

# Interpretation Act 1987 No 15

[1987-15]



New South Wales

## Status Information

### Currency of version

Historical version for 17 January 2005 to 31 July 2005 (accessed 27 February 2024 at 9:38)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**
  - Podiatrists Act 2003 No 69* (not commenced)
  - Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005 No 43* (not commenced)
  - Legal Profession Amendment Act 2005 No 46* (not commenced)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 23 June 2005

# Interpretation Act 1987 No 15



New South Wales

## Contents

<b>Long title</b> .....	6
<b>Part 1 Preliminary</b> .....	6
1 Name of Act .....	6
2 Commencement .....	6
3 Definitions .....	6
4 Act binds Crown .....	7
5 Application of Act .....	7
<b>Part 2 Words and expressions</b> .....	7
6 Definitions to be read in context .....	7
7 Cognate words .....	7
8 Gender and number .....	7
9 Meaning of may and shall .....	8
10 Construction of amending Acts and instruments .....	8
11 Words etc in instruments under an Act have same meanings as in the Act .....	8
12 References to New South Wales to be implied .....	8
13 Sovereign and Crown .....	8
14 Governor .....	9
15 Minister .....	9
16 British subjects and aliens .....	9
17 Public Seal of the State .....	10
18 Sitting days .....	10
19 Holders of offices .....	11

20	References to statutory rules etc.....	11
21	Meaning of commonly used words and expressions.....	11
21A	Construction of references in relation to the Public Service .....	18
	<b>Part 3 Commencement of Acts and instruments</b> .....	19
22	References to enactment etc of Acts.....	19
23	Commencement of Acts .....	19
24	Time of commencement of Acts and statutory rules .....	20
25	References to commencement of Acts and instruments .....	20
26	Exercise of certain powers between enactment and commencement of Acts.....	20
	<b>Part 4 Amendments and repeals</b> .....	21
27	Acts may be amended etc in the same session of Parliament.....	21
28	Repealed Acts and statutory rules not revived .....	21
29	Repealed Acts and statutory rules continue in force .....	21
30	Effect of amendment or repeal of Acts and statutory rules.....	21
30A	Transferred provisions .....	23
30B	Effect of amendment of statutory rule by an Act .....	23
	<b>Part 5 Construction of Acts and instruments</b> .....	23
31	Acts and instruments to be construed so as not to exceed the legislative power of Parliament .....	23
32	Instruments to be construed so as not to exceed the powers conferred by the Acts under which they are made .....	23
33	Regard to be had to purposes or objects of Acts and statutory rules .....	24
34	Use of extrinsic material in the interpretation of Acts and statutory rules .....	24
34A	Declaration of validity of certain laws .....	25
35	Headings etc .....	26
36	Reckoning of time.....	27
37	Age .....	27
38	Measurement of distance .....	27
	<b>Part 6 Statutory rules and certain other instruments</b> .....	27
39	The making of statutory rules .....	27
40	Notice of statutory rules to be tabled.....	28
41	Disallowance of statutory rules .....	29

42 Matters for which statutory rules may make provision.....	30
43 Implied power to amend or repeal statutory rules and orders.....	30
44 (Repealed) .....	31
45 Presumption of validity of certain instruments .....	31
45A Tabling of instruments .....	31
<b>Part 7 Exercise of statutory functions .....</b>	<b>31</b>
46 Appointments may be made by name or by office.....	31
47 Powers of appointment imply certain incidental powers .....	32
48 Exercise of statutory functions .....	32
49 Delegation of functions .....	33
<b>Part 8 Statutory bodies .....</b>	<b>34</b>
50 Statutory corporations.....	34
51 (Repealed) .....	35
52 Proceedings of statutory bodies .....	35
53 Alterations of names and constitutions .....	35
53A Extension of age limit for part-time members of statutory bodies .....	36
<b>Part 9 (Repealed) .....</b>	<b>37</b>
<b>Part 10 Application of State laws to coastal waters .....</b>	<b>37</b>
58 Definitions .....	37
59 Application of laws of the State to coastal waters .....	37
60 Laws with specific application not to apply .....	38
61 Extent of jurisdiction in relation to coastal waters.....	38
62 Constitutional basis .....	38
63 Saving .....	38
<b>Part 11 Miscellaneous .....</b>	<b>38</b>
64 Every section of an Act a substantive enactment.....	38
65 References to Acts generally .....	39
66 Citation of particular Acts .....	39
67 Citation of instruments etc .....	39
68 References to amended Acts and instruments .....	40
69 References to publications other than Acts or instruments .....	41

