

LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115, 1990

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
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AMENDMENTS OF OTHER ACTS

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
LONG TITLE**

An Act to amend various Acts administered by the Attorney-General
relating to law and justice and other matters, and for related purposes

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
PART 1**

PART 1 - INTRODUCTORY

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 1 Short title**

(Assented to 21 December 1990)

1. This Act may be cited as the Law and Justice Legislation Amendment Act
1990.

(Minister's second reading speech made in

House of Representatives on 20 September 1990

Senate on 15 November 1990)

LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990

SECT 2

Commencement

2. (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Subject to subsection (3), the provisions of Part 2 commence on a day or days to be fixed by Proclamation.

(3) If a provision referred to in subsection (2) does not commence under that subsection within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 - PART 2

PART 2 - AMENDMENTS OF THE BANKRUPTCY ACT 1966

LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 - SECT 3

Principal Act

3. In this Part, "Principal Act" means the Bankruptcy Act 1966.*1*

1 No. 33, 1966, as amended. For previous amendments, see No. 121, 1968; No. 40, 1969; No. 122, 1970; No. 216, 1973; No. 56, 1975; Nos. 37, 91 and 161, 1976; No. 111, 1977; No. 155, 1979; Nos. 12 and 70, 1980; Nos. 74 and 176, 1981; No. 18, 1983; Nos. 10 and 63, 1984; Nos. 21 and 193, 1985; Nos. 154 and 168, 1986; Nos. 73 and 119, 1987; and Nos. 8, 38 and 99, 1988.

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 4**

Interpretation

4. Section 5 of the Principal Act is amended:

(a) by omitting from subsection (1) the definition of "public examination";

(b) by inserting in subsection (1) the following definition:

"`eligible judge' means a judge of the Court declared by the Minister to be an eligible judge under subsection 129A (2);".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 5**

Delegation by Minister or Secretary

5. Section 10 of the Principal Act is amended by omitting from subsection (7) the definition of "officer".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 6**

Registrars and Deputy Registrars

6. Section 14 of the Principal Act is amended:

(a) by inserting after subsection (1) the following subsection:

"(1A) The Secretary may, in writing, direct an officer to exercise or perform, for the period specified in the direction or until the direction is revoked, all the powers, functions or duties of a Registrar under this Act, or such of those powers, functions or duties as are specified.";

(b) by inserting in subsection (2A) "or by a person acting under a direction under subsection (1A)," after "Deputy Registrar,".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 7**

Duties etc. of trustee

7. Section 19 of the Principal Act is amended:

- (a) by omitting paragraphs (1) (e) and (f);
- (b) by omitting subsections (1A) and (1B).

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 8**

The Common Investment Fund

8. Section 20B of the Principal Act is amended by inserting in subsection (5) "at least" after "times".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 9**

Exercise of powers by certain officials

9. Section 31A of the Principal Act is amended by omitting subsection (8).

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 10**

Debtor's petition

10. Section 55 of the Principal Act is amended:

- (a) by omitting from subsection (3) "Where" and substituting "Subject to subsection (3A), where";
- (b) by inserting after subsection (3) the following subsection:
"(3A) Where, at the time when a debtor's petition is presented under this section, a creditor's petition is pending against the debtor (whether alone or

jointly with another person) or against a partnership of which the debtor is a member, the Registrar must refer the debtor's petition to the Court for a direction to accept or reject it.";

(c) by adding at the end of subsection (4) "or (3A)".

LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 - SECT 11

Debtor's petition against partnership

11. Section 56 of the Principal Act is amended:

(a) by omitting from subsection (4) "subsection (6)" and substituting "this section";

(b) by omitting from paragraph (4) (b) "or (6)" and substituting ", (6) or (7AA)";

(c) by inserting in paragraph (4) (c) "or (e)" after "paragraph (d)";

(d) by adding at the end of subsection (4) the following word and paragraph:

"; or (e) where the petition is accepted by the Registrar under an order of the Court under paragraph (7AB) (b) - the petitioning partner, or each of the petitioning partners, to whom the petition, as amended under that order, applies becomes a bankrupt by virtue of the presentation of the petition.";

(e) by inserting after subsection (7) the following subsections:

"(7AA) Where, at the time when a debtor's petition is presented under this section, a creditor's petition is pending against the partnership, or against any of its members (whether alone or jointly with another person), the Registrar must refer the debtor's petition to the Court for a direction to accept or reject it.

