

AUSTRALIAN LEGISLATION CONCERNING MATTERS OF INTERNATIONAL LAW 1993

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A. Commonwealth Statutes

1. Australian Citizenship Amendment Act 1993 (No 71 of 1993)

This Act amends the Australian Citizenship Act 1948, by inserting a new preambular paragraph, and substituting a new pledge of commitment in two forms (deistic and non-deistic) for the previous oath or affirmation of allegiance. The deistic pledge reads:

From this time forward, under God,
I pledge my loyalty to Australia and its people,
whose democratic beliefs I share,
whose rights and liberties I respect, and
whose laws I will uphold and obey.

2. Australian Wine and Brandy Corporation Amendment Act 1993 (No 93 of 1993)

This Act implements the European Economic Community-Australian Wine Agreement negotiated in December 1992. That Agreement provides, *inter alia*, for mutual recognition of each Party's winemaking practices and standards; protection of each Party's geographical indications, for example, "Coonawarra" "Hunter Valley" or "Champagne", reduction of the number of analyses the European Economic Community requires of Australian wines; and allowing Australian winemakers to market wines in the European Economic Community with multi-varietal and multi-regional blends.

3. Charter of the United Nations Amendment Act 1993 (No 30 of 1993)

This Act amends the Charter of the United Nations Act 1945 (No 32 of 1945). The Charter of the United Nations Act simply approved the Charter of the United Nations, which was scheduled to that Act. The Charter of the United Nations Amendment Act 1993 inserts a new section 6 into the 1945 Act, which provides that the Governor-General may make regulations to give effect to

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Security Council sanctions in so far as they do not require Australia to apply measures involving the use of armed force. The amending Act inserts a new section 8 which provides that any regulations made will expire when the sanctions resolution ceases to bind Australia. The Attorney-General is empowered to apply in a State Supreme Court for an injunction to restrain a person who is engaging or proposes to engage in conduct involving a contravention of the regulations from engaging in that conduct (section 13).

4. Health and Community Services Legislation Amendment (No 2) (No 76 of 1993)

This Act, *inter alia*, implements provisions of the Convention for the Mutual Recognition of Inspections in respect of the Manufacture of Pharmaceutical Products. Australia acceded to the Convention on 25 January 1993. This Convention allows for the mutual exchange of information on the manufacturing standards in the eighteen signatory nations. Accordingly, regulatory authorities in signatory nations can accept pharmaceutical products from other signatory nations without the need for overseas inspections to be undertaken.

5. Industrial Relations Reform Act 1993 (No 98 of 1993)

This Act amends the Industrial Relations Act 1988, the Trade Practices Act 1974, and certain other Acts. The amending Act adds new Schedules 5–13, 15 and 16 to the Industrial Relations Act 1988. Those Schedules contain the texts of the following International Labour Organization Conventions and Recommendations, and other international agreements:

- Convention No 131: Convention Concerning Minimum Wage Fixing, with Special Reference to Developing Countries;
- Convention No 100: Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value;
- Recommendation No 90: Recommendation Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value;
- Preamble, and Parts II and III, of the International Covenant on Economic, Social and Cultural Rights;
- Recommendation No 111: Recommendation Concerning Discrimination in Respect of Employment and Occupation;
- Convention No 158: Convention Concerning Termination of Employment at the Initiative of the Employer;
- Recommendation No 166: Recommendation Concerning Termination of Employment at the Initiative of the Employer;
- Convention No 156: Convention Concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities;
- Recommendation No 165: Recommendation Concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities;

- Preamble, and Parts I and II, of Convention No 87: Convention Concerning Freedom of Association and Protection of the Right to Organise;
- Preamble, and articles 1 to 6, of Convention No 98: Convention Concerning the Application of the Principles of the Right to Organise and to Bargain Collectively.

6. International Development Association (Further Payment) Act 1993 (No 3 of 1993)

This Act authorised a further contribution of \$350 million paid out of the Consolidated Revenue Fund to the International Development Association.

7. Native Title Act 1993 (No 110 of 1993)¹

Although the detail of the Act is not of direct relevance to public international law, the preamble refers to the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Universal Declaration of Human Rights. The Act recites that the people of Australia intend "to ensure that Aboriginal peoples and Torres Strait Islanders receive the full recognition and status within the Australian nation to which history, their prior rights and interests, and their rich and diverse culture, fully entitle them to aspire."

8. Nuclear Non-proliferation (Safeguards) Amendment Act 1993 (No 33 of 1993)

This Act amends the Nuclear Non-proliferation (Safeguards) Act 1987 (No 8 of 1987). The 1987 Act governed non-proliferation of nuclear weapons, and established, in accordance with certain international treaties and agreements to which Australia is a party, a system for the imposition and maintenance of nuclear safeguards in Australia. The international treaties scheduled to 1987 Act are:

- Article 20 of the Statute of the International Atomic Energy Agency;
- the Treaty on the Non-proliferation of Nuclear Weapons;
- Agreement between Australia and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-proliferation of Nuclear Weapons;
- Convention on the Physical Protection of Nuclear Material; and
- other bilateral Treaties concerned with nuclear material and atomic energy.

