

2004-2005

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

**STATUTE LAW REVISION BILL (NO. 2) 2005**

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Attorney-General,  
the Honourable Philip Ruddock MP)

## STATUTE LAW REVISION BILL (NO. 2) 2005

### **General Outline**

The main purpose of this Bill is to correct technical errors that have occurred in Acts as a result of drafting and clerical mistakes. The Bill also repeals a number of obsolete Acts. The corrections and repeals are desirable in order to improve the quality of the text of Commonwealth legislation and, in particular, to facilitate the publication of consolidated versions of Acts by the Attorney-General's Department and by private publishers of legislation. None of the corrections makes any change to the substance of the law.

### **Financial Impact**

The Bill will have no financial impact.

## Notes on clauses

### **Clause 1—Short title**

1 Clause 1 provides for the Act to be cited as the *Statute Law Revision Act (No. 2) 2005*.

### **Clause 2—Commencement**

2 Clause 2 provides for the commencement of the Act. Subclause 2(1) provides that each provision of the Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

3 The items in Schedule 1 correct errors in principal Acts. The commencement of each item (other than items commencing on the day the legislation receives the Royal Assent) is tied to the commencement of the provision that created the error. The effect of this is that the error is taken to have been corrected immediately after it was made.

4 The items in Schedule 2 mostly correct misdescriptions in amending Acts (there are a small number of items correcting other errors in amending Acts). In order to correct a misdescription it is necessary to amend the amending Act (rather than the Principal Act) and to treat the correction as having occurred immediately after the time specified in the amending Act for the commencement of the misdescribed item.

5 The items in Schedule 3 repeal obsolete Acts. These items are all to commence on the day on which this Act receives the Royal Assent.

### **Clause 3—Schedule(s)**

6 Clause 3 provides for the Schedules to the Act. It also provides that the Acts specified in the Schedules to the Act are amended or repealed as set out in those Schedules.

## **Schedule 1—Amendment of principal Acts**

### **Item 1**

7 Paragraph 43-4(5)(b) of the *Aged Care Act 1997* refers to “paragraph (xxxi)” of the Constitution. This item inserts 51, to correct this reference to “paragraph 51(xxxi)” of the Constitution.

### **Item 2**

8 The text in section 64 of the *Australian Federal Police Act 1979* is numbered “(2)”. However, the section is no longer divided into subsections (subsection (1) and (3) were repealed by items 37 and 39 of Schedule 2 to the *Criminal Code Amendment (Theft, Fraud Bribery and Related Offences) Act 2000*). This item removes the “(2)”.

### **Item 3**

9 The text in section 64AA of the *Australian Federal Police Act 1979* is numbered “(1)”. However, the section is no longer divided into subsections (subsection (2) was repealed by item 81 of Schedule 1 to the *Australian Federal Police Legislation Amendment Act 2000*). This item removes the “(1)”.

### **Item 4**

10 This item adds an “or” at the end of subparagraph 13(1)(b)(iii) of the *Australian Passports Act 2005*. The “or” was mistakenly not included in the Act.

### **Item 5**

11 Subsection 13(1) of the *Australian Passports Act 2005* states “in relation to person”. This item inserts the missing word “the” so that the subsection correctly states “in relation to the person”.

### **Item 6**

12 This item corrects the definition of **competent authority** in subsection 13(3) of the *Australian Passports Act 2005* so that it applies to each of the circumstances mentioned in subsection 13(1).

### **Item 7**

13 Subsection 33(6) of the *Banking Act 1959* states “a ADI’s”. This item corrects this to “an ADI’s”. The error was introduced by item 98 of Schedule 2 to the *Financial Sector Reform (Amendments and Transitional Provisions) Act 1998*.

### **Item 8**

14 Paragraph (a) of the definition of **industry code** in section 116AB of the *Copyright Act 1968* contains 2 subparagraphs numbered (i). This item corrects this so that the subparagraphs are numbered (i) and (ii).

### **Item 9**

15 This item makes it clear that the previous item’s repeal and substitution of section 116AB of the *Copyright Act 1968* does not affect any regulations made under that provision.

### **Item 10**

16 Section 3S of the *Crimes Act 1914* states “can not” when it should state “cannot”. This item corrects this.

## **Items 11 and 12**

17 Section 15HB of the *Crimes Act 1914* has 2 subsections numbered (2). These items together have the effect of repealing the second-appearing subsection and reinserting it as subsection (1A). This is to both remove the duplication and ensure that the subsections appear in the most appropriate order.

## **Item 13**

18 Subsection 142A(4) of the *Environment Protection and Biodiversity Conservation Act 1999* incorrectly cross-refers to an offence against subsection (2) of that section. This item corrects this cross-reference to subsection (3) of section 142A.

