

**EXPLANATORY STATEMENT**  
**Select Legislative Instrument No. 205, 2015**

**ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL**

*ACTS INTERPRETATION ACT 1901*

*ACTS INTERPRETATION (SUBSTITUTED REFERENCES –  
SECTION 19B) AMENDMENT ORDER 2015 (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, such as the change in title of a Minister or Department or the transfer of legislation between portfolios under a new Administrative Arrangements Order (AAO).

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

Subsection 19B(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 no longer any such Minister.

Subsection 19B(2) provides that the Governor-General may make an order altering a reference in a provision of an Act to a particular Department if that Department has been abolished or the name of the Department has been changed.

Subsection 19B(3) provides that the Governor-General may make an order altering a reference in a provision of an Act to a particular Secretary of a Department if that office of Secretary has been abolished or the name of that office has been changed.

On 21 September 2015, a new Ministry was sworn in by the Governor-General and it included several new positions. The Governor-General also approved a new AAO to implement the associated administrative changes on 30 September 2015. The new arrangements include the following:

- appointment of new Ministers for Women, Social Services, Defence, Communications, the Arts, Employment and Education and Training, a new Treasurer, and Assistant Treasurer and Minister for Small Business
- establishment of a new Minister for Resources, Energy and Northern Australia
- establishment of the Department of Communication and the Arts, the Department of Agriculture and Water Resources, the Department of Industry, Innovation and Science and the Department of Education and Training, and
- changes to the responsibilities of Departments.

The purpose of the *Acts Interpretation (Substituted References – Section 19B) Amendment Order 2015 (No. 1)* (the Order) is to amend the *Acts Interpretation (Substituted References – Section 19B) Order 1997* (the original Order) to reflect the new ministry and the transfer of responsibilities through the AAO made on 21 and 30 September 2015.

The Order ensures that Ministers, Departments and Secretaries of Departments can exercise all powers granted to them by legislation for which they are responsible under the AAO, by ensuring that references to Ministers, Departments and Secretaries in legislation refer to the correct Ministers, Departments and Secretaries.

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 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 19B of the Act is not subject to the disallowance or sunset provisions of the Legislative Instruments Act.

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

All Commonwealth Departments were consulted in order to identify required substitutions. The following Departments were specifically consulted on the substitutions included in the Order for instruments administered by those Departments:

- The Attorney-General's Department
- The Department of Agriculture and Water Resources
- The Department of Communications and the Arts
- The Department of Education and Training
- The Department of Finance
- The Department of Health
- The Department of Immigration and Border Protection, and
- The Department of Industry, Innovation and Science.

The Order is of a machinery nature only and has no direct or substantial indirect effect on business.

**Details of the Acts Interpretation (Substituted References – Section 19B) Amendment Order 2015 (No. 1)**

**Section 1** provides that the Order is named the *Acts Interpretation (Substituted References - Section 19B) Amendment Order 2015 (No 1)*.

**Section 2** provides that each provision of the Order commences on the day after it is registered on the Federal Register of Legislative Instruments.

**Section 3** provides that the Order is made under section 19B of the *Acts Interpretation Act 1901*.

**Section 4** provides that each instrument specified in a Schedule to the Order is amended or repealed as set out in the applicable item of the relevant Schedule, and any other item in a Schedule to the Order has effect according to its terms.

**Schedule 1**

The items in Schedule 1 amend the original Order.

**Amendments to Schedule 1 to the original Order**

**Item [1]** substitutes a new heading for Part 18 of Schedule 1 to the original Order. The current heading makes reference to substitutions made on the commencement of the *Acts Interpretation (Substituted References – Section 19B) Amendment Order 2013 (No. 2)*. The heading is updated to the specific date (12 November 2013), which is the date the instrument commenced.

**Item [2]** substitutes a new heading within the table in Part 18 of Schedule 1 to the original Order. The current heading makes reference to substitutions made on the commencement of the *Acts Interpretation (Substituted References – Section 19B) Amendment Order 2013 (No. 2)*. The heading is updated to the specific date (12 November 2013), which is the date the instrument commenced.

**Item [3]** inserts a new Part 19 into Schedule 1 to the original Order, for substitutions made on the commencement of the Order (the day after registration). Section 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. Part 19 of Schedule 1 sets out each new item, the relevant existing reference, the substitute reference and the affected provisions, for the machinery changes referred to in section 3 of the original Order.

