

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

(As read a first time)

LAW AND JUSTICE LEGISLATION AMENDMENT BILL 1991

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1990-91

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 29 May 1991

(Attorney-General)

A BILL

FOR

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

The Parliament of Australia enacts:

PART 1—INTRODUCTORY

Short title

5 **1.** This Act may be cited as the *Law and Justice Legislation
Amendment Act 1991*.

Commencement

2. (1) Subject to this section, this Act commences on the 28th day
after the day on which it receives the Royal Assent.

10 (2) Subject to subsection (3), the amendments of the *Statutory
Declarations Act 1959* made by this Act, and subsections 3 (3) and (4),
commence on a day to be fixed by Proclamation.

MR

(3) If the amendments of the *Statutory Declarations Act 1959* and subsections 3 (3) and (4) do not commence under subsection (2) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.

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Application and savings

3. (1) A direction under section 35A of the *Australian Capital Territory Supreme Court Act 1933* that was in force immediately before the commencement of this subsection has effect after that commencement as if it were a direction under that section as amended by this Act.

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(2) The amendment of section 19 of the *Bills of Exchange Act 1909* made by this Act does not apply to bills of exchange and promissory notes in existence before the commencement of this subsection.

(3) A declaration under section 8 of the *Statutory Declarations Act 1959* that was in force immediately before the commencement of this subsection has effect after that commencement as if it were made under that section as amended by this Act.

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(4) In spite of anything in this Act, a person who held office as a Commissioner for Declarations under the *Statutory Declarations Act 1959* immediately before the commencement of this subsection continues to hold that office after that commencement during the Attorney-General's pleasure.

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PART 2—AMENDMENTS OF THE AUSTRALIAN SECURITY INTELLIGENCE ORGANIZATION ACT 1979

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Principal Act

4. In this Part, “**Principal Act**” means the *Australian Security Intelligence Organization Act 1979*¹.

Interpretation

5. Section 4 of the Principal Act is amended:

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(a) by inserting “, the *Crimes (Hostages) Act 1989*” after “1972” in paragraph (c) of the definition of “politically motivated violence”;

(b) by omitting the definitions of “State” and “Territory” and substituting respectively the following definitions:

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“**‘State’** includes the Australian Capital Territory and the Northern Territory;

‘Territory’ does not include the Australian Capital Territory or the Northern Territory;”;

(c) by inserting the following definitions:

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“**‘certified copy’**, in relation to a warrant or an instrument

revoking a warrant, means a copy of the warrant or instrument that has been certified in writing by the Director-General or a Deputy Director-General to be a true copy of the warrant or instrument;

5 **‘Deputy Director-General’** means an officer of the Organization who holds office as Deputy Director-General of Security;”.

Inspection of postal articles

6. Section 27 of the Principal Act is amended by omitting subsection (6) and substituting the following subsections:

10 “(6) Where the Director-General is informed under section 32 of the issue of a warrant under this section, the Director-General must:

(a) cause the Australian Postal Corporation to be informed of the issue of the warrant without delay; and

15 (b) where, under section 32, the Director-General receives the warrant—cause a certified copy of the warrant to be given to the Australian Postal Corporation as soon as practicable.

“(6A) Where:

(a) the Director-General has been informed under section 32 of the issue of a warrant under this section; and

20 (b) the Director-General is informed under that section that the warrant has been revoked;

the Director-General must:

(c) cause the Australian Postal Corporation to be informed of the revocation without delay; and

25 (d) where, under section 32, the Director-General receives the instrument of revocation—cause a certified copy of the instrument of revocation to be given to the Australian Postal Corporation as soon as practicable.”.

Warrants for the performance of functions under paragraph 17 (1) (e)

30 7. Section 27A of the Principal Act is amended by omitting subsection (6) and substituting the following subsections:

“ (6) Where the Director-General is informed under section 32 of the issue of a warrant under this section authorising the doing of acts or things referred to in subsection 27 (2) or (3), the Director-General must:

35 (a) cause the Australian Postal Corporation to be informed of the issue of the warrant without delay; and

40 (b) where, under section 32, the Director-General receives the warrant—cause a certified copy of the warrant to be given to the Australian Postal Corporation as soon as practicable.

