- (a) the manner in which a class member is to establish his or her entitlement to the payment of an amount under the determination; and
- (b) the manner for determining any dispute regarding the entitlement of a class member to the payment.

“(6) In this section:

‘**complainant**’, in relation to a representative complaint, means the class members.”.

13. Section 53 of the Principal Act is repealed and the following section is substituted:

Determination must identify the class members who are to be affected by the determination

“53. A determination under section 52 on a representative complaint must describe or otherwise identify those of the class members who are to be affected by the determination.”.

14. Divisions 3 and 4 of Part V of the Principal Act are repealed and the following Divisions are substituted:

“Division 3—Registration of determinations in Federal Court

Registration of determination

“54.(1) This section applies to a determination made under section 52, except where the respondent is an agency or the principal executive of an agency.

“(2) As soon as practicable after the determination is made, the Commissioner must lodge the determination in a Registry of the Federal Court.

“(3) Upon lodgment of the determination, a Registrar must register the determination. In this subsection, ‘**Registrar**’ has the same meaning as in section 35A of the *Federal Court of Australia Act 1976*.

“(4) Within 7 days after the determination is registered, the Commissioner must give written notice of the registration to the complainant and respondent to the determination. The notice must specify the date of registration and must include a copy of the determination.

Registered determination has effect as an order of the Federal Court

“55.(1) Upon registration of a determination under section 54, the determination has effect as if it were an order made by the Federal Court, but subject to the following provisions.

“(2) In addition to binding the complainant and respondent to the determination, the determination applies as follows to each class member who is described or identified in the determination as mentioned in section 53:

- (a) the class member is bound by the determination; and
- (b) the class member may take action to enforce the determination.

“(3) No action to enforce the determination may be taken before the end of the normal application and review period.

“(4) A failure by the respondent, during the normal application and review period, to comply with a positive requirement of the determination is not a contravention of the determination.

“(5) The respondent to a registered determination may apply to the Federal Court for review of the determination.

“(6) Subject to subsection (7), the respondent’s application for review must be made before the end of 28 days after the day the determination is registered.

“(7) After those 28 days, the respondent may apply for review only with the leave of the Federal Court. The Court may grant leave only in exceptional circumstances.

“(8) If the Court grants leave, it may make one or more of the following orders:

- (a) an order prohibiting action, or further action, to enforce the determination during a specified period ending no later than when proceedings on the review are completed or otherwise terminated;
- (b) an order staying, for such a period, action to enforce the determination that has already begun;
- (c) an order that failure to comply, during such a period, with specified positive requirements of the determination is not a contravention of the determination;
- (d) an order that a past failure to comply, during such a period, with such requirements is taken never to have been such a contravention.

“(9) The Court may make an order under subsection (8):

- (a) on such conditions, if any, as it thinks fit; and
- (b) whether or not it also makes an order under subsection 56(3).

“(10) The Federal Court may vary or revoke an order under subsection (8).

“(11) In this section:

‘normal application and review period’ means the period starting when the determination is registered and finishing:

- (a) if the respondent applies in accordance with subsection (5) for a review of the determination—when proceedings on the review are completed or otherwise terminated; or
- (b) in any other case—at the end of the 28th day after the day the determination is registered.

Review of registered determination

“56.(1) This section applies if an application is made to the Federal Court under section 55 for review of a determination.

“(2) The parties to the review are:

- (a) the applicant; and
- (b) the complainant to the determination, as respondent to the application for review.

“(3) The Court may at any time make an interim order that suspends the operation of the whole or any part of the determination. The order may be made on such conditions, if any, as the Court thinks fit.

“(4) In reviewing the determination, the Court may review all issues of fact and law.

“(5) A party cannot adduce new evidence without the leave of the Court.

“(6) After reviewing the determination, the Court may make such orders as it thinks fit (including a declaration of right). The orders may confirm a determination that is registered under section 54.

“(7) The Court may dismiss the application for review at any time if it considers that the applicant is not prosecuting the application with due dispatch. The Court may do this either of its own motion or on the application of the respondent.

Division 4—Review and enforcement of determinations involving Commonwealth agencies

Application of Division

“57. This Division applies to a determination that is made under section 52 and has an agency, or the principal executive of an agency, as the respondent.

