



Prime Minister and Cabinet Legislation Amendment (2017 Measures No. 1) Act 2018

No. 2, 2018

**An Act to amend legislation administered by the
Prime Minister, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedules.....	2
Schedule 1—Indigenous Business Australia		3
	<i>Aboriginal and Torres Strait Islander Act 2005</i>	3
Schedule 2—Consent to dispose of land acquired with ATSIC assistance or from ATSIC		4
	<i>Aboriginal and Torres Strait Islander Commission Amendment Act 2005</i>	4
Schedule 3—Repeals		5
Part 1—Repeals		5
	<i>Aboriginal and Torres Strait Islanders (Queensland Reserves and Communities Self-management) Act 1978</i>	5
	<i>Council for Aboriginal Reconciliation Act 1991</i>	5
Part 2—Consequential amendments		6
	Division 1—Amendments consequential on repeal of the Aboriginal and Torres Strait Islanders (Queensland Reserves and Communities Self-management) Act 1978	6
	<i>Age Discrimination Act 2004</i>	6
	Division 2—Amendments consequential on repeal of the Council for Aboriginal Reconciliation Act 1991	6
	<i>Australian Human Rights Commission Act 1986</i>	6
Schedule 4—ANAO annual report		7
	<i>Auditor-General Act 1997</i>	7
Schedule 5—Royal Commissions		9
	<i>Royal Commissions Act 1902</i>	9



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No. 2, 2018

An Act to amend legislation administered by the Prime Minister, and for related purposes

[Assented to 20 February 2018]

The Parliament of Australia enacts:

1 Short title

*This Act is the **Prime Minister and Cabinet Legislation
Amendment (2017 Measures No. 1) Act 2018**.*

No. 2, 2018

*Prime Minister and Cabinet Legislation Amendment (2017 Measures
No. 1) Act 2018*

1

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
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	21 February 2018

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation 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—Indigenous Business Australia

Aboriginal and Torres Strait Islander Act 2005

1 Subsection 150(3)

Omit “(3)”.

2 Subsections 150(4) and (5)

Repeal the subsections.

Schedule 2—Consent to dispose of land acquired with ATSIC assistance or from ATSIC

Aboriginal and Torres Strait Islander Commission Amendment Act 2005

1 After subitem 200(1) of Schedule 1

Insert:

- (1A) The appropriate consenting authority may give the individual or body written notice stating that the appropriate consenting authority's consent is not required in relation to any disposal of the interest by the individual or body.

2 Subitem 200(2) of Schedule 1

Omit "The", substitute "If the interest is not covered by a notice under subitem (1A), the".

3 Subitem 200(5) of Schedule 1

Omit "the consent", substitute "a notice under subitem (1A) or a consent under subitem (2)".

4 Subitem 200(12) of Schedule 1

After "notice under subitem", insert "(1A) or".

5 Subitem 200(12) of Schedule 1

Omit "for the purposes of the *Legislative Instruments Act 2003*".

6 Subitem 200(13) of Schedule 1 (paragraphs (b) and (c) of the definition of *appropriate consenting authority*)

Omit "to which the consent relates", substitute "concerned".

Schedule 3—Repeals

Part 1—Repeals

Aboriginal and Torres Strait Islanders (Queensland Reserves and Communities Self-management) Act 1978

1 The whole of the Act

Repeal the Act.

Council for Aboriginal Reconciliation Act 1991

2 The whole of the Act

Repeal the Act.

Part 2—Consequential amendments

Division 1—Amendments consequential on repeal of the Aboriginal and Torres Strait Islanders (Queensland Reserves and Communities Self-management) Act 1978

Age Discrimination Act 2004

3 Schedule 1 (table item 1)

Repeal the item.

Division 2—Amendments consequential on repeal of the Council for Aboriginal Reconciliation Act 1991

Australian Human Rights Commission Act 1986

4 Paragraph 46C(4)(b)

Omit “relevant; and”, substitute “relevant.”.

5 Paragraph 46C(4)(c)

Repeal the paragraph.

Schedule 4—ANAO annual report

Auditor-General Act 1997

1 Subsection 14(4)

Repeal the subsection, substitute:

- (4) In each annual report prepared by the Auditor-General under section 28 of this Act, the Auditor-General must include details of the basis on which the Auditor-General determined the audit fees that applied during the financial year concerned.

