

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

(As read a first time)

STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL 1981

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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 27 October 1981

(Acting Attorney-General)

A BILL

FOR

**An Act to make various amendments of the statute law of the
Commonwealth**

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

5 **1.** This Act may be cited as the *Statute Law (Miscellaneous Amendments) Act 1981*.

Commencement

2. (1) Sections 1 and 2, Part IV and section 58 shall come into operation on the day on which this Act receives the Royal Assent.

10 **(2)** Section 8 shall come into operation, or shall be deemed to have come into operation, as the case requires, on the date of commencement of section 57 of the *Audit Amendment Act 1979*.

15 **(3)** Section 9 shall come into operation, or shall be deemed to have come into operation, as the case requires, on the date of commencement of Part VII of the *Commonwealth Functions (Statutes Review) Act 1981*.

(4) Part VIII, Part XV, Division 2 of Part XVIII and Division 3 of Part XVIII shall come into operation on such respective dates as are fixed by Proclamation.

(5) Part IX shall come into operation on a date to be fixed by Proclamation. 5

(6) Part X shall come into operation, or shall be deemed to have come into operation, as the case requires, on the date of commencement of sub-section 125 (1) of the *Commonwealth Functions (Statutes Review) Act* 1981.

(7) Part XI shall come into operation on the date fixed under sub-section 2 (3) of the *Designs Amendment Act* 1981. 10

(8) Parts XII and XIV shall be deemed to have come into operation on 1 September 1981.

(9) Part XIII shall come into operation on the date of commencement of the *Minerals (Submerged Lands) Act* 1981.

(10) Part XVI shall be deemed to have come into operation on 26 June 1981. 15

(11) Part XVII shall come into operation on the date of commencement of the *Petroleum (Submerged Lands) Amendment Act* 1980.

(12) The remaining provisions of this Act shall come into operation on the twenty-eighth day after the day on which this Act receives the Royal Assent. 20

PART II—AMENDMENTS OF THE ABORIGINAL COUNCILS AND ASSOCIATIONS ACT 1976

Principal Act

3. The *Aboriginal Councils and Associations Act* 1976¹ is in this Part referred to as the Principal Act. 25

Establishment of Aboriginal Council

4. Section 19 of the Principal Act is amended by omitting sub-paragraph (3) (d) (ii) and substituting the following sub-paragraph:

“(ii) in any other case—mortgage, charge or otherwise dispose of the estate or interest with the consent of the Minister; and”.

 30

Powers of Aboriginal Council generally

5. Section 29 of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraph:

“(b) secure the repayment of moneys so raised or borrowed, or the payment of a debt or liability of the Council, by giving a mortgage, charge or other security upon or over— 35

(i) with the consent of the Minister, an estate or interest in land held by the Council that is not a disposable estate or interest;

or

(ii) other property of the Council;”.

Incorporation of Aboriginal association

6. Section 46 of the Principal Act is amended by omitting sub-paragraph (1) (d) (ii) and substituting the following sub-paragraph:

“(ii) in any other case—mortgage, charge or otherwise dispose of the estate or interest with the consent of the Minister; and”.

Powers to borrow money and give securities

7. Section 51 of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraph:

“(b) secure the repayment of money so raised or borrowed, or the payment of a debt or liability of the Association, by giving a mortgage, charge or other security upon or over—

(i) with the consent of the Minister, an estate or interest in land held by the Association that is not a disposable estate or interest; or

(ii) other property of the Association;”.

PART III—AMENDMENTS OF THE AUDIT ACT 1901

Liability in respect of losses, &c.

8. Section 70AB of the *Audit Act* 1901² is amended by omitting from paragraph (1) (c) “damage of” and substituting “damage to”.

Method of paying salary

9. Section 70AH of the *Audit Act* 1901 is amended by omitting from paragraph (c) of the definition of “Commonwealth employee” in sub-section (2) “regulations under” and substituting “section 42 of”.

PART IV—AIR NAVIGATION (CHARGES) ACT 1974

Commencement of sections 3, 12 and 13 of *Air Navigation (Charges) Act* 1974

10. Notwithstanding sub-section 2 (3) of the *Air Navigation (Charges) Act* 1974³, sections 3, 12 and 13 of that Act shall be deemed to have come into operation on 25 February 1975.

PART V—AMENDMENT OF THE AUSTRALIAN CAPITAL TERRITORY EVIDENCE (TEMPORARY PROVISIONS) ACT 1971

Principal Act

11. The *Australian Capital Territory Evidence (Temporary Provisions) Act* 1971⁴ is in this Part referred to as the Principal Act.

Validation of provisions of Australian Capital Territory Evidence Ordinance

12. Section 3 of the Principal Act is amended by adding at the end thereof the following sub-sections:

“(2) Nothing in sub-section (1) prevents the amendment or repeal by an Ordinance under the *Seat of Government (Administration) Act* 1910 of the provisions continued in force by that sub-section.

“(3) The *Interpretation Ordinance* 1967 of the Australian Capital Territory, as amended and in force from time to time, applies, and shall be deemed to have always applied, to the provisions continued in force by sub-section (1).”.

