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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

STATUTE LAW REVISION BILL 1996

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Attorney-General,
the Honourable Daryl Williams, AM QC MP)

77801 Cat. No. 96 4581 0 ISBN 0644 450851



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STATUTE LAW REVISION BILL 1996

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 corrections 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.

In addition to these corrections, the Bill proposes a number of other changes of a formal nature. These are the:

repeal of some Acts that have no current or future operation;

consequential amendment of references to the *Remuneration Tribunal Act 1973* (the name of the Act was changed from *Remuneration Tribunals Act 1973*); and

amendment of gender specific language in some Acts. This continues a process that has been in progress in relation to Commonwealth legislation for a number of years.

FINANCIAL IMPACT STATEMENT

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 1996*.

Clause 2 - Commencement

2. Clause 2 provides for the commencement of the Act. Subclause 2(1) provides that, subject to subclauses 2(2) and 2(3), the Act will commence on Royal Assent.
3. Subclause 2(2) provides that the each item in Schedule 2 will commence or will be taken to have commenced at the time specified in the note at the end of the item. The commencement of each item in Schedule 2 is tied to the commencement of the Act that created the error. The effect of this is that the error is taken to have been corrected immediately after it was made.
4. Subclause 2(3) provides that each item in Schedule 3 will be taken to have commenced when the Act it is amending received Royal Assent. The commencement of each item in Schedule 3 is tied to the Royal Assent of the Act in which the error occurred. The effect of this is that the error is taken to have been corrected immediately after the text in which it occurs was enacted.
5. The reason for the difference between these commencement provisions is that Schedule 2 items amend errors in Principal Acts, whereas Schedule 3 items amend misdescriptions in amending Acts. In order to correct a misdescription it is necessary to amend the amending Act (rather than the Principal Act) and to deem the correction to have occurred immediately after the amending Act was enacted (upon receiving the Royal Assent).

Clause 3 - Schedule(s)

6. Clause 3 provides for the Schedules to the Act. Subclause 3(1) provides that the Acts specified in the Schedules to the Bill are amended or repealed as set out in those Schedules.
7. Subclause 3(2) provides that the repeal of an Act by this subclause will not affect the operation of any amendment of another Act made by the repealed Act.

Clause 4 - Definition

8. Clause 4 provides a definition of the expression *Corporations Law*.

Schedule 1 - Repeal of Acts

9. Schedule 1 repeals 16 Acts that have no current or future operation.

Schedule 2 - Amendment of Principal Acts

10. The items in Schedule 2 correct formal errors in Principal Acts that either existed at the time the Act was passed or have since been introduced into the Act by amending legislation. The kinds of errors being corrected in this Schedule are misspellings, punctuation errors, numbering errors and incorrect cross-references and other minor consequential changes.
11. None of the amendments proposed in the Schedule will alter the content of the law. The following paragraphs explain how some items that may appear to be altering the content of the law are not in fact doing so.
12. Items 6 and 7 (proposed amendments of sections 25 and 43 of the *Administrative Appeals Tribunal Act 1975*) repeal 2 subsections. The subsections refer to a provision which has been repealed. The subsections are now meaningless.
13. Item 19 (proposed amendment of section 39Z of the *Australian Wine and Brandy Corporation Act 1980*) substitutes "geographical indications" for "regions of origin". In 1993 all references in the Act to "region of origin" were changed to "geographical indication"; however the reference in the plural form in section 39Z was overlooked. The proposed amendment makes the terminology consistent throughout the Act.

14. Item 28 (proposed amendment of section 4A of the *Civil Aviation Act 1988*) appears to be replacing a subsection in section 4A. However, the words that are to be substituted are identical with the words of existing subsection (4). The item simply removes unnecessary paragraphing from the existing provision.
15. Item 48 (proposed amendment of section 3 of the *Data-matching Program (Assistance and Tax) Act 1990*) appears to be replacing subparagraphs in a definition. However, the paragraphs that are to be substituted are the existing paragraphs in a different order.
16. Item 79 (proposed amendment of section 3 of the *Overseas Students Charge Collection Act 1979*) appears to be altering a definition. However, the amendment simply moves the existing definition to its correct alphabetical position in the list of defined terms in section 3.
17. Item 103 (proposed amendment of section 18 of the *Stevedoring Industry Finance Committee Act 1977*) appears to be replacing paragraph 18(1)(a). In fact the amendment simply moves the expression “; and” to the correct place in the paragraph.
18. Items 140 and 141 (proposed amendments of section 20 of the *World Heritage Properties Conservation Act 1983*) omit words referring to a provision of the Act that has been repealed. The words being omitted are therefore meaningless.

Schedule 3 - Amendment of Amending Acts

19. The items in Schedule 3 correct errors in amending legislation where the effect of the error has been to prevent the amendment from operating. An example of this kind of error is an amending provision as follows: “Section 3—Omit ‘a person’”, where section 3 does not contain the words “a person” but does contain the words “the person”. An item in this Schedule would amend the provision above so that it would read: “Section 3—Omit ‘the person’”.
20. None of the amendments proposed in the Schedule will alter the content of the law. The following paragraphs explain how some items that may appear to be altering the content of the law are not in fact doing so.
21. Item 6 (proposed amendment of the *Australian National University Act 1991*) repeals a Division of the Act consisting of 2 sections. The intended effect of those 2 sections was to remove a reference to the Canberra Institute of the Arts from the *Employment, Education and Training Act 1988*. However, the reference did not exist and the sections are therefore meaningless.

22. Item 46 (proposed amendment of the *Sales Tax Laws Amendment Act 1985*) repeals an amendment that sought to amend a non-existent paragraph of the *Pay-roll Tax Assessment Act 1941*. The amendment to be repealed is therefore meaningless.

Schedule 4 - Amendment of certain Acts to correct references to the Remuneration Tribunal Act 1973

23. The amendments proposed in Schedule 4 are consequential on the change of name of the *Remuneration Tribunals Act 1973* to the *Remuneration Tribunal Act 1973*. References to the original title of the Act occurred throughout Commonwealth statutes and not all these references were brought up to date at the time the title was changed. Although this does not create any problem at law (because of the operation of section 10 of the *Acts Interpretation Act 1901*), it is desirable that all references to the name of the Act be brought up to date.

Schedule 5 - Gender neutral language

24. Schedule 5 continues the process of amending gender specific language in Acts. Since 1984 Acts have been amended in this way as the opportunity arises.