"(7AB) Upon a reference under subsection (7AA), the Court may direct the Registrar:

- (a) to accept the petition; or
- (b) to amend the petition by deleting from it the name of any partner against whom the creditor's petition is pending and to accept the petition, as so amended, under subsection (4); or
- (c) to reject the petition.";
- (f) by omitting from subsections (7A) and (8) "or (6)" and substituting ", (6) or (7AA)";
- (g) by inserting in subsection (13) "or (7AB) (a)" after "(7) (a)".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 12**

Debtor's petition by joint debtors who are not partners

12. Section 57 of the Principal Act is amended:

- (a) by omitting from subsection (3) "Where" and substituting "Subject to subsection (3A), where";
- (b) by inserting after subsection (3) the following subsection:
"(3A) Where, at the time when a debtor's petition is presented under this section, a creditor's petition is pending against any of the debtors (whether alone or jointly with another person), or against a partnership of which any of the debtors is a member, the Registrar must refer the debtor's petition to the Court for a direction to accept or reject it.";
- (c) by adding at the end of subsection (4) "or (3A)".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 13**

Heading to Division 5 of Part IV

13. The heading to Division 5 of Part IV of the Principal Act is amended by omitting ", Public Examination".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 14**

Repeal of section 69

14. (1) Section 69 of the Principal Act is repealed.

(2) Despite the repeal of section 69 of the Principal Act, that section, as in force immediately before its repeal, continues to apply in relation to the examination of a person who became a bankrupt before that repeal.

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 15**

Discovery of bankrupt's property etc.

15. (1) Section 81 of the Principal Act is amended by inserting after subsection (11) the following subsection:

"(11AA) Subject to any contrary direction by the Court, the Registrar or the magistrate, the relevant person is not excused from answering a question merely because to do so might tend to incriminate the relevant person."

(2) Section 81 of the Principal Act, as in force immediately before the commencement of this section, continues to apply in relation to the examination of a person who, before that commencement, became a "relevant person" within the meaning of that section.

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 16**

Priority payments

16. Section 109 of the Principal Act is amended by inserting in subsection (1) "section 50 of the Child Support (Registration and Collection) Act 1988 and" after "Subject to this Act and to".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 17**

Property divisible among creditors

17. Section 116 of the Principal Act is amended by inserting after paragraph (2) (ma) the following paragraph:

"(mb) amounts paid to the bankrupt under a scheme established and operated by a State or the Northern Territory in accordance with an agreement between the Commonwealth and that State or Territory whose execution, on behalf of the Commonwealth, was approved by the States and Northern Territory Grants (Rural Adjustment) Act 1988, or in accordance with that agreement as subsequently amended, being amounts paid by way of grant or loan as assistance for the purpose of rehabilitation or household support;"

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 18**

18. After section 129 of the Principal Act the following section is inserted in Division 4 of Part VI: Eligible judges

"129A. (1) A judge of the Court may, by writing, consent to be declared by the Minister under subsection (2).

"(2) The Minister may, by writing, declare a judge of the Court whose consent is in force under subsection (1) to be an eligible judge for the purposes of this Act.

"(3) An eligible judge has, in relation to the power to issue a warrant under section 130, the same protection and immunity as a Justice of the High Court has in relation to proceedings in the High Court."

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 19**

Warrant for seizure of property connected with the bankrupt

19. Section 130 of the Principal Act is amended:

(a) by omitting from subsection (1) "a judge of the Court or to a magistrate" and substituting "an eligible judge";

(b) by omitting from subsection (2) "or magistrate";

(c) by omitting from subsection (3) "A judge or magistrate" and substituting "An eligible judge";

(d) by omitting from paragraphs 130 (3) (a), (b) and (c) "or magistrate" (wherever occurring);

(e) by omitting from subsection (4) "a judge or magistrate" and substituting "an eligible judge".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 20**

Order relating to property of entity

20. Section 139D of the Principal Act is amended by omitting from paragraph (1) (a) "date" and substituting "end".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 21**

Order relating to entity's net worth

21. Section 139E of the Principal Act is amended by omitting from paragraph (1) (a) "date" and substituting "end".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 22**

Discharge of bankrupt by operation of law

22. Section 149 of the Principal Act is amended:

- (a) by omitting paragraphs (3) (a) and (b);
- (b) by omitting from paragraph (14) (c) "(a), (b) or".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 23**

23. After section 149 of the Principal Act the following section is inserted:

Discharge of bankrupts in certain other cases

"149A. Where, immediately before the commencement of this section, a person was an undischarged bankrupt solely because paragraph 149 (3) (a) or (b) of this Act, as then in force, applied to the person, the person is, by force of this section, discharged from bankruptcy on that commencement."