PART VI—AMENDMENTS OF THE AUSTRALIAN CAPITAL TERRITORY SUPREME COURT ACT 1933

Principal Act

13. The *Australian Capital Territory Supreme Court Act* 1933^s is in this Part referred to as the Principal Act.

Oath of allegiance and office by Judge

14. Section 10 of the Principal Act is amended by omitting “or some other person appointed by the Governor-General in that behalf,” and substituting “another Judge of the Court, a Justice of the High Court or a Judge of the Federal Court of Australia”.

15. After section 44 of the Principal Act the following section is inserted:

Reserved judgments

“44A. (1) Where any proceeding, after being fully heard before a Court constituted by not less than 3 Judges sitting together, is ordered to stand for judgment, it is not necessary that all the Judges before whom it was heard be present together in Court to declare their opinions on the matter to which the proceedings relate, but the opinion of any one of them may be reduced to writing and may be made public by any other of them at any subsequent sitting of the Court at which judgment in the proceeding is delivered.

“(2) In any such case the question shall be decided in the same manner, and the judgment of the Court has the same force and effect, as if the Judge whose opinion is so made public had been present in court and had declared his opinion in person.”.

Indictable offences

16. (1) Section 53 of the Principal Act is amended by omitting from sub-sections (1) and (6) “Governor-General appoints in that behalf” and substituting “Attorney-General, by instrument in writing, appoints for the purposes of this sub-section”.

5 (2) Notwithstanding the amendments made by sub-section (1), an appointment by the Governor-General under sub-section 53 (1) or (6) of the Principal Act and in effect immediately before the commencement of this section continues in effect as if it were an appointment by the Attorney-General under that sub-section as amended by this Act.

17. (1) After section 53 of the Principal Act the following section is inserted:

Interest up to judgment

10 “53A. (1) In any proceedings for the recovery of any money (including any debt or damages or the value of any goods) the Supreme Court or the Judge shall, upon application, unless good cause is shown to the contrary, either—

- 15 (a) order that there be included in the sum for which judgment is given interest at such rate as the Court or the Judge, as the case may be, thinks fit on the whole or any part of the money for the whole or any part of the period between the date when the cause of action arose and the date as of which the judgment is entered; or
- (b) without proceeding to calculate interest in accordance with paragraph (a), order that there be included in the sum for which judgment is given a lump sum in lieu of any such interest.

20 “(2) Sub-section (1) does not—

- (a) authorize the giving of interest upon interest or of a sum in lieu of such interest;
- (b) apply in relation to any debt upon which interest is payable as of right whether by virtue of an agreement or otherwise; or
- 25 (c) affect the damages recoverable for the dishonour of a bill of exchange.

“ (3) Where the sum for which judgment is given (in this sub-section referred to as the ‘relevant sum’) includes, or where the Court or the Judge in its or his absolute discretion determines that the relevant sum includes, any amount for—

- 30 (a) compensation in respect of liabilities incurred which do not carry interest as against the person claiming interest or claiming a sum in lieu of interest;
- (b) compensation for loss or damage to be incurred or suffered after the date on which judgment is given; or
- 35 (c) exemplary or punitive damages,

interest, or a sum in lieu of interest, shall not be given under sub-section (1) in respect of any such amount or in respect of so much of the relevant sum as in the opinion of the Court or the Judge represents any such amount.”

40 (2) The amendment made by sub-section (1) does not apply to proceedings instituted before the commencement of this section.

PART VII—AMENDMENTS OF THE AUSTRALIAN OVERSEAS PROJECTS CORPORATION ACT 1978

Principal Act

18. The *Australian Overseas Projects Corporation Act 1978*⁶ is in this Part referred to as the Principal Act. 5

Interpretation

19. Section 3 of the Principal Act is amended—

(a) by inserting after the definition of “approved bank” in sub-section (1) the following definition:

“ ‘Australian authority’ means an authority or body (including a body corporate and a corporation sole) — 10

(a) established for a purpose of the Commonwealth by, or in accordance with the provisions of, a law of the Commonwealth or of the Australian Capital Territory; or 15

(b) established for a purpose of a State by, or in accordance with the provisions of, a law of the State,

and includes a Department of the Australian Public Service and a Department of the Public Service of a State, but does not include the Corporation;” 20

(b) by omitting from sub-section (1) the definitions of “Australian consortium” and “Australian private organization” and substituting the following definitions:

“ ‘Australian organization’ means—

(a) an Australian private organization; 25

(b) an Australian private consortium;

(c) an Australian authority; or

(d) an Australian public consortium;

‘Australian private consortium’ means an association of persons at least one of whom is an Australian private organization, but does not include a Corporation consortium; 30

‘Australian private organization’ means—

(a) a natural person or a partnership; or

(b) an Australian company, carrying on business in Australia; 35

‘Australian public consortium’ means an association of persons at least one of whom is an Australian authority, but does not include an Australian private consortium or a Corporation consortium;”;

(c) by inserting after the definition of “Corporation” in sub-section (1) the following definition: 40

“‘Corporation consortium’ means an association consisting of the Corporation and—

(a) an Australian private organization;

(b) an Australian authority; or

(c) 2 or more persons at least one of whom is an Australian private organization or an Australian authority;”;

(d) by inserting after paragraph (a) of the definition of “development project” in sub-section (1) the following paragraph:

“(aa) the provision of services;”;

(e) by inserting after the definition of “Managing Director” in sub-section (1) the following definition:

“‘organization’ includes a person, a partnership, a company, an authority and a consortium;”;

(f) by omitting from sub-section (1) the definition of “private organization” and substituting the following definition:

“‘State’ includes the Northern Territory.”.

