

Passed by both Houses



New South Wales

Interpretation Amendment Bill 2006

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2006*



New South Wales

Interpretation Amendment Bill 2006

Act No , 2006

An Act to amend the *Interpretation Act 1987* with respect to statutory bodies representing the Crown, the electronic or other publication of legislation and other matters; to repeal the *Reprints Act 1972*; and to make consequential amendments to other Acts.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Interpretation Amendment Act 2006*.

2 Commencement

- (1) This Act commences on the date of assent, except as provided by subsection (2).
- (2) Section 4, Schedule 1 [3], [4], [6], [7], [8], [9] and [10] and Schedule 2 commence on a day or days to be appointed by proclamation.

3 Amendment of Interpretation Act 1987 No 15

The *Interpretation Act 1987* is amended as set out in Schedule 1.

4 Amendment of other Acts

The Acts specified in Schedule 2 are amended as set out in that Schedule.

5 Repeal of Reprints Act 1972 No 48

The *Reprints Act 1972* is repealed.

6 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendment of Interpretation Act 1987

(Section 3)

[1] Section 13A

Insert after section 13:

13A NSW Government agencies and statutory bodies representing the Crown

- (1) If an Act provides that a body is:
 - (a) a NSW Government agency, or
 - (b) a statutory body representing the Crown,the body has the status, privileges and immunities of the Crown.
- (2) If an Act provides that a body:
 - (a) is not or does not represent the Crown, or
 - (b) is not a NSW Government agency or a statutory body representing the Crown,the body does not have the status, privileges and immunities of the Crown.
- (3) This section extends (without limiting its operation):
 - (a) to a provision that is expressed to be made for the purposes of any Act or more generally, and
 - (b) to privileges and immunities conferred by law expressly or as a matter of construction.
- (4) In any Act or instrument:
 - (a) a reference to a NSW Government agency includes a reference to a body that is declared to be a statutory body representing the Crown, or
 - (b) a reference to a statutory body representing the Crown includes a reference to a body that is declared to be a NSW Government agency.
- (5) In this section, the *Crown* includes the State and the Government of the State.

[2] Section 21 Meanings of commonly used words and expressions

Insert in alphabetical order in section 21 (1):

NSW legislation website means the website with the URL of www.legislation.nsw.gov.au, or any other website, used by the Parliamentary Counsel to provide public access to the legislation of New South Wales.

[3] Section 21 (1)

Omit the definition of *proclamation*. Insert instead:

proclamation means a proclamation of the Governor published in the Gazette or on the NSW legislation website.

[4] Section 23 Commencement of Acts

Omit “in the Gazette” wherever occurring.

[5] Section 23 (4A)

Insert after section 23 (4):

- (4A) A power to appoint by proclamation different days for the commencement of different portions of an Act includes the power to appoint different days for the commencement of the repeal of different portions of any previous Act or instrument repealed by a provision of the Act.

[6] Section 23 (8)

Insert after section 23 (7):

- (8) In this section, *published* means published in the Gazette or on the NSW legislation website.

[7] Section 39 The making of statutory rules

Omit “in the Gazette” wherever occurring.

Insert instead “on the NSW legislation website”.

[8] Section 40 Notice of statutory rules to be tabled

Omit section 40 (1) and (2). Insert instead:

- (1) Written notice of the making of a statutory rule must be laid before each House of Parliament within 14 sitting days of that House after the day on which it is published on the NSW legislation website.
- (2) A written notice is to identify the statutory rule to which it relates.

[9] Section 44

Insert after section 43:

44 Publication of certain miscellaneous statutory instruments on NSW legislation website

- (1) In this section, *miscellaneous statutory instrument* means an instrument of a legislative nature that is required by an Act or instrument to be published in the Gazette.
- (2) The Governor may, by regulation, require miscellaneous statutory instruments of a specified kind or class to be published on the NSW legislation website instead of or in addition to the Gazette.
- (3) The regulations may, for that purpose, make consequential amendments to the relevant Acts or instruments.