Section 3 of the Nuclear Non-proliferation (Safeguards) Amendment Act 1993 establishes a maximum charge of \$500,000 for permits granted under the principal Act to process nuclear material.

1 See Practice Section, Chapter II, pp 398–405 of this volume.

9. Nuclear Safeguards (Producers of Uranium or Concentrates) Charge Act 1993 (No 34 of 1993)

Section 3 of this Act provides that a charge is imposed on a person who, on 1 November in a financial year, holds a permit to process an unlimited quantity of uranium or concentrates for export granted under paragraph 13(1)(a) of the Nuclear Non-proliferation (Safeguards) Act 1987.

10. Protection of the Sea (Imposition of Contributions to Oil Pollution Compensation Fund—Customs) Act 1993 (No 42 of 1993)²

This Act imposes contributions payable under the Protection of the Sea (Oil Pollution Compensation Fund) Act 1993 so far as those contributions are duties of Customs, when that Act comes into force. Section 4(2) specifies that this section imposes contributions only so far as those contributions are duties of customs within the meaning of section 55 of the Constitution.

11. Protection of the Sea (Imposition of Contributions to Oil Pollution Compensation Fund—Excise) Act 1993 (No 39 of 1993)³

Section 4 of the Act imposes contributions payable under the Protection of the Sea (Oil Pollution Compensation Fund) Act 1993 when that Act commences; section 4(2) specifies that this section imposes contributions only so far as they are duties of excise within the meaning of section 55 of the Constitution.

12. Protection of the Sea (Imposition of Contributions to Oil Pollution Compensation Fund—General) Act 1993 (No 40 of 1993)⁴

Section 4(1) of this Act imposes contributions payable under the Protection of the Sea (Oil Pollution Compensation Fund) Act 1993 when that Act commences; section 4(2) specifies that this section imposes contributions only so far as those contributions are neither duties of customs nor duties of excise within the meaning of section 55 of the Constitution.

13. Protection of the Sea (Oil Pollution Compensation Fund) Act 1993 (No 41 of 1993)

This Act gives effect to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971 (the Fund Convention). It also will enable Australia to give effect in due course to Protocols amending the Fund Convention adopted in 1976 and 1992, although neither of these has entered into force internationally.

2 See Practice Section, Chapter VI, pp 478–79 of this volume.

3 Ibid.

4 Ibid, p 478.

14. Taxation Laws Amendment Act (No 2) 1993 (No 118 of 1993)

Division 4 of Part 3 of this Act provides that the pay and allowances of Defence Force members performing certain overseas duties (for example, in the United Nations Transitional Authority in Cambodia) shall be exempt from taxation. Division 4 also regulates the taxation of income of certain persons serving with an armed force under the control of the United Nations.

15. Taxation Laws Amendment Act (No 3) 1993 (No 118 of 1993)

Part 5 of this Act amends the Income Tax (International Agreements) Act 1953 by making a minor correction to the words of the exchange of Notes dated 1 and 4 February 1993 between the Government of Australia and the Government of the Socialist Republic of Vietnam. This exchange of Notes forms Schedule 38 to the principal Act. It governs, between the two countries, the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

16. Veterans' Affairs Legislation Amendment Act 1993 (No 27 of 1993)

This Act amends the Veterans' Entitlements Act 1986 so as to extend its provisions to service in peacekeeping forces in Cambodia, the former Yugoslavia and Somalia.

B. Commonwealth Regulations

1. Regulations made under the Admiralty Act 1988

Admiralty Rules (Amendment Regulations) (SR 1993 No 327).

These Regulations allow, *inter alia*, the service of process by fax on ships.

2. Regulations made under the Antarctic Treaty (Environment Protection) Act 1980

Antarctic Seals Conservation Regulations (Amendment) (SR 1993 No 289).

Antarctic Treaty (Environment Protection) (Environmental Impact Assessment) Regulations (SR 1993 No 115).

3. Regulations made under the Australian Citizenship Act 1948

Australian Citizenship Regulations (Amendment) (SR 1993 Nos 55 and 362).

4. Regulations made under the Charter of the United Nations Act 1945

Charter of the United Nations (Sanctions) Regulations (SR 1993 No 279).

These Regulations implement financial sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro).

5. Regulations made under the Customs Act 1901

Customs (Prohibited Imports) Regulations (Amendment) (SR 1993 No 67).

These Regulations prohibit the importation without permission of goods originating in Bosnia and Herzegovina or Croatia.

Customs (Prohibited Exports) Regulations (Amendment) (SR No 68).

These Regulations prohibit the exportation without permission of goods to Bosnia and Herzegovina or Croatia.

6. Regulations made under the Copyright Act 1968

Copyright (International Protection) Regulations (Amendment) (SR 1993 No 214).