Objects of Act

20. Section 4 of the Principal Act is amended by omitting “Australian private organizations” and substituting “Australian organizations”.

Functions of Corporation

21. Section 6 of the Principal Act is amended—

(a) by omitting from paragraph (1) (a) “Australian private organizations” and substituting “Australian organizations”;

(b) by omitting paragraph (1) (b) and substituting the following paragraph:

“(b) to assist Australian organizations to negotiate with, or at the request in writing of the Minister and subject to such conditions (if any) as are specified in the instrument of request to negotiate with, overseas Governments or organizations for the carrying out of overseas development projects by Australian organizations or by a Corporation consortium;”;

(c) by omitting from paragraphs (1) (c) and (d) “Australian private organizations” and substituting “Australian organizations”;

(d) by omitting from paragraph (2) (a) “an Australian private organization or an Australian consortium” and substituting “an Australian organization or a Corporation consortium”; and

(e) by omitting paragraph (2) (b) and substituting the following paragraph:

“(b) at the request of an Australian organization, join with that organization, or with that organization and other organizations (whether Australian organizations or not) in the formation of a Corporation consortium for the purpose of

carrying out the whole, or a part, of an overseas development project.”.

Corporation not to engage in trade

22. Section 7 of the Principal Act is amended by omitting from paragraph (2) (b) “an Australian private organization or an Australian consortium” and substituting “an Australian organization or a Corporation consortium”.

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Corporation not to compete against Australian private organizations or consortiums

23. Section 8 of the Principal Act is amended—

(a) by inserting in sub-section (1) “or an Australian private consortium” after “Australian private organization”;

10

(b) by omitting from sub-section (1) “an Australian consortium that includes the Corporation” and substituting “a Corporation consortium”;

(c) by inserting in sub-section (2) “or an Australian private consortium” after “Australian private organization” (first occurring);

15

(d) by omitting from paragraph (2) (a) “an Australian consortium” and substituting “a Corporation consortium”;

(e) by omitting from paragraph (2) (b) “, authority”;

(f) by inserting in sub-section (2) “or Australian private consortium” after “Australian private organization” (last occurring); and

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(g) by inserting in sub-section (3) “or an Australian private consortium” after “Australian private organization”.

24. After section 8 of the Principal Act the following section is inserted:

Corporation not to assist Australian authorities or public consortiums to compete against Australian private organizations or consortiums

25

“8A. (1) Where the Corporation is aware that an Australian private organization or an Australian private consortium is able and willing to carry out an overseas development project or a part of an overseas development project, the Corporation shall not take any action that would result in that project or that part of the project being carried out, in whole or in part, by an Australian authority or by an Australian public consortium.

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“(2) Where the Corporation is aware that it would be possible to form a Corporation consortium, being a consortium in which an Australian private organization or Australian private organizations would be included, that would be able and willing to carry out an overseas development project or a part of an overseas development project, the Corporation shall not take any action that would result in that project or that part of the project being carried out, in whole or in part, by an Australian authority or by an Australian public consortium.”.

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Corporation not to act as prime contractor except with approval

25. Section 9 of the Principal Act is amended—

(a) by omitting from paragraph (1) (a) “Australian private organization” and substituting “Australian organization”; and

(b) by inserting in sub-section (2) “or Australian private consortium” after “Australian private organization”.

Powers of Corporation

26. Section 10 of the Principal Act is amended by omitting from paragraph (b) “an Australian private organization or an Australian consortium that includes the Corporation” and substituting “an Australian organization or a Corporation consortium”.

27. Section 43 of the Principal Act is repealed and the following section is substituted:

Assessed net commercial risk

“43. (1) In this section, ‘assessed net commercial risk’, in relation to the Corporation, means the maximum financial liability, as assessed by the Board, that the Corporation might be required to discharge in respect of contracts that have been, or are to be, entered into by the Corporation in connection with the performance of its functions.

“(2) The Corporation shall carry on its business so that its assessed net commercial risk does not, at any time, exceed \$250,000,000 or, if a higher amount is prescribed, that higher amount.

“(3) The Board shall make an assessment under sub-section (1) of the assessed net commercial risk of the Corporation whenever it considers it necessary to do so for the purpose of ensuring compliance by the Corporation with sub-section (2) and, in any event, whenever it is considering a proposal, being a proposal likely to be approved by the Board, to—

(a) carry out the whole, or a part, of an overseas development project, whether as principal or agent;

(b) join with another person or other persons in the formation of an association for the purpose of carrying out the whole, or a part, of an overseas development project; or

(c) assist, or further assist, an Australian organization to carry out an overseas development project.

“(4) In making any assessment under this section of the maximum financial liability of the Corporation in respect of existing and proposed contracts, the Board shall—

(a) act in accordance with generally accepted commercial practice; and

(b) assess the likelihood of the Corporation being required to discharge liabilities under all such contracts and, if it considers that the Corporation is not likely to be required to discharge liabilities under all such contracts, make appropriate allowance accordingly.”.