[10] Section 45 Presumption of validity of certain instruments

Insert “on the NSW legislation website or” after “published” in section 45 (2).

[11] Part 6A

Insert after Part 6:

Part 6A Publication of legislation

45B Definitions

In this Part:

legislation means:

- (a) an Act or instrument of this jurisdiction, or
 - (b) a law of another jurisdiction that, under such an Act or instrument, applies as a law of New South Wales, or
 - (c) a publication applied, adopted or incorporated by such an Act or instrument by way of reference,
- and includes a portion of any such legislation.

NSW legislation website has the meaning given by section 21.

45C Publication on NSW legislation website

- (1) The Parliamentary Counsel may publish on the NSW legislation website under the authority of the Government:
 - (a) legislation (as originally made or as amended), and

- (b) other matter (including information relating to legislation and any matter authorised by law to be published on the website).
- (2) Legislation or other matter is published on the NSW legislation website:
 - (a) if it is made accessible in full on that website, or
 - (b) if notice of its making, issue or other production is made accessible on that website and it is made accessible separately in full on that website or in any other identified location.
- (3) The date on which legislation or other matter is published on the NSW legislation website is the date notified by the Parliamentary Counsel as the date of its publication (being not earlier than the date on which it was first made so accessible).
- (4) If legislation or other matter cannot for technical or other reasons be published on the NSW legislation website at a particular time, the legislation or other matter may be published at that time in such other manner as the Parliamentary Counsel determines and published on that website as soon as practicable thereafter. In that case, it is taken to have been published on that website at that earlier time.
- (5) The Parliamentary Counsel is to compile and maintain a database of legislation published on the NSW legislation website, and may certify the form of that legislation that is correct.

45D Publication of paper reprints of legislation (cf former ss 5–7, 12 and 13 of Reprints Act 1972)

- (1) This section applies to paper reprints of legislation, but does not apply to the publication of legislation, as amended, on the NSW legislation website.
- (2) The Parliamentary Counsel may authorise legislation that has been amended to be reprinted, as so amended, under the authority of the Government, in the form certified as correct by the Parliamentary Counsel as at the date of the reprint.
- (3) The Parliamentary Counsel may authorise legislation to be reprinted under this section:
 - (a) with the omission of all or any of the provisions of the legislation that amend other legislation, and
 - (b) with the inclusion (appropriately identified) of amendments to the legislation that have not been commenced as at the date of the reprint.

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- (4) Legislation that is reprinted under this section may include:
- (a) references where applicable to provisions by which the legislation has been amended, and
 - (b) a note to the effect that the legislation is reprinted under this section, and
 - (c) such other notes as the Parliamentary Counsel thinks fit.
- (5) In this section:
- amendment** means a direct amendment that has commenced.
- direct amendment** means an amendment that inserts, omits, varies or substitutes matter.

45E Style changes, roman numerals, colons and dashes (cf former ss 9D and 9F of Reprints Act 1972)

- (1) Legislation may be published under this Part:
- (a) with the omission of the enacting formula, and
 - (b) with the omission of any comma before or after the year in the short title or citation of the legislation (or in references to the short title or citation of legislation of this or any other jurisdiction), and
 - (c) with the omission of inverted commas around the short title or citation of legislation, and
 - (d) with other changes to the format (but not to the text) of legislation so as to conform to current styles in the State.
- (2) For the purposes of publication under this Part and for all other purposes:
- (a) roman numerals in legislation may be regarded as being interchangeable with the corresponding arabic numerals, and
 - (b) colons in legislation may be regarded as being interchangeable with dashes.

[12] Schedule 3 Savings and transitional provisions

Insert at the end of the Schedule:

7 Statutory bodies representing the Crown

- (1) Section 13A, as inserted by the *Interpretation Amendment Act 2006*, is taken to have applied to any Act in force before the commencement of that section (and to have applied on and from the enactment of any such Act).