69A Evidence of publication of Australian standards or other publications .....	42
69B References to Standards Association of Australia.....	42
70 References to changed short titles, names and citations .....	42
71 Time of expiry of temporary Acts and instruments.....	42
72 Retrospective commencement of continuing Acts.....	42
73 Private Acts not to affect rights of the Crown etc .....	43
74 Private Acts amended by Public Acts do not thereby become Public Acts .....	43
75 Publication of statutory notices .....	43
76 Service by post.....	44
77 Registered post etc not necessary in the case of Acts and statutory rules passed etc before 24.4.1969 .....	44
78 Rules of court .....	45
79 Authority to administer oaths.....	45
80 Compliance with forms .....	45
80A Maximum monetary penalty Local Courts may impose in certain circumstances .....	46
81 (Repealed) .....	46
82 Repeals.....	46
83 Savings and transitional provisions .....	46
<b>Schedule 1 (Repealed) .....</b>	<b>46</b>
<b>Schedule 2 Repeals.....</b>	<b>46</b>
<b>Schedule 3 Savings and transitional provisions .....</b>	<b>47</b>

# Interpretation Act 1987 No 15



New South Wales

An Act relating to the interpretation, construction, application and operation of the legislation of New South Wales; to enact certain provisions of a common or general nature; to make provision with respect to the exercise of certain statutory functions; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Interpretation Act 1987*.

### 2 Commencement

- (1) Sections 1 and 2 shall commence on the date of assent to this Act.
- (2) Subject to this section, this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.
- (3) Section 23 shall commence on such day, being a day occurring after the day appointed and notified under subsection (2), as may be appointed by the Governor and notified by proclamation published in the Gazette.
- (4) Section 81 and Schedule 1 shall commence:
  - (a) on the day appointed and notified under subsection (2), or
  - (b) on the day fixed by proclamation for the purposes of section 2 (2) of the *Australian Citizenship Amendment Act 1984* of the Commonwealth,whichever is the later.

### 3 Definitions

- (1) In this Act:

***instrument*** means an instrument (including a statutory rule) made under an Act, and includes an instrument made under any such instrument.

- (2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, in relation to a duty, a reference to the performance of the duty.

#### **4 Act binds Crown**

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

#### **5 Application of Act**

- (1) This Act applies to all Acts and instruments (including this Act) whether enacted or made before or after the commencement of this Act.
- (2) This Act applies to an Act or instrument except in so far as the contrary intention appears in this Act or in the Act or instrument concerned.
- (3) Wherever appropriate, this Act applies to a portion of an Act or instrument in the same way as it applies to the whole of an Act or instrument.
- (4) Nothing in this Act excludes the application to an Act or instrument of a rule of construction applicable to it and not inconsistent with this Act.
- (5) This section does not authorise a statutory rule to exclude or modify the operation of Part 6 (statutory rules and certain other instruments).

## **Part 2 Words and expressions**

#### **6 Definitions to be read in context**

Definitions that occur in an Act or instrument apply to the construction of the Act or instrument except in so far as the context or subject-matter otherwise indicates or requires.

#### **7 Cognate words**

If an Act or instrument defines a word or expression, other parts of speech and grammatical forms of the word or expression have corresponding meanings.

#### **8 Gender and number**

In any Act or instrument:

- (a) a word or expression that indicates one or more particular genders shall be taken to indicate every other gender,
- (b) a reference to a word or expression in the singular form includes a reference to the word or expression in the plural form,

- (c) a reference to a word or expression in the plural form includes a reference to the word or expression in the singular form,
- (d) a reference to a person does not exclude a reference to a corporation merely because elsewhere in the Act or instrument there is particular reference to a corporation (in whatever terms expressed), and
- (e) a reference to a person does not exclude a reference to an individual merely because elsewhere in the Act or instrument there is particular reference to an individual (in whatever terms expressed).

### **9 Meaning of may and shall**

- (1) In any Act or instrument, the word “may”, if used to confer a power, indicates that the power may be exercised or not, at discretion.
- (2) In any Act or instrument, the word “shall”, if used to impose a duty, indicates that the duty must be performed.

### **10 Construction of amending Acts and instruments**

Words and expressions that occur in an Act or instrument that amends or repeals some other Act or instrument have the same meanings as they have in the other Act or instrument.

### **11 Words etc in instruments under an Act have same meanings as in the Act**

Words and expressions that occur in an instrument have the same meanings as they have in the Act, or in the relevant provisions of the Act, under which the instrument is made.

### **12 References to New South Wales to be implied**

- (1) In any Act or instrument:
  - (a) a reference to an officer, office or statutory body is a reference to such an officer, office or statutory body in and for New South Wales, and
  - (b) a reference to a locality, jurisdiction or other matter or thing is a reference to such a locality, jurisdiction or other matter or thing in and of New South Wales.
- (2) In any Act or instrument, a reference to a body constituted by or under an Act or instrument need not include the words “New South Wales” or “of New South Wales” merely because those words form part of the body’s name or title.