PART VIII—AMENDMENTS OF THE BANKRUPTCY ACT 1966

Principal Act

28. The *Bankruptcy Act 1966*⁷ is in this Part referred to as the Principal Act.

Bankruptcy courts

29. Section 27 of the Principal Act is amended—

(a) by omitting paragraph (1) (c) and substituting the following paragraph:

“(c) the Supreme Court of the State of Victoria;” and

(b) by omitting paragraph (1) (e) and substituting the following paragraph:

“(e) the Supreme Court of the State of South Australia;”.

Transitional provisions

30. (1) In this section—

“former court” means the Court of Insolvency in and for the State of Victoria or the Court of Insolvency of the State of South Australia;

“commencing day” means the day on which this Part comes into operation.

(2) Where, immediately before the commencing day, proceedings instituted in a former court were uncompleted—

(a) the proceedings are, by force of this Act, transferred to the Federal Court of Australia on the commencing day;

(b) the Federal Court of Australia may hear, or further hear, the proceedings, if the hearing was not completed before the commencing day, and may determine the proceedings, and, for those purposes, a Judge exercising the jurisdiction of the Federal Court of Australia may have regard to any evidence or argument in the proceedings as proceedings in the former court;

(c) all documents filed or lodged, or moneys lodged, in relation to the proceedings as proceedings in the former court shall be deemed to have been filed or lodged in relation to the proceedings as so transferred to the Federal Court of Australia; and

(d) all things done in or in relation to the proceedings as proceedings in the former court shall be deemed to have been done in or in relation to the proceedings as proceedings in the Federal Court of Australia.

(3) An order, direction or warrant made, given or issued by a former court or a Judge of a former court and in force immediately before the commencing day continues in force, and may be enforced, rescinded, varied, suspended or discharged, and proceedings for contempt of court may be had in relation to such an order or direction, as if the order, direction or warrant had been made, given or issued by the Federal Court of Australia or a Judge of that Court.

(4) Where—

(a) a bankruptcy notice issued under the Principal Act before the commencing day specified a former court as the court to the satisfaction of which payment of a sum could be secured by the judgment debtor; and

(b) the time for compliance with the bankruptcy notice had not expired before the commencing day,

the notice has effect on and after that day as if the Federal Court of Australia were the same court as the former court.

(5) Where an order or a notice, summons or other document made or issued by or in relation to proceedings in a former court before the commencing day refers to the former court, the reference shall, for the purposes of the operation of the order or document on or after that day, and for the purposes of proceedings to which this section applies, be deemed to be a reference to the Federal Court of Australia.

PART IX—AMENDMENTS OF THE COMMONWEALTH ELECTORAL ACT 1918

Principal Act

31. The *Commonwealth Electoral Act* 1918⁸ is in this Part referred to as the Principal Act.

Persons entitled to enrolment and to vote

32. Section 39 of the Principal Act is amended by omitting paragraph (1) (b) and substituting the following paragraph:

“(b) who are—

(i) Australian citizens; or

(ii) British subjects (other than Australian citizens) who were electors on the date immediately before the date fixed under sub-section 2 (5) of the *Statute Law (Miscellaneous Amendments) Act* 1981,”.

Unenrolled members of Defence Force serving outside Australia

33. Section 39A of the Principal Act is amended by omitting paragraph (1) (c) and substituting the following paragraph:

“(c) is an Australian citizen,”.

Qualifications of Members of House of Representatives

34. Section 69 of the Principal Act is amended by omitting paragraph (1) (b) and substituting the following paragraph:

“(b) He must be an Australian citizen;”.

Questions to be put to voter

35. Section 115 of the Principal Act is amended—

- (a) by omitting from sub-paragraph (1) (a) (iii) “and”;
 (b) by omitting sub-paragraph (1) (b) (v) and substituting the following sub-paragraph: 5

“(v) Are you an Australian citizen?”;

- (c) by omitting from sub-paragraph (1) (b) (vi) “and”;

- (d) by inserting after paragraph (1) (b) the following paragraphs:

“(ba) shall also put to any person who answered the question numbered (v) in the negative the following question:— 10

(via) Are you a British subject?

“(bb) shall also put to any person who answered the question numbered (via) in the affirmative the following question:—

(vib) On (here state the date immediately before the date fixed under sub-section 2 (5) of the *Statute Law (Miscellaneous Amendments) Act 1981*), was your name on any electoral roll kept for the purposes of a House of Representatives election? and”;

- (e) by omitting from paragraph (2) (d) “(v),”; and

- (f) by inserting after paragraph (2) (d) the following word and paragraph: 20

“; or (e) does not answer the question numbered (v) absolutely in the affirmative when put to him, or, if he answers that question in the negative, does not answer both the question numbered (via) and the question numbered (vib) absolutely in the affirmative when put to him,”. 25

**PART X—AMENDMENT OF THE COMMONWEALTH
 FUNCTIONS (STATUTES REVIEW) ACT 1981**

Principal Act

36. The *Commonwealth Functions (Statutes Review) Act 1981*⁹ is in this Part referred to as the Principal Act. 30

Proceedings and order on creditor’s petition

37. Section 125 of the Principal Act is amended by inserting in paragraph (1) (a) “(last occurring)” after “‘may’ ”.

**PART XI—AMENDMENTS OF THE DESIGNS AMENDMENT
 ACT 1981**

35

Principal Act

38. The *Designs Amendment Act 1981*¹⁰ is in this Part referred to as the Principal Act.

Amendment of section 5

39. Section 5 of the Principal Act is amended by inserting the following definition after the definition of “design” in sub-section (1) of the new section 4 that is proposed to be substituted for section 4 of the *Designs Act 1906*:

- 5 “‘legal personal representative’, in relation to a deceased person, means a person to whom probate of the will of the deceased person, letters of administration of the estate of the deceased person or other like grant has been granted, whether in Australia or elsewhere, but does not include such a person who, by reason of the terms of the grant, is not
10 entitled to do an act in relation to which the expression is used;”.

