



# Law and Justice Legislation Amendment Act 1994

No. 84 of 1994

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

[Assented to 23 June 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 1994*.

### **Commencement**

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

(2) Part 3 commences on a day to be fixed by Proclamation.

(3) Part 4 commences on a day to be fixed by Proclamation.

*Law and Justice Legislation Amendment No. 84, 1994*

(4) If Part 4 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.

(5) The amendment made by Part 5 is taken to have commenced on 1 November 1991.

(6) Part 7 commences on a day to be fixed by Proclamation.

(7) If Part 7 does not commence under subsection (6) 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—AMENDMENT OF THE ACTS  
INTERPRETATION ACT 1901**

**Object of Part**

3. The object of this Part is to enable an instrument of delegation to apply to specified offices created after the delegation was given.

**Principal Act**

4. In this Part, “**Principal Act**” means the *Acts Interpretation Act 1901*.

**Delegations**

5. Section 34AA of the Principal Act is amended by adding at the end “, even if the office or position does not come into existence until after the delegation is given”.

**PART 3—AMENDMENT OF THE ADMINISTRATIVE APPEALS  
TRIBUNAL ACT 1975**

**Objects of Part**

6. The background to this Part is that the current President of the Administrative Appeals Tribunal has accepted an appointment as President of the Australian Industrial Relations Commission. The objects of this Part are:

- (a) to allow a Judge to accept a substantive appointment as President of the Administrative Appeals Tribunal during the period for which the current President is appointed to the bench of the Australian Industrial Relations Commission; and
- (b) to give the current President of the Administrative Appeals Tribunal the right to return to the Presidency of the Tribunal at the end of that period.

### **Principal Act**

7. In this Part, “**Principal Act**” means the *Administrative Appeals Tribunal Act 1975*<sup>2</sup>.

### **Insertion of new section**

8. After section 8 of the Principal Act the following section is inserted:

### **Special provisions—President on the bench of the Australian Industrial Relations Commission**

#### *When section applies*

“8A.(1) This section applies if:

- (a) a person (the ‘**eligible person**’) held the office of President of the Tribunal immediately before the commencement of this section; and
- (b) before the commencement of this section, the eligible person became the first person to be appointed President of the Australian Industrial Relations Commission after the commencement of subsection 16(1A) of the *Industrial Relations Act 1988*; and
- (c) the eligible person was so appointed for a fixed term (the ‘**IRC period**’) specified in the eligible person’s commission of appointment.

#### *Eligible person deemed to have vacated office of President of the Tribunal*

“(2) The eligible person is taken to have vacated the office of President of the Tribunal immediately after the commencement of this section.

#### *Tenure of replacement President of the Tribunal*

“(3) If the appointment of a person (the ‘**replacement person**’) to the office of President of the Tribunal takes effect:

- (a) after the commencement of this section and before the end of the IRC period; and
- (b) at a time when:
  - (i) the eligible person is, or has previously ceased to be, President of the Australian Industrial Relations Commission; and
  - (ii) the eligible person is a Judge of the Federal Court of Australia; and
  - (iii) the eligible person has not given a written notice to the Governor-General to the effect that the eligible person no longer wishes to return to the Tribunal;

then, in spite of section 8, the replacement person holds the office of President of the Tribunal until:

- (c) the end of the IRC period; or
- (d) the eligible person ceases to be a Judge of the Federal Court of Australia; or

*Law and Justice Legislation Amendment No. 84, 1994*

- (e) the eligible person gives a written notice to the Governor-General to the effect that the eligible person no longer wishes to return to the Tribunal; or
  - (f) the replacement person dies, resigns, retires or is removed from office; or
  - (g) the replacement person ceases to be a Judge; or
  - (h) the replacement person's 70th birthday;
- whichever first happens.

*Eligible person to be re-appointed as President of the Tribunal*

“(4) If:

- (a) the eligible person is a Judge of the Federal Court of Australia at the end of the IRC period; and
- (b) the eligible person has not given a written notice to the Governor-General to the effect that the eligible person no longer wishes to return to the Tribunal;

the eligible person is taken to have been re-appointed as President of the Tribunal under section 6 immediately after the end of the IRC period. However, the eligible person does not have to take an oath or affirmation under section 10B in respect of that re-appointment.”.

**PART 4—AMENDMENT OF THE CHEQUES  
AND PAYMENT ORDERS ACT 1986**

*Division 1—Principal Act*

**Principal Act**

9. In this Part, “**Principal Act**” means the *Cheques and Payment Orders Act 1986*<sup>3</sup>.

*Division 2—Amendments relating to cheques*

**Object of Division**

10. The object of this Division is to modernise the rules about the presentment of cheques by banks.

**Bank cheques and bank drafts**

11. Section 5 of the Principal Act is amended by omitting from subsection (1) “and 62(12)” and substituting “, 62(12) and 62A(8)”.

**Certain rights, duties and liabilities under Act may be altered by agreement**

12. Section 6 of the Principal Act is amended:

- (a) by inserting in subsection (2) “61A,” after “61,”;
- (b) by inserting in subsection (2) “62A,” after “62,”.

**Due presentment defined**

13. Section 61 of the Principal Act is amended by inserting in subsection (1) “, 62A” after “62”.

**Insertion of new section**

14. After section 61 of the Principal Act the following section is inserted:

**Presentment by bank**

“61A. A bank may present a cheque for payment in either of the following ways:

- (a) by making an **external presentment** of the cheque (see section 62);
- (b) by making an **internal presentment** of the cheque (see section 62A).”.

**External presentment by bank**

15. Section 62 of the Principal Act is amended:

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

“(1) A bank (the ‘**collecting bank**’) makes an **external presentment** of a cheque if:

- (a) the collecting bank, on behalf of a customer, another financial institution or otherwise, makes a demand for payment of the cheque on the drawee bank; and
- (b) the drawee bank is not the same bank as the collecting bank; and
- (c) either:
  - (i) the demand is made by exhibiting the cheque to the drawee bank at:
    - (A) the proper place in relation to the cheque; or
    - (B) a place that is a designated exhibition place in relation to the cheque for the purposes of this subsection; or
  - (ii) the demand is:
    - (A) made otherwise than by exhibiting the cheque; and
    - (B) made at a place that is a designated place in relation to the cheque for the purposes of this subsection; and

*Law and Justice Legislation Amendment No. 84, 1994*

- (C) made at a time that is a designated time for the drawee bank at that place; and
- (D) made using a means of communication that is a designated means of communication for the drawee bank at that place.

Note 1: Section 64 defines 'proper place'.