These Regulations amend the Copyright (International Protection) Regulations 1969 by, *inter alia*, inserting the following countries into Schedule 1, which lists countries to which the provisions of the Act apply: China, Croatia, Ecuador, Ghana, Guinea-Bissau, Kenya, Malawi, Paraguay, Slovenia, and Zambia.

7. Regulations made under the Extradition Act 1988

Extradition (Republic of the Marshall Islands) Regulations (SR 1993 No 187).

Extradition (Republic of Venezuela) Regulations (SR 1993 No 308).

Extradition (Ships and Fixed Platforms) Regulations (SR 1993 No 86).

8. Regulations made under the Family Law Act 1975

Family Law (Child Abduction Convention) Regulations (Amendment) (SR 1993 Nos 263 and 358).

9. Regulations made under the Fisheries Act 1952

Fisheries Regulations (Amendment) (SR 1993 No 119).

These Regulations incorporate into the schedules to the principal Act amendments to the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America.

10. Regulations made under the Fisheries Management Act 1991

Fisheries Management Regulations (Amendment) (SR 1993 No 118).

These Regulations incorporate into the schedules to the principal Act amendments to the Treaty on Fisheries between the Governments of certain Pacific Island States and the Government of the United States of America.

11. Regulations made under the Foreign Judgments Act 1991

Foreign Judgments Regulations (Amendment) (SR 1993 No 143).

The 1993 Regulations amend the Foreign Judgments Regulations (SR 1992 No 321).

The 1992 Regulations provided a schedule of countries to which Part II of the Foreign Judgments Act 1991 would apply. Part II of the Foreign Judgments Act 1991 concerns reciprocal enforcement of judgments. The

1992 Regulations specified that the only country to which Part II at that time applied was New Zealand.

The 1993 Regulations provide that Part II will apply, upon its gazettal (25 June 1993), to the following countries: Bahamas, British Columbia (Canada), British Virgin Islands, Cayman Islands, Dominica, Falkland Islands, Fiji, France, Germany, Gibraltar, Grenada, Hong Kong, Israel, Italy, Japan, Province of Manitoba (Canada), Montserrat, Papua New Guinea, St Kitts and Nevis, St Vincent and Grenadine, Seychelles, Singapore, Solomon Islands, Tuvalu and the United Kingdom.

12. Regulations made under the Foreign States Immunities Act 1985

Foreign States Immunities Regulations (Amendment) (SR 1993 No 243).

The amending Regulations add a reference to the Sales Tax Assessment Act 1992 in Part 1 of the Schedule to the Foreign States Immunities Regulations (SR 1987 No 77, as amended by SR 1988 No 36). This means that under section 20 of the Act, a foreign state will not be immune in a proceeding against it under the Sales Tax Assessment Act 1992.

13. Regulations made under the International Organisations (Privileges and Immunities) Act 1963

International Organization for Migration (Privileges and Immunities) Regulations (Amendment) (SR 1993 No 107).

Preparatory Commission for the Organization on the Prohibition of Chemical Weapons (Privileges and Immunities) Regulations (SR 1993 No 108).

By these Regulations the Preparatory Commission for the Organization on the Prohibition of Chemical Weapons provided for in the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction made at Paris in January 1993, is given juridical personality and legal capacity in Australia, and certain privileges and immunities are conferred on the Commission and on officers and former officers of the Commission.

14. Regulations made under the Mutual Assistance in Criminal Matters Act 1987

Mutual Assistance in Criminal Matters (Federal Republic of Germany) Regulations (SR 1993 No 147).

Mutual Assistance in Criminal Matters (New Zealand) Regulations (SR 1993 No 278).

Mutual Assistance in Criminal Matters (Republic of Italy) Regulations (SR 1993 No 357).

Mutual Assistance in Criminal Matters (Republic of Korea) Regulations (SR 1993 No 305).

Mutual Assistance in Criminal Matters (Republic of the Philippines) Regulations (SR 1993 No 304).

Mutual Assistance in Criminal Matters (Republic of Portugal) Regulations (SR 1993 No 241).

Mutual Assistance in Criminal Matters (Republic of Singapore) Regulations (SR 1993 No 233).

Mutual Assistance in Criminal Matters (Republic of Vanuatu) Regulations (Amendment) (SR 1993 No 110).

Mutual Assistance in Criminal Matters (United Kingdom) Regulations (SR 1993 No 111).

15. Regulations made under the Ozone Protection Act 1989⁵

Ozone Protection (HCFC, HBFC and Methyl Bromide) Regulations (SR 1993 No 359).

These Regulations provide that no-one can import or manufacture without a licence on or after 1 January 1996 an HCFC, an HBFC (as listed in the Schedule) or methyl bromide. Apart from Part 2, these Regulations commence on 1 June 1994. Part 2 which prohibits a person from importing or exporting an HBFC to or from a non-protocol country, enters into force on 1 January 1995. A non-protocol country is a country not party to the Montreal Protocol on Substances that Deplete the Ozone Layer, as adjusted and amended by the second meeting of the parties in London, 1990.

5 See Practice Section, Chapter XIII, p 636 of this volume.

Australian Practice in International Law 1993

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