Amendments of section 11

40. Section 11 of the Principal Act is amended—

- (a) by adding at the end of the new section 20 that is proposed to be inserted in the *Designs Act 1906* the following sub-sections:

15 “(6) Where the owner of a design wishes to register the design in respect of more than one article, the owner shall make a separate application for registration of the design in respect of each article.

“ (7) For the purposes of sub-section (6), a set of articles shall be deemed to be one article.”; and

- 20 (b) by inserting after sub-section (1) of the new section 22B that is proposed to be inserted in the *Designs Act 1906* the following sub-section:

25 “(1A) An amendment under sub-section (1) shall not be made if, as a result of the amendment, the scope of the application for registration would be increased by the inclusion of matter that was not in substance disclosed in the application for registration as lodged.”.

Amendments of section 15

41. Section 15 of the Principal Act is amended—

- 30 (a) by omitting from paragraph (3) (a) of the new section 27A that is proposed to be inserted in the *Designs Act 1906* “at least one month”;

- (b) by omitting sub-section (14) of that new section and substituting the following sub-section:

“ (14) An application under sub-section (12) or (13)—

35 (a) shall be made before the expiration of the period of registration of the design as extended under sub-section (8) or (12), as the case may be, or within such period after that expiration as is prescribed; and

(b) shall be made in the manner prescribed for the purposes of sub-section (12) or (13), as the case may be.”;

- 40 (c) by omitting sub-sections (1) and (2) of the new section 27B that is proposed to be inserted in the *Designs Act 1906* and substituting the following sub-sections:

“(1) Where—

- (a) the registration of a design has ceased to be in force on the expiration of the period of registration or on the expiration of the period of registration as extended under sub-section 27A (8) or (12); and
- (b) no application for an extension of the period of registration or of the period of registration as so extended, as the case may be, has been made to the Registrar in accordance with sub-section 27A (3) or (14), as the case may be,

then—

- (c) the owner of the design;
- (d) if the owner of the design has died—the legal personal representative of the owner of the design; or
- (e) a person who would, if the registration of the design had not ceased to be in force, have been entitled, by assignment, transmission or other operation of law, to the design,

may, for the purpose of permitting the extension of the period of registration or of the period of registration as so extended, as the case may be, make application to the Registrar for the restoration of the registration of the design.

“(2) An application under sub-section (1) shall contain a statement of the circumstances that led to no application for extension being made in accordance with sub-section 27A (3) or (14), as the case may be, and the Registrar shall, if he is satisfied that the failure to make such an application was unintentional and that no undue delay has occurred in the making of the application under sub-section (1), advertise the application under sub-section (1) in the *Official Journal* but, if he is not so satisfied, shall dismiss the application under sub-section (1).”;

- (d) by omitting from paragraph (2) (a) of the new section 27C that is proposed to be inserted in the *Designs Act* 1906 “sub-section 27A (12)” and substituting “sub-section 27A (2), (12)”;
- (e) by omitting from sub-section (3) of that new section “the fact that a period has been prescribed, under sub-section 27A (14), for the making of that application” and substituting “the requirement as to the time of making the application set out in sub-section 27A (3) or (14), as the case may be,”.

Amendment of section 22

42. Section 22 of the Principal Act is amended by inserting the following section after the new section 38 that is proposed to be substituted for section 38 of the *Designs Act* 1906:

Registration of legal personal representatives

“38AA. Where an owner of a registered design has died, the Registrar shall, subject to section 38A, and notwithstanding section 34, on the application of

the legal personal representative of the deceased owner, if he is satisfied that the legal personal representative is entitled to be registered as the owner of the design, register him accordingly.”.

Repeal and substitution of section 25

5 **43.** Section 25 of the Principal Act is repealed and the following section is substituted:

“25. Section 41 of the Principal Act is repealed and the following section is substituted:

Regulations

10 ‘41. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act or for the conduct of any business relating to the Designs Office, and, in particular, requiring persons to furnish
15 statutory declarations in relation to applications under this Act or the regulations relating to designs or in proceedings under this Act or the regulations (not being proceedings in a court).’.”.

**PART XII—AMENDMENT OF THE HEALTH ACTS
AMENDMENT ACT 1981**

20 **Principal Act**

44. The *Health Acts Amendment Act 1981*¹¹ is in this Part referred to as the Principal Act.

Amendment of section 6

25 **45.** Section 6 of the Principal Act is amended by omitting “section 4 of the Principal Act” and substituting “section 4B of the Principal Act”.

**PART XIII—AMENDMENT OF THE MINERALS (SUBMERGED
LANDS) ACT 1981**

Principal Act

30 **46.** The *Minerals (Submerged Lands) Act 1981*¹² is in this Part referred to as the Principal Act.