## **Item 14**

19 Table item 5 in subsection 391(3) of the *Environment Protection and Biodiversity Conservation Act 1999* refers to a decision made under section 237 of that Act, about whether or not to grant a permit. The decision about whether or not to grant a permit is made under section 238. This item corrects the reference.

## **Item 15**

20 Section 427 of the *Environment Protection and Biodiversity Conservation Act 1999* states “can not” when it should state “cannot”. This item corrects this.

## **Item 16**

21 Section 51 of the *International War Crimes Tribunals Act 1995* states “can not” when it should state “cannot”. This item corrects this.

## **Item 17**

22 There are 2 subsections numbered 165(3) in the *Life Insurance Act 1995*. This item renumbers the second-appearing subsection as subsection (4).

## **Items 18, 19 and 20**

23 In Schedule 7 to the *Petroleum (Submerged Lands) Act 1967*, the headings to Part 2 and Division 1 of Part 2 appear before clause 4. They should appear before clause 3. These items together have the effect of locating the headings correctly.

## **Item 21**

24 Subsection 54(1A) of the *Privacy Act 1988* has a note stating that determinations made by the Privacy Commissioner or by an adjudicator under an approved privacy code are subject to judicial review under the *Administrative Decisions (Judicial Review) Act 1977*. This item removes the reference to determinations by adjudicators, because it is incorrect to state that their determinations are subject to judicial review.

## **Item 22**

25 Paragraph 5(6)(b) of the *Public Accounts and Audit Committee Act 1951* was amended by Schedule 2 to the *Audit (Transitional and Miscellaneous) Amendment Act 1997* to replace references to “Chairman” with “Chair”. However, the references to “Chairman” at the end of subsection 5(6) were mistakenly not replaced. This item replaces those references.

## **Item 23**

26 This item corrects a spelling mistake in the *Safety, Rehabilitation and Compensation Act 1988*.

## **Item 24**

27 There are 2 sections numbered 108 in the *Safety, Rehabilitation and Compensation Act 1988*. This item renumbers the second-appearing section 108 as section 109A.

## **Item 25**

28 Section 3 of the *Surveillance Devices Act 2004* refers to the *Surveillance Devices Act 2004* as “this Bill”. This item corrects this reference so that the section correctly refers to “this Act”.

## **Item 26**

29 Paragraph 37(1)(b) of the *Surveillance Devices Act 2004* refers to the *Australian Crime Commission Act 1979*. It should refer to the *Australian Crime Commission Act 2002*. This item corrects the reference.

## **Schedule 2—Amendments of amending Acts**

### **Item 1**

30 The heading to item 72 of Schedule 4 to the *Aboriginal and Torres Strait Islander Commission Amendment Act 2005* incorrectly referred to subsection 204FE(5) of the *Native Title Act 1993*. This item corrects this reference to subsection 203FE(5).

### **Item 2**

31 The heading to item 73 of Schedule 4 to the *Aboriginal and Torres Strait Islander Commission Amendment Act 2005* incorrectly referred to subsection 204FE(6) of the *Native Title Act 1993*. This item corrects this reference to subsection 203FE(6).

### **Items 3 and 4**

32 These items correct misdescriptions of definitions in the then *Public Accounts Committee Act 1951* (now the *Public Accounts and Audit Committee Act 1951*) contained in Schedule 2 to the *Audit (Transitional and Miscellaneous) Amendment Act 1997*.

### **Item 5**

33 This item repeals and substitutes item 1134 of Schedule 2 to the *Audit (Transitional and Miscellaneous) Amendment Act 1997* in order to correct the number of the form to be amended and to ensure that each reference in that form to “Chairman” is updated.

### **Item 6**

34 Item 1135 of Schedule 2 to the *Audit (Transitional and Miscellaneous) Amendment Act 1997* referred to Form A of the Schedule to the then *Public Accounts Committee Act 1951* (now the *Public Accounts and Audit Committee Act 1951*). This item corrects this reference to Form C.

### **Item 7**

35 This item repeals an item in Schedule 3 to the *Australian Meat and Live-stock Industry (Repeals and Consequential Provisions) Act 1997* that purported to amend a subsection of the then *National Cattle Disease Eradication Trust Account Act 1991* that had already been repealed.

### **Item 8**

36 This item corrects a misdescription of text in the *Australian Broadcasting Corporation Act 1983* that is omitted and substituted by Schedule 2 of the *Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992*. It also makes a corresponding correction to the text that is to be substituted. In both cases, the reference to “sector” should be “sectors”.

### **Item 9**

37 Schedule 1 to the *Complaints (Australian Federal Police) Amendment Act 1994* contains 2 amendments of subsection 7(7) of the *Complaints (Australian Federal Police) Act 1981*, one of which misdescribes the text that is omitted and substituted. This item replaces those amendments with a single amendment that correctly identifies the text that is omitted and substituted.

