

1983

The Parliament of the Commonwealth of Australia

The Senate

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (NO. 2) 1983

EXPLANATORY MEMORANDUM

Circulated by Authority of the Attorney-General,  
Senator the Honourable Gareth Evans.



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Schedule 1

Amendment of Acts

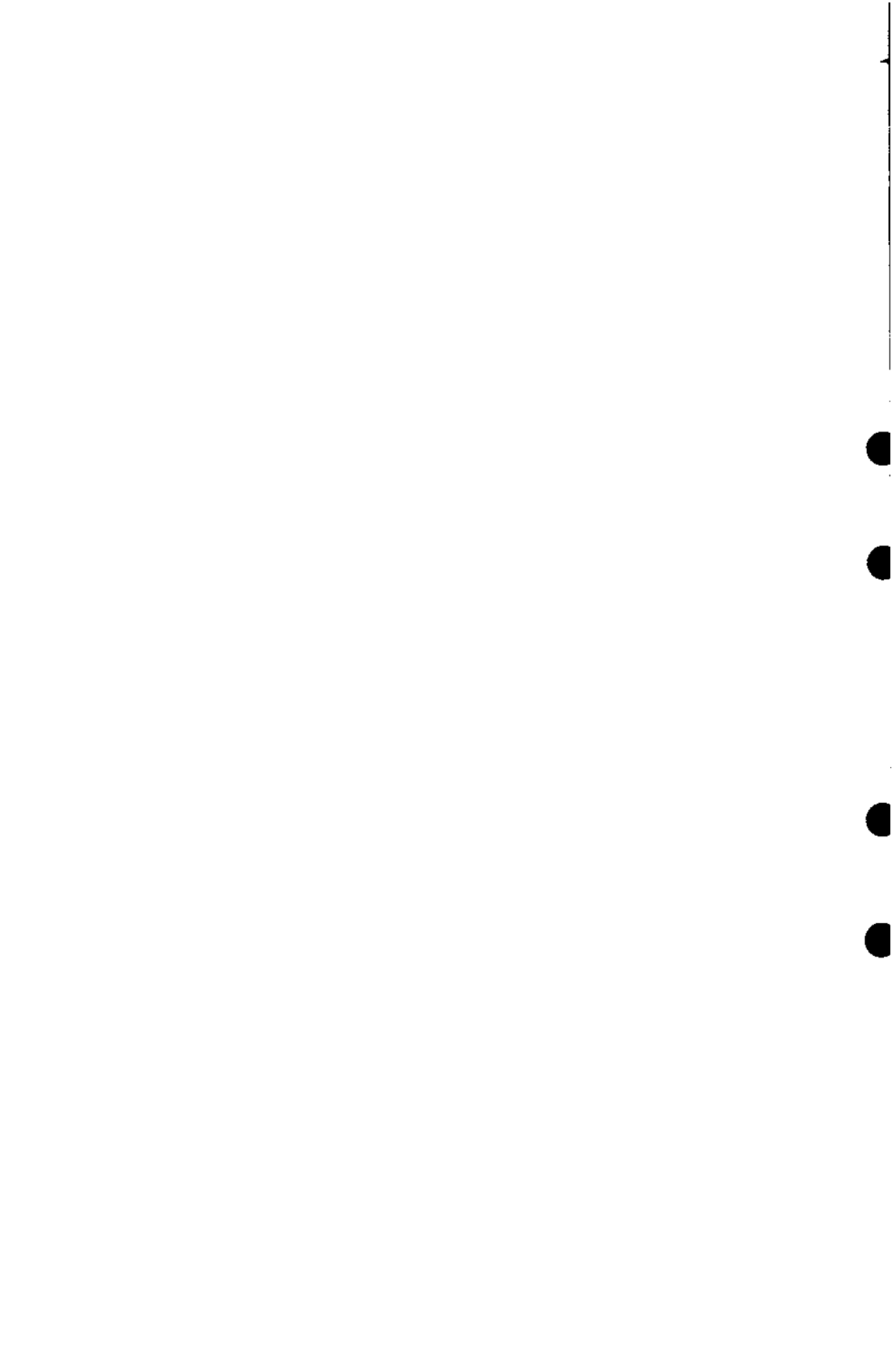
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Statute Law (Miscellaneous Provisions)

Bill (No. 2) 1983

General Outline

There are many purposes for the amendments made by this Bill. All such amendments deal with tidying up, correcting or up-dating of legislation or implement minor policy changes of a non-controversial nature or routine administrative changes.

Clause 1 - Short Title

Formal.

Clause 2 - Commencement

Sub-clause 2(2) provides that clauses 1 and 2 of the Bill come into operation on receiving Royal Assent.