47. Section 92 of the Principal Act is repealed and the following section is substituted:

Prosecution of offences

35 “92. In this section—
(a) a reference to an offence against this Act shall be read as including a reference to—
(i) an offence against the regulations; and

- (ii) an offence arising under section 5 or 7 of the *Crimes Act* 1914 in relation to an offence against this Act or the regulations; and
- (b) a reference to a prescribed offence shall be read as a reference to an offence against this Act the penalty in respect of which may include a term of imprisonment.

5

“(2) Prescribed offences are indictable offences.

“(3) Notwithstanding that prescribed offences are indictable offences, a court of summary jurisdiction may hear and determine proceedings for a prescribed offence if the court is satisfied that it is appropriate to do so and the defendant and the prosecutor consent.

10

“(4) Where, in accordance with sub-section (3), a court of summary jurisdiction convicts a person of a prescribed offence, the penalty that the court may impose in respect of the offence is a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years, or both.

“(5) An offence against this Act other than a prescribed offence is, unless the contrary intention appears, punishable summarily.”

15

PART XIV—AMENDMENTS OF THE NATIONAL HEALTH ACT 1953

Principal Act

48. The *National Health Act* 1953¹³ is in this Part referred to as the Principal Act.

20

Change of rules, &c., by registered organizations

49. Section 78 of the Principal Act is amended—

- (a) by inserting in sub-section (3A) “(8AA) or” before “(8A)”;
- (b) by re-numbering the sub-section(8A) that was inserted by paragraph 73 (d) of the *Health Acts Amendment Act* 1981 as sub-section (8AA).

25

PART XV—AMENDMENTS OF THE NATIONAL LABOUR CONSULTATIVE COUNCIL ACT 1977

Principal Act

50. The *National Labour Consultative Council Act* 1977¹⁴ is in this Part referred to as the Principal Act.

30

Interpretation

51. Section 3 of the Principal Act is amended by omitting “, (e) or (f)” from the definition of “appointed member” and substituting “or (e)”.

Membership of Council

35

52. Section 6 of the Principal Act is amended—

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

- (b) by omitting from paragraph (1) (e) “6” and substituting “7”;
- (c) by omitting from paragraph (1) (e) “and”;
- (d) by omitting paragraph (1) (f); and
- (e) by omitting from sub-section (2) “, (e) and (f)” and substituting “and (e)”.

Substitute members

53. Section 10 of the Principal Act is amended by omitting from paragraph (2) (b) “, (e) or (f)” and substituting “or (e)”.

PART XVI—AMENDMENT OF THE PETROLEUM PRODUCTS PRICING ACT 1981

Principal Act

54. The *Petroleum Products Pricing Act 1981*¹⁵ is in this Part referred to as the Principal Act.

Secrecy

55. Section 36 of the Principal Act is amended by omitting from sub-paragraphs (2) (a) (ii) and (b) (ii) “*Commonwealth Functions (Statutes Revision) Act 1981*” and substituting “*Commonwealth Functions (Statutes Review) Act 1981*”.

PART XVII—AMENDMENT OF THE PETROLEUM (SUBMERGED LANDS) AMENDMENT ACT 1980

Principal Act

56. The *Petroleum (Submerged Lands) Amendment Act 1980*¹⁶ is in this Part referred to as the Principal Act.

Repeal and substitution of section 49

57. Section 49 of the Principal Act is repealed and the following section is substituted:

“49. (1) Section 132 of the Principal Act is repealed and the following section is substituted:

Prosecution of offences

‘132. (1) In this section—

- (a) a reference to an offence against this Act shall be read as including a reference to—
 - (i) an offence against the regulations; and
 - (ii) an offence arising under section 5 or 7 of the *Crimes Act 1914* in relation to an offence against this Act or the regulations; and
- (b) a reference to a prescribed offence shall be read as a reference to an offence against this Act the penalty in respect of which may include a term of imprisonment.

'(2) Prescribed offences are indictable offences.

'(3) Notwithstanding that prescribed offences are indictable offences, a court of summary jurisdiction may hear and determine proceedings for a prescribed offence if the court is satisfied that it is appropriate to do so and the defendant and the prosecutor consent.

5

'(4) Where, in accordance with sub-section (3), a court of summary jurisdiction convicts a person of a prescribed offence, the penalty that the court may impose in respect of the offence is a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years, or both.

'(5) An offence against this Act other than a prescribed offence is, unless the contrary intention appears, punishable summarily.'

10

"(2) Notwithstanding the repeal effected by sub-section (1), proceedings in respect of an offence of the kind referred to in sub-section 132 (1) of the Principal Act, being an offence committed before the commencement of this Act, may be brought or continued in accordance with the provisions of section 132 of the Principal Act."

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PART XVIII—AMENDMENTS OF THE TRADE UNION TRAINING AUTHORITY ACT 1975

Division 1—Principal Act

Principal Act

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58. The *Trade Union Training Authority Act 1975*¹⁷ is in this Part referred to as the Principal Act.

Division 2—Amendments relating to the Australian Council

Constitution of Executive Board

59. Section 8M of the Principal Act is amended—

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(a) by omitting from paragraph (1) (d) "paragraphs 14 (1) (d) and (f)" and substituting "paragraph 14 (1) (d)"; and

(b) by omitting from sub-section (2) "or (f)".

Constitution of the Australian Council

60. Section 14 of the Principal Act is amended—

30

(a) by omitting from sub-paragraph (1) (d) "6" and substituting "7"; and

(b) by omitting paragraph (1) (f).