Note 2: Section 65 defines 'designated exhibition place', 'designated place', 'designated time' and 'designated means of communication'.”;

- (b) by inserting after subsection (3) the following subsection:
    - “(3A) The demand must also specify, in a form that is intelligible to, or readily decipherable by, the drawee bank:
      - (a) a place as the nominated place in relation to the cheque for the purposes of subsection (6); and
      - (b) the days on which, and the hours during which, the collecting bank will be open for business at the place; and
      - (c) the means by which communications may be made to the collecting bank at the place.”;
  - (c) by inserting after subsection (4) the following subsections:
    - “(4A) A time is a **nominated time** for the collecting bank at a particular place if the time is covered by the specification in the demand of the days on which, and the hours during which, the collecting bank will be open for business at that place.
    - “(4B) A means of communication is a **nominated means of communication** for the collecting bank at a particular place if the demand specifies the means as a means by which communications may be made to the collecting bank at that place.”;
  - (d) by omitting subsection (6) and substituting the following subsection:
    - “(6) The request must be made:
      - (a) to the collecting bank at a place that is a nominated place in relation to the cheque for the purposes of this subsection; and
      - (b) at a time that is a nominated time for the collecting bank at that place; and
      - (c) using a means of communication that is a nominated means of communication for the collecting bank at that place.
- Note 1: Subsection (3A) defines 'nominated place'.
- Note 2: Subsection (4A) defines 'nominated time'.
- Note 3: Subsection (4B) defines 'nominated means of communication'.”;
- (e) by omitting subsections (9) and (10) and substituting the following subsection:
    - “(9) If the drawee bank makes a request in relation to the cheque, the collecting bank must:

*Law and Justice Legislation Amendment No. 84, 1994*

- (a) in the case of a request for further particulars—give the drawee bank those further particulars:
  - (i) at a place that is a designated place in relation to the cheque for the purposes of this subsection; and
  - (ii) at a time that is a designated time for the drawee bank at that place; and
  - (iii) using a means of communication that is a designated means of communication for the drawee bank at that place; or
- (b) in the case of a request to exhibit the cheque or a copy of the cheque of a specified kind—exhibit the cheque or the copy to the drawee bank at:
  - (i) the proper place in relation to the cheque; or
  - (ii) a place that is a designated exhibition place in relation to the cheque for the purposes of this subsection.

Note 1: Section 64 defines 'proper place'.

Note 2: Section 65 defines 'designated exhibition place', 'designated place', 'designated time' and 'designated means of communication'."

### **Insertion of new section**

**16.** After section 62 of the Principal Act the following section is inserted:

#### **Internal presentment by bank**

"62A.(1) The drawee bank in relation to a cheque makes an **internal presentment** of the cheque if:

- (a) the drawee bank, on behalf of a customer, another financial institution or otherwise, makes a demand for payment of the cheque on itself; and
- (b) either:
  - (i) the demand is made by exhibiting the cheque to itself at:
    - (A) the proper place in relation to the cheque; or
    - (B) a place that is a notified place in relation to the cheque for the purposes of this subsection; or
  - (ii) the demand is made otherwise than by exhibiting the cheque and is so made at:
    - (A) the proper place in relation to the cheque; or
    - (B) a place that is a notified place in relation to the cheque for the purposes of this subsection.

Note 1: Section 64 defines 'proper place'.

Note 2: Section 65A defines 'notified place'.

"(2) If:

*Law and Justice Legislation Amendment No. 84, 1994*

- (a) the cheque is not exhibited; and
- (b) the demand is made at a place that is a notified place in relation to the cheque for the purposes of subsection (1);

the drawee bank may request itself to exhibit the cheque, or a copy of the cheque of a specified kind, to itself at a specified place.

“(3) The specified place must be:

- (a) the proper place in relation to the cheque; or
- (b) a place that is a notified place in relation to the cheque for the purposes of this subsection.

Note 1: Section 64 defines ‘proper place’.

Note 2: Section 65A defines ‘notified place’.

“(4) The request must be made at a place that is a notified place in relation to the cheque for the purposes of this subsection.

Note: Section 65A defines ‘notified place’.

“(5) The request must:

- (a) identify the cheque with reasonable certainty; and
- (b) be in a form that is intelligible to, or readily decipherable by, the drawee bank.

“(6) Without limiting the generality of subsection (5), the request is taken, for the purposes of that subsection, to identify the cheque with reasonable certainty if:

- (a) the sum ordered to be paid by the cheque; and
- (b) the cheque number; and
- (c) the account against which the cheque is drawn; and
- (d) the proper place in relation to the cheque;

are specified in the request or are readily ascertainable by the drawee bank from the request.

“(7) If the drawee bank makes a request, the drawee bank must exhibit the cheque or copy to itself at the place specified in the request.

“(8) If a cheque is presented for payment otherwise than by exhibiting it to the drawee bank, nothing in this section is taken to relieve the drawee bank from any liability to which the drawee bank would have been subject in relation to the cheque if it had been presented by being exhibited to the drawee bank.”.

**External presentment of cheques by banks—designated places and designated exhibition places**

17. Section 65 of the Principal Act is amended:

- (a) by inserting before subsection (1) the following subsection:



*Law and Justice Legislation Amendment No. 84, 1994*

“(1A) The object of this section is to identify the following for the purposes of the rules about external presentment of cheques by banks:

- (a) designated places;
  - (b) designated exhibition places;
  - (c) designated times;
  - (d) designated means of communication.”;
- (b) by omitting from paragraph (2)(a) “one or more” and substituting “either or both”;
- (c) by omitting subparagraph (2)(a)(ii);
- (d) by inserting after subsection (2) the following subsections:
- “(2A) If the notice specifies:
- (a) the cheques in relation to which the place is to be a designated place for the purposes of subsection 62(1); and
  - (b) ‘**exhibition**’ as the means, or one of a number of means, by which communications may be made to the bank at that place; the place is a **designated exhibition place** in relation to the cheques for the purposes of that subsection.
- “(2B) If the notice specifies:
- (a) the cheques in relation to which the place is to be a designated place for the purposes of subsection 62(9); and
  - (b) ‘**exhibition**’ as the means, or one of a number of means, by which communications may be made to the bank at that place; the place is a **designated exhibition place** in relation to the cheques for the purposes of that subsection.
- “(2C) A time is a **designated time** for the bank at a particular place if the time is covered by the specification of the days on which, and the hours during which, the bank will be open for business at that place.
- “(2D) A means of communication is a **designated means of communication** for the bank at a particular place if the notice specifies the means as a means by which communications may be made to the bank at that place.”;
- (e) by adding the end the following subsection:
- “(4) If the notice is varied or revoked, the *Gazette* notice of the variation or revocation must specify a day as the day on which the variation or revocation takes effect. The specified day must not be earlier than 30 days after the date of the *Gazette* notice of variation or revocation.”.

**Insertion of new section**

**18.** After section 65 of the Principal Act the following section is inserted:

**Internal presentment of cheques by banks—notified places**

“65A.(1) The object of this section is to identify notified places for the purposes of the rules about internal presentment of cheques by banks.

“(2) A bank may, by written notice, specify a place as a notified place in relation to cheques for the purposes of this Act. The notice must be given to the eligible authority.

Note: Subsection (6) defines ‘eligible authority’.

“(3) The notice must specify:

(a) one or more of the following, namely:

- (i) the cheques in relation to which the place is to be a notified place for the purposes of subsection 62A(1);
- (ii) the cheques in relation to which the place is to be a notified place for the purposes of subsection 62A(3);
- (iii) the cheques in relation to which the place is to be a notified place for the purposes of subsection 62A(4); and

(b) the days on which, and the hours during which, the bank will be open for business at the place.