Special provision for the commencement of amendments to specified Acts contained in the First Schedule is made by sub-clauses 2(3) to 2(13). These provisions are dealt with in the notes on the relevant provisions.

The remaining provisions of the Bill come into operation, in accordance with sub-clause 2(1), on the 28th day after the day on which the Act receives the Royal Assent.



Clause 3 - Amendments of Acts

This clause provides that the Acts specified in Schedule 1 are amended as set out in that Schedule.

Clause 4 - Formal Amendment of Law Officers Act 1964

This Clause provides for a large number of drafting amendments to the Law Officers Act 1964. Those amendments are set out in Schedule 2.

Clause 5 - Repeal of Acts

This clause repeals the Cattle Slaughter Levy (Suspension) Act 1981 because the operation of the Act is exhausted.

Clause 6 - Transitional

Sub-clause 6(1) provides for the continued effect of acts done or decisions made under the provisions of an Act that has been amended or repealed and re-enacted by a provision of this Bill.

Sub-clause 6(2) preserves any appeals on promotion of Australian Federal Police Officers that were made prior to the amendment of the Australian Federal Police Act 1979.

Sub-clause 6(3) provides that in relation to proposed section 16A of the Law Officers Act 1964 a reference to period of service extends, insofar as the present Solicitor-General is concerned, to his period of service occurring before the date of commencement of that section.

Schedule 1 - Amendment of Acts

Amendment of Administrative Appeals Tribunal Act 1975

This amendment inserts proposed sub-section 18(6) into the Act to clarify that the operation of section 18 of the Act providing for pension payment to certain members of the Administrative Appeals Tribunal applies only to full-time presidential members of the Tribunal.

By virtue of sub-clause 2(3) this amendment shall come into operation on the date this Act receives the Royal Assent.

Amendment of Airports (Surface Traffic) Act 1960

The proposal amendment of sub-section 13(7) increases the penalty of \$10 for illegal parking at Commonwealth Airports to \$25.

Amendments of Australia - Japan Foundation Act 1976

Section 14 of the Act provides a number of grounds on which the Minister shall terminate a persons' appointment as a member of the Foundation. Included in those grounds, paragraph 14(2) (c), is failure to disclose a pecuniary interest in a matter being considered by the foundation. The proposed amendment removes the power to terminate in paragraph 14(2) (c) where the member has a reasonable excuse for failing to disclose the interest.

The second amendment removes the only exception in sub-section 16(1) of the Act to the obligation to disclose a pecuniary interest by members of the Foundation i.e. the interest arises from a shareholding in a large company.

The proposed amendment to sub-section 16(2) clarifies and strengthens the procedures to be adopted when a Board member discloses pecuniary interest in a matter to be considered by the Board by providing that such a person cannot take part in any decision of the Foundation in respect of such matter.

Amendments of Australian Broadcasting Corporation Act 1983

The Bill makes several amendments to the Act. The first amendment includes a new sub-section 12(6) into the Act which clarifies that a chairman, Deputy Chairman or Acting Chairman ceases to hold office as such if he ceases to be a Director of the Corporation.

Proposed amendment of sub-section 46(1) corrects a drafting error.

The proposed amendment to section 82 inserts new sub-section 82(5A) to provide that where a complaint has been made that a broadcast contains an error of fact, or is an invasion of privacy, and that complaint is decided to be justified the complainant is to be informed of that decision.



Amendment of Australian Capital Territory Supreme  
Court Act 1933

Sub-section 35(1) now provides that the Registrar of the A C T. Supreme Court has power to administer oaths, and shall perform such other duties in respect of proceedings pending in the Supreme Court as are assigned to him by Act, Ordinance, Rules of Court or special order of the Court, and such other duties as are assigned to him by Rules of Court.

The proposed amendment will amplify the functions that may be conferred on the Registrar by removing the requirement in relation to functions assigned by Ordinance or special order of the Court that they be in respect of proceedings pending in the Court.

By this amendment sub-section 2(4) of the Bill is deemed to come into operation when the original section commenced.

Amendments of Australian Centre for  
International Agricultural Research Act 1982

The first amendment inserts the phrase "without reasonable excuse" into paragraph 11(2) (c) of the Act to the same effect, mutatis mutandis to the proposed amendment of paragraph 14(2) (c) of the Australian Japan Foundation Act 1976.

The second amendment makes a minor drafting change to paragraph 39(2) (b) .

Amendments of Australian Federal Police Act 1979

There are several amendments to this Act.

The amendment to sub-section 19(1A) corrects a drafting error and makes the sub-section consistent in its reference to a "Deputy Commissioner" with sections 17 and 19 and sub-section 19(1) of the Act.

