

STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1987 No. 141, 1987

An Act to make various amendments of the statute law of the Commonwealth, and for related purposes

STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1987 No. 141, 1987 - SECT 1

Short title

(Assented to 18 December 1987)

1. This Act may be cited as the Statute Law (Miscellaneous Provisions) Act 1987. (Minister's second reading speech made in- Senate on 24 September 1987 House of Representatives on 25 November 1987)

STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1987 No. 141, 1987 - SECT 2

Commencement

2. (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2) The amendments of section 34 of the Audit Act 1901 made by this Act shall come into operation on a day to be fixed by Proclamation for the purposes of this subsection.

(3) The amendment of paragraph 49 (1) (a) of the Audit Act 1901 made by this Act shall come into operation on 1 July 1988.

(4) The amendments of the Australian Institute of Sport (Consequential Provisions) Act 1986 made by this Act shall be deemed to have come into operation on the commencement of the first-mentioned Act.

(5) The amendment of the Australian Trade Commission (Transitional Provisions and Consequential Amendments) Act 1985 made by this Act shall be deemed to have come into operation on the commencement of section 42 of the first-mentioned Act.

(6) The amendments of subsection 3 (1) and sections 6, 7 and 8 (other than the amendment of subsection 7 (2)) of the Bass Strait Freight Adjustment Trust Fund Act 1984 made by this Act shall be deemed to have come into operation on 1 December 1986.

(7) The amendment of subsection 3 (3) of the Bass Strait Freight Adjustment Trust Fund Act 1984 made by this Act shall be deemed to have come into operation on the commencement of the first-mentioned Act.

(8) The amendment of subsection 7 (2) of the Bass Strait Freight Adjustment Trust Fund Act 1984 made by this Act shall be deemed to have come into operation on the commencement of section 5 of the Bass Strait Freight Adjustment Trust Fund Amendment Act 1985.

(9) The amendments of the Commonwealth Prisoners Act 1967 made by this Act shall come into operation on a day to be fixed by Proclamation for the purposes of this subsection.

(10) The amendment of the Customs Administration (Transitional Provisions and Consequential Amendments) Act 1986 shall be deemed to have come into operation on 13 May 1986.

(11) The amendments of the Customs Tariff (Miscellaneous Amendments) Act 1987 made by this Act shall come into operation on the commencement of the first-mentioned Act.

(12) The amendment of section 184 of the Defence Force Re-organization Act 1975 made by this Act shall be deemed to have come into operation on the commencement of section 184 of the first-mentioned Act.

(13) The amendments of the Export Inspection Charges Collection Act 1985 made by this Act shall come into operation on a day to be fixed by Proclamation for the purposes of this subsection.

(14) The amendments of the Export Market Development Grants Act 1974 made by this Act (other than the omission and substitution of subsection 43 (6) of the first-mentioned Act) shall be deemed to have come into operation on 20 May 1985.

(15) The amendments of sections 25 and 27 of the Health Legislation Amendment Act 1986 made by this Act shall come into operation or be deemed to have come into operation, as the case requires, on the respective commencements of those sections.

(16) The amendments of section 46 of, and Schedules 1 and 2 to, the Health Legislation Amendment Act (No. 2) 1986 made by this Act shall be respectively deemed to have come into operation on the commencement of sections 46 and 37 of the first-mentioned Act.

(17) The amendment of the Human Rights and Equal Opportunity Commission Act 1986 made by this Act shall be deemed to have come into operation on the commencement of the Inspector-General of Intelligence and Security Act 1986.

(18) The amendment of the Income Tax Assessment Amendment (Capital Gains) Act 1986 made by this Act shall be deemed to have come into operation on the commencement of the first-mentioned Act.

(19) The amendment of the Income Tax Assessment Amendment (Research and Development) Act 1986 made by this Act shall be deemed to have come into operation on the commencement of the first-mentioned Act.

(20) The amendments of the Inspector-General of Intelligence and Security Act 1986 made by this Act shall be deemed to have come into operation on the commencement of the first-mentioned Act.