“(6A) Where:

(a) the Director-General has been informed under section 32 of the

issue of a warrant under this section authorising the doing of acts or things referred to in subsection 27 (2) or (3); and

- (b) the Director-General is informed under section 32 that the warrant has been revoked;

the Director-General must:

- (c) cause the Australian Postal Corporation to be informed of the revocation without delay; and
- (d) where, under section 32, the Director-General receives the instrument of revocation—cause a certified copy of the instrument of revocation to be given to the Australian Postal Corporation as soon as practicable.”.

Part not to apply to certain assessments

8. Section 36 of the Principal Act is amended:

- (a) by omitting from paragraph (1) (b) “13 (1)” and substituting “56 (1)”;
- (b) by omitting from subparagraph (1) (b) (iii) “53A (2)” and substituting “106 (2)”;
- (c) by omitting from subparagraph (1) (b) (iii) “6 (1)” and substituting “14 (1)”.

Review of findings

9. Section 63 of the Principal Act is amended by omitting from subsection (1) “13 (1)” and substituting “56 (1)”.

PART 3—AMENDMENTS OF THE TRADE PRACTICES ACT 1974

Principal Act

10. In this Part, “**Principal Act**” means the *Trade Practices Act 1974*².

11. After section 171 of the Principal Act the following section is inserted:

Charges by the Commission

“171A. (1) The Commission may make a charge of an amount, or at a rate, determined by the Commission for:

- (a) supplying a person with material published by the Commission in the course of carrying out its functions or exercising its powers; or
- (b) permitting a person to attend or take part in a prescribed activity arranged by or on behalf of the Commission for the purpose of carrying out any of its functions.

“(2) Where:

(a) the Commission provides a discretionary service for a person;
and

5 (b) this Act does not otherwise provide for a charge for the service;
the Commission may make a charge of such amount, or at such a rate,
as is agreed between the Commission and the person.

“(3) In this section, a reference to the provision by the Commission
of a discretionary service for a person is a reference to the doing of an
act by the Commission, being a prescribed act that:

10 (a) the Commission has power to do but is not required to do by
or under any law; and

(b) the Commission does at the person’s request.”.

Regulations

12. Section 172 of the Principal Act is amended:

15 (a) by adding at the end of paragraph (1) (a) “and”;

(b) by adding at the end of subsection (1) the following word and
paragraph:

“; and (d) the fees payable to the Commission on making a
prescribed application, or giving a prescribed notice,
20 to the Commission under this Act or the
regulations.”.

Validation

13. Any charge or fee paid to the Trade Practices Commission
before the commencement of this section (other than a prescribed fee
25 payable under the Principal Act) is taken, for all purposes, to have
been payable under that Act.

SCHEDULE

AMENDMENTS OF OTHER ACTS

The following Acts are amended as set out below.

Acts Interpretation Act 1901

Section 25B:

After subsection (1), insert:

“(1A) Where a law of a State or Territory alters the name of a body (whether or not incorporated) or of an office, then, unless the contrary intention appears, a reference in an Act or an instrument made under an Act to the body or office under the former name is to be construed, except in relation to matters that occurred before the alteration, as a reference to the body or office under the new name.”.

After section 33A:

Insert:

Participation in meetings by telephone etc.

“33B. (1) This section applies to a body (whether or not incorporated) established by an Act if the Act requires or permits meetings of the members of the body to be held.

“(2) The body may permit its members to participate in a meeting, or all meetings, by:

- (a) telephone; or
- (b) closed-circuit television; or
- (c) any other means of communication.

“(3) A member who participates in a meeting under a permission under subsection (2) is taken to be present at the meeting.

“(4) This section has effect subject to any contrary intention in the Act.”.

Administrative Appeals Tribunal Act 1975

Section 24U:

Repeal the section.

Australian Capital Territory Supreme Court Act 1933

Subsections 35A (1) and (2):

Omit the subsections, substitute:

“(1) When the Supreme Court makes an order for the winding-up of a company, the Court may direct that subsection (2) applies to the winding-up.