The proposed amendment to paragraphs 25(1)(a), 25(1)(b), 25(1)(c) and sub-section 25(2) and 25(3) are consequential on the amendment made to section 36 of the Act by the Statute Law (Miscellaneous Provisions) Act (No. 1) 1983 which inserted references to "position within" a rank.

Proposed new sub-section 25(3A) has been inserted in order to avoid the need to issue a new Commission on each occasion when a commissioned officer is transferred from one position to another within the same rank. The sub-section does not confer upon the Commissioner any power which he does not now hold. Its expression in the Act does, however, make the exercise of the power subject to review under the provisions of the Administrative Decisions (Judicial Review) Act 1977.

The amendments to paragraphs 26(1)(a), 26(1)(b), 26(1)(c), 26(1)(d) and sub-sections 26(2) and 26A(3), are also consequential upon the amendment made to section 36 of the Act by the Statute Law (Miscellaneous Provisions) Act (No. 1) 1983.

Proposed new sub-section 26(2A) makes similar provisions in relation to non-commissioned officers are proposed sub-section 25(3A) makes for commissioned officers.

The proposed amendment of paragraph 36(2)(a) effects a drafting correction.

Proposed new paragraph 36(2)(c) will provide for a non-commissioned officer of the AFP to be appointed to a position of commissioned officer. Section 25 of the Act provides for the appointment, promotion and transfer of commissioned officers. Its reference to promotion is, however, limited to persons who are already commissioned officers. Similarly, reference to the promotion of non-commissioned officers in section 26 is limited to their promotion to higher non-commissioned rank. Technically, therefore, a non-commissioned officer who is being promoted to commissioned rank cannot be promoted and must be appointed. The proposed amendment is to ensure that appointments to commissioned rank which are, in effect, promotions are subject to the same selection criteria as all other AFP promotions.

The proposed amendments to sub-section 38(2) and paragraphs 39(a), 39(b), and 39(c) are consequential amendments of the type referred to above in relation to the proposed amendments of sections 25, 26 and 26A.

By virtue of sub-clause 2(5) these amendments shall come into operation on such date as is fixed by proclamation.

Amendments of Broadcasting and Television Act 1942

The proposed amendment of paragraph 83(5) (b) removes the need for applicants for a community television aerial licence to give certain licence undertakings.

The proposed amendments to sub-sections 90J(7), 90(J) (7A) 92F(7) and 92F(7A) remove the requirement in those sections for notice to be given within 28 days.

The proposed amendments of sub-section 90J(7D) and 92F(7D) provide for the Chairman of the Tribunal to authorize, in writing, a member of the Tribunal to accept notices or applications for licences or reject them and give directions so as to ensure the document complies with the requirements of the Act.

The proposed amendment of paragraph 92B(1) (a) corrects a drafting error.

The proposed amendment of sub-section 117A(8) corrects a drafting error.

The proposed amendment of sub-section 126(6) is consequential on the insertion of proposed sub-section 126(6A).

Proposed new sub-section 126(6A) provides for the holder of a permit to transmit to televise advertisements in limited circumstances.

The proposed amendments of paragraphs 133(1) (b) and (c) correct drafting errors.

Amendment of Commonwealth Legal Aid Act 1979

The proposed amendment adds a new sub-section 4(2)(ca) which provides for the appointment of an additional member to the Commonwealth Legal Aid Council after consultation between the Attorney-General and any person, association or body who in the opinion of the Attorney-General is representative of community legal centres e.g. Redfern Legal Centre and Fitzroy Legal Service.

Amendments of Copyright Act 1968

The proposed amendments to paragraph 52(1) (a), paragraph 52(2) (a) and 159B(1) make drafting changes to those provisions.

The proposed amendments of section 53C and the omission of the phrase 'or musical' from paragraphs (d) and (e) thereof. Those paragraphs have reference back to section 53A which makes provision for multiple copying of literary or dramatic works but not musical works.

Section 133(1) provides the range of sentencing options that might be imposed upon a person convicted in summary proceedings for any of the offences provided by section 132 of the Act. Sub-section 132(4) extends the offences to "subject matter" covered by Part IV of the Act in addition to copyright in a work which is covered by Part III. The proposed amendment of sub-section 133(1) clarifies that the sentencing options also operate in relation to Part IV matter.

The proposed amendments of sub-sections 159A(1), 159A(2) and 159B(2) correct drafting changes which were overlooked when changes occurred during the drafting of the 1980 amendments of the Act.

The proposed amendment of sub-section 203A(5) clarifies that the sub-section applies to the custodian in charge of copying records referred to in paragraph 203A(2) (d).

The proposed amendment of sub-section 203F(3) clarifies that the sub-section applies to the body administering the institution referred to in paragraph 203B(5) (b).