Method of appointment of certain members

61. Section 15 of the Principal Act is amended—

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

35

(b) by omitting paragraph (1) (c).

Deputy members of the Australian Council

62. Section 17 of the Principal Act is amended by omitting from sub-sections (2) and (3) “, (f)”.

Tenure of office

5 63. Section 18 of the Principal Act is amended by omitting from sub-sections (2) and (5) “, (f)”.

Termination of appointment

64. Section 28 of the Principal Act is amended by omitting from paragraph (1) (a) “, (f)”.

10 ***Division 3—Amendments relating to State Councils***

Constitution of State Councils

65. Section 20 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (c) “4” and substituting “5”; and
- (b) by omitting paragraph (1) (e).

15 **Deputy members of State Councils**

66. Section 22 of the Principal Act is amended by omitting from sub-section (2) “, (e)”.

Tenure of office of members of State Councils

20 67. Section 23 of the Principal Act is amended by omitting from sub-section (3) “, (e)”.

PART XIX—FURTHER AMENDMENTS

Further amendments

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

25 **PART XX—REPEAL OF ACTS**

Repeal of Acts

69. The Acts specified in Schedule 2 are repealed.

SCHEDULE 1

Section 68

FURTHER AMENDMENTS

Act	Amendments
<i>Audit Act 1901</i>	Section 49— Omit “the Schedule” (wherever occurring), substitute “Schedule 2”.
<i>Bounty (Printed Fabrics) Act 1981</i>	Sub-section 2 (2)— (1) Omit “(f)” (last occurring), substitute “(j)”. (2) Omit “(g)” (last occurring), substitute “(k)”.
<i>Broadcasting and Television Amendment Act 1981</i>	Schedule 1— (1) Omit “(b) Omit ‘service of’, substitute ‘service or’.”. (2) Omit “90G” (third and fourth occurring), substitute “92D”.
<i>Commonwealth Employees (Employment Provisions) Act 1977</i>	Sub-section 3 (1) (paragraph (c) of the definition of “Commonwealth employee”)— Omit “regulations under”, substitute “section 42 of”.
<i>Commonwealth Functions (Statutes Review) Act 1981</i>	Section 44— Omit “(2)”, substitute “(1)”. Section 87— Omit “(2)”, substitute “(3)”.
<i>Commonwealth Schools Commission Act 1973</i>	Section 16— Repeal the section.
<i>Health Insurance Act 1973</i>	Section 3— (1) Omit from paragraph (b) of the definition of “recognised hospital” in sub-section (1) “, by writing signed by him, by the Minister”, substitute “by the Minister, by writing signed by him,”. (2) Re-number the sub-section (13) that was added by paragraph 4 (2) (e) of the <i>Health Acts Amendment Act 1981</i> as sub-section (14). Sub-section 3A (2)— Omit “an person” (wherever occurring), substitute “a person”. Sub-paragraph 106C (b) (ii)— Omit “the date fixed for the purposes of section 10”, substitute “1 July 1975”.
<i>Life Insurance Act 1945</i>	Section 145— Omit sub-section (4), substitute the following sub-section: “(4) The Commissioner may publish, in such form as he determines, any statistics collected under this section.”.
<i>National Health Act 1953</i>	Sub-section 4 (1) (paragraph (b) of the definition of “basic hospital benefits table” or “basic table”)— Omit “being the”, substitute “being”. Section 39 (definition of “authorized”)— Insert “, in writing,” after “authorized”. Sub-section 46 (1) (definition of “authorized”)— Insert “, in writing,” after “authorized”. Sub-section 46 (2)— Omit “an qualified”, substitute “a qualified”. Paragraph 47 (2) (a)— Omit “an qualified”, substitute “a qualified”. Section 49— Omit “an qualified”, substitute “a qualified”. Paragraph 59 (1) (a)— Omit “an qualified”, substitute “a qualified”.
<i>Patents Act 1952</i>	Section 58A— (1) Omit from sub-section (1) the definition of “Treaty”, substitute the following definition: “ ‘Treaty’ means the <i>Patent Cooperation Treaty</i> done at Washington on 19 June 1970 (a copy of the English text of which is set out in Schedule 2), together with the Regulations annexed to that Treaty—