“(4) If the notice is varied or revoked, the notice of variation or revocation must specify a day as the day on which the variation or revocation takes effect. The specified day must not be earlier than 30 days after the notice of variation or revocation is given to the eligible authority.

“(5) The regulations may make provision for and in relation to the keeping of a register of notices under this section by the eligible authority. In particular, the regulations may make provision for:

- (a) the register to be kept in such form and manner as the eligible authority directs; and
- (b) persons to inspect the register; and
- (c) persons to obtain information contained in the register; and
- (d) fees to be charged by the eligible authority for such an inspection or for providing such information.

“(6) In this section:

‘eligible authority’ means:

- (a) Australian Payments Clearing Association Limited; or
- (b) if another person is approved in writing by the Minister for the purposes of this section—that other person.”.

**Deposit bank to present cheques promptly**

19. Section 66 of the Principal Act is amended by inserting in subsection (2) and paragraph (3)(e) “or 62A(2)” after “62(5)” (wherever occurring).

**Drawee bank to pay or dishonour promptly**

20. Section 67 of the Principal Act is amended by inserting in paragraph (2)(f) “or 62A(2)” after “62(5)” (wherever occurring).

**Application of amendments**

21. The amendments made by this Division apply in relation to cheques presented after the commencement of this section.

**Transitional—notices about designated places**

22.(1) This section applies if a notice in force under section 65 of the Principal Act immediately before the commencement of this section specified either or both of the following:

- (a) the cheques in relation to which a place is to be a designated place for the purposes of subsection 62(1) of the Principal Act;
- (b) the cheques in relation to which a place is to be a designated place for the purposes of subsection 62(9) of the Principal Act.

(2) The notice has effect, for the purposes of the amended Act, as if it had specified those matters for the purposes of the corresponding provision or provisions of the amended Act.

(3) In this section:

“**amended Act**” means the Principal Act as amended by this Act.

*Division 3—Amendments relating to payment orders*

**Object of Division**

23. The object of this Division is to modernise the rules about the presentment of payment orders by financial institutions.

**Due presentment defined**

24. Section 105 of the Principal Act is amended by inserting in subsection (1) “, 106A” after “106”.

**Insertion of new section**

25. After section 105 of the Principal Act the following section is inserted:

**Presentment by financial institution**

“105A. A financial institution may present a payment order for payment in either of the following ways:

- (a) by making an **external presentment** of the payment order (see section 106);
- (b) by making an **internal presentment** of the payment order (see section 106A).”.

### **External presentment by financial institution**

**26.** Section 106 of the Principal Act is amended:

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

“(1) A financial institution (the **‘collecting financial institution’**) makes an **external presentment** of a payment order if:

- (a) the collecting financial institution, on behalf of a customer, another financial institution or otherwise, makes a demand for payment of the payment order on the drawee non-bank financial institution; and
- (b) the drawee non-bank financial institution is not the same financial institution as the collecting financial institution; and
- (c) either:

- (i) the demand is made by exhibiting the payment order to the drawee non-bank financial institution at:

- (A) the proper place in relation to the payment order; or

- (B) a place that is a designated exhibition place in relation to the payment order for the purposes of this subsection; or

- (ii) the demand is:

- (A) made otherwise than by exhibiting the payment order; and

- (B) made at a place that is a designated place in relation to the payment order for the purposes of this subsection; and

- (C) made at a time that is a designated time for the drawee non-bank financial institution at that place; and

- (D) made using a means of communication that is a designated means of communication for the drawee non-bank financial institution at that place.

Note 1: Section 108 defines ‘proper place’.

Note 2: Section 109 defines ‘designated exhibition place’, ‘designated place’, ‘designated time’ and ‘designated means of communication’.”;

- (b) by inserting after subsection (3) the following subsection:

*Law and Justice Legislation Amendment No. 84, 1994*

“(3A) The demand must also specify, in a form that is intelligible to, or readily decipherable by, the drawee non-bank financial institution:

- (a) a place as the nominated place in relation to the payment order for the purposes of subsection (6); and
- (b) the days on which, and the hours during which, the collecting financial institution will be open for business at the place; and
- (c) the means by which communications may be made to the collecting financial institution at the place.”;

(c) by inserting after subsection (4) the following subsections:

“(4A) A time is a **nominated time** for the collecting financial institution at a particular place if the time is covered by the specification in the demand of the days on which, and the hours during which, the collecting financial institution will be open for business at that place.

“(4B) A means of communication is a **nominated means of communication** for the collecting financial institution at a particular place if the demand specifies the means as a means by which communications may be made to the collecting financial institution at that place.”;

(d) by omitting subsection (6) and substituting the following subsection:

“(6) The request must be made:

- (a) to the collecting financial institution at a place that is a nominated place in relation to the payment order for the purposes of this subsection; and
- (b) at a time that is a nominated time for the collecting financial institution at that place; and
- (c) using a means of communication that is a nominated means of communication for the collecting financial institution at that place.

Note 1: Subsection (3A) defines ‘nominated place’.

Note 2: Subsection (4A) defines ‘nominated time’.

Note 3: Subsection (4B) defines ‘nominated means of communication’.”;

(e) by omitting subsections (9) and (10) and substituting the following subsection:

“(9) If the drawee non-bank financial institution makes a request in relation to the payment order, the collecting financial institution must:

- (a) in the case of a request for further particulars—give the drawee non-bank financial institution those further particulars:

*Law and Justice Legislation Amendment No. 84, 1994*

- (i) at a place that is a designated place in relation to the payment order for the purposes of this subsection; and
  - (ii) at a time that is a designated time for the drawee non-bank financial institution at that place; and
  - (iii) using a means of communication that is a designated means of communication for the drawee non-bank financial institution at that place; or
- (b) in the case of a request to exhibit the payment order or a copy of the payment order of a specified kind—exhibit the payment order or the copy to the drawee non-bank financial institution at:
- (i) the proper place in relation to the payment order; or
  - (ii) a place that is a designated exhibition place in relation to the payment order for the purposes of this subsection.

Note 1: Section 108 defines 'proper place'.

Note 2: Section 109 defines 'designated exhibition place', 'designated place', 'designated time' and 'designated means of communication'.

### **Insertion of new section**

27. After section 106 of the Principal Act the following section is inserted:

#### **Internal presentment by non-bank financial institution**

“106A.(1) The drawee non-bank financial institution in relation to a payment order makes an **internal presentment** of the payment order if:

- (a) the drawee non-bank financial institution, on behalf of a customer, another financial institution or otherwise, makes a demand for payment of the payment order on itself; and
- (b) either:
  - (i) the demand is made by exhibiting the payment order to itself at:
    - (A) the proper place in relation to the payment order; or
    - (B) a place that is a notified place in relation to the payment order for the purposes of this subsection; or
  - (ii) the demand is made otherwise than by exhibiting the payment order and is so made at:
    - (A) the proper place in relation to the payment order; or
    - (B) a place that is a notified place in relation to the payment order for the purposes of this subsection.

Note 1: Section 108 defines 'proper place'.

Note 2: Section 109A defines 'notified place'.