Amendment of Crimes Act 1914

The proposed amendment inserts a new sub-section 21AA (3A) into the Act.

This amendment has the effect of extending the range of offences which may be taken into account, subject to certain conditions precedent being met, by a court when passing sentence on a person convicted of a Commonwealth offence. The amendment limits the prohibition on taking certain offences into account set out in sub-section 21AA(3) to matters other than limitations by reference to the places at which offences are committed. This is consistent with amendments made to sub-section 68(5) of the Judiciary Act 1903 in the Statute Law (Miscellaneous Provisions) Bill (No. 1) 1983.

By virtue of sub-clause 2(6) the amendment shall come into force on the day on which this Act receives the Royal Assent.



Amendment of Customs Tariff (Anti-Dumping) Act 1975

The proposed amendment of sub-section 9(4) of the Act corrects a drafting error.

Amendments of Customs Tariff (Coal Export Duty) Act 1975

The amendments to sub-section 7(2) and section 8 of the Act substituting references to 'Resources and Energy' for 'Trade and Commerce' are consequential on changes to the machinery of government on 11 March 1983.

Amendments of Economic Planning Advisory  
Council Act 1983

There are several amendments to this Act. The amendment to paragraphs 7(7) (a), 7(8) (a) and sub-section 27(2) ensure that references to publication of a report include a reference to a report published with deletions necessary to protect the public interest as provided in paragraph 7(3) (b).

The proposed amendments of paragraph 9(1) (j) and sub-section 9(8) are drafting amendments.

The proposed new paragraph 9(1) (m) provides for the Council to have represented on it a representative of small business.

By virtue of sub-clause 2(7) these amendments shall come into force on the day on which this Act receives the Royal Assent.

Amendment of Environment Protection (Northern Territory  
Supreme Court) Act 1978

The amendment of the definition of Commission in section 3 this Act is required, as a result of the abolition of the Territory Parks & Wildlife Commission by the Northern Territory Government. This Commission was replaced by the Conservation Commission of the Northern Territory. The Act allowed the former Commission to sue in the Northern Territory Supreme Court for orders protecting the environment in relation to uranium mining operations in the Alligator Rivers Region. The amendment ensures that the new Commission will have the same power by replacing the reference to the old Commission with a reference to the new Commission. Hence, the Bill amends the definition of the word 'Commission'.

Amendments of Evidence Act 1905

There are a number of amendments made to this Act. The first amendment which creates new sub-sections 4(1A) and 4(1B) will clarify the operation of sub-section 4(1) of the Act.

The proposed new sub-section 4(1A) provides that an order may be made under sub-section (1) in relation to an office that has ceased to exist prior to the making of the order. This amendment will permit consolidating orders to be made which will include offices which have ceased to exist.

The proposed new sub-section 4(1B) provides that an order under sub-section (1) continues to apply in relation to an office, notwithstanding that the office ceases to exist after the making of the order.

The second amendment inserts new sub-sections (2), (3) and (4) into section 6 of the Act. Proposed sub-section 6(2) will permit an officer in whose custody the original of a Commonwealth public book or document is entrusted, to produce in answer to a subpoena calling for production of the original, a certified copy or extract of such book or document. Proposed sub-section 6(3) provides a number of options which can be used to answer the subpoena for production without actually taking the document into court. Proposed sub-section 6(4) preserves the power of the Court to require production of the original book or document, if required.

The final amendment is to sub-section 7A(1). The proposed amendment will extend the definition of "proceeding" in sub-section 7A(1) to include a proceeding before a Court of the Australian Capital Territory created by or under an Act. This will have the effect of applying the provisions of Part IIIA to proceedings before the A.C.T. Supreme Court and the A.C.T. Court of Petty Sessions.

Amendment of Federal Court of Australia Act 1976

The proposed amendment of sub-section 19(1) is consequential upon the insertion of proposed new section 38B in the Judiciary Act 1903. Sub-section 19(1) contemplates that the jurisdiction of the Federal Court which is conferred by Acts of the Parliament will be in respect of matters arising under laws made by the Parliament whereas the jurisdiction to be conferred on the Federal Court by proposed new section 38B of the Judiciary Act 1903 will be that provided by section 75(v) of the Constitution.

Amendment of Federal Proceedings (Costs) Act 1981

The proposed amendment repeals the existing sub-sections 18(2) and (3) and substitutes a new sub-section 18(2) which provides that the prescribed maximum amount payable under the Act applies separately to each costs certificate granted in respect of an appeal or of a new trial rather than to the sum of all the costs certificates granted in respect of the appeal, including a new trial.