### **Item 10**

38 The heading to item 25 of Schedule 3 to the *Corporations (Repeals, Consequential and Transitionals) Act 2001* incorrectly referred to paragraph 8(1)(e) of the Schedule to the *Airports Act 1996*. This item corrects this so that the heading to item 25 correctly refers to paragraph 14(1)(e).

### **Items 11, 12 and 13**

39 These items repeal items in Schedule 6 to the *Corporations (Repeals, Consequential and Transitionals) Act 2001* that purported to omit and substitute cross-references that did not exist in the *Corporations Act 2001*.

### **Item 14**

40 This item corrects a misdescription of text in the *Crimes Act 1914* that is omitted and substituted by item 3 of Schedule 1 to the *Crimes Amendment (Enforcement of Fines) Act 1998*.

### **Item 15**

41 This item inserts a new item into Schedule 2 to the *Crimes Legislation Enhancement Act 2003*. The new item removes a number “(2)” that appears before the text of section 46 of the *Criminology Research Act 1971*, although section 46 is no longer divided into subsections. The removal of the number “(2)” means that the amendment of section 46 made by item 6P of Schedule 2 to the *Crimes Legislation Enhancement Act 2003* becomes certain.

### **Item 16**

42 This item corrects a misdescription of text in the *Migration Act 1958* that is omitted and substituted by item 277 of Schedule 2 to the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000*.

### **Item 17**

43 This item corrects a misdescription of text in the *Customs Act 1901* that is omitted and substituted by item 61 of Schedule 1 to the *Customs Legislation (Anti-dumping Amendments) Act 1998*.

### **Item 18**

44 This item corrects a misdescription of text in the *Banking Act 1959* that is omitted and substituted by item 99 of Schedule 2 to the *Financial Sector Reform (Amendments and Transitional Provisions) Act 1998*.

### **Item 19**

45 This item adds some words to the text of item 6 of Schedule 4 to the *Hearing Services and AGHS Reform Act 1997* in order to make certain the location of the text inserted by that item in the *Privacy Act 1988*.

### **Item 20**

46 This item corrects a misdescription of text in the *Petroleum (Submerged Lands) Act 1967* that is omitted and substituted by item 104 of Schedule 1 to the *Petroleum (Submerged Lands) Amendment Act 2003*.

### **Item 21**

47 This item adds some words to the text of item 11 of Schedule 1 to the *Privacy Amendment Act 2004* in order to make certain the location of the text inserted by that item.



## **Item 22**

48 This item corrects a misdescription of text in the *Industrial Chemicals (Notification and Assessment) Act 1989* that is omitted and substituted by item 25 of Schedule 1 to the *Safety, Rehabilitation and Compensation and Other Legislation Amendment Act 2001*.

## **Item 23**

49 This item corrects a reference to the name of an Act in the commencement table of the *Superannuation (Government Co-contribution for Low Income Earners) (Consequential Amendments) Act 2003*.

## **Items 24 and 25**

50 In the *Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Act (No. 1) 2003*, there were 2 items dealing with section 248 of the *Superannuation Act 1976*. Item 170 of Schedule 1 amended section 248, and item 204 of that Schedule repealed and substituted the section. Because both amendments commenced at the same time, the amendment attempted by item 170 did not take effect. These items together ensure that the amendment attempted by item 170 has effect in relation to section 248 as repealed and substituted by item 204 of the *Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Act (No. 1) 2003*.

## **Item 26**

51 This item corrects a misdescription of text in the *Veterans' Entitlements Act 1986* that is omitted by item 52 of Schedule 6 to the *Veterans' Affairs Legislation Amendment Act (No. 1) 2002*.

## **Item 27**

52 This item repeals item 86 of Schedule 1 to the *Veterans' Entitlements Amendment (Direct Deductions and Other Measures) Act 2004* and substitutes 2 items in its place. Item 86 added the words "or supplement" after "pension" to section 56C of the *Veterans' Entitlements Act 1986* but incorrectly identified the occurrences of "pension". The new items will ensure that the correct references to "pension" are amended.

## **Schedule 3**

### **Item 1**

53 This item repeals the *Defence Forces Retirement Benefits Fund (Distribution of Surplus to Pensioners) Act 1976*. This Act provided for one-off payments to pensioners. These payments were completed in 1977 and so the Act is now obsolete.

### **Items 2 to 17**

54 These items repeal a number of Acts administered by the Minister for Foreign Affairs and Trade. These Acts provide for special appropriations that are now fully spent or no longer required and so the Acts are obsolete.

### **Items 18 to 26**

55 These items repeal a number of Acts administered by the Minister for Industry, Tourism and Resources. Each of the Acts provides for the payment of bounties during a specified period. All of those specified periods have now ended and so the Acts are obsolete.

### **Item 27**

56 This item repeals the *Liquefied Petroleum Gas (Grants) Act 1980*. The Act provided a subsidy to certain consumers of liquefied petroleum gas between 1980 and 1985 and so the Act is now obsolete.