As shown in the table below, a reference to the Minister listed in the column 2 of Part 18, in a provision listed in column 4, is replaced by a reference to the Minister listed in column 3.

<b>Item</b>	<b>Existing reference</b>	<b>Substitute reference</b>	<b>Affected provisions</b>
1	Minister for Agriculture	Minister for Agriculture and Water Resources	the following provisions: a) regulations 4A and 5 of the <i>Customs (Prohibited Exports) Regulations 1958</i> , and b) regulations 4K and 5I of the <i>Customs (Prohibited Imports)</i>

Item	Existing reference	Substitute reference	Affected provisions
			<i>Regulations 1956</i>
2	Minister for Broadband, Communications and the Digital Economy	Minister for Communications	definition of <b>Minister</b> in clause 3 of the <i>Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997</i>
3	Minister for Education	Minister for Education and Training	section 11.1 of the <i>Disability Standards for Education 2005</i>
4	Minister for Finance and Deregulation	Minister for Finance	the following provisions: a) provisions of the <i>National Transmission Network Sale Act 1998</i> , b) provisions of the <i>Migration Regulations 1994</i>
5	Minister for Industry and Science	Minister for Industry, Innovation and Science	the following provisions: a) provisions of instruments made under the <i>Customs Act 1901</i> and the <i>Customs Tariff Act 1995</i> . b) subregulation 4VA(1) of the <i>Customs (Prohibited Imports) Regulations 1956</i> , and c) section 6.1 of the <i>Disability (Access to Premises—Buildings) Standards 2010</i>

#### Amendments to Schedule 2 to the original Order

**Item [4]** substitutes a new heading for Part 14 of Schedule 2 to the original Order. The current heading makes reference to substitutions made on the commencement of the *Acts Interpretation (Substituted References – Section 19B) Amendment Order 2013 (No. 2)*. The heading is updated to the specific date (12 November 2013), which is the date the instrument commenced.

**Item [5]** substitutes a new heading for Part 14 of Schedule 2 to the original Order. The current heading makes reference to substitutions made on the commencement of the *Acts Interpretation (Substituted References – Section 19B) Amendment Order 2013 (No. 2)*. The heading is updated to the specific date (12 November 2013), which is the date the instrument commenced.

**Item [6]** inserts a new Part 15 into Schedule 2 to the original Order, for substitutions made on the commencement of the Order (the day after registration). Section 4 of the original Order provides for each item in a Part of Schedule 2 to substitute references to the Department

mentioned in column 2 for references to the Department mentioned in column 3, wherever such references occur in a provision mentioned in column 4. Part 15 of Schedule 2 sets out each new item, the relevant existing reference, the substitute reference and the affected provisions, for the machinery changes referred to in section 4 of the original Order.

As shown in the table below, a reference to the Department listed in column 2 of Part 15, in a provision listed in column 4, is replaced by a reference to the Department listed in column 3.

Item	Existing reference	Substitute reference	Affected provisions
1	Department of Agriculture	Department of Agriculture and Water Resources	<p>the following provisions:</p> <ul style="list-style-type: none"> <li>a) regulation 4A of the <i>Customs (Prohibited Exports) Regulations 1958</i></li> <li>b) regulations 4K and 5I of the <i>Customs (Prohibited Imports) Regulations 1956</i></li> <li>c) section 44 of the <i>Australian Meat and Live-stock Industry (High Quality Beef Export to the European Union) order 2015</i></li> <li>d) provisions of the <i>Australian Meat and Live-stock Industry (Sheepmeat and Goatmeat Export to the European Union) Order 2014</i>, and</li> <li>e) item 134 of the table in Part 1 of Schedule 2 to the <i>Australian Border Force (Secrecy and Disclosure) Rule 2015</i>.</li> </ul>
2	Department of Agriculture, Fisheries and Forestry	Department of Agriculture and Water Resources	<p>the following provisions:</p> <ul style="list-style-type: none"> <li>a) regulation 3 of the <i>Australian Meat and Live-stock Industry (Export Licensing) Regulations 1998</i></li> <li>b) provisions of the <i>Dairy Produce Regulations 1986</i></li> </ul>