Amendments of Growth Centres (Financial Assistance)  
Act 1973

The proposed amendments to sub-section 10(2) and 10(3) are drafting amendments consequential upon the insertion of proposed sub-section 10(5A).

Proposed sub-section 10(5A) provides for the Commonwealth and a State to vary, by agreement, the terms and conditions imposed by the Act on the repayment of principle and the payment of interest on a loan made by the Commonwealth to the State under the Act.



Amendments of Judiciary Act 1903

There are several proposed amendments to this Act. A proposed new section 39B is to be inserted conferring original jurisdiction for matters covered by paragraph 75(v) of the Constitution on the Federal Court of Australia.

Proposed new sub-section 39B(1) confers original jurisdiction on the Federal Court of Australia with respect to any matter in which a writ of mandamus or prohibition or an injunction is sought against an officer of the Commonwealth.

Proposed new sub-section 39B(2) provides that the reference in sub-section (1) to an officer of the Commonwealth does not include a reference to a person holding office under the Australian Conciliation and Arbitration Act 1904, the Public Service Arbitration Act 1924, the Coal Industry Act 1946 or a Judge or Judges of the Family Court of Australia.

The proposed amendment of sub-section 40(1) will enable the Attorney-General of the Northern Territory, as well as Attorneys-General of the States to apply for removal, as of course, into the High Court of proceedings involving a constitutional issue. This recognises the effect of self Government for the Northern Territory.

The proposed amendments to section 44 will empower the High Court to remit part only of a matter to one of the courts referred to in section 44. At present the whole matter must be remitted.

Proposed new section 78AA, is a definitional section which includes the Northern Territory in the definition of 'State' for the purposes of Division 1A of Part XI. As a consequence the Attorney-General of the Northern Territory will be able, under section 78A of the Act intervene in proceedings which involve a constitutional matter in any court.

The effect of the proposed amendments of section 78B will be that the Attorneys-General of the Commonwealth and the States and the Northern Territory will be required to be given notice, pursuant to the section, of constitutional matters arising in proceedings in any court, including the High Court.

Proposed new paragraph 78B(2)(c) provides that where a notice of a constitutional matter has been given under this section the Court before whom the matter arose may continue to hear evidence and argument concerning the non-constitutional elements of the matter in dispute between the parties.

Proposed new section 88 will insert a regulation making power to enable the Governor-General to make regulations prescribing, amongst other things, the content and form and practice and procedure with respect to a notice under Section 78B.

By virtue of sub-clause 2(8) the proposed new section 88 will come into operation on a date to be fixed by Proclamation

Amendments of Land Commissions (Financial Assistance)  
Act 1973

The proposed amendments to this Act have the same effect, mutatis mutandis, to that made by the amendment to the Growth Centres (Financial Assistance) Act 1973.

Amendments of Law Offices Act 1964

There are two proposed amendments to this Act.

The first amendment inserts proposed new section 16A into the Act to provide for the payment in lieu of long service leave where such leave has not been taken during the Solicitor-General's term of office.

Proposed new sub-section 16A(1) provides that the payment in lieu of long leave is payable on retirement of the Solicitor-General after 10 years of service or if he dies before serving for 10 years.

Proposed new sub-section 16A(2) provides that the amount of payment is equal to 52 weeks of salary or 5.2 weeks for each completed year whichever is the lesser.

Proposed new sub-section 16A(3) provides that the payment is to be made to the Solicitor-General where he is alive.

Proposed new sub-section 16A(4) provides that where the Solicitor-General has died payment due shall be made to such dependant/dependants as the Attorney-General determines or the legal personal representative.

Proposed new sub-section 16A(5) provides a right of appeal to the Administrative Appeals Tribunal where the Attorney-General does not determine a person to be a dependant for the purposes of sub-section 16A(4).

Proposed new sub-section 16A(6) provides for the Attorney-General to determine the amounts payable to each dependant.

Proposed new sub-section 16A(7) provides for the Attorney-General to authorize payment of an amount payable to a dependant who is under a legal disability to that dependant's trustee.

Proposed new sub-section 16A(8) ensures that where a person to whom the Long Service Leave (Commonwealth Employees) Act 1976 applied before his appointment he shall not be able to obtain a double payment for long service./

Proposed new sub-section 16A(9) provides that in computing the Solicitor-General's period of service for the purposes of the proposed section there shall be included any prior service, whether continuous or not, as acting Solicitor-General.

Proposed new sub-section 16A(10) clarifies that the entitlement to payment relates to the period of service of the Solicitor-General.

Proposed new sub-section 16A(11) defines certain terms that are used throughout the proposed section. The definition of "qualifying service" is such that if the Solicitor-General served in excess of 10 years and took part or all of his long leave entitlement at the end of 10 years service he would be entitled, on retirement, to pay in lieu for any untaken period of long leave accrued at the rate of 5.2 weeks a year, up to a maximum of 52 weeks.