SCHEDULE—continued

- “(2) If the Court gives a direction under subsection (1):
- (a) all proceedings in relation to the winding-up must be had and taken before the Master or the Registrar; and
 - (b) the Master and the Registrar have all the powers of the Court in relation to the winding-up; and
 - (c) the Master or the Registrar may refer to the Court any matter in relation to the winding-up that he or she thinks proper to be determined by the Court; and
 - (d) an appeal lies to the Court from any order, decree or direction of the Master or the Registrar made or given in relation to the winding-up.”.

Bills of Exchange Act 1909

Section 19:

Omit all the words from the beginning of the section to the end of the proviso to paragraph (a), substitute:

“(1) A bill that is not payable on demand falls due for payment on the last day of the time of payment fixed by the bill.

“(2) In working out the time of payment fixed by a bill the following rules apply:”.

Commonwealth Legal Aid Act 1977

Title:

Omit “National Legal Aid Representative Council and of a”.

Subsection 3 (1) (definitions of “Council”, “Council Chairperson” and “Council member”):

Omit the definitions.

Part II:

Repeal the Part.

Subsection 8 (1):

Omit “7”, substitute “8”.

Heading to Part IIIA:

Omit the heading.

Section 10:

Repeal the section.

Sections 11 and 12 and subsections 13 (1) and (2):

Before “member” (wherever occurring) insert “Committee”.

SCHEDULE—continued

Paragraphs 13 (3) (a) and (b):

Omit the paragraphs.

Section 14:

Repeal the section.

Subsections 17 (1), (2) and (3):

(a) Before “member” (wherever occurring) insert “Committee”.

(b) Omit “relevant body” (wherever occurring), substitute “Committee”.

Subsection 17 (1):

Omit “that body”, substitute “the Committee”.

Subsection 17 (4):

Omit the subsection.

Subsection 18 (1):

Omit the subsection.

Subsection 18 (3):

Omit “(1) or”.

Family Law Act 1975

Section 38v:

Repeal the section.

Federal Court of Australia Act 1976

Section 18v:

Repeal the section.

Law Officers Act 1964

Subsection 16 (4):

Omit the subsection, substitute:

“(4) Where:

(a) a person has at any time, whether before or after the commencement of this subsection, served in the office of Solicitor-General for a period of at least 7 years, whether continuous or not; and

(b) the person ceases to hold that office after that commencement, otherwise than under paragraph 10 (b); and

SCHEDULE—continued

(c) the person is not entitled to payment of a pension under subsection (1);

subsections (5) to (9), inclusive, apply in relation to the person.

“(4A) If a person is appointed as Solicitor-General and, at the time of the appointment, is receiving a pension because of the application of subsection (8), that pension ceases to be payable.”.

Statutory Declarations Act 1959

Subsection 3 (2):

Omit the subsection.

Section 4 (definitions of “Commissioner for Affidavits” and “Commissioner for Declarations”):

Omit the definitions.

Section 7:

Omit “by virtue of”, substitute “under”.

Section 8:

Repeal the section, substitute:

How statutory declaration is made

“8. A statutory declaration made under this Act must:

- (a) be in the form in the Schedule; and
- (b) be made before a prescribed person.”.

Section 9:

Repeal the section.

After section 13:

Insert:

Regulations

“14. The Governor-General may make regulations, not inconsistent with this Act:

- (a) prescribing matters required or permitted by this Act to be prescribed; and
- (b) prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Act.”.

NOTES

1. No. 113, 1979, as amended. For previous amendments, see No. 182, 1979; No. 65, 1985; No. 122, 1986; Nos. 89 and 141, 1987; Nos. 121, 126 and 137, 1988; Nos. 63, 157 and 159, 1989; and Nos. 11, 75 and 115, 1990.
2. No. 51, 1974, as amended. For previous amendments, see Nos. 56 and 63, 1975; Nos. 88 and 157, 1976; Nos. 81, 111 and 151, 1977; Nos. 206 and 207, 1978; No. 73, 1980; Nos. 61 and 176, 1981; No. 80, 1982; No. 39, 1983; Nos. 63, 73 and 165, 1984; No. 65, 1985; Nos. 8, 17 and 168, 1986; Nos. 23 and 141, 1987; Nos. 8, 20 and 87, 1988; Nos. 28 and 34, 1989; and Nos. 11 and 70, 1990.