“(2) If:

- (a) the payment order is not exhibited; and
- (b) the demand is made at a place that is a notified place in relation to the payment order for the purposes of subsection (1);

the drawee non-bank financial institution may request itself to exhibit the payment order, or a copy of the payment order of a specified kind, to itself at a specified place.

“(3) The specified place must be:

- (a) the proper place in relation to the payment order; or
- (b) a place that is a notified place in relation to the payment order for the purposes of this subsection.

Note 1: Section 108 defines ‘proper place’.

Note 2: Section 109A defines ‘notified place’.

“(4) The request must be made at a place that is a notified place in relation to the payment order for the purposes of this subsection.

Note: Section 109A defines ‘notified place’.

“(5) The request must:

- (a) identify the payment order with reasonable certainty; and
- (b) be in a form that is intelligible to, or readily decipherable by, the drawee non-bank financial institution.

“(6) Without limiting the generality of subsection (5), the request is taken, for the purposes of that subsection, to identify the payment order with reasonable certainty if:

- (a) the sum ordered to be paid by the payment order; and
- (b) the payment order number; and
- (c) the account against which the payment order is drawn; and
- (d) the proper place in relation to the payment order;

are specified in the request or are readily ascertainable by the drawee non-bank financial institution from the request.

“(7) If the drawee non-bank financial institution makes a request, the drawee non-bank financial institution must exhibit the payment order or copy to itself at the place specified in the request.

“(8) If a payment order is presented for payment otherwise than by exhibiting it to the drawee non-bank financial institution, nothing in this section is taken to relieve the drawee non-bank financial institution from any liability to which the drawee non-bank financial institution would have been subject in relation to the payment order if it had been presented by being exhibited to the drawee non-bank financial institution.”.

**External presentment of payment orders by financial institutions—  
designated places and designated exhibition places**

28. Section 109 of the Principal Act is amended:

(a) by inserting before subsection (1) the following subsection:

“(1A) The object of this section is to identify the following for the purposes of the rules about external presentment of payment orders by financial institutions:

- (a) designated places;
- (b) designated exhibition places;
- (c) designated times;
- (d) designated means of communication.”;

(b) by omitting from subsection (1) “financial institution” and substituting “non-bank financial institution”;

(c) by omitting from paragraph (2)(a) “one or more” and substituting “either or both”;

(d) by omitting subparagraph (2)(a)(ii);

(e) by omitting from paragraphs (2)(b) and (c) “financial institution” and substituting “non-bank financial institution”;

(f) by inserting after subsection (2) the following subsections:

“(2A) If the notice specifies:

- (a) the payment orders in relation to which the place is to be a designated place for the purposes of subsection 106(1); and
- (b) ‘**exhibition**’ as the means, or one of a number of means, by which communications may be made to the non-bank financial institution at that place;

the place is a **designated exhibition place** in relation to the payment orders for the purposes of that subsection.

“(2B) If the notice specifies:

- (a) the payment orders in relation to which the place is to be a designated place for the purposes of subsection 106(9); and
- (b) ‘**exhibition**’ as the means, or one of a number of means, by which communications may be made to the non-bank financial institution at that place;

the place is a **designated exhibition place** in relation to the payment orders for the purposes of that subsection.

“(2C) A time is a **designated time** for the non-bank financial institution at a particular place if the time is covered by the specification of the days on which, and the hours during which, the non-bank financial institution will be open for business at that place.



“(2D) A means of communication is a **designated means of communication** for the non-bank financial institution at a particular place if the notice specifies the means as a means by which communications may be made to the non-bank financial institution at that place.”;

(g) by adding at the end the following subsection:

“(4) If the notice is varied or revoked, the *Gazette* notice of the variation or revocation must specify a day as the day on which the variation or revocation takes effect. The specified day must not be earlier than 30 days after the date of the *Gazette* notice of variation or revocation.”.

### **Insertion of new section**

**29.** After section 109 of the Principal Act the following section is inserted:

### **Internal presentment of payment orders by non-bank financial institutions—notified places**

“109A.(1) The object of this section is to identify notified places for the purposes of the rules about internal presentment of payment orders by non-bank financial institutions.

“(2) A non-bank financial institution may, by written notice, specify a place as a notified place in relation to payment orders for the purposes of this Act. The notice must be given to the eligible authority.

Note: Subsection (6) defines ‘eligible authority’.

“(3) The notice must specify:

(a) one or more of the following, namely:

(i) the payment orders in relation to which the place is to be a notified place for the purposes of subsection 106A(1);

(ii) the payment orders in relation to which the place is to be a notified place for the purposes of subsection 106A(3);

(iii) the payment orders in relation to which the place is to be a notified place for the purposes of subsection 106A(4); and

(b) the days on which, and the hours during which, the non-bank financial institution will be open for business at the place.

“(4) If the notice is varied or revoked, the notice of variation or revocation must specify a day as the day on which the variation or revocation takes effect. The specified day must not be earlier than 30 days after the notice of variation or revocation is given to the eligible authority.

*Law and Justice Legislation Amendment No. 84, 1994*

“(5) The regulations may make provision for and in relation to the keeping of a register of notices under this section by the eligible authority. In particular, the regulations may make provision for:

- (a) the register to be kept in such form and manner as the eligible authority directs; and
- (b) persons to inspect the register; and
- (c) persons to obtain information contained in the register; and
- (d) fees to be charged by the eligible authority for such an inspection or for providing such information.

“(6) In this section:

‘eligible authority’ means:

- (a) Australian Payments Clearing Association Limited; or
- (b) if another person is approved in writing by the Minister for the purposes of this section—that other person.”.

**Deposit financial institution to present payment orders promptly**

**30.** Section 110 of the Principal Act is amended by inserting in subsection (2) and paragraph (3)(e) “or 106A(2)” after “106(5)” (wherever occurring).

**Drawee non-bank financial institution to pay or dishonour promptly**

**31.** Section 111 of the Principal Act is amended by inserting in paragraph (2)(f) “or 106A(2)” after “106(5)” (wherever occurring).

**Schedule**

**32.** The Schedule to the Principal Act is amended:

- (a) by omitting from paragraph (b) of the item headed “**Subsection 5(1)**” “and 62(12)” and substituting “, 62(12) and 62A(8)”;
- (b) by omitting from paragraph (c) of the item headed “**Subsection 5(1)**” “and subsection 106(12)” and substituting “and subsections 106(12) and 106A(8)”;
- (c) by omitting from paragraph (b) of the item headed “**Subsection 6(2)**” “62,” and substituting “61A, 62, 62A,”;
- (d) by omitting from paragraph (c) of the item headed “**Subsection 6(2)**” “106,” and substituting “105A, 106, 106A,”.

**Application of amendments**

**33.** The amendments made by this Division apply in relation to payment orders presented after the commencement of this section.

**Transitional—notices about designated places**

**34.(1)** This section applies if a notice in force under section 109 of the Principal Act immediately before the commencement of this section specified either or both of the following:

*Law and Justice Legislation Amendment No. 84, 1994*

- (a) the payment orders in relation to which a place is to be a designated place for the purposes of subsection 106(1) of the Principal Act;
- (b) the payment orders in relation to which a place is to be a designated place for the purposes of subsection 106(9) of the Principal Act.