By virtue of sub-clause 2(9) this section shall come into operation on the day on which this Act receives the Royal Assent.

The proposed amendment to sub-section 17(2) of the Act provides that the Attorney-General may delegate to the Secretary to the Attorney-General's Department or to the holder for the time being of the office specified in the instrument of delegation all of his powers or functions under the laws of the Commonwealth or of a Territory.

Amendments of Law Reform Commission Act 1973

There are two proposed amendments of this Act. The proposed amendment of sub-section 12(3) clarifies that the Chairman of the Commission who holds a judicial office will still be regarded as a full-time member of the Commission even though he continues to perform the functions of his judicial office.

The proposed amendment of sub-section 12(5A) is consequential on the proposed amendment of sub-section 12(3).

Amendments of Meat Inspection Arrangements Act 1964

The definitions of 'officer' and 'person employed by the Commonwealth' are omitted from sub-section 3(1) and a proposed new definition of 'person employed by the Commonwealth' inserted. The amendment is consequential upon the 1978 amendment of the Public Service Act to facilitate the transfer of State Officers to the Australian Public Service.

A new definition of 'State' is proposed to be inserted in sub-section 3(1) which will allow arrangements to be entered into for meat inspection in the Northern Territory and Norfolk Island.

The proposed amendments of the definitions of "State Meat Authority" and "State meat inspector" are consequential on the new definition of "State".

The omission of the definitions of "temporary employee", "the Board" and "the Public Service act", the omission of sub-section 3(2) and the repeal of sections 4, 6, 7, 8, 9 and 11 are consequential on the amendments of the Public Service Act referred to above.

The first proposed amendment of sub-section 5(2) makes a drafting change to the sub-section.

The second amendment of sub-section 5(2) brings the language of paragraph (a) into line with the Public Service Act in its present form.

Amendment of Navigation (Protection of the Sea)  
Amendment Act 1983

The purpose of this amendment is to correct a drafting error.

By virtue of clause 2(10) this amendment shall come into force, or be deemed to have come into operation, as the case requires, on the commencement of section 7 of the abovementioned Act.



Amendments of Nitrogenous Fertilizers  
Subsidy Act 1966

The proposed amendments repeal section 6 of the Act and substitute a new section 6. The effect of the proposed amendments is to reflect the policy direction of the Customs Tariff (Anti-Dumping) Act 1975.

Proposed new sub-section 6(1) provides that both inland and export freight are to be included in the assessment of normal freight, in accordance with sub-clause (4), when determining whether the goods were carried freight free or at less than normal charges. This accords with the provisions contained in sub-section 12(1) of the Customs Tariff (Anti-Dumping) Act.

Proposed new sub-section 6(2) defines "export price" of nitrogenous fertilizers exported to Australia. The definition accords with the definition of "export price" in sub-section 4A(1) of the Customs Tariff (Anti-Dumping) Act. This definition varies from the definition in the repealed section because the existence or non-existence of a business relationship between the importer and the exporter has been inserted as a criterion.

Proposed new sub-section 6(3) provides for the determination of "prescribed deductions" for the purposes of calculating the export price where the importer and exporter are business associates. This sub-clause accords with the provisions of sub-section 4A(2) of the Customs Tariff (Anti-Dumping) Act.

Proposed new sub-section 6(4) provides for the determination of "normal freight" for the purposes of calculating the export price on the sale. This sub-clause accords with provisions contained in sub-section 12 of the Customs Tariff (Anti-Dumping Act).

Proposed new sub-section 6(5) provides method for determining "normal value" of nitrogenous fertilizers in terms that accord with sub-section 5(1) of the Customs Tariff (Anti-Dumping) Act.

The "normal value" of goods is the basis for determining whether or not those goods have been dumped on the Australian market.

The method outlined in this proposed sub-section is subject to a number of contingencies which are outlined in proposed sub-section 6(6) to 6(12) inclusive.

Proposed new sub-section 6(6) provides an alternative method for determining the normal value of nitrogenous fertilizers where this value cannot be determined in pursuance of sub-clause 6(5) because either there are not sales of nitrogenous fertilizers in the country of export, or the sales which do occur in the country of export are not suitable for comparison with the sale and export of the goods to Australia. The sub-clause accords with sub-section 5(2) of the Customs Tariff (Anti-Dumping) Act.

Proposed new sub-section 6(7) provides an alternative method for determining the normal value of nitrogenous fertilizers where determination in accordance with the preceding sub-clauses is inappropriate due to the influence the Government of the country of export has on the domestic price of those goods. It accords with provisions contained in sub-section 5(5) of the Customs Tariff (Anti-Dumping) Act.