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 24**

24. After section 154 of the Principal Act the following section is inserted in Division 1 of Part VIII:

Official Receiver's report

"154A. (1) A natural person who intends to apply for registration under section 155 may apply to the Official Receiver for the District in which the application under section 155 is to be made for a report under this section.

"(2) An application under this section must be made in writing as prescribed and must be accompanied by the prescribed fee.

"(3) On receipt of an application, the Official Receiver must, after causing the applicant to be interviewed as prescribed and making such inquiries as the Official Receiver thinks necessary, prepare and give the applicant a written report stating the Official Receiver's opinion of the applicant's ability to perform the duties of, and fitness to be registered as, a trustee under this Act.

"(4) A report must contain a summary of the results of the interview and any inquiries made by the Official Receiver, and may set out any other matters that the Official Receiver thinks the Court should take into account in considering an application by the applicant under section 155."

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 25**

Registration of persons as trustees

25. (1) Section 155 of the Principal Act is amended:

(a) by omitting subsection (3) and substituting the following subsection:

"(3) An application must:

(a) be made in writing as prescribed; and

(b) contain such information as is prescribed; and

(c) be accompanied by the prescribed fee and an Official Receiver's report under section 154A.";

(b) by inserting in paragraph (3A) (d) ", having had regard to the report mentioned in paragraph (3) (c)," after "the Court";

(c) by inserting after subsection (3B) the following subsection:

"(3C) Subject to this Act, where a person is registered under this section, the registration remains in force for 3 years from the day on which the applicant enters into the bond mentioned in subsection (3A).";

(d) by omitting subsection (5);

(e) by omitting from subsection (5B) "suspend for a specified period or";

(f) by omitting from subsection (5C) "suspend for a specified period or";

(g) by inserting after subsection (5D) the following subsections:

"(5E) A person who is registered under this section may notify the Registrar in writing that the person wishes to stop being a registered trustee on the day specified in the notice, being a day that is not later than the last day of the current term of the person's registration.

"(5F) Where a person gives a notice under subsection (5E), the person stops being a registered trustee on the day specified in the notice."

(2) A person who, immediately before the commencement of this section, was registered under section 155 of the Principal Act, as then in force, may, within 3 months after that commencement, notify the Registrar that the person wishes to continue to be a registered trustee within the meaning of the Principal Act.

(3) A person who notifies the Registrar under subsection (2) is taken to have been registered under section 155 of the Principal Act, as amended by this Act, for a term of 3 years starting on the day on which the notice is given to the Registrar.

(4) A person mentioned in subsection (2) who does not notify the Registrar under that subsection stops being a registered trustee at the end of the period of 3 months mentioned in that subsection.

LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 - SECT 26

26. After section 155 of the Principal Act the following sections are inserted:

Extension of term of registration

"155A. (1) A person who is registered under section 155 may, within 6 months before the end of the current term of the registration, apply to the Registrar for an extension of the term.

"(2) An application must be made in writing as prescribed and must be accompanied by the prescribed fee.

"(3) The Registrar must notify the Inspector-General and each Official Receiver of an application within 2 days after the Registrar receives it.

"(4) The Inspector-General or an Official Receiver may, within 7 days after

receipt of a notice under subsection (3), object to the application by notice in writing given to the Registrar.

"(5) If the Inspector-General or an Official Receiver does not object to an application, the Registrar must grant it, but if there is such an objection, the Registrar must refer it to the Court for a direction to grant or refuse it.

"(6) The Registrar must comply with a direction of the Court on a reference under subsection (5).

"(7) Where the Registrar grants an application, the term of the relevant registration is extended for a period of 3 years starting immediately after the end of the current term of the registration.

"(8) Where:

(a) a person applies for an extension of the current term of a registration; and

(b) the term would, apart from this subsection, end on a day before the application is finally determined;

the current term of the registration continues until the day on which the application is finally determined.