(21) The amendment of the Intelligence and Security (Consequential Amendments) Act 1986 made by this Act shall be deemed to have come into operation on the commencement of the first-mentioned Act.

(22) The amendment of the Local Government (Financial Assistance) Act 1986 made by this Act shall be deemed to have come into operation on the commencement of the first-mentioned Act.

(23) The amendments of paragraph 67 (1) (c) of the Migration Act 1958 made by this Act shall come into operation on a day to be fixed by Proclamation for the purposes of this subsection.

(24) The amendments of the National Companies and Securities Commission Act 1979 made by this Act shall be deemed to have come into operation on 1 February 1980.

(25) The following amendments of the National Measurement Act 1960 made by this Act shall come into operation on 1 January 1988:

- (a) the insertion of the definition of "interest in land" in subsection 3 (1);
- (b) the amendment of section 12;
- (c) the insertion of section 12A.

(26) The amendments of paragraph 20 (2) (b) of, and Schedules 1, 2 and 8 to, the Protection of the Sea Legislation Amendment Act 1986 made by this Act shall respectively come into operation or be deemed to have come into operation, as the case requires, on the commencement of subsection 20 (2), subsection 15 (1), subsection 15 (2) and section 40 of the first-mentioned Act.

(27) The amendments of the Public Service Legislation (Streamlining) Act 1986 made by this Act shall be deemed to have come into operation on the twenty-eighth day after the first-mentioned Act received the Royal Assent.

(28) The amendment of the Social Security and Repatriation Legislation Amendment Act 1984 made by this Act shall be deemed to have come into operation on the commencement of section 86 of the first-mentioned Act.

(29) The amendment of the Statute Law (Miscellaneous Provisions) Act (No. 2) 1986 made by this Act shall be deemed to have come into operation on the day on which the first-mentioned Act received the Royal Assent.

(30) The amendments of the Superannuation Legislation Amendment Act (No. 2) 1986 made by this Act shall be deemed to have come into operation on the day on which the first-mentioned Act received the Royal Assent.

(31) The amendment of the Taxation Laws Amendment Act (No. 2) 1986 made by this Act shall be deemed to have come into operation on the commencement of section 9 of the first-mentioned Act.

(32) The amendment of the Trade Practices Act 1974 made by this Act shall come into operation on a day to be fixed by Proclamation for the purposes of this subsection, being a day not earlier than the day on which the United Nations Convention on Contracts for the International Sale of Goods, adopted at Vienna, Austria, on 10 April 1980, enters into force in respect of Australia.

(33) The amendment of the Wildlife Protection (Regulation of Exports and Imports) Amendment Act 1986 made by this Act shall be deemed to have come into operation on the commencement of the first-mentioned Act.

STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1987 No. 141, 1987 - SECT 3

Amendment of Acts

3. The Acts specified in Schedule 1 are amended as set out in that Schedule.

STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1987 No. 141, 1987 - SECT 4

Repeals

4. The Acts specified in Schedule 2 are repealed.

STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1987 No. 141, 1987 - SECT 5

Transitional and application provisions etc.

5. (1) Except as provided in this section, where this Act:

- (a) amends a provision of an Act; or
- (b) repeals and re-enacts (with or without modification) a provision of an Act;

any act done or decision made under the provision has effect after the amendment, or repeal and re-enactment, as if it had been done or made under the provision as so amended or re-enacted.

(2) Notwithstanding the repeal and re-enactment of sections 32 and 33 of the Audit Act 1901 effected by this Act, those sections, as in force immediately before the commencement of this section, continue to apply, and the other provisions of the Audit Act 1901 as amended by this Act apply, in relation to warrants issued by the Governor-General under subsection 32 (3) of the Audit Act 1901 before the commencement of this section.

(3) Section 11A of the Audit Act 1901 as amended by this Act applies in relation to the financial year that commenced on 1 July 1986 and subsequent financial years, and subsections 41D (2), (2A) and (2B) of that Act as so amended apply in relation to the financial year that commenced on 1 July 1987 and subsequent financial years.