Proposed new sub-section 6(8) provides that where the determination of normal value cannot be ascertained under the preceding proposed sub-clauses because there is insufficient information furnished, the Minister may determine the normal value having regard to all relevant information. The proposed sub-section accords with sub-section 5(V) of the Customs Tariff (Anti-Dumping) Act.

Proposed new sub-section 6(9) provides for the Minister to direct adjustment of the normal value of goods where a comparison between the price paid for like goods and the export price of exported goods varies because of particular circumstances. The proposed sub-section accords with sub-section 5(5) of the Customs Tariff (Anti-Dumping) Act.

Proposed new sub-section 6(10) provides that where goods pass through another country during exportation to Australia that other country is to be disregarded for the purpose of ascertaining the country of export. The proposed sub-section accords with sub-section 4(5) of the Customs Tariff (Anti-Dumping) Act.

Proposed new sub-section 6(11) provides that where the country of export of goods is not the country of origin the Minister may determine that the normal value of the goods be ascertained as if the country of origin were the country of export. The proposed sub-section accords with sub-section 5(7) of the Customs Tariff (Anti-Dumping) Act.

Proposed new sub-section 6(12) defines "country of origin" for the purposes of proposed sub-section 6(11). The proposed definition accords with the definition in sub-section 5(8) of the Customs Tariff (Anti-Dumping) Act.

Proposed new sub-section 6(13) provides a definition of "arm's length transaction" for the purposes of the proposed section. The proposed sub-section accords with sub-section 4(2) of the Customs Tariff (Anti-Dumping) Act.

Proposed new sub-section 6(14) deems certain relationships to be business associations for the purposes of the proposed section even though such persons are not business associates. The proposed sub-section accords with sub-section 4(3) of the Customs Tariff (Anti-Dumping) Act.

Proposed new sub-section 6(15) provides for the conversion of amounts into Australian currency where they are not already expressed as such. The proposed sub-section accords with sub-sections 4(4) and 17(1) of the Customs (Anti-Dumping) Tariff Act.

Proposed new sub-section 6(16) provides that any determinations or directions made must be in writing.

Proposed new sub-section 6(17) defines "importer" for the purposes of the proposed section. The definition accords with the definition of that term contained in sub-section 4(1) of the Customs Tariff (Anti-Dumping) Act.

Amendments of Overseas Telecommunication Act 1946

The proposed amendment of sub-section 13(1) of the Act substitutes the Minister for the Governor-General as the person who may appoint an acting Commissioner, other than the Chairman of the Commission.

The proposed amendment of sub-section 23(3) substitutes the Minister for the Governor-General as the person who may appoint the Chairman of the Promotions Appeal Board and determine the terms and conditions for holding office of such Chairman.

The proposed amendments of paragraphs 31(3) (b) and (c) substitutes the Minister for the Governor-General as the person who may appoint the Chairman of the Disciplinary Appeals Board and determine the terms and conditions for holding Office of such Chairman.

The proposed amendment of sub-section 75(2) removes the references for the Commission to consult with the Commonwealth Telecommunications Council before seeking the Minister's approval for alterations in charges and services.

The proposed repeal of paragraphs 75(2) (e) (f) and (g) are consequential upon the removal of references to the Commonwealth Telecommunications Council.

Amendments of the Patents Act 1952

There are several amendments to this Act. The first proposed amendment inserts a new paragraph 35(1)(g) which is consequential on proposed sub-section 35(1B).

Proposed sub-section 35(1A) provides that an abstract submitted with an application for a patent may be amended by the Commissioner of Patents or by the applicant at the request of the Commissioner.

Proposed sub-section 35(1B) provides that where an application is accompanied by a specification and the prescribed fee has been paid an abstract shall be prepared by the Patents Office.

Proposed sub-section 35(1C) provides that the abstract prepared by the Patents office shall not be taken into account in construing the specification to which it relates.

The proposed amendment of sub-paragraph 52A(1)(a)(ii) simplifies the provisions of modified examination of a patent application where a patent was granted in a Convention Country claiming priority from an earlier application made in the same country or under a multilateral arrangement. It will no longer be necessary for the earlier application to have been made in another country.

Section 58 is repealed and a proposed new section 58 substituted to extend the existing provisions which provide that the validity of a patent is not guaranteed and avoids liability for operations by the Patent Office in investigating and reporting on patent applications under the Act, to investigations and reports under the Patent Co-operation Treaty and in the furnishing of information under section 30 of the Act.

The proposed amendment of sub-section 58C(6) makes a drafting change.