Obligations of respondent agency

“58. If an agency is the respondent to a determination to which this Division applies:

- (a) the agency must not repeat or continue conduct that is covered by a declaration included in the determination under subparagraph 52(1)(b)(i); and
- (b) the agency must perform the act or course of conduct that is covered by a declaration included in the determination under subparagraph 52(1)(b)(ii).

Obligations of principal executive of agency

“59. If the principal executive of an agency is the respondent to a determination to which this Division applies, the principal executive must take all such steps as are reasonably within his or her power to ensure:

- (a) that the terms of the determination are brought to the notice of all members, officers and employees of the agency whose duties are such that they may engage in conduct of the kind to which the determination relates; and
- (b) that no member, officer or employee of the agency repeats or continues conduct that is covered by a declaration included in the determination under subparagraph 52(1)(b)(i); and
- (c) the performance of any act or course of conduct that is covered by a declaration included in the determination under subparagraph 52(1)(b)(ii).

Compensation and expenses

“60.(1) If a determination to which this Division applies includes a declaration of the kind referred to in subparagraph 52(1)(b)(iii) or subsection 52(3), the complainant is entitled to be paid the amount specified in the declaration.

“(2) If the respondent is an agency that has the capacity to sue and be sued, the amount is recoverable as a debt due by the agency to the complainant. In any other case, the amount is recoverable as a debt due by the Commonwealth to the complainant.

“(3) In this section:

‘**complainant**’, in relation to a representative complaint, means a class member.

Review of determinations regarding compensation and expenses

“61.(1) Application may be made to the Administrative Appeals Tribunal for review of:

- (a) a declaration of the kind referred to in subparagraph 52(1)(b)(iii) or subsection 52(3) that is included in a determination to which this Division applies; or
- (b) a decision of the Commissioner refusing to include such a declaration in a determination to which this Division applies.

“(2) An agency, or the principal executive of an agency, may not apply for review without the permission of the Minister.

“(3) In exercising powers in relation to an application under subsection (1), the Tribunal must be constituted by a presidential member who is a Judge and 2 other members who are not Judges. This subsection has effect subject to subsection 21(1A) of the *Administrative Appeals Tribunal Act 1975*.

“(4) Terms used in subsection (3) that are also used in the *Administrative Appeals Tribunal Act 1975* have the same meanings as in that Act.

Enforcement of determination against an agency

“62.(1) If an agency fails to comply with section 58, an application may be made to the Federal Court for an order directing the agency to comply.

“(2) If the principal executive of an agency fails to comply with section 59, an application may be made to the Federal Court for an order directing the principal executive to comply.

“(3) The application may be made by the Commissioner or by the complainant. In the case of a representative complaint, ‘**complainant**’ means a class member.

“(4) On an application under this section, the Federal Court may make such other orders as it thinks fit with a view to securing compliance by the respondent.

“(5) An application may not be made under this section in relation to a determination under section 52 until:

- (a) the time has expired for making an application under section 61 for review of the determination; or
- (b) if such an application is made, the decision of the Administrative Appeals Tribunal on the application has come into operation.”.

15. Before section 64 of the Principal Act the following section is inserted in Division 5 of Part V:

Legal assistance

“63. (1) If:

- (a) the Commissioner has dismissed a file number complaint; and
- (b) the respondent to the complaint is not an agency or the principal executive of an agency;

the respondent may apply to the Attorney-General for assistance under this section.

“(2) A person who:

- (a) has applied or proposes to apply to the Federal Court for leave to apply under section 55 for review of a determination; or
- (b) has applied or proposes to apply to the Federal Court under section 55 for review of a determination; or
- (c) is the respondent to such an application for review;

may apply to the Attorney-General for assistance under this section.

“(3) If the Attorney-General is satisfied that in all the circumstances it is reasonable to grant an application made under this section, he or she may authorise the provision by the Commonwealth to the applicant of:

- (a) in the case of an application under subsection (1)—such financial assistance in connection with the investigation of the complaint as the Attorney-General determines; or
- (b) in the case of an application under subsection (2)—such legal or financial assistance in respect of the proceeding as the Attorney-General determines.

“(4) An authorisation under subsection (3) may be made subject to such conditions (if any) as the Attorney-General determines.