Certificates of registration

"155B. (1) Where a person is registered under section 155, the Registrar must cause a certificate of registration to be given to the person.

"(2) Where a person stops being a registered trustee, the person must, as soon as practicable, forward his or her certificate of registration to the Registrar.

"(3) A person who, without reasonable excuse, does not comply with subsection (2) is guilty of an offence punishable, on conviction, by a fine not exceeding \$100."

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 27**

Gazettal of registration etc.

27. Section 156 of the Principal Act is amended by omitting "the registration of a person under section 155 is cancelled or suspended or his name is removed from the register" and substituting ", for any reason, a person stops being a registered trustee".

LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -

SECT 28

Trustee's accounts and audit

28. Section 175 of the Principal Act is amended:

(a) by omitting subsections (2), (3) and (4) and substituting the following subsection:

"(2) The Inspector-General or an Official Receiver may, on his or her own motion or at the request of a creditor or the bankrupt, audit an account furnished to the Registrar under subsection (1), or cause it to be audited by an appropriate person.";

(b) by omitting from subsection (6) ", not being an audit carried out by the Auditor-General,".

LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -

SECT 29

Court may order trustee to make good loss caused by breach of duty

29. Section 176 of the Principal Act is amended by omitting from paragraph (2) (b) "suspending for a specified period, or cancelling," and substituting "cancelling".

LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -

SECT 30

Controlling trustee's accounts

30. Section 211 of the Principal Act is amended:

(a) by omitting subsections (2), (3) and (4) and substituting the following subsection:

"(2) The Inspector-General or an Official Receiver may, on his or her own motion or at the request of a creditor or the debtor, audit an account furnished to the Registrar under subsection (1), or cause it to be audited by an appropriate person.";

(b) by omitting from subsection (5A) ", not being an audit carried out by the Auditor-General,".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 31**

Court may order controlling trustee to make good loss caused by breach of duty

31. Section 212 of the Principal Act is amended by omitting from paragraph (2) (b) "suspending for a specified period, or cancelling," and substituting "cancelling".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 32**

Control of controlling trustees by the Court

32. Section 212B of the Principal Act is amended by inserting in subsections (1) and (2) ", the Inspector-General" after "Registrar".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 33**

Law of State or Territory may be proclaimed

33. Section 253B of the Principal Act is amended:

(a) by adding at the end of paragraphs (a) and (b) "or";

(b) by inserting after paragraph (d) the following word and paragraph:

"; or (e) gives effect to an agreement between

the Commonwealth and a State or the Northern Territory whose execution, on behalf of the Commonwealth, was approved by the States and Northern Territory Grants (Rural Adjustment) Act 1988, or that agreement as subsequently amended;" .

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 34**

Transcript of evidence etc.

34. Section 255 of the Principal Act is amended:

(a) by omitting subsections (1) to (4) (inclusive);

(b) by inserting in subsection (5) "recorded" after "transcript of any";

(c) by omitting from subsection (5) "taken down or recorded in accordance with this section" and substituting "given before or by the Court, the Registrar or a magistrate" .

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 35**

Failure of person to attend before the Court etc.

35. (1) Section 264A of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:

"(1) This section applies to a person who:

(a) is served, whether before or after the commencement of this subsection, with a summons under this Act to attend for examination under a provision of this Act (other than section 81), or to appear as a witness before the Court,

and is tendered a reasonable sum for expenses; or

(b) is not a relevant person within the meaning of section 81 but is served, whether before or after the commencement of this section, with a summons to attend for examination under that section and is tendered a reasonable sum for expenses; or

(c) is a relevant person within the meaning of section 81 and is served, on or after the commencement of this section, with a summons to attend for examination under that section.

"(1A) A person to whom this section applies must not, after the commencement of this section, without reasonable excuse:

(a) fail to attend as required by the summons served on the person; or

(b) fail to appear and report from day to day, unless excused or released from further attendance by the Court, the Registrar or the magistrate, as the case may be.

Penalty: Imprisonment for 6 months."

(2) Subsection 264A (1) of the Principal Act, as in force immediately before the commencement of this section, continues to apply to:

(a) a person served, before that commencement, with a summons to attend for examination under section 69 of that Act, as so in force; and

(b) a person who was a relevant person within the meaning of section 81 of the Principal Act, as in force immediately before the commencement of this section, and who was served, before that commencement, with a summons to attend for examination under that section.

LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -

SECT 36

Arrest of person failing to attend before the Court etc.

36. (1) Section 264B of the Principal Act is amended:

(a) by inserting in subsection (2) "mentioned in paragraph 264A (1) (a) or

(b)" after "a person";

(b) by omitting from subsection (2) "(other than section 69)".

(2) Subsection 264B (2) of the Principal Act, as in force immediately before the commencement of this section, continues to apply in relation to a person served, before that commencement, with a summons to attend for examination under section 81 of that Act, as so in force.

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 37**

Protection in respect of reports

37. Section 306B of the Principal Act is amended by omitting from subsection (1) "or 150 (3)" and substituting ", 150 (3), 154A (3) or 189A (1)".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 38**

38. Section 314 of the Principal Act is repealed and the following section is substituted:

Annual Report

"314. The Inspector-General must give the Minister, after the end of each financial year, a report on the operation of this Act during that financial year for presentation by the Minister to the Parliament."

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 39**

Rules and regulations

39. Section 315 of the Principal Act is amended by omitting paragraphs (1) (c) and (e).

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
PART 3**

PART 3 - AMENDMENTS OF THE CIRCUIT LAYOUTS ACT 1989

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 40**

Principal Act

40. In this Part, "Principal Act" means the Circuit Layouts Act 1989.*2*
2 No. 28, 1989.

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 41**

Interpretation

41. Section 5 of the Principal Act is amended by omitting "plan comprising a two-dimensional" from the definition of "circuit layout".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 42**

References to all joint makers

42. Section 14 of the Principal Act is amended by omitting "Division" and substituting "Part".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 43**

Innocent commercial exploitation

43. Section 20 of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsection:
"(1) The EL rights in an eligible layout are not infringed by a person who commercially exploits, or authorises the commercial exploitation of, an unauthorised integrated circuit in Australia, being a circuit made in accordance with the layout, if, at the time when the person acquired the circuit, the person did not know, and could not reasonably be expected to have known, that the circuit was unauthorised.";

(b) by omitting from subsection (2) "EL rights subsist in the layout" and "layout" (second occurring) and substituting "the integrated circuit is unauthorised" and "circuit", respectively;

(c) by omitting from subsection (2) "those rights" and substituting "the EL rights in the layout";

(d) by adding at the end the following subsection:

"(3) In this section:
'unauthorised', in relation to an integrated circuit made in accordance with an eligible layout, means made without the licence of the owner of the EL rights in the layout.".

LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -

SECT 44

Copying for private use

44. Section 21 of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsection:

"(1) The EL rights in an eligible layout are not infringed by making:

(a) a copy or copies of the layout; or

(b) an integrated circuit in accordance with the layout or with a copy of the layout;

for the private use of the person who does the making.";

(b) by inserting in subsection (2) ", or an integrated circuit made in accordance with an eligible layout or with a copy of such a layout," after

"eligible layout";

(c) by omitting from subsection (2) "it is commercially exploited or if it is" and substituting "the copy or integrated circuit, as the case may be, is commercially exploited or".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 45**

Copying for research or teaching purposes

45. Section 22 of the Principal Act is amended by inserting ", or by making an integrated circuit in accordance with the layout or with a copy of the layout," after "the layout".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 46**

Evaluation or analysis

46. Section 23 of the Principal Act is amended by adding at the end the following subsection:

"(2) The EL rights in an eligible layout are not infringed:

(a) by making an integrated circuit in accordance with the layout, or with a copy of the layout, for the purpose of evaluating or analysing the layout;

or

(b) by making an original circuit layout based on an evaluation or analysis carried out with the use of an integrated circuit referred to in paragraph

(a); or

(c) by making an integrated circuit in accordance with an original circuit layout referred to in paragraph (b); or

(d) by copying or commercially exploiting in Australia an original circuit layout referred to in paragraph (b)."