(2) The notice has effect, for the purposes of the amended Act, as if it had specified those matters for the purposes of the corresponding provision or provisions of the amended Act.

(3) In this section:

“**amended Act**” means the Principal Act as amended by this Act.

**PART 5—AMENDMENT OF THE FAMILY LAW ACT 1975**

**Appointment, removal and resignation of Judges**

35. Subsection 22(4) that was inserted by the first amendment under the heading “*Family Law Act 1975*” in the Schedule to the *Law and Justice Legislation Amendment Act (No. 4) 1992* is renumbered as subsection 22(3A).

**PART 6—AMENDMENT OF THE FEDERAL COURT  
OF AUSTRALIA ACT 1976**

*Division 1—Principal Act*

**Principal Act**

36. In this Part, “**Principal Act**” means the *Federal Court of Australia Act 1976*<sup>4</sup>.

*Division 2—Amendments relating to the appellate jurisdiction of the  
Federal Court*

**Object of Division**

37. The object of this Division is to widen the powers of a single Judge to deal with matters ancillary to appeals to the Federal Court.

**Exercise of appellate jurisdiction**

38. Section 25 of the Principal Act is amended by inserting after subsection (2A) the following subsections:

“(2B) A single Judge or a Full Court may:

- (a) join or remove a party to an appeal to the Court; or
- (b) make an order by consent disposing of an appeal to the Court (including an order for costs); or

*Law and Justice Legislation Amendment No. 84, 1994*

- (c) give directions about the conduct of an appeal to the Court, including directions about:
  - (i) the use of written submissions; and
  - (ii) limiting the time for oral argument.

“(2C) The Rules of Court may make provision enabling matters of the kind mentioned in subsection (2B) to be dealt with, subject to conditions prescribed by the Rules, without an oral hearing.”.

*Division 3—Amendments relating to testimony given by video link, telephone or other appropriate means*

**Objects of Division**

**39.** The objects of this Division are:

- (a) to allow witnesses to give sworn testimony by video link, telephone or other appropriate means; and
- (b) to allow overseas witnesses to give unsworn testimony by video link, telephone or other appropriate means.

**Evidence on appeal**

**40.** Section 27 of the Principal Act is amended by omitting all the words after “evidence may” and substituting the following words and paragraphs:

“be taken:

- (a) on affidavit; or
- (b) by video link, telephone or other appropriate means in accordance with another provision of this Act or another law of the Commonwealth; or
- (c) by oral examination before the Court or a Judge; or
- (d) otherwise in accordance with section 46.”.

**Oral, video link, telephone and affidavit evidence**

**41.** Section 47 of the Principal Act is amended by inserting after subsection (1) the following subsections:

“(1A) The Court or a Judge may, for the purposes of any proceeding, direct or allow testimony to be given by video link, telephone or other appropriate means. The testimony must be given on oath or affirmation unless:

- (a) the person giving the testimony is in a foreign country; and

- (b) either:
- (i) the law in force in that country does not permit the person to give testimony on oath or affirmation for the purposes of the proceeding; or
  - (ii) the law in force in that country would make it inconvenient for the person to give testimony on oath or affirmation for the purposes of the proceeding; and
- (c) the Court or a Judge is satisfied that it is appropriate for the testimony to be given otherwise than on oath or affirmation.

If the testimony is given otherwise than on oath or affirmation, the Court is to give the testimony such weight as it thinks fit in the circumstances.

“(1B) Nothing in subsection (1A) affects the operation of the *Evidence and Procedure (New Zealand) Act 1994*.

“(1C) Subsection (1A) does not apply if the person giving the testimony is in New Zealand.”.

### **Rules of Court**

**42.** Section 59 of the Principal Act is amended:

(a) by inserting after paragraph (2)(t) the following paragraphs:

“(ta) the administration of oaths and affirmations in respect of testimony to be given by video link, telephone or other appropriate means; and

(tb) the making or receipt of submissions by video link, telephone or other appropriate means; and”;

(b) by inserting after subsection (2) the following subsection:

“(2A) In particular, the Rules of Court may make further provision in relation to the taking or receipt of evidence, where:

(a) the evidence is given by video link, telephone or other appropriate means; and

(b) the Court or a Judge is authorised to receive the evidence under another provision of this Act or another law of the Commonwealth.”.

### ***Division 4—Amendment relating to Rules of Court***

#### **Object of Division**

**43.** The object of this Division is to enable Rules of Court to authorise a person to amend a claim by setting up a fresh claim that would have been barred because of the expiry of a period of limitation if the claim had been initiated at the time of the amendment.

### **Rules of Court**

44. Section 59 of the Principal Act is amended by inserting before subsection (3) the following subsection:

“(2B) The Rules of Court may make provision for:

- (a) the amendment of a document in a proceeding; or
- (b) leave to amend a document in a proceeding;

even if the effect of the amendment would be to allow a person to seek a remedy in respect of a legal or equitable claim that would have been barred because of the expiry of a period of limitation if the remedy had originally been sought at the time of the amendment.”.

## **PART 7—AMENDMENT OF THE FINANCIAL TRANSACTION REPORTS ACT 1988**

### **Object of Part**

45. The object of this Part is to give to the Director of the Australian Transaction Reports and Analysis Centre (“AUSTRAC”) the powers of a Departmental Secretary in relation to certain matters.

### **Principal Act**

46. In this Part, “Principal Act” means the *Financial Transaction Reports Act 1988*<sup>5</sup>.

### **Staff**

47. Section 40 of the Principal Act is amended by adding at the end the following subsection:

“(2) The Director has all the powers of a Secretary under the *Public Service Act 1922*, so far as they relate to the branch of the Australian Public Service comprising the staff of AUSTRAC, as if that branch were a separate Department of the Australian Public Service.”.

## **PART 8—AMENDMENT OF THE FREEDOM OF INFORMATION ACT 1982**

### ***Division 1—Principal Act***

### **Principal Act**

48. In this Part, “Principal Act” means the *Freedom of Information Act 1982*<sup>6</sup>.

***Division 2—Amendments relating to statements of reasons  
for decisions about charges and application fees***

**Object of Division**

**49.** The object of this Division is to require reasons to be given for decisions about charges and application fees.

**Charges**

**50.** Section 29 of the Principal Act is amended by adding at the end the following subsections:

“(8) If:

- (a) the applicant makes a contention about a charge as mentioned in subsection (4); and
- (b) the agency or Minister makes a decision to reject the contention, in whole or in part;

the agency or Minister, as the case requires, must give the applicant written notice of the decision and of the reasons for the decision.

Note: Section 25D of the *Acts Interpretation Act 1901* sets out rules about the contents of a statement of reasons.

“(9) A notice under subsection (8) must also state the name and designation of the person making the decision and give the applicant appropriate information about:

- (a) his or her rights with respect to review of the decision; and
- (b) his or her rights to make a complaint to the Ombudsman in relation to the decision; and
- (c) the procedure for the exercise of those rights;

including (where applicable) particulars of the manner in which an application for review under section 54 may be made.