### **13 Sovereign and Crown**

In any Act or instrument:

- (a) a reference to the Sovereign (whether the words “Her Majesty” or “His Majesty” or any other words are used) is a reference to the Sovereign for the time being, and



(b) a reference to the Crown is a reference to the Crown in right of New South Wales.

#### **14 Governor**

In any Act or instrument, a reference to the Governor is a reference to the Governor with the advice of the Executive Council, and includes a reference to any person for the time being lawfully administering the Government.

#### **15 Minister**

(1) In any Act or instrument:

- (a) a reference to a Minister is a reference to a Minister of the Crown, and
- (b) a reference to a particular Minister includes a reference to any other Minister who is acting for or on behalf of the Minister.

(2) In any Act, a reference to “the Minister” is a reference to:

- (a) the Minister administering the Act,
- (b) if different Ministers are administering the Act in different respects—the Minister administering the Act in the relevant respect,
- (c) if different Ministers are administering different portions of the Act—the Minister administering the relevant portion of the Act, or
- (d) if paragraphs (b) and (c) do not apply and 2 or more Ministers are administering that Act or a portion of that Act—any one of the Ministers administering the Act or portion of the Act.

(3) In any instrument, a reference to “the Minister” is a reference to:

- (a) the Minister administering the Act under which the instrument is made,
- (b) if different Ministers are administering that Act in different respects—the Minister administering that Act in the respect in relation to which the instrument is made,
- (c) if different Ministers are administering different portions of that Act—the Minister administering the portion of that Act under which the instrument is made, or
- (d) if paragraphs (b) and (c) do not apply and 2 or more Ministers are administering that Act or a portion of that Act—any one of the Ministers administering the Act or the portion of the Act under which the instrument is made.

#### **16 British subjects and aliens**

(1) In any Act or instrument:

- (a) a reference to a British subject, or to a natural-born or naturalised subject of Her

Majesty or to any other similar expression, is a reference to:

(i) an Australian citizen, or

(ii) any other person who would, had the relevant Commonwealth law continued in force, be a person who has the status of a British subject or the status of a British subject without citizenship, and

(b) a reference to an alien is a reference to a person who would, had the relevant Commonwealth law continued in force, be a person who is an alien within the meaning of that law.

(2) If a rule of law applies to or in relation to, or has effect with respect to, a British subject, the rule of law shall apply to or in relation to, or have effect with respect to:

(a) an Australian citizen, and

(b) any other person who would, had the relevant Commonwealth law continued in force, be a person who has the status of a British subject or the status of a British subject without citizenship,

as if the Australian citizen or other person were a British subject.

(3) If a rule of law applies to or in relation to, or has effect with respect to, an alien, the rule of law shall apply to or in relation to, or have effect with respect to, a person who would, had the relevant Commonwealth law continued in force, be a person who is an alien within the meaning of that law.

(4) In this section, a reference to the relevant Commonwealth law is a reference to:

(a) the *Australian Citizenship Act 1948* of the Commonwealth, as in force immediately before the commencement of this subsection, and

(b) the regulations in force immediately before the commencement of this subsection under the *Australian Citizenship Act 1948* of the Commonwealth, as so in force.

## **17 Public Seal of the State**

In any Act or instrument, a reference to:

(a) the Great Seal of the State, or

(b) the Seal of the State,

shall be read as a reference to the Public Seal of the State.

## **18 Sitting days**

In any Act or statutory rule:

- (a) a reference to a sitting day, in relation to a House of Parliament, is a reference to a day on which the House actually sits, and
- (b) a reference to a number of sitting days, in relation to a House of Parliament, is a reference to that number of sitting days, regardless of whether those days occur within the same or within different sessions of Parliament.

## 19 Holders of offices

- (1) In any Act or instrument, a reference to a particular officer or to the holder of a particular office includes a reference to the person for the time being occupying or acting in the office concerned.
- (2) The office of chairperson, chairman or chairwoman may be referred to by whichever of those words is appropriate in relation to the particular holder of that office.

## 20 References to statutory rules etc

In any Act:

**by-law** means a by-law made under the Act in which that word occurs.

**ordinance** means an ordinance made under the Act in which that word occurs.

**prescribed** means prescribed by, or by a statutory rule made under, the Act in which that word occurs.

**regulation** means a regulation made under the Act in which that word occurs.

**rule** means a rule made under the Act in which that word occurs.

## 21 Meaning of commonly used words and expressions

- (1) In any Act or instrument:

**Administrative Decisions Tribunal** means the Administrative Decisions Tribunal established by the [Administrative Decisions Tribunal Act 1997](#).

**affidavit**, in the case of persons for the time being allowed by law to affirm, declare or promise, includes affirmation, declaration and promise.