(4) Where, immediately before the commencement of this section, a person was holding office as Chairman of the Australian Statistics Advisory Council, the person shall, on the commencement of this section, be deemed to have been appointed as Chairperson of that Council for the remainder of the term for which the person was appointed as Chairman.

(5) Subsection (4) of this section has effect notwithstanding anything contained in subsection 19 (2) of the Australian Bureau of Statistics Act 1975 as amended by this Act.

(6) Section 48A of the Crimes Act 1914 as amended by this Act applies only in relation to a person who, after the commencement of this section, commits an offence against section 47 of that Act as so amended.

(7) Section 48B of the Crimes Act 1914 as amended by this Act applies only in relation to a person who becomes a prisoner unlawfully at large (within the meaning of that section) after the commencement of this section.

(8) Paragraph 38 (3) (aa) of the Dairy Produce Act 1986 as amended by this Act applies only in relation to a person who is appointed or re-appointed as an appointed member of the Australian Dairy Corporation after the commencement of this section.

(9) Paragraph 25 (2) (da) of the Export Control Act 1982 as amended by this Act applies only in relation to amounts that become payable to the Commonwealth after the commencement of this section.

(10) Nothing in this Act, or in paragraph 25 (2) (da) of the Export Control Act 1982 as amended by this Act, shall be taken to imply that, before the commencement of this section, regulations made under the Export Control Act 1982, or orders made pursuant to those regulations, could not make provision for or in relation to the matter referred to in that paragraph.

(11) Subsections 14 (7) and (8) of the First Home Owners Act 1983 as amended by this Act apply only in relation to contracts the date of which is not earlier than the day on which this section comes into operation.

(12) Notwithstanding the amendments of the First Home Owners Act 1983 made by this Act, subsections 14 (7) and (8) of the first-mentioned Act, as in force immediately before the commencement of this section, continue to apply in relation to contracts the date of which is earlier than the day on which this section comes into operation.

(13) Where, immediately before the commencement of this section, a visa granted under subsection 11A (1) of the Migration Act 1958 was in force, the visa shall, on the commencement of this section, be deemed to have been granted under subsection 11A (1) of the Migration Act 1958 as amended by this Act.

(14) Notwithstanding the amendments of the Migration Act 1958 made by this Act, the first-mentioned Act, as in force immediately before the commencement of this section, continues to apply in relation to return endorsements issued under the first-mentioned Act before the commencement of this section.

(15) Where, immediately before the commencement of this section, a standard of classification certificate issued by a survey authority was approved under section 187BA of the Navigation Act 1912, the Minister shall, on the commencement of this section, be deemed to have made the approval under section 187BA of the Navigation Act 1912 as amended by this Act.

(16) Where, immediately before the commencement of this section, a corporation or association for the survey of shipping was approved as a survey authority under section 187BA of the Navigation Act 1912, the Minister shall, on the commencement of this section, be deemed to have made the approval for the purposes of the definition of "survey authority" in subsection 6 (1) of that Act as amended by this Act.

(17) Section 5B of the Removal of Prisoners (Australian Capital Territory) Act 1968 as amended by this Act applies only in relation to a person who becomes a prisoner unlawfully at large (within the meaning of that section) after the commencement of this section.

(18) Section 7A of the Removal of Prisoners (Territories) Act 1923 as amended by this Act applies only in relation to a person who, after the commencement of this section, commits an offence against subsection 7 (2) of that Act as so amended.

(19) Section 7B of the Removal of Prisoners (Territories) Act 1923 as amended by this Act applies only in relation to a person who becomes a prisoner unlawfully at large (within the meaning of that section) after the commencement of this section.

(20) Subsection 31A (2) of the Student Assistance Act 1973 as amended by this Act applies in relation to amounts referred to in paragraph 31A (1) (a) of that first-mentioned Act that are paid on or after 1 January 1987.

STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT 1987 No. 141, 1987 - SCHEDULE 1

SCHEDULE 1

Section 3

AMENDMENTS OF ACTS

Aboriginal Land Rights (Northern Territory) Act 1976

Section 40:

Omit "section 44", substitute "this Part".