- (2) Nothing in subclause (1) affects any judgment or other order of a court or tribunal given or made before the commencement of that section.
- (3) In particular, the Roads and Traffic Authority is bound by the *Landlord and Tenant (Amendment) Act 1948* in relation to the property located at 67 Cromwell Street, Croydon Park for so long as that property is leased by that Authority to Mrs Jill McNamara (being the appellant in the appeal to the High Court in *McNamara (McGrath) v Consumer Trader and Tenancy Tribunal* [2005] HCA 55 (29 September 2005)).

8 Repeal of Reprints Act 1972—saving of certificates certifying reprint as correct

A certificate given under section 5 of the *Reprints Act 1972* before the repeal of that Act by the *Interpretation Amendment Act 2006* is taken, after that repeal, to be a certificate given under section 45D of this Act.

9 Construction of references to publication in Gazette where instruments published on NSW legislation website

- (1) This clause applies to statutory rules and other instruments that were required to be published in the Gazette, but that are required (by amendments made by the *Interpretation Amendment Act 2006*, by a regulation under section 44 or by any other Act) to be published instead on the NSW legislation website.
- (2) In any Act or instrument, a reference to the publication in the Gazette of a statutory rule or other instrument to which this clause applies includes a reference to its publication on the NSW legislation website instead of its publication in the Gazette.

Schedule 2 Amendment of other Acts

(Section 4)

2.1 Environmental Planning and Assessment Act 1979 No 203

[1] Section 33A Standardisation of local and other environmental planning instruments

Omit “in the Gazette” from section 33A (1).

Insert instead “on the NSW legislation website”.

[2] Section 33B Staged repeal and review of environmental planning instruments

Omit “in the Gazette” wherever occurring.

Insert instead “on the NSW legislation website”.

[3] Section 34 Environmental planning instruments—making, operation and inspection

Omit “in the Gazette” wherever occurring.

Insert instead “on the NSW legislation website”.

[4] Section 35 Validity of instruments

Omit “in the Gazette”. Insert instead “on the NSW legislation website”.

[5] Section 72C Consideration and making of plan

Omit “in the Gazette” wherever occurring.

Insert instead “on the NSW legislation website”.

[6] Section 72F Making of local environmental plan following decision of Court

Omit “in the Gazette” wherever occurring.

Insert instead “on the NSW legislation website”.

[7] Section 72G Date from which consent operates

Omit “in the Gazette”. Insert instead “on the NSW legislation website”.

[8] Section 154 Transfer or amalgamation of land to which an environmental planning instrument applies

Omit “in the Gazette” from section 154 (2) (b).

Insert instead “on the NSW legislation website”.

[9] Schedule 6 Savings, transitional and other provisions

Omit “in the Gazette” from clause 1 (3) in Part 1.

Insert instead “on the NSW legislation website”.

2.2 Public Sector Employment and Management Act 2002 No 43

[1] Section 66 Amendment or substitution of Schedule 2

Omit “, by order published in the Gazette,” wherever occurring.

[2] Section 108 Orders to change references in Acts, section 110 Publication and commencement of orders, section 112 Operation of orders

Omit “in the Gazette” wherever occurring.

Insert instead “on the NSW legislation website”.

2.3 Subordinate Legislation Act 1989 No 146

[1] Section 5 Regulatory impact statements

Omit “in the Gazette” from section 5 (4).

[2] Section 8 Remaking of disallowed statutory rule

Omit “in the Gazette” from section 8 (2).

Insert instead “on the NSW legislation website”.

[3] Section 8 (3)

Omit “in the Gazette”.

[4] Section 11 Postponement of repeal in specific cases

Omit “in the Gazette” from section 11 (1).

Insert instead “on the NSW legislation website”.

[5] Section 12 Machinery provisions regarding repeals

Insert “on the NSW legislation website or” after “published” where firstly occurring in section 12 (1) (a).