2 Subsection 16(4)

Repeal the subsection, substitute:

- (4) In each annual report prepared by the Auditor-General under section 28, the Auditor-General must include details of the basis on which the Auditor-General determined the audit fees that applied during the financial year concerned.

3 After section 27

Insert:

28 Annual report for the Australian National Audit Office

- (1) As soon as practicable after 30 June in each financial year, the Auditor-General must:
 - (a) prepare a report on the activities of the Audit Office during that financial year; and
 - (b) cause a copy of the report to be tabled in each House of the Parliament.

Note: The following provisions set out information that must be included in the Audit Office's annual report:

- (a) subsections 14(4), 16(4) and 54(4) of this Act;
- (b) paragraph 39(1)(b) and subsection 43(4) of the *Public Governance, Performance and Accountability Act 2013*.

- (2) The annual report must be tabled by:
 - (a) the 15th day of October; or

- (b) the end of any further period granted under subsection 34C(5) of the *Acts Interpretation Act 1901*.
- (3) The annual report must comply with any requirements prescribed by rules made for the purposes of subsection 46(3) of the *Public Governance, Performance and Accountability Act 2013*, in relation to non-corporate Commonwealth entities, as if a reference in those rules to section 46 of that Act were a reference to this section.
- (4) An annual report is taken, for the purposes of any other Act, to be a report under section 46 of the *Public Governance, Performance and Accountability Act 2013*.
- (5) Section 46 of the *Public Governance, Performance and Accountability Act 2013* does not apply in relation to the Auditor-General.

4 Subsection 54(4)

Omit “and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for the period”, substitute “under section 28 of this Act for the financial year”.

5 Application of amendments

The amendments of the *Auditor-General Act 1997* made by this Schedule apply in relation to the 2016-17 financial year and later financial years.

Schedule 5—Royal Commissions

Royal Commissions Act 1902

1 Subsection 1B(1) (paragraph (c) of the definition of *reasonable excuse*)

After “subsection 2(3A)”, insert “or (3C)”.

2 After subsection 2(3B)

Insert:

(3C) A member of a Commission may, by written notice served (as prescribed) on a person, require the person to give information, or a statement, in writing to a person by the time, and at the place or in the manner, specified in the notice.

3 Section 3 (heading)

Repeal the heading, substitute:

3 Failure of witnesses to attend, produce documents or give information or statements

Failure to attend

4 Subsection 3(1) (penalty)

Omit “\$1,000 or imprisonment for 6 months”, substitute “Imprisonment for 2 years”.

5 Subsection 3(1A)

Repeal the subsection.

6 Before subsection 3(2)

Insert:

Failure of witness to produce document or thing

7 Subsection 3(2) (penalty)

Omit “\$1,000 or imprisonment for 6 months”, substitute “Imprisonment for 2 years”.

8 Subsection 3(2A)

Repeal the subsection.

9 Before subsection 3(4)

Insert:

Failure to produce document or thing as required by notice

10 Subsection 3(4) (penalty)

Omit “\$1,000 or imprisonment for 6 months”, substitute “Imprisonment for 2 years”.

11 After subsection 3(6)

Insert:

Failure to give information or statement as required by notice

(6A) A person served with a notice under subsection 2(3C) must not refuse or fail to give information or a statement that the person was required to give in accordance with the notice.

Penalty: Imprisonment for 2 years.

(6B) Subsection (6A) does not apply if the person has a reasonable excuse.

(6C) It is a defence to a prosecution for an offence against subsection (6A) constituted by a refusal or failure to give information or a statement if the information or statement was not relevant to the matters into which the Commission was inquiring.

Note: A defendant bears an evidential burden in relation to the matters in subsections (6B) and (6C) (see subsection 13.3(3) of the *Criminal Code*).

Matters into which Commission was inquiring

12 Subsection 6(1)

Omit “(1)”.

13 At the end of subsection 6(1)

Add:

Penalty: Imprisonment for 2 years.

14 Subsections 6(2) and (3)

Repeal the subsections.

15 Subsection 6AB(1) (penalty)

Omit “\$1,000 or imprisonment for 6 months”, substitute “Imprisonment for 2 years”.

16 Subsection 6AB(2) (penalty)

Omit “\$1,000 or imprisonment for 6 months”, substitute “Imprisonment for 2 years”.

17 Subsection 6AB(3)

Repeal the subsection.

18 Subsection 6A(1)

After “refuse or fail to produce a document or other thing”, insert “on the ground”.