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 47**

Use for purposes of defence or security

47. Section 25 of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsection:

"(1) An act done by the Commonwealth, or by a person authorised in writing by the Commonwealth, in relation to an eligible layout is not an infringement of the EL rights in the layout if:

(a) the act is for the defence or security of Australia; and

(b) the Commonwealth, or the authorised person, as the case may be, has unsuccessfully taken all reasonable steps to obtain the licence of the owner of the EL rights, on reasonable terms, to do the act.";

(b) by omitting from subsection (2) all the words from and including ", and may be given".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 48**

Eligible foreign countries

48. Section 42 of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

"(a) it is a party to a convention relating to the protection of circuit layouts and:

(i) Australia is also a party to the convention; or

(ii) Australia, although not a party to the convention, has taken all necessary steps to become such a party; or".

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
PART 4**

PART 4 - AMENDMENTS OF OTHER ACTS

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SECT 49**

Amendments of other Acts

49. The Acts specified in the Schedule are amended as set out in the Schedule.

**LAW AND JUSTICE LEGISLATION AMENDMENT ACT 1990 No. 115 of 1990 -
SCHEDULE**

SCHEDULE Section 49

AMENDMENTS OF OTHER ACTS

Acts Interpretation Act 1901

Subsection 4 (2):

Omit the subsection, substitute the following subsections:

"(1A) Where:

(a) an Act that is in operation (in this subsection called the 'parent Act') is expressed to confer power to make an instrument of a legislative or administrative character (including rules, regulations or by-laws); and

(b) the Act concerned is expressed to amend the parent Act in such a manner that the parent Act, as amended, will confer additional power to make such an instrument;

then, unless the contrary intention appears:

(c) the powers mentioned in paragraphs (a) and (b) may be exercised by making a single instrument;

and

(d) such an instrument is to be treated as made under subsection (1) so far as any provisions contained in it required an exercise of the additional power mentioned in paragraph (b).

"(2) An appointment made under subsection (1) takes effect:

(a) on the day specified in the appointment, being a day that is not earlier than the day on which the Act concerned comes into operation; or

(b) if a day is not specified in the appointment - on the day on which the Act concerned comes into operation.

"(2A) Where, because of some or all of its provisions (in this subsection called the `relevant provisions'), an instrument is made under subsection (1), each relevant provision takes effect, as declared in the instrument:

(a) on a specified date that is not earlier than the date when the Act concerned comes into operation; or

(b) from a specified time on a specified date that is not earlier than the date and time when the Act concerned comes into operation; or

(c) on the date, or from the date and time, when the Act concerned comes into operation."

Subsection 4 (4):

Omit "and (2)", substitute ", (2) and (2A)".

Subsection 4 (5):

Omit "(2)", substitute "(1A), (2), (2A)".

Paragraph 22 (1) (a):

Omit the paragraph, substitute the following paragraphs:

"(a) expressions used to denote persons generally (such as `person', `party', `someone', `anyone', `no-one', `one', `another' and `whoever'), include a body politic or corporate as well as an individual;

(aa) `individual' means a natural person;".

Subsection 22 (2):

Omit "shall not be taken to imply that references in the Act to persons do not also include references to", substitute "do not imply that expressions in the Act of the kind mentioned in paragraph (1) (a) do not include".

After paragraph 33A (b):

Insert the following paragraph:

"(ba) where the appointment is to act in a vacant office, the appointee must not continue to act in the office for more than 12 months;".

Section 46:

Add at the end the following subsection:

"(2) Where an Act confers upon an authority power to make an instrument (including rules, regulations or by-laws) or a resolution:

(a) specifying, declaring or prescribing a matter or thing; or

(b) doing anything in relation to a matter or thing;

then, in exercising the power, the authority may identify the matter or thing by referring to a class or classes of matters or things. "

Subsection 46A (1):

Insert "the enabling provision or any other provision of the law" after "(however described) and".

Subsection 48 (2):

Omit the subsection, substitute the following subsection:

"(2) A regulation, or a provision of regulations, has no effect if, apart from this subsection, it would take effect before the date of notification and as a result:

(a) the rights of a person (other than the Commonwealth or an authority of the Commonwealth) as at the date of notification would be affected so as to disadvantage that person; or

(b) liabilities would be imposed on a person (other than the Commonwealth or an authority of the Commonwealth) in respect of anything done or omitted to be done before the date of notification."

Australian Capital Territory Supreme Court Act 1933

Section 8AA:

Repeal the section, substitute the following section:

Exercise of jurisdiction in relation to legal practitioners

"8AA. (1) The jurisdiction of the Supreme Court in an application made under an Ordinance or enactment relating to legal practitioners, being an application for admission to practise as a barrister and solicitor, or as a barrister or as a solicitor, of the Court, must be exercised by at least 3 Judges sitting together in Court, unless the Chief Justice

directs otherwise.