“(10) Section 13 of the *Administrative Decisions (Judicial Review) Act 1977* does not apply to a decision referred to in subsection (8).

“(11) A notice under subsection (8) is not required to contain any matter that is of such a nature that its inclusion in a document of an agency would cause that document to be an exempt document.”.

**Remission of application fees**

**51.** Section 30A of the Principal Act is amended by adding at the end the following subsections:

“(3) If:

- (a) a person makes a written request for an application fee to be remitted, in whole or in part; and

*Law and Justice Legislation Amendment No. 84, 1994*

- (b) the agency or Minister makes a decision to refuse the request, in whole or in part;

the agency or Minister, as the case requires, must give the applicant written notice of the reasons for the decision.

Note: Section 25D of the *Acts Interpretation Act 1901* sets out rules about the contents of a statement of reasons.

“(4) A notice under subsection (3) must also state the name and designation of the person making the decision and give the applicant appropriate information about:

- (a) his or her rights with respect to review of the decision; and  
(b) his or her rights to make a complaint to the Ombudsman in relation to the decision; and  
(c) the procedure for the exercise of those rights;

including (where applicable) particulars of the manner in which an application for review under section 54 may be made.

“(5) Section 13 of the *Administrative Decisions (Judicial Review) Act 1977* does not apply to a decision referred to in subsection (3).

“(6) A notice under subsection (3) is not required to contain any matter that is of such a nature that its inclusion in a document of an agency would cause that document to be an exempt document.”.

### **Application**

52. The amendments made by this Division apply to decisions made after the commencement of this section.

### ***Division 3—Amendments relating to protection from civil and criminal proceedings***

#### **Object of Division**

53. The object of this Division is to provide protection from civil and criminal proceedings where documents have been shown to third parties under section 26A, 27 or 27A of the Principal Act.

#### **Protection against certain actions**

54. Section 91 of the Principal Act is amended:

- (a) by inserting after subsection (1B) the following subsection:

“(1C) If a document has been shown to a person, organisation or proprietor for any of the following purposes:

- (a) consultation with a State under subsection 26A(1);  
(b) enabling the person, organisation or proprietor to make a submission under subsection 27(1);



*Law and Justice Legislation Amendment No. 84, 1994*

- (c) enabling the person or the person's legal personal representative to make a submission under subsection 27A(1);
- then:
- (d) no action for defamation, breach of confidence or infringement of copyright lies against the Commonwealth, an agency, a Minister or an officer because of the showing of the document; and
  - (e) no action for defamation or breach of confidence in respect of any publication involved in, or resulting from, the showing of the document lies against the author of the document or any other person because of that author or other person having shown the document.”;
- (b) by inserting after subsection (2) the following subsection:
- “(2A) If a document has been shown to a person, organisation or proprietor for any of the following purposes:
- (a) consultation with a State under subsection 26A(1);
  - (b) enabling the person, organisation or proprietor to make a submission under subsection 27(1);
  - (c) enabling the person or the person's legal personal representative to make a submission under subsection 27A(1);
- the showing of the document is not taken to constitute an authorisation or approval:
- (d) for the purposes of the law relating to defamation or breach of confidence—of the publication of the document or its contents by the person, organisation or proprietor to whom the document is shown; and
  - (e) for the purposes of the law of copyright—of the doing, by the person, organisation or proprietor to whom the document is shown, of any act comprised within the copyright in:
    - (i) any literary, dramatic, musical or artistic work; or
    - (ii) any sound recording, cinematograph film, television broadcast or sound broadcast; or
    - (iii) a published edition of a literary, dramatic, musical or artistic work;contained in the document.”;
- (c) by inserting in subsection (3) “or (2A)(e)” after “(2)(b)”.

**Protection in respect of offences**

**55.** Section 92 of the Principal Act is amended by adding at the end the following subsection:

“(2) If a document has been shown to a person, organisation or proprietor for any of the following purposes:

- (a) consultation with a State under subsection 26A(1); or
- (b) enabling the person, organisation or proprietor to make a submission under subsection 27(1); or
- (c) enabling the person or the person’s legal personal representative to make a submission under subsection 27A(1);

neither the person showing the document nor any person concerned in showing it is guilty of a criminal offence only because of the showing of the document.”.

***Division 4—Amendments relating to documents containing personal information***

**Object of Division**

**56.** The object of this Division is to limit the circumstances in which an agency or Minister is required to consult about the disclosure of documents containing personal information to cases where the person concerned might reasonably wish to contend that the document is exempt.

**Procedure on request in respect of documents containing personal information**

**57.** Section 27A of the Principal Act is amended:

(a) by inserting before subsection (1) the following subsection:

“(1AA) This section applies if:

- (a) a request is received by an agency or Minister in respect of a document containing personal information about a person (including a person who has died); and

(b) it appears to:

- (i) the officer or Minister dealing with the request; or
- (ii) a person (the ‘reviewer’) reviewing under section 54 a decision refusing the request;

that the person referred to in paragraph (a) or, if that person has died, the legal personal representative of that person, might reasonably wish to contend that the document, so far as it contains that information, is an exempt document under section 41.”;

(b) by omitting from subsection (1) “Where a request is received by an agency or Minister in respect of a document containing personal information about a person (including a deceased person), a” and substituting “A”;

(c) by inserting after subsection (1) the following subsection:

*Law and Justice Legislation Amendment No. 84, 1994*

“(1A) In determining, for the purposes of subsection (1AA), whether a person might reasonably wish to contend that a document, so far as it contains personal information, is an exempt document under section 41, the officer, Minister or reviewer, as the case requires, must have regard to the following matters:

- (a) the extent to which the personal information is well known;
- (b) whether the person to whom the personal information relates is known to be associated with the matters dealt with in the document;
- (c) the availability of the personal information from publicly accessible sources;
- (d) such other matters as the officer, Minister or reviewer, as the case requires, considers relevant.”.

**Internal review**

**58.** Section 54 of the Principal Act is amended by omitting from paragraph (1E)(a) “paragraph 27A(1)(a)” and substituting “subsection 27A(1AA)”.

**Application**

**59.** The amendments made by this Division apply to a request made after the commencement of this section.

*Division 5—Amendments relating to time limits*

**Object of Division**

**60.** The object of this Division is to standardise the time limits applying to certain decisions.

**Charges**

**61.** Section 29 of the Principal Act is amended by omitting from subsections (6) and (7) “28” and substituting “30”.

**Remission of application fees**

**62.** Section 30A of the Principal Act is amended by inserting after subsection (1) the following subsections:

“(1A) The applicant may make a written request for the application fee to be wholly or partly remitted under subsection (1). The agency or Minister must take all reasonable steps to enable the applicant to be notified of the decision on the request as soon as practicable, but in any case no later than 30 days after the day on which the request was made.

“(1B) If:

- (a) that period of 30 days has ended; and
- (b) the applicant has not received notice of a decision on the request; the agency or the Minister, as the case requires, is taken, for all purposes of this Act, to have made, on the last day of the period, a decision to the effect that no part of the application fee is to be remitted.”.