The proposed amendment of sub-section 58E(2) is consequential on the insertion of paragraph 35(1)(g) and new sub-section 35(1B).

Finally, a new proposed section 58F is inserted which enables an international application made to the Patents Office under the Patent Co-operation Treaty to retain priority in certain circumstances over an earlier application made to that Office under the Act whether such earlier application was accompanied by either a provisional specification or a complete specification.

By virtue of sub-clause 2(11) the amendments of section 35 and 58E come into operation on a date to be fixed by Proclamation.

Amendment of Pig Industry Research Act 1971

The proposed amendment to paragraph 9(1) (a) omits the reference to the "Australian Commercial Pig Producers' Federation" and substitutes the "Australian Pork Producers' Federation" as a consequence of the industry organisation amending its constitution and changing its name. The amendment will allow the organisation to be referred to by its new title.



Amendments of Pig Meat Promotion Act 1975

The proposed amendments to sections 9 and 10, and sub-section 12(2) are for the same reasons as set out above in relation to paragraph 9(1)(a) of the Pig Industry Research Act 1971

Amendments of Royal Commissions Act 1902

The amendment to sub-section 6F(2) is consequential upon the insertion of new sub-section 6P.

Proposed new sub-sections 6P(2) and (3) provide for the communication by one Royal Commission of information received by it in the course of its inquiry to another Royal Commission where that information relates to matters into which that other Royal Commission is to inquire.

Amendment of Royal Commissions Amendment Act 1982

The proposed amendment which inserts a new sub-section 8(2) will remove doubts which have arisen in regard to whether directions as to publication of evidence or information made under sub-section 6D(3), as it was before passage of the Royal Commissions Amendment Act 1982, are still operative after the amendment.

By virtue of sub-clause 2(12) this amendment shall be deemed to have come into operation on 1 February 1983.

Amendment of Statute Law (Miscellaneous  
Amendments) Act (No. 1) 1982

The proposed amendment to paragraph 40(2)(a) of the Act is consequential on the insertion of a new paragraph 40(2)(aa).

The proposed new paragraph 40(2)(aa) will amend sub-section 40(2) of the Act to include a reference to section 66E of the Migration Act 1958. The purpose of this amendment is to enable the Administrative Appeals Tribunal in exercising its jurisdiction pursuant to section 66E of the Migration Act to be constituted either by a presidential member who is a Judge of the Federal Court of Australia or by a Deputy President. Section 66E of the Migration Act 1958 provides for review of decision -

- . to deport an alien convicted of certain serious crimes (section 72)
- . to deport an immigrant who has been convicted of certain serious crimes within five years of his entry into Australia (section 13); or
- . that a person is not a fit and proper person to act as an immigration agent (section 48).

The proposed "amendment" will thus provide an exemption for the Migration Act from the operation of sub-section 40(1) of Statute Law (Miscellaneous Amendments) Act (No. 1) 1982 which requires that in certain review proceedings constituted by presidential members such presidential members of the Administrative Appeals Tribunal should be Federal Court judges. This amendment implements a recommendation of the Administrative Review Council contained in the Council's report on the Constitution of the Administrative Appeals Tribunal which was recently tabled in the Parliament.

Amendments of Statute Law (Miscellaneous Provisions)  
Act (No. 1) 1983

These proposed amendments correct drafting errors.

By virtue of sub-clause 2(13) the amendments of the Statute Law (Miscellaneous Provisions) Act (No. 1) 1983 made by this Act shall -

- (a) in the case of the amendment of Schedule 1, be deemed to have come into operation on 13 December 1982; and
- (b) in the case of the amendment of Schedule 2, be deemed to have come into operation on 18 July 1983.

Amendments of Telecommunications Act 1975

The proposed amendments of section 29 of the Act in relation to actions, appointments as Commissioners make no substantive change to the section but adopts the current drafting technique for provisions of this kind.

The proposed amendment of section 31 of the Act inserts new sub-sections 31(10) and (11). Proposed sub-section 31(10) provides that where Commissioners sign a document containing a resolution then such resolution shall be deemed to have been passed at a meeting of the Commission held on the last date appearing on the document.

Proposed sub-section 31(11) provides that where a number of documents in identical terms are signed then such documents shall be deemed to be one document for the purposes of proposed new sub-section 31(10).

The proposed amendments of Section 36 of the Act in relation to the appointment of a Chief General Manager are identical to those proposed to section 29 of the Act in relation to acting Commissioners.

The proposed amendment of sub-section 54(1) lowers the earliest retiring age from 60 years to 55 years and brings it into line with the general position in the Australian Public Service.

Schedule 2

Formal Amendments of Law Officers Act 1964

This Schedule effects a large number of drafting or citation amendments to provisions of the Law Officers Act 1964.