19 After subsection 6A(1)

Insert:

- (1A) It is not a reasonable excuse for the purposes of subsection 3(6B) for a natural person to refuse or fail to give information or a statement that the person is required to give under subsection 2(3C) on the ground that giving the information or statement might tend to:
- (a) incriminate the person; or
 - (b) make the person liable to a penalty.

20 Subsection 6A(3)

After “(1)”, insert “, (1A)”.

21 Subsection 6A(3)

Omit “or the answer to a question,”, substitute “the answer to a question or the giving of information or a statement”.

22 Paragraph 6A(3)(a)

Omit “or answer”, substitute “, answer, information or statement”.

23 Subsection 6A(4)

After “(1)”, insert “, (1A)”.

24 Subsection 6A(4)

Omit “or the answer to a question,”, substitute “the answer to a question or the giving of information or a statement”.

25 Paragraph 6A(4)(a)

Omit “or answer”, substitute “, answer, information or statement”.

26 At the end of paragraph 6D(3)(b)

Add:

(iii) given under a notice under subsection 2(3C); or

27 Subsection 6D(4)

Omit “\$2,000”, substitute “20 penalty units”.

28 Paragraph 6DD(1)(a)

Repeal the paragraph, substitute:

- (a) a statement or disclosure made by the person:
 - (i) in the course of giving evidence before a Commission;
or
 - (ii) in writing given in response to a notice under subsection 2(3C);

29 Subparagraphs 6F(1)(a)(ii) and (c)(ii)

Omit “under a notice under subsection 2(3A)”, substitute “or given under a notice under subsection 2(3A) or (3C)”.

30 After subsection 6H(1)

Insert:

- (1A) A person must not, in response to a notice given to the person under subsection 2(3C) in connection with a Commission, intentionally give information or a statement that the person knows to be false or misleading with respect to any matter that is material to the inquiry being made by the Commission.

31 Subsection 6H(2)

Omit “An offence against subsection (1)”, substitute “A contravention of subsection (1) or (1A)”.

32 Subsection 6H(2)

Omit “\$20,000”, substitute “200 penalty units”.

33 Subsections 6H(3) and (4)

Omit “subsection (1)”, substitute “subsection (2)”.

34 Subsection 6H(4)

Omit “\$2,000”, substitute “20 penalty units”.

35 Paragraphs 6I(2)(a), (b) and (c)

After “thing”, insert “, or to give information or a statement,”.

36 Subsection 6J(1)

After “person as a witness,”, insert “or to any person given or to be given a notice under subsection 2(3C) with intent to affect the information or statement the person gives in response to the notice,”.

37 Subsection 6J(2)

After “thing”, insert “, or to give information or a statement,”.

38 Subsection 6K(2)

Omit “\$10,000”, substitute “100 penalty units”.

39 Subsection 6K(4)

Omit “\$2,000”, substitute “20 penalty units”.

40 Subsection 6L(2)

Omit “to produce a document or other thing pursuant to a notice under subsection 2(3A) from producing that document or thing”, substitute “by a notice under subsection 2(3A) or (3C) to produce a document or other thing, or to give information or a statement, from producing the document or thing, or giving the information or statement,”.

41 Paragraph 6M(c)

After “thing”, insert “, or given information or a statement,”.

42 Section 6M (penalty)

Omit “\$1,000,”, substitute “10 penalty units”.

43 Paragraph 6N(1)(c)

After “thing”, insert “, or given information or a statement,”.

44 Subsection 6N(1) (penalty)

Omit “\$1,000,”, substitute “10 penalty units”.

45 Subsection 6O(1) (penalty)

Omit “Two hundred dollars,”, substitute “2 penalty units”.

46 At the end of subsection 9(3)

Add:

; (l) the Secretary of the Attorney-General’s Department.

47 Application of amendments

- (1) The amendments of the *Royal Commissions Act 1902* made by this Schedule apply in relation to Royal Commissions that are established after the commencement of the amendments.

- (2) However, the amendment of subsection 9(3) of the *Royal Commissions Act 1902* made by this Schedule applies in relation to Royal Commission records of Royal Commissions established before, on or after the commencement of the amendment.
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*[Minister's second reading speech made in—
House of Representatives on 30 March 2017
Senate on 9 August 2017]*

(59/17)

No. 2, 2018 *Prime Minister and Cabinet Legislation Amendment (2017 Measures
No. 1) Act 2018* 15