Paragraph 42 (5) (a):

Omit "(4) (a)", substitute "(4) (c)".

Subsections 44 (2) and (4):

Omit "paragraph 42 (7) (a)", substitute "subsection 42 (7)".

Subsection 44A (2):

Omit "section", substitute "Part".

Acts Interpretation Act 1901

Subsection 3 (2):

After "particular day" insert "(whether the expression 'come into operation' or 'commence' is used)".

After section 14:

Insert the following sections:

Definitions inserted by amending Act

"14A. Where an amending Act inserts a definition in a provision of the Act being amended, but does not specify the position in that provision where it is to be inserted, it shall be deemed to be inserted in the appropriate alphabetical position, determined on a letter-by-letter basis.

Commencement of paragraphs etc. in amending Act

"14B. Where:

(a) an Act makes an amendment of another Act; and

(b) the amendment is in the form of:

(i) a paragraph of a provision of the amending Act;

(ii) an item (whether or not so described) in a Schedule to the amending

Act; or

(iii) a paragraph of such an item;

a separate commencement date may be given to the amendment, paragraph or item as if the paragraph or item were a self-contained provision of the amending Act."

After section 15AB:

Insert the following sections:

Changes to style not to affect meaning

"15AC. Where:

(a) an Act has expressed an idea in a particular form of words; and

(b) a later Act appears to have expressed the same idea in a different form of words for the purpose of using a clearer style;

the ideas shall not be taken to be different merely because different forms of words were used.

Examples

"15AD. Where an Act includes an example of the operation of a provision:

- (a) the example shall not be taken to be exhaustive; and
- (b) if the example is inconsistent with the provision, the provision prevails."

After section 18A:

Insert the following section:

Chairperson may be referred to as Chairman or Chairwoman "18B. Where an Act establishes an office of Chairperson of a body, the Chairperson may be referred to as the Chairman or Chairwoman, as the case requires."

Section 33:

After subsection (2) insert the following subsections:

"(2A) Where an Act assented to after the commencement of this subsection provides that a person, court or body may do a particular act or thing, and the word 'may' is used, the act or thing may be done at the discretion of the person, court or body.

"(2B) Where an Act confers a power or function, or imposes a duty, on a body, whether incorporated or unincorporated, the exercise of the power or the performance of the function or duty is not affected merely because of a vacancy or vacancies in the membership of the body."

Subsection 33 (3A):

After "particular matters" insert "(however the matters are described)".

Section 33:

After subsection (4) insert the following subsection:

"(4A) In any Act, 'appoint' includes re-appoint."

After section 33:

Insert the following section:

Acting appointments

"33A. Where a provision of an Act (other than subsection 33 (4) of this Act) confers on a person or body (in this section called the 'appointer') a power to appoint a person (in this section called the 'appointee') to act in a particular office, then, except so far as the Act otherwise provides, the following paragraphs apply in relation to an appointment made under the provision:

(a) the appointment may be expressed to have effect only in the circumstances specified in the instrument of appointment;

(b) the appointer may:

(i) determine the terms and conditions of the appointment, including remuneration and allowances; and

(ii) terminate the appointment at any time;

(c) where the appointee is acting in an office other than a vacant office and the office becomes vacant while the appointee is acting, then, subject to paragraph (a), the appointee may continue so to act until:

(i) the appointer otherwise directs;

(ii) the vacancy is filled; or

(iii) a period of 12 months from the day of the vacancy ends;

whichever happens first;

(d) the appointment ceases to have effect if the appointee resigns in writing delivered to the appointer;

(e) while the appointee is acting in the office:

(i) the appointee has and may exercise all the powers, and shall perform all the functions and duties, of the holder of the office; and

(ii) the Act applies in relation to the appointee as if the appointee were the holder of the office.".

After section 34AA:

Insert the following section:

Effect of delegation

"34AB. Where an Act confers power on a person or body (in this section called the 'authority') to delegate a function or power:

(a) the delegation may be made either generally or as otherwise provided by the instrument of delegation;