"(2) The jurisdiction of the Supreme Court in the following matters must be exercised by at least 3 Judges sitting together in Court:

(a) a matter relating to the issue or cancellation of a practising certificate under an Ordinance or enactment relating to legal practitioners;

(b) a matter relating to the professional behaviour or conduct of a legal practitioner.

"(3) This section does not prevent a single Judge from giving directions of an interlocutory kind in relation to a matter mentioned in subsection (2).".

Australian Security Intelligence Organization Act 1979

Subsection 92G (3):

(a) After "before the Committee," insert "or of the contents of a document produced to the Committee in private,".

(b) Omit "a witness", substitute "the person who gave the evidence or produced the document".

Subsection 92G (4):

Omit "evidence or authorise the disclosure or publication of evidence", substitute ", or authorise the disclosure or publication of, evidence or the contents of a document".

Section 92P:

Repeal the section, substitute the following section:

Continuance of evidence

"92P. Subject to subsection 92G (1), where evidence, or a document, relating to a matter has been taken by or produced to the Committee as

constituted at any time, but the Committee as so constituted has ceased to exist before reporting on the matter, the Committee as constituted at any later time, whether during the same or another Parliament, may consider that evidence or document as if the evidence or document had been taken by or produced to it."

Subsection 92R (2):

Omit the subsection, substitute the following subsection:

"(2) Where evidence, or the contents of a document, taken by or produced to the Committee in private are disclosed or published under section 92G, section 4 of the Parliamentary Papers Act 1908 applies to the disclosure or publication as if it were a publication under an authority given under section 2 of that Act."

**Australian Security Intelligence Organization
Amendment Act 1986**

Sections 33, 36 and 37:

Repeal the sections.

Family Law Act 1975

Subsection 94 (1):

Omit "An appeal", substitute "Subject to section 94AA, an appeal".

After section 94:

Insert the following section:

Leave to appeal needed in some cases

"94AA. (1) An appeal does not lie to a Full Court of the Family Court from a prescribed decree, except by leave of a Full Court of that Court.

"(2) An application for leave is to be determined by a Full Court of the Family Court.

"(3) The Rules of Court may make provision for enabling applications for leave to be dealt with, subject to conditions prescribed by the Rules, without an oral hearing.

"(4) In this section:

'child welfare matter' has the same meaning as in Part VII;

'prescribed decree' means a decree of the kind mentioned in subsection 94 (1) that is an interlocutory decree, but does not include a decree in relation to a child welfare matter."

Federal Court of Australia Act 1976

Subsection 25 (2):

Omit the subsection, substitute the following subsections:

"(2) Applications:

(a) for leave or special leave to appeal to the Court; or

(b) for an extension of time within which to institute an appeal to the Court; or

(c) for leave to amend the grounds of an appeal to the Court; or

(d) to stay an order of a Full Court;

may be heard and determined by a single Judge or by a Full Court.

"(2A) The Rules of Court may make provision enabling applications of the kind mentioned in subsection (2) to be dealt with, subject to conditions prescribed by the Rules, without an oral

hearing."

After section 29:

Insert the following section:

Prison sentence not to include time on bail

"29A. Where a person who has been convicted of an offence and sentenced to a term of imprisonment appeals to the Court against the conviction or sentence, or both, any time during which the person is released on bail pending the determination of the appeal does not count as part of the term of imprisonment to which the person has been sentenced."

Subsection 51A (4):

Omit "plaintiff", substitute "applicant".

Section 52:

(a) Omit "at such rate as is fixed by the Rules of Court".

(b) Add at the end the following subsection:

"(2) Interest is payable:

(a) at such rate as is fixed by the Rules of Court; or

(b) if the Court, in a particular case, thinks that justice so requires - at such lower rate as the Court determines."

Subsection 56 (1):

Omit "a plaintiff", substitute "an applicant".

Human Rights and Equal Opportunity Commission Act 1986

Subsection 3 (1) (definition of "Commonwealth enactment"):

Insert ", an Australian Capital Territory enactment" after "a Territory enactment".

Subsection 3 (1) (definition of "Minister"):

Insert in paragraph (b) "Australian Capital Territory or the" after "the".