“(5) In considering an application made under this section, the Attorney-General must have regard to any hardship to the applicant that refusal of the application would involve.”.

Application of amendments

16.(1) An amendment relating to the enforcement of determinations as if they were orders of the Federal Court does not apply to:

- (a) a determination made before the commencement of the amendment;
or
- (b) a determination made after the commencement of the amendment in respect of a representative complaint lodged before the commencement of the amendment.

(2) An amendment relating to the review and enforcement of determinations involving Commonwealth agencies does not apply to:

- (a) a determination made before the commencement of the amendment;
or
- (b) a determination made after the commencement of the amendment in respect of a representative complaint lodged before the commencement of the amendment.

(3) An amendment relating to representative complaints does not apply to complaints lodged before the commencement of the amendment.

(4) Subsection 52(1A) of the Principal Act as amended by this Act does not apply to:

- (a) a determination made before the commencement of the amendment; or
- (b) a determination made after the commencement of the amendment in respect of a representative complaint lodged before the commencement of the amendment.

PART 4—AMENDMENTS OF THE RACIAL DISCRIMINATION ACT 1975

10 Principal Act

17. In this Part, “**Principal Act**” means the *Racial Discrimination Act 1975*³.

Registered determination has effect as an order of the Federal Court

18.(1) Section 25ZAB of the Principal Act is amended by omitting subsections (3), (4), (5) and (6) and substituting the following subsections:

“(3) No action to enforce the determination may be taken before the end of the normal application and review period.

“(4) In the case of a determination under section 25Z, a failure by the respondent, during the normal application and review period, to comply with a positive requirement of the determination is not a contravention of the determination.

“(5) The respondent to a registered determination may apply to the Federal Court for review of the determination.

“(6) Subject to subsection (7), the respondent’s application for review must be made before the end of 28 days after the day the determination is registered.

“(7) After those 28 days, the respondent may apply for review only with the leave of the Federal Court. The Court may grant leave only in exceptional circumstances.

“(8) If the Court grants leave, it may make one or more of the following orders:

- (a) an order prohibiting action, or further action, to enforce the determination during a specified period ending no later than when proceedings on the review are completed or otherwise terminated;
- (b) an order staying, for such a period, action to enforce the determination that has already begun;
- (c) an order that failure to comply, during such a period, with specified positive requirements of the determination is not a contravention of the determination;

(d) an order that a past failure to comply, during such a period, with such requirements is taken never to have been such a contravention.

“(9) The Court may make an order under subsection (8):

(a) on such conditions, if any, as it thinks fit; and

(b) whether or not it also makes an order under subsection 25ZAC(3).

“(10) The Federal Court may vary or revoke an order under subsection (8).

“(11) In this section:

‘normal application and review period’ means the period starting when the determination is registered and finishing:

(a) if the respondent applies in accordance with subsection (6) for a review of the determination—when proceedings on the review are completed or otherwise terminated; or

(b) in any other case—at the end of the 28th day after the day the determination is registered.”.

(2) The amendment made by subsection (1) does not apply to a determination made before the commencement of this section.

Assistance in proceedings before the Federal Court

19. Section 25ZC of the Principal Act is amended by omitting paragraph (1)(a) and substituting the following paragraphs:

“(aa) has applied or proposes to apply to the Federal Court for leave to apply under section 25ZAB for review of a determination; or

(a) has applied or proposes to apply to the Court under section 25ZAB for review of a determination; or”.

Acting Commissioner

20. Section 36 of the Principal Act is amended by omitting from subsection (1) “, but a person so appointed to act during a vacancy shall not continue so to act for more than 12 months”.

PART 5—AMENDMENTS OF THE SEX DISCRIMINATION ACT 1984

Principal Act

21. In this Part, **“Principal Act”** means the *Sex Discrimination Act 1984*⁴.

Extent to which Act applies to State instrumentalities

22. Section 13 of the Principal Act is amended by omitting from subsection (2) “28” and substituting “28B”.

Discrimination in employment or in superannuation

23. The subsection (4) that was inserted in section 14 of the Principal Act by section 2 of the *Human Rights and Equal Opportunity Legislation Amendment Act (No. 2) 1992*:

- (a) is renumbered as subsection (3A);
- (b) is relocated so that it appears after subsection 14(3) of the Principal Act.

