

EXPLANATORY STATEMENT

Subject: *Acts Interpretation Act 1901*

*Acts Interpretation (Substituted References – Section 19BA) Amendment
Order 2010 (No. 1)*

The *Acts Interpretation Act 1901* (the Act) provides rules for the interpretation of all Commonwealth Acts and addresses matters such as interpreting references to ministers, departments or secretaries of departments.

A general reference to a minister, department or secretary in a provision of an Act or instrument made under an Act means the minister, department or secretary of the department administering the legislation for the time being. Where provisions of Acts and instruments made under Acts refer to particular ministers, departments or secretaries of departments by title, these specific references may need to be altered to reflect new administrative arrangements.

Section 19BA of the Act confers on the Governor-General power to make orders which appropriately alter all specific references contained in provisions of Acts.

Subsection 19BA(1) provides that the Governor-General may make an order altering a reference in a provision of an Act to a particular minister if there is a change in the administration of the provision or the reference to the particular minister is no longer appropriate.

The primary purpose of the Order is to reflect the transfer of responsibility for the *Judges' Pensions Act 1968* from the Attorney-General to the Minister for Finance and Deregulation (the Minister). This administrative arrangement forms part of the Commonwealth Government's decision to consolidate responsibility within government for Commonwealth, civilian and military superannuation schemes. The effect of the Order is to substitute references to the Attorney-General in all provisions of the *Judges Pensions' Act 1968* (and any instruments made under that Act) with references to the Minister.

Details of the Order are set out in the [Attachment](#).

The Act specifies no conditions that need to be met before the power to make the Order may be exercised.

The Order under section 19BA of the Act would amend the *Acts Interpretation (Substituted References – Section 19BA) Order 2004*.

The Order is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. The *Legislative Instruments Regulations 2004* provide that an instrument made under section 19BA of the *Acts Interpretation Act 1901* is not subject to the disallowance or sunset provisions of the *Legislative Instruments Act 2003*.

The Order commences on the day it is registered on the Federal Register of Legislative Instruments.

Departments affected by the Order have been consulted. Further consultation was unnecessary for this legislative instrument as it is of a machinery nature only. The Order has no direct or substantial indirect effect on business.

ATTACHMENT**Details of the Acts Interpretation (Substituted References – Section 19BA) Amendment Order 2010 (No.1)**

Clause 1 provides that the Order is the *Acts Interpretation (Substituted References - Section 19BA) Amendment Order 2010 (No. 1)*.

Clause 2 provides that the Order commences on the day it is registered on the Federal Register of Legislative Instruments.

Clause 3 provides that Schedule 1 amends the *Acts Interpretation (Substituted References – Section 19BA) Order 2004* (the original Order).

Amendments to Schedule 1 to the original Order

Item [1] substitutes a new heading for Part 2 of Schedule 1 to the original Order. The current heading makes reference to the commencement of the *Acts Interpretation (Substituted References – Section 19BA) Order 2007 (No. 1)*. The heading can now be updated to the specific date because that instrument has commenced.

Item [2] inserts a new Part 3 into Schedule 1 to the original Order. Clause 3 of the original Order provides for each item in a Part of Schedule 1 to substitute references to the minister (or ministers) mentioned in column 2 for references to the minister (or ministers) mentioned in column 3, wherever such references occur in a provision mentioned in column 4. New Part 3 of Schedule 1 sets out a new item and the relevant existing reference, substitute reference and affected provisions, for the machinery changes referred to in clause 3 of the original Order.

As shown in the table below, a reference to the minister listed in the second column of Part 3, in a provision listed in the fourth column, is replaced by a reference to the minister listed in the third column.

Item	Existing reference	Substitute reference	Affected provisions
1	Attorney-General	Minister for Finance and Deregulation	provisions of the <i>Judges' Pensions Act 1968</i> and any instruments made under that Act

Item [3] substitutes a new heading for Part 2 of Schedule 2 to the original Order. The current heading makes reference to the commencement of the *Acts Interpretation (Substituted References – Section 19BA) Order 2008 (No. 1)*. The heading can now be updated to the specific date because that instrument has commenced.