### **Review of certain decisions in respect of documents relating to the Government of a State**

**63.** Section 58F of the Principal Act is amended by inserting after subsection (2) the following subsection:

“(2A) In spite of section 29 of the *Administrative Appeals Tribunal Act 1975*, an application under subsection (1) must be made within 30 days after the day on which notice of the decision was given to the State.”.

### **Review of certain decisions in respect of documents relating to business affairs etc.**

**64.** Section 59 of the Principal Act is amended by inserting after subsection (2) the following subsection:

“(2A) In spite of section 29 of the *Administrative Appeals Tribunal Act 1975*, an application by a person, organisation or proprietor under subsection (1) must be made within 30 days after the day on which notice of the decision was given to the person, organisation or proprietor, as the case may be.”.

### **Review of certain decisions in respect of documents containing personal information**

**65.** Section 59A of the Principal Act is amended by inserting after subsection (2) the following subsection:

“(2A) In spite of section 29 of the *Administrative Appeals Tribunal Act 1975*, an application by a person under subsection (1) must be made within 30 days after the day on which notice of the decision was given to the person.”.

### **Application**

#### *Section 29*

**66.(1)** The amendment of section 29 of the Principal Act made by this Division applies in relation to notifications given under subparagraph 29(1)(f)(ii) of that Act after the commencement of this section.

#### *Section 30A*

**(2)** The amendment of section 30A of the Principal Act made by this Division applies in relation to requests made after the commencement of this section.

*Sections 58F, 59 and 59A*

(3) The amendments of sections 58F, 59 and 59A of the Principal Act made by this Division apply to decisions made after the commencement of this section.

*Division 6—Amendments relating to exempt documents*

**Objects of Division**

67. The objects of this Division are:

- (a) to provide for additional exemptions for the Australian Statistician, Comcare and the CSIRO; and
- (b) to remove a reference to the repealed *Honey Marketing Act 1988*.

**Exemption of certain persons and bodies**

68. Section 7 of the Principal Act is amended by inserting in subsection (2) “persons,” before “bodies”.

**Schedule 2**

69.(1) Schedule 2 to the Principal Act is amended:

- (a) by omitting the heading to Part II and substituting the following headings:

“PART II

*Agencies exempt in respect of particular documents*

*Division 1*”;

- (b) by inserting in Part II the following items (before the item relating to the Department of Defence):

“Comcare, in relation to documents in respect of its commercial activities

Commonwealth Scientific and Industrial Research Organisation, in relation to documents in respect of its commercial activities”;

- (c) by adding at the end of Part II the following heading and item:

*Division 2*

Australian Statistician, in relation to documents containing information collected under the *Census and Statistics Act 1905*”.

(2) Schedule 2 to the Principal Act is amended by omitting from Part III “*Honey Marketing Act 1988*”.

**Schedule 4**

70. Schedule 4 to the Principal Act is amended by inserting in the appropriate alphabetical position “Commonwealth Scientific and Industrial Research Organisation”.

**Consequential amendments of the *Privacy Act 1988***

71. Section 7 of the *Privacy Act 1988* is amended:

- (a) by omitting subparagraph (1)(a)(i) and substituting the following subparagraph:
  - “(i) an agency specified in any of the following provisions of the *Freedom of Information Act 1982*:
    - (A) Schedule 1;
    - (B) Part I of Schedule 2;
    - (C) Division 1 of Part II of Schedule 2;
- (b) by inserting in paragraph (1)(c) “Division 1 of” after “specified in”;
- (c) by inserting in subsection (2) “Part I of” after “specified in”;
- (d) by inserting in subsection (2) “or in Division 1 of Part II of that Schedule” after “1982”.

***Division 7—Amendments relating to agency statements***

**Object of Division**

72. The object of this Division is to clarify the meaning of subparagraph 8(1)(a)(iii) of the Principal Act (which deals with categories of documents held by an agency).

**Publication of information concerning functions and documents of agencies**

73. Section 8 of the Principal Act is amended:

- (a) by omitting from subparagraph (1)(a)(iii) all the words after “the agency,” and substituting “being categories that comply with subsection (6);”;
- (b) by adding at the end the following subsection:
  - “(6) The categories referred to in subparagraph (1)(a)(iii) include, but are not limited to, the following categories:
    - (a) any documents referred to in paragraph 12(1)(b);
    - (b) any documents referred to in paragraph 12(1)(c);
    - (c) any other documents, if the documents are customarily made available to the public:
      - (i) otherwise than under this Act; and
      - (ii) free of charge upon request.”.

**Application**

74. The amendments made by this Division apply to statements published after the commencement of this section.

***Division 8—Amendments relating to review of decisions***

**Object of Division**

75. The object of this Division is to confirm that a person has a right of review of a decision that purports to grant access to all documents requested by the person, but does not actually grant that access (the review could be internal review or review by the Administrative Appeals Tribunal).

**Internal review**

76. Section 54 of the Principal Act is amended:

(a) by inserting after paragraph (1)(b) the following paragraph:

“(ba) a decision purporting to grant, in accordance with a request, access to all documents to which the request relates, but not actually granting that access; or”;

(b) by inserting in paragraph (1A)(b) “, (ba)” after “(1)(b)”.

**Applications to Administrative Appeals Tribunal**

77. Section 55 of the Principal Act is amended:

(a) by omitting from paragraph (1)(a) all the words after “request” (first occurring) and before “; or”;

(b) by inserting after paragraph (1)(a) the following paragraphs:

“(aa) a decision granting access to a document but not granting, in accordance with a request, access to all documents to which the request relates; or

(ab) a decision purporting to grant, in accordance with a request, access to all documents to which the request relates, but not actually granting that access; or”;

(c) by inserting after subsection (5) the following subsection:

“(5A) The Tribunal’s power to make a decision on a review of a decision of a kind mentioned in paragraph (1)(ab) includes a power to require the agency or Minister concerned to conduct further searches for the document.”.

**Application**

78. The amendments made by this Division apply to a decision made before or after the commencement of this section.

***Division 9—Amendments relating to protection of witnesses***

**Object of Division**

79. The object of this Division is to prevent the disclosure of the existence or identity of participants in witness protection programs.

**Documents affecting enforcement of law and protection of public safety**

**80.** Section 37 of the Principal Act is amended:

(a) by inserting after subsection (2) the following subsection:

“(2A) For the purposes of paragraph (1)(b), a person is taken to be a confidential source of information in relation to the enforcement or administration of the law if the person is receiving, or has received, protection under a program conducted under the auspices of the Australian Federal Police, or the police force of a State or Territory, for the protection of:

(a) witnesses; or

(b) people who, because of their relationship to, or association with, a witness need, or may need, such protection; or

(c) any other people who, for any other reason, need or may need, such protection.”;

(b) by omitting from subsection (3) “subsections (1) and (2)” and substituting “this section”.

**Application**

**81.** The amendment made by this Division applies in relation to a request made after the commencement of this section.

***Division 10—Amendment relating to Parliamentary Secretaries***

**Object of Division**

**82.** The object of this Division is to extend the Principal Act to documents in the possession of Parliamentary Secretaries.

**Interpretation**

**83.** Section 4 of the Principal Act is amended by inserting in subsection (1) the following definition:

“ ‘Minister’ includes a Parliamentary Secretary appointed under the *Parliamentary Secretaries Act 1980*;”.