Item	Existing reference	Substitute reference	Affected provisions
			<p>c) provisions of the <i>Fisheries Management Regulations 1992</i></p> <p>d) provisions of the <i>Fisheries Research and Development Corporation Regulations 1991</i></p> <p>e) provisions of the <i>Quarantine Regulations 2000</i>, and</p> <p>f) item 11 of the table in regulation 25 of the <i>Torres Strait Fisheries Regulations 1985</i></p>
3	Agriculture, Fisheries and Forestry – Australia	Department of Agriculture and Water Resources	<p>the following provisions:</p> <p>a) provisions of the <i>Dairy Adjustment Levy Collection Regulations 2000</i></p> <p>b) provisions of the <i>Primary Industries Levies and Charges Collection Regulations 1991</i></p>
4	Agriculture, Fisheries and Forestry - Australia	Department of Agriculture and Water Resources	provisions of the <i>Primary Industries Levies and Charges (National Residue Survey Levies) Regulations 1998</i>
5	Department of Broadband, Communications and the Digital Economy	Department of Communications and the Arts	paragraph 19(3)(a) of the <i>Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997</i>
6	Commonwealth Department of Finance and Deregulation	Department of Finance	provisions of the <i>Telecommunications (Carrier Licence Exemption—ICON, SSICT and ACTEW Networks) Determination 2013 (No. 1)</i>
7	Department of	Department of	item 135 of the table in

<b>Item</b>	<b>Existing reference</b>	<b>Substitute reference</b>	<b>Affected provisions</b>
	Communications	Communications and the Arts	Part 1 of Schedule 2 to the <i>Australian Border Force (Secrecy and Disclosure) Rule 2015</i>
8	Department of Health and Ageing	Department of Health	item (3) of Schedule 4 to the <i>Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997</i>
9	Department of Industry	Department of Industry, Innovation and Science	the following provisions: a) provisions of the <i>ASIC Market Integrity Rules (Competition in Exchange Markets) 2011</i> b) subregulation 9AA(1) of the <i>Customs (Prohibited Exports) Regulations 1958</i> c) regulation 4MA of the <i>Customs (Prohibited Imports) Regulations 1956</i> d) paragraph 31(b) of the <i>Motor Vehicle Standards Regulations 1989</i> e) provisions of instruments made under the <i>Food Standards Australia New Zealand Act 1991</i> , and f) provisions of instruments made under the <i>Migration Regulations 1994</i>
10	Department of Industry and Science	Department of Industry, Innovation and Science	item 143 of the table in Part 1 of Schedule 2 to the <i>Australian Border Force (Secrecy and Disclosure) Rule 2015</i>

Amendments to Schedule 3 to the original Order

**Item [7]** substitutes a new heading for Part 14 of Schedule 3 to the original Order. The current heading makes reference to substitutions made on the commencement of the *Acts Interpretation (Substituted References – Section 19B) Amendment Order 2013 (No. 1)*. The

heading is updated to the specific date (12 November 2013), which is the date the instrument commenced.

**Item [8]** substitutes a new heading for Part 14 of Schedule 3 to the original Order. The current heading makes reference to substitutions made on the commencement of the *Acts Interpretation (Substituted References – Section 19B) Amendment Order 2013 (No. 1)*. The heading is updated to the specific date (12 November 2013), which is the date the instrument commenced.

**Item [9]** inserts a new Part 15 into Schedule 3 to the original Order, for substitutions made on the commencement of the Order (the day after registration). Section 5 of the original Order provides for each item in a Part of Schedule 3 to substitute references to the Secretary mentioned in column 2 for references to the Secretary mentioned in column 3, wherever such references occur in a provision mentioned in column 4. Part 15 of Schedule 3 sets out each new item, the relevant existing reference, the substitute reference and the affected provisions, for the machinery changes referred to in section 5 of the original Order.

As shown in the table below, a reference to the Secretary listed in column 2 of Part 15, in a provision listed in column 4, is replaced by a reference to the Secretary listed in column 3.

<b>Item</b>	<b>Existing reference</b>	<b>Substitute reference</b>	<b>Affected provisions</b>
1	Secretary of the Department of Industry	Secretary of the Department of Industry, Innovation and Science	provisions of instruments made under the <i>Freedom of Information Act 1982</i> .