Subsection 3 (1) (definition of "State"):

Insert "Australian Capital Territory and the" after "the".

Subsection 3 (1) (definition of "State enactment"):

Insert "an Australian Capital Territory enactment and" after "includes".

Subsection 3 (1) (definition of "Territory"):

Insert "the Australian Capital Territory or" after "include".

Subsection 3 (1):

Insert the following definition:

"`Australian Capital Territory enactment' means an enactment of the Australian Capital Territory within the meaning of the Australian Capital Territory (Self-Government) Act 1988, or an instrument made under such an enactment;".

Marriage Act 1961

Subsection 9C (6):

Omit "the Gazette", substitute "such manner as the Minister considers appropriate".

Racial Discrimination Act 1975

After subsection 9 (1):

Insert the following subsection:

"(1A) Where:

(a) a person requires another person to comply with a term, condition or requirement which is not reasonable having regard to the circumstances of the

case; and

(b) the other person does not or cannot comply with the term, condition or requirement; and

(c) the requirement to comply has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, by persons of the same race, colour, descent or national or ethnic origin as the other person, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life;

the act of requiring such compliance is to be treated, for the purposes of this Part, as an act involving a distinction based on, or an act done by reason of, the other person's race, colour, descent or national or ethnic origin."

Subsection 9 (2):

(a) Omit "The reference to subsection (1)", substitute "A reference in this section".

(b) Omit "a reference to".

Subsection 9 (3):

Omit "Subsection (1)", substitute "This section".

Subsection 9 (4):

Omit "subsection (1)", substitute "this section".

Section 18:

Repeal the section, substitute the following section:

Acts done for 2 or more reasons

"18. Where:

(a) an act is done for 2 or more reasons; and
(b) one of the reasons is the race, colour, descent or national or ethnic origin of a person (whether or not it is the dominant reason or a substantial reason for doing the act);
then, for the purposes of this Part, the act is taken to be done for that reason."

After section 18:

Insert the following section:

Vicarious liability

"18A. (1) Subject to subsection (2), if:

(a) an employee or agent of a person does an act in connection with his or her duties as an employee or agent; and

(b) the act would be unlawful under this Part if it were done by that person;

this Act applies in relation to that person as if that person had also done the act.

"(2) Subsection (1) does not apply to an act done by an employee or agent of a person if it is established that the person took all reasonable steps to prevent the employee or agent from doing the act."

Service and Execution of Process Act 1901

Subsection 26A (1):

Insert the following definition:

"`facsimile', in relation to a warrant, means a copy of the warrant that has been produced by facsimile telegraphy;"

Subsection 26E (5):

Insert ", or a facsimile of the warrant," after "warrant" (second occurring).

Subsection 26J (1):

Omit "the next succeeding subsection", substitute "subsection (2)".

After subsection 26J (1):

Insert the following subsections:

"(1A) Subject to subsection (2), payment of an amount in respect of a fine in relation to which a warrant of commitment has been issued under section 26H may be made to, and received by, the constable executing the warrant before the constable takes the person liable to pay the fine into custody.

"(1B) Where a payment is received by a constable under subsection (1A), the constable must not execute the warrant of commitment but must return it to the Clerk of the Court that made the order of committal at the same time as the constable forwards the amount of the payment to the Clerk under subsection (4)."

Subsection 26J (2):

Insert "or a warrant of commitment" after "apprehension".

Sex Discrimination Act 1984

Subsection 4 (1) (definition of "administrative office"):

(a) Insert in paragraph (c) "the Australian Capital Territory and" after "including".

(b) Insert before paragraph (e) the following paragraph:

"(ea) an office of member of the Assembly, member of the Executive, or Minister within the meaning of the Australian Capital Territory (Self-Government) Act 1988;"

Subsection 4 (1) (definition of "State"):

Insert "the Australian Capital Territory and" before "the".

Subsection 4 (1) (definition of "Territory"):

Insert "the Australian Capital Territory and" before "the".

Statutory Declarations Act 1959

Section 4:

Insert the following definitions:

" `State' includes the Northern Territory;

`Territory' does not include the Northern Territory."

Paragraph 12 (1) (a):

Insert "(other than the Northern Territory)" after "States".

Paragraph 12 (1) (b):

Omit "Territories,", substitute "Territories and of the Northern Territory;"