Delaying commencement of new sections 41, 41A and 41B

24. Despite subsection 2(2) of the *Sex Discrimination Amendment Act 1991*, section 9 of that Act (which inserts new sections 41, 41A and 41B in the *Sex Discrimination Act 1984*):

- (a) is taken not to have commenced on 25 June 1993; and
- (b) instead commences on 1 July 1994.

Registered determination has effect as an order of the Federal Court

25.(1) Section 82B of the Principal Act is amended by omitting subsections (3), (4), (5) and (6) and substituting the following subsections:

“(3) No action to enforce the determination may be taken before the end of the normal application and review period.

“(4) In the case of a determination under section 81, a failure by the respondent, during the normal application and review period, to comply with a positive requirement of the determination is not a contravention of the determination.

“(5) The respondent to a registered determination may apply to the Federal Court for review of the determination.

“(6) Subject to subsection (7), the respondent’s application for review must be made before the end of 28 days after the day the determination is registered.

“(7) After those 28 days, the respondent may apply for review only with the leave of the Federal Court. The Court may grant leave only in exceptional circumstances.

“(8) If the Court grants leave, it may make one or more of the following orders:

- (a) an order prohibiting action, or further action, to enforce the determination during a specified period ending no later than when proceedings on the review are completed or otherwise terminated;
- (b) an order staying, for such a period, action to enforce the determination that has already begun;
- (c) an order that failure to comply, during such a period, with specified positive requirements of the determination is not a contravention of the determination;

(d) an order that a past failure to comply, during such a period, with such requirements is taken never to have been such a contravention.

“(9) The Court may make an order under subsection (8):

(a) on such conditions, if any, as it thinks fit; and

(b) whether or not it also makes an order under subsection 82C(3).

“(10) The Federal Court may vary or revoke an order under subsection (8).

“(11) In this section:

‘normal application and review period’ means the period starting when the determination is registered and finishing:

(a) if the respondent applies in accordance with subsection (6) for a review of the determination—when proceedings on the review are completed or otherwise terminated; or

(b) in any other case—at the end of the 28th day after the day the determination is registered.”.

(2) The amendment made by subsection (1) does not apply to a determination made before the commencement of this section.

Assistance in proceedings before the Federal Court

26. Section 84 of the Principal Act is amended by omitting paragraph (1)(a) and substituting the following paragraphs:

“(aa) has applied or proposes to apply to the Federal Court for leave to apply under section 82B for review of a determination; or

(a) has applied or proposes to apply to the Court under section 82B for review of a determination; or”.

PART 6—CHANGES TO THE ADMINISTRATIVE ARRANGEMENTS OF THE HIGH COURT OF AUSTRALIA

Division 1—Amendments of the High Court of Australia Act 1979

Principal Act

27. In this Division, **“Principal Act”** means the *High Court of Australia Act 1979*⁵.

Interpretation

28. Section 4 of the Principal Act is amended:

(a) by inserting “appointed under subsection 26(1)” after “Court” in the definitions of “Deputy Registrar”, “Deputy Marshal” and “Marshal” in subsection (1);

(b) by omitting from subsection (1) the definitions of “Clerk” and “Registrar”;

(c) by inserting in subsection (1) the following definitions:

“**Chief Executive and Principal Registrar**’ means the Chief Executive and Principal Registrar of the Court appointed under section 18;

‘**Senior Registrar**’ means the Senior Registrar of the Court appointed under subsection 26(1).”.

Changing references to Clerk to references to Chief Executive and Principal Registrar

29. The following provisions of the Principal Act are amended by omitting “Clerk” (wherever occurring) and substituting “Chief Executive and Principal Registrar”:

Section 18; subsections 19(1), (2), (3) and (7); section 20; subsections 21(1), (2) and (4); sections 22 and 23; subsections 24(1) and (2); subsections 25(1), (3), (4), (5) and (6); subsections 26(3) and (6); sections 41 and 45.

Officers and employees

30. Section 26 of the Principal Act is amended:

(a) by omitting subsections (1) and (2) and substituting the following subsection:

“(1) The Chief Executive and Principal Registrar is to appoint such other officers of the High Court as the Court considers necessary.”;

(b) by omitting subsection (5) and substituting the following subsection:

“(5) An appointment under subsection (1) is not a public office for the purposes of the *Remuneration Tribunal Act 1973*.”;

(c) by omitting subsection (7) and substituting the following subsection:

“(7) The Senior Registrar and Deputy Registrars are to perform such duties in respect of proceedings in the Court as are assigned to them by Rules of Court, by an order of the Court or by the Chief Executive and Principal Registrar.”.