***Division 11—Amendment relating to service by post***

**Object of Division**

**84.** The object of this Division is to allow notices under the Principal Act to be given by post.

**Insertion of new section**

**85.** After section 92 of the Principal Act the following section is inserted:



**Notices etc. may be given by post**

“92A.(1) This section applies if a notice or other document is required or permitted to be given to a person under this Act (whether the expression ‘give’, or any other expression, is used).

“(2) The notice or document may be given by post.”.

**PART 9—AMENDMENT OF THE JUDICIARY ACT 1903**

**Object of Part**

86. The object of this Part is to abolish the rule that at least 2 Justices of the High Court must be present in court when a judgment of the Full Court is delivered.

**Principal Act**

87. In this Part, “**Principal Act**” means the *Judiciary Act 1903*<sup>7</sup>.

**Reserved judgments**

88. Section 77L of the Principal Act is amended by adding at the end of subsection (1) the following sentence:

“At that subsequent sitting, it is only necessary for a single Justice to be present in court for the purpose of delivering that judgment.”.

**PART 10—AMENDMENT OF THE BANKRUPTCY ACT 1966**

**Principal Act**

89. In this Part, “**Principal Act**” means the *Bankruptcy Act 1966*.<sup>8</sup>

**Property divisible among creditors**

90. Section 116 of the Principal Act is amended:

(a) by inserting after paragraph (2)(mb) the following paragraphs:

“(mc) amounts paid to the bankrupt for re-establishment support under the Rural Adjustment Scheme within the meaning of the *Rural Adjustment Act 1992*;

(md) amounts paid to the bankrupt by the Commonwealth as compensation in relation to the loss of:

(i) an amount described in paragraph (k), (m), (ma), (mb) or (mc); or

(ii) property purchased or acquired wholly or partly with such an amount;”;

(b) by omitting from paragraph (c) of the definition of “exempt money” in subsection 116(2D) “or (ma);” and substituting “(ma), (mb), (mc) or (md);”;

*Law and Justice Legislation Amendment No. 84, 1994*

- (c) by omitting from subsection (3) “as at the time when the bankrupt becomes a bankrupt,” and substituting “at any time,”.

**Application**

**91.(1)** The amendments made by section 90 apply to any bankruptcy for which the date of the bankruptcy is after the day on which this Act receives the Royal Assent.

(2) So far as the amendments made by section 90 relate to RAS payments, they also apply to any bankruptcy that resulted or results from a creditor’s petition or a debtor’s petition presented after 28 April 1994. For the purposes of this subsection, “**RAS payments**” means amounts described in paragraph (2)(k), (m), (ma), (mb), (mc) or (md) of the Principal Act as amended by this Act.

(3) Subsection (2):

- (a) does not affect any distribution of a dividend on or before the day on which this Act receives the Royal Assent; and
- (b) does not make the trustee liable for any act or omission of the trustee that occurred on or before the day on which this Act receives the Royal Assent.

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**NOTES**

*Acts Interpretation Act 1901*

1. No. 2, 1901, as amended. For previous amendments, see No. 4, 1916; No. 8, 1918; No. 23, 1930; No. 24, 1932; No. 10, 1937; No. 7, 1941; No. 78, 1947; No. 79, 1948; No. 80, 1950; No. 69, 1957; No. 19, 1963; No. 52, 1964; No. 93, 1966; Nos. 79 and 216, 1973; Nos. 37 and 144, 1976; No. 35, 1978; No. 1, 1980; No. 61, 1981; Nos. 26 (as amended by No. 80, 1982) and 80, 1982; No. 39, 1983; Nos. 27 (as amended by No. 165, 1984), 63 (as amended by No. 165, 1984) and 72, 1984; No. 193, 1985; Nos. 92, 120 and 141, 1987; Nos. 99 and 120, 1988; No. 108, 1989; Nos. 110 and 115, 1990; No. 136, 1991; and No. 104, 1992.

*Administrative Appeals Tribunal Act 1975*

2. No. 91, 1975, as amended. For previous amendments, see Nos. 37, 60, 89, 91, 157, 162, 163 and 209, 1976; Nos. 30, 57, 58 and 111, 1977; Nos. 65 and 109, 1978; Nos. 19 and 143, 1979; No. 110, 1980; Nos. 19 and 61, 1981; Nos. 26 and 80, 1982; No. 91, 1983; Nos. 63 and 72, 1984; Nos. 65 and 193, 1985; No. 48, 1986; Nos. 38, 63, 109 and 120, 1988; No. 157, 1989; No. 111, 1990; Nos. 122 and 136, 1991; Nos. 94 and 165, 1992; and No. 31, 1993.

*Cheques and Payment Orders Act 1986*

3. No. 145, 1986, as amended. For previous amendments, see Nos. 73 and 141, 1987.

*Federal Court of Australia Act 1976*

4. No. 156, 1976, as amended. For previous amendments, see Nos. 19 and 87, 1979; No. 61, 1981; No. 26, 1982; No. 91, 1983; Nos. 11, 72 and 165, 1984; Nos. 65 and

*Law and Justice Legislation Amendment No. 84, 1994*

193, 1985; No. 76, 1986; No. 141, 1987; Nos. 8, 99 and 120, 1988; No. 157, 1989; Nos. 11, 70 and 115, 1990; Nos. 112, 113, 122, 136 and 181, 1991; and Nos. 49, 94 and 143, 1992.

*Financial Transaction Reports Act 1988*

5. No. 64, 1988, as amended. For previous amendments, see Nos. 4 and 110, 1990; Nos. 28, 122, 123 and 188, 1991; and No. 164, 1992.

*Freedom of Information Act 1982*

6. No. 3, 1982, as amended. For previous amendments, see Nos. 7 and 81, 1983; No. 63, 1984; No. 187, 1985; Nos. 102 and 111, 1986; Nos. 6, 87, 109, 119, 121, 126, 127 and 129, 1988; Nos. 66 and 150, 1989; Nos. 26, 75, 77 and 118, 1990; Nos. 99, 137, 149 and 180, 1991; and Nos. 118, 143, 165, 196 and 219, 1992.

*Judiciary Act 1903*

7. 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.

*Bankruptcy Act 1966*

8. No. 33, 1966, as amended. For previous amendments, see No. 121, 1968; No. 40, 1969; No. 122, 1970; No. 216, 1973; No. 56, 1975; Nos. 37, 91 and 161, 1976; No. 111, 1977; No. 155, 1979; Nos. 12 and 70, 1980; No. 74 (as amended by No. 176, 1981) and 176, 1981; No. 18, 1983; Nos. 10 and 63 (as amended by No. 199, 1991), 1984; Nos. 21 and 193, 1985; Nos. 154 and 168, 1986; Nos. 73 and 119, 1987; No. 8 (as amended by No. 120, 1988), 38 and 99, 1988; No. 129, 1989; No. 115, 1990; Nos. 9, 81, 143 and 210, 1992; and Nos. 11, 32 and 82, 1993.

[*Minister's second reading speech made in—  
Senate on 24 March 1994  
House of Representatives on 8 June 1994*]