



Census Information Legislation Amendment Act 2006

No. 10, 2006

**An Act to amend the *Census and Statistics Act 1905*,
and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedule(s).....	2
Schedule 1—Amendments relating to Census information		3
	<i>Archives Act 1983</i>	3
	<i>Census and Statistics Act 1905</i>	4
Schedule 2—Other amendments		6
	<i>Census and Statistics Act 1905</i>	6



Census Information Legislation Amendment Act 2006

No. 10, 2006

An Act to amend the *Census and Statistics Act 1905*, and for related purposes

[Assented to 23 March 2006]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Census Information Legislation
Amendment Act 2006*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	23 March 2006
2. Schedules 1 and 2	The 28th day after the day on which this Act receives the Royal Assent.	20 April 2006

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments relating to Census information

Archives Act 1983

1 Subsection 3(1) (definition of 2001 Census information)

Repeal the definition.

2 Subsection 3(1)

Insert:

Census day has the meaning given by section 22B.

3 Subsection 3(1)

Insert:

Census information means information transferred to the custody of the Archives under section 8A of the *Census and Statistics Act 1905*.

4 At the end of subsection 3(7)

Add:

Note: Records containing Census information, and Cabinet notebooks, have different open access periods: see sections 22A and 22B.

5 Section 22B

Repeal the section, substitute:

22B Census information

- (1) For the purposes of this Act, a record containing Census information from a particular Census is in the open access period for that Census if a period of 99 years has elapsed since the Census day for that Census.
- (2) Subsection 3(7) and section 56 do not apply to records containing Census information.
- (3) In this Act:

Census day, for a Census, means the day appointed, under subsection 8(2) of the *Census and Statistics Act 1905*, as the Census day for that Census.

6 Subsections 30A(1) and (2)

Omit “2001 Census information is in the open access period”, substitute “Census information from a Census is in the open access period for that Census”.

Note: The heading to section 30A is altered by omitting “2001”.

Census and Statistics Act 1905

7 Section 3

Insert:

Agency has the meaning given by section 19A.

8 Section 3

Insert:

Census day has the meaning given by section 19A.

9 Paragraph 8A(a)

After “2001”, insert “or a later year”.

Note: The heading to section 8A is altered by omitting “2001”.

10 Section 19A

Repeal the section, substitute:

19A Non-disclosure of Census information

Non-disclosure of Census information to Agencies

- (1) A person who is or has been the Statistician or an officer must not, at any time during the period of 99 years beginning on the Census day for a Census:
 - (a) be required to divulge or communicate to an Agency any information that is contained in a form that is given to the Statistician or an authorised officer under section 10 in relation to that Census; or

(b) voluntarily give such information to an Agency;
other than in accordance with this Act.

Non-disclosure of Census information to a court or tribunal

- (2) A person who is or has been the Statistician or an officer must not, at any time during the period of 99 years beginning on the Census day for a Census:
- (a) be required to divulge or communicate to a court or tribunal any information contained in a form that is given to the Statistician or an authorised officer under section 10 in relation to that Census; or
 - (b) voluntarily give such information in evidence in proceedings before a court or tribunal.

Definitions

- (3) In this Act:

Agency has the meaning given by section 7 of the *Public Service Act 1999*.

Census day, for a Census, means the day appointed, under subsection 8(2), as the Census day for that Census.

Schedule 2—Other amendments

Census and Statistics Act 1905

1 Subsection 13(1)

Omit “by instrument in writing,”, substitute “by legislative instrument,”.

2 Subsections 13(4) and (5)

Repeal the subsections.

3 Sections 14 and 15

Repeal the sections, substitute:

14 Failure to answer questions etc.

- (1) A person commits an offence if:
 - (a) the person is served a direction under subsection 10(4) or 11(2); and
 - (b) the person fails to comply with the direction.

Penalty: One penalty unit.

- (2) Subsection (1) is an offence of strict liability.

Note 1: For strict liability, see section 6.1 of the *Criminal Code*.

Note 2: A person commits an offence in respect of each day until the person complies with the direction (see section 4K of the *Crimes Act 1914*).

- (3) Subsection (1) does not apply in relation to a person’s failure to answer a question, or to supply particulars, relating to the person’s religious beliefs.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

15 False or misleading statements or information

A person commits an offence if:

- (a) the person:

- (i) is required, requested or directed to fill up and supply particulars under subsection 10(2), (3) or (4); or
- (ii) is requested or directed to answer a question under subsection 11(1) or (2); and
- (b) the person makes a statement, either orally or in writing, or provides a document containing information, in connection with the requirement, request or direction; and
- (c) the person knows that the statement or information is false or misleading in a material particular.

Penalty: 10 penalty units.

4 Section 19

Repeal the section, substitute:

19 Secrecy

- (1) A person commits an offence if:
 - (a) the person is, or has been, the Statistician or an officer; and
 - (b) the person, either directly or indirectly, divulges or communicates to another person (other than the person from whom the information was obtained) any information given under this Act.

Penalty: 120 penalty units or imprisonment for 2 years, or both.

- (2) Subsection (1) does not apply if the person divulges or communicates the information:
 - (a) in accordance with a determination under section 13; or
 - (b) for the purposes of this Act.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

- (3) A person commits an offence if:
 - (a) the person gives an undertaking of a kind mentioned in paragraph 13(2)(c), in relation to information disclosed to the person in accordance with a determination; and
 - (b) the person fails to comply with the undertaking.

Penalty: 120 penalty units or imprisonment for 2 years, or both.

5 Section 20

Schedule 2 Other amendments

Omit “subsection 19(2)” (wherever occurring), substitute “section 19”.

*[Minister’s second reading speech made in—
House of Representatives on 3 November 2005
Senate on 7 December 2005]*

(170/05)