Certain officers may administer oaths and affirmations

31. Section 28 of the Principal Act is amended by omitting “The Registrar,” and substituting “The Chief Executive and Principal Registrar, the Senior Registrar,”.

Registry

32. Section 30 of the Principal Act is amended by omitting from subsection (2) “Registrar” and substituting “Chief Executive and Principal Registrar”.

Writs etc.

33. Section 33 of the Principal Act is amended by omitting from subparagraph (c)(i) “Registrar” (twice occurring) and substituting “Chief Executive and Principal Registrar”.

Transitional

34.(1) To avoid doubt, section 29 is taken (in particular, for the purposes of section 25B of the *Acts Interpretation Act 1901*) to have altered the name of the office established by section 18 of the Principal Act.

(2) In any Act, in any instrument under an Act, in any award or other industrial determination or order or any industrial agreement, in any other order (whether executive, judicial or otherwise), in any contract, in any pleading in, or process issued in connection with, any legal or other proceedings, or in any other instrument, a reference to the Registrar of the High Court is taken, except in relation to matters that occurred before the commencement of this Part, to be a reference to the Chief Executive and Principal Registrar.

(3) The person who, immediately before the commencement of this Part, held office as the Registrar of the Court under subsection 26(1) of the Principal Act:

- (a) is taken to have been appointed at that commencement as the Senior Registrar of the Court under subsection 26(1) of the Principal Act as amended by this Division; and
- (b) subject to subsection 26(4) of the Principal Act as in force after that commencement, holds office as the Senior Registrar on the terms and conditions on which he or she held office as the Registrar immediately before that commencement.

(4) Any other person who, immediately before the commencement of this Part, held office under subsection 26(1) of the Principal Act continues to hold office after that commencement as if he or she had been appointed to that office under subsection 26(1) of the Principal Act as in force after that commencement.

Division 2—Consequential amendments of the Commonwealth Electoral Act 1918

Principal Act

35. In this Division, “Principal Act” means the *Commonwealth Electoral Act 1918*⁶.

36. Section 356 of the Principal Act is repealed and the following section is substituted:

Deposit as security for costs

“356. When filing the petition, the petitioner must deposit with the Chief Executive and Principal Registrar, the Senior Registrar, or a Deputy Registrar, of the High Court \$100 as security for costs.”.

Court to report cases of illegal practices

37. Section 363 of the Principal Act is amended by omitting “Registrar” and substituting “Chief Executive and Principal Registrar”.

Copies of petition and order of Court to be sent to House affected, Governor-General and Speaker

38. Section 369 of the Principal Act is amended by omitting “Registrar” and substituting “Chief Executive and Principal Registrar”.

Order to be sent to House affected

39. Section 380 of the Principal Act is amended by omitting “Registrar” and substituting “Chief Executive and Principal Registrar”.

Division 3—Consequential amendments of other Acts

Certain signatures etc. to be judicially noticed

40. Section 4 of the *Evidence Act 1905*⁷ is amended:

- (a) by inserting in paragraph (1)(a) “Chief Executive and Principal Registrar of the High Court, Senior Registrar or Deputy Registrar of the High Court,” after “Justice of the High Court,”;
- (b) by omitting from paragraph (1)(a) “, Registrar or Deputy Registrar of the High Court” and substituting “, Registrar of the High Court”.

Register of practitioners

41. Section 55C of the *Judiciary Act 1903*⁸ is amended by omitting “Registrar” (wherever occurring) and substituting “Chief Executive and Principal Registrar”.

NOTES

Disability Discrimination Act 1992

1. No. 135, 1992, as amended. For previous amendments, see No. 179, 1992.

Privacy Act 1988

2. No. 119, 1988, as amended. For previous amendments, see Nos. 11, 75 and 116, 1990; Nos. 20, 28, 122, 136 and 194, 1991; Nos. 143 and 165, 1992; and No. 28, 1993.