**amend**, in relation to an Act or instrument, includes alter and vary.

**ASC Law** has the same meaning as **ASIC Law**.

**ASC Regulations** has the same meaning as **ASIC Regulations** when used in relation to the *ASIC Law*.

**ASIC Law** has the meaning provided for by Part 11 of the [Corporations \(New South Wales\) Act 1990](#).

**ASIC Regulations:**

- (a) when used in relation to the *ASIC Law*, has the meaning provided for by Part 11 of the *Corporations (New South Wales) Act 1990*,
- (b) when used in relation to the *Australian Securities and Investments Commission Act 2001*, means regulations made under, or taken to be made under, that Act.

**Australia** means the Commonwealth of Australia but, when used in a geographical sense, does not include an external Territory.

**Australia Acts** means the *Australia Act 1986* of the Commonwealth and the *Australia Act 1986* of the United Kingdom.

**authorised deposit-taking institution** or **ADI** means an authorised deposit-taking institution within the meaning of the *Banking Act 1959* of the Commonwealth.

**bank** means:

- (a) a bank as defined by section 5 of the *Banking Act 1959* of the Commonwealth, or
- (b) a bank constituted under a law of a State or Territory.

**British Act** or **Imperial Act** means an Act of the British Parliament.

**British Parliament** or **Imperial Parliament** means:

- (a) the Parliament of England,
- (b) the Parliament of Great Britain,
- (c) the Parliament of the United Kingdom of Great Britain and Ireland, or
- (d) the Parliament of the United Kingdom of Great Britain and Northern Ireland,

as the case requires.

**calendar month** means a period commencing at the beginning of a day of one of the 12 named months and ending:

- (a) immediately before the beginning of the corresponding day of the next named month, or
- (b) if there is no such corresponding day, at the end of the next named month.

**calendar year** means a period of 12 months commencing on 1 January.

**committal proceedings** means proceedings for the purpose of deciding whether a person charged with an offence should be committed for trial or sentence.

**Commonwealth** means the Commonwealth of Australia but, when used in a

geographical sense, does not include an external Territory.

**Commonwealth Constitution** means the Constitution of the Commonwealth.

**Consolidated Fund** means the fund formed as referred to in section 39 of the [Constitution Act 1902](#).

**Consumer Credit (New South Wales) Code** means the provisions applying because of section 5 of the [Consumer Credit \(New South Wales\) Act 1995](#).

**Consumer Credit (New South Wales) Regulations** means the provisions applying because of section 6 of the [Consumer Credit \(New South Wales\) Act 1995](#).

**contravene** includes fail to comply with.

**Corporations Law** has the meaning provided for by Part 3 of the [Corporations \(New South Wales\) Act 1990](#).

**Corporations legislation** means the Corporations legislation to which Part 1.1A of the [Corporations Act 2001](#) of the Commonwealth applies.

**Corporations Regulations:**

- (a) when used in relation to the [Corporations Law](#), has the meaning provided for by Part 3 of the [Corporations \(New South Wales\) Act 1990](#), or
- (b) when used in relation to the [Corporations Act 2001](#) of the Commonwealth, means regulations made under, or taken to be made under, that Act.

**date of assent**, in relation to an Act, means the day on which the Act receives the Royal Assent.

**definition** means a provision of an Act or instrument (however expressed) that:

- (a) gives a meaning to a word or expression, or
- (b) limits or extends the meaning of a word or expression.

**document** means any record of information, and includes:

- (a) anything on which there is writing, or
- (b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them, or
- (c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else, or
- (d) a map, plan, drawing or photograph.

**estate** includes interest, charge, right, title, claim, demand, lien and encumbrance, whether at law or in equity.

**Executive Council** means the Executive Council of New South Wales.

**external Territory** means a Territory, not being an internal Territory, for the government of which as a Territory provision is made by a Commonwealth Act.

**foreign country** means any country (whether or not an independent sovereign state) outside Australia and its external Territories.

**Gas Pipelines Access (New South Wales) Law** means the provisions applying because of section 7 of the [Gas Pipelines Access \(New South Wales\) Act 1998](#), including the *National Third Party Access Code for Natural Gas Pipeline Systems*, as in force from time to time, referred to in that Act.

**Gas Pipelines Access (New South Wales) Regulations** means the provisions applying because of section 8 of the [Gas Pipelines Access \(New South Wales\) Act 1998](#).

**Gazette** means the New South Wales Government Gazette.

**Government** means the Government of New South Wales.

**Government Printer** means the Government Printer of New South Wales, and includes any other person authorised by or on behalf of the Government to print any Act or instrument or other document.

**High Court** means the High Court of Australia.

**indictable offence** means an offence for which proceedings may be taken on indictment, whether or not proceedings for the offence may also be taken otherwise than on indictment.

**individual** means a natural person.

**internal Territory** means the Australian Capital Territory, the Jervis Bay Territory