SCHEDULE 1—continued

Act	Amendments
	<p>(a) as amended under Article 58 of that Treaty by the Assembly of the International Patent Cooperation Union of 14 April 1978, 3 October 1978 and 1 May 1979 (a copy of the English text of which Regulations, as so amended, is also set out in Schedule 2); and</p> <p>(b) as affected by any other amendments made under Article 58 of that Treaty by the Assembly of the International Patent Cooperation Union, being amendments in respect of which a declaration has been made by the regulations made by virtue of sub-section (3).”</p> <p>(2) Add at the end thereof the following sub-sections:</p> <p>“(3) Regulations made under section 177 may declare—</p> <p>(a) that amendments of the Regulations under the <i>Patent Cooperation Treaty</i> done at Washington on 19 June 1970 were adopted under Article 58 of that Treaty by the Assembly of the International Patent Cooperation Union on a specified date;</p> <p>(b) that the amendments set out in the regulations are the amendments so adopted by the Assembly; and</p> <p>(c) that the amendments were adopted with effect on and from a specified date or specified dates.</p> <p>“(4) Regulations made by virtue of sub-section (3) are <i>prima facie</i> evidence of the matters stated in those regulations.</p> <p>“(5) Where regulations made by virtue of sub-section (3) declare that amendments of the Regulations under the <i>Patent Cooperation Treaty</i> done at Washington on 19 June 1970 were adopted under Article 58 of that Treaty with effect on and from a specified date and the regulations made by virtue of sub-section (3) are notified in the <i>Gazette</i> after that date, the amendments of the Regulations under that Treaty shall, for the purposes of the definition of ‘Treaty’ in sub-section (1), be taken to have effect on and from the date on which the regulations made for the purposes of sub-section (3) are notified in the <i>Gazette</i>.”</p> <p>Sub-section 58C (7)— Omit “54A, 54B and 62A”, substitute “54A and 54B and sub-section 62A (2)”.</p> <p>Paragraph 3 (4) (p)— Omit “regulations under”, substitute “section 42 of”.</p> <p>Sub-sub-paragraph 45D (1) (a) (i) (B)— Omit “supplied”, substitute “supplies”.</p>
<i>Remuneration Tribunals Act 1973</i>	
<i>Trade Practices Act 1974</i>	

SCHEDULE 2

Section 69

ACTS REPEALED

*Darwin Reconstruction Act 1975**Processed Milk Products Bounty Act 1964**States Grants (Soil Conservation) Act 1974*

NOTES

1. No. 186, 1976, as amended. For previous amendments, see No. 56, 1978; and Nos. 61 and 92, 1981.
2. No. 4, 1901, as amended. For previous amendments, see No. 8, 1906; No. 4, 1909; No. 6, 1912; No. 32, 1917; No. 23, 1920; No. 34, 1924; No. 18, 1926; No. 45, 1934; No. 52, 1947; No. 60, 1948; No. 51, 1950; No. 79, 1952; No. 12, 1953; No. 29, 1954; No. 18, 1955; No. 39, 1957; No. 8, 1959; Nos. 17 and 77, 1960; No. 89, 1961; No. 74, 1962; No. 75, 1964; No. 126, 1965; No. 93, 1966; No. 120, 1968; No. 20, 1969; No. 216, 1973 (as amended by No. 20, 1974); No. 56, 1975; No. 36, 1978; Nos. 8 and 155, 1979; and No. 74, 1981.
3. No. 114, 1974.
4. No. 66, 1971, as amended. For previous amendments, see No. 10, 1972; and No. 10, 1973.
5. No. 34, 1933, as amended. For previous amendments, see No. 27, 1935; No. 57, 1945; No. 52, 1947; No. 65, 1948; Nos. 51 and 80, 1950; Nos. 17 and 36, 1955; No. 47, 1956; No. 34, 1957; No. 43, 1958; No. 51, 1959; No. 110, 1960; No. 109, 1964; No. 92, 1965; Nos. 8 and 93, 1966; No. 156, 1968; No. 40, 1969; Nos. 13 and 98, 1971; No. 216, 1973; Nos. 37 and 158, 1976; No. 3, 1978; and No. 61, 1981.
6. No. 105, 1978.
7. No. 33, 1966, as amended. For previous amendments, see No. 121, 1968; No. 40, 1969; No. 122, 1970; No. 216, 1973 (as amended by No. 20, 1974); No. 56, 1975; Nos. 91 and 161, 1976; No. 111, 1977; No. 12, 1980 and No. 74, 1981.
8. No. 27, 1918. For previous amendments, see No. 31, 1919; No. 14, 1921; No. 14, 1922; No. 10, 1924; No. 20, 1925; No. 17, 1928; No. 2, 1929; No. 9, 1934; No. 19, 1940; No. 42, 1946; No. 17, 1948; Nos. 10 and 47, 1949; No. 106, 1952; No. 79, 1953; No. 26, 1961; No. 31, 1962; Nos. 48 and 70, 1965; Nos. 32 and 93, 1966; No. 7, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 38, 1974; No. 56, 1975; No. 14, 1977; and No. 102, 1980.
9. No. 74, 1981.
10. No. 42, 1981.
11. No. 118, 1981.
12. No. 81, 1981.
13. No. 95, 1953, as amended. For previous amendments, see No. 68, 1955; Nos. 55 and 95, 1956; No. 92, 1957; No. 68, 1958; No. 72, 1959; No. 16, 1961; No. 82, 1962; No. 77, 1963; No. 37, 1964; Nos. 100 and 146, 1965; No. 44, 1966; Nos. 14 and 100, 1967; No. 100, 1968; No. 102, 1969; No. 41, 1970; No. 85, 1971; No. 114, 1972; Nos. 49 and 202, 1973; No. 37, 1974; Nos. 1, 13 and 93, 1975; Nos. 1, 60, 91, 99, 108, 157 and 177, 1976; Nos. 98 and 100, 1977; Nos. 36, 88, 132 and 189, 1978; Nos. 54, 91 and 122, 1979; Nos. 117 and 131, 1980; and Nos. 74 and 188, 1981.
14. No. 65, 1977, as amended. For previous amendments, see No. 125, 1979.

NOTES—continued

15. No. 117, 1981.
16. No. 80, 1980, as amended. For previous amendments, see No. 79, 1981.
17. No. 50, 1975, as amended. For previous amendments, see No. 91, 1976; Nos. 36, 92 and 209, 1978; and No. 61, 1981.