Racial Discrimination Act 1975

3. No. 52, 1975, as amended. For previous amendments, see No. 91, 1976; No. 18, 1980; No. 25, 1981; No. 38, 1983; No. 126, 1986; No. 38, 1988; No. 115, 1990; and Nos. 132, 165 and 179, 1992.

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Sex Discrimination Act 1984

4. No. 4, 1984, as amended. For previous amendments, see No. 72, 1984; No. 65, 1985; Nos. 76 and 126, 1986; Nos. 38, 75, 80 and 87, 1988; No. 115, 1990; Nos. 70 and 71, 1991; and Nos. 132, 165, 179, 180 and 196, 1992.

High Court of Australia Act 1979

5. No. 137, 1979, as amended. For previous amendments, see No. 63, 1984; No. 65, 1985; No. 99, 1988; Nos. 21 and 157, 1989; and Nos. 122 and 199, 1991.

Commonwealth Electoral Act 1918

6. No. 27, 1918, as amended. For previous amendments, see No. 31, 1919; No. 14, 1921; No. 14, 1922; No. 10, 1924; No. 20, 1925; No. 17, 1928; No. 9, 1934; No. 19, 1940; No. 42, 1946; No. 17, 1948; Nos. 10 and 47, 1949; No. 106, 1952; No. 79, 1953; No. 26, 1961; No. 31, 1962; Nos. 48 and 70, 1965; Nos. 32 and 93, 1966; No. 7, 1973; No. 38, 1974; No. 56, 1975; Nos. 14 and 116, 1977; No. 19, 1979; Nos. 102 and 166, 1980; No. 176, 1981; Nos. 26 and 80, 1982; Nos. 39, 84 and 144, 1983; Nos. 45, 46, 120 and 133, 1984; Nos. 67, 166 and 193, 1985; Nos. 35, 141 and 184, 1987; Nos. 87, 99 and 109, 1988; No. 159, 1989; No. 24, 1990; Nos. 122, 167, 180 and 203, 1991; and Nos. 10, 45, 105, 121, 167 and 219, 1992.

Evidence Act 1905

7. No. 4, 1905, as amended. For previous amendments, see No. 43, 1934; No. 80, 1950; No. 48, 1956; No. 28, 1963; No. 53, 1964; Nos. 80 and 216, 1973; No. 31, 1974; No. 14, 1978; No. 139, 1979; Nos. 39 and 177, 1981; No. 91, 1983; No. 198, 1985; No. 87, 1988; Nos. 11 and 70, 1990; and No. 28, 1991.

Judiciary Act 1903

8. No. 6, 1903, as amended. For previous amendments, see No. 5, 1906; No. 8, 1907; No. 34, 1910; No. 31, 1912; No. 11, 1914; No. 4, 1915; No. 38, 1920; No. 39, 1926; No. 9, 1927; No. 60, 1932; Nos. 34 and 65, 1933; No. 45, 1934; No. 5, 1937; No. 43, 1939; No. 50, 1940; No. 10, 1946; No. 52, 1947; No. 65, 1948; Nos. 51 and 80, 1950; Nos. 17 and 35, 1955; No. 50, 1959; Nos. 32 and 109, 1960; No. 91, 1965; Nos. 55 and 93, 1966; No. 134, 1968; No. 39, 1969; No. 216, 1973; No. 164, 1976; No. 36, 1978; Nos. 19, 86 and 138, 1979; No. 61, 1981; No. 26, 1982; Nos. 39, 91 and 114, 1983; Nos. 7, 12, 72 and 165, 1984; No. 65, 1985; No. 1, 1986; Nos. 38, 87, 99, 109 and 120, 1988; Nos. 108 and 157, 1989; No. 11, 1990; and Nos. 104 and 165, 1992.

NOTES ABOUT SECTION HEADINGS

1. On the day on which this Act receives the Royal Assent, the heading to section 18L of the *Privacy Act 1988* is altered by omitting “**present**” and substituting “**personal**”.
2. On the commencement of Part 6 of this Act, the headings to sections 18, 19 and 25 of the *High Court of Australia Act 1979* are altered by omitting “**Clerk**” and substituting “**Chief Executive and Principal Registrar**”.

[*Minister’s second reading speech made in—
Senate on 29 September 1993
House of Representatives on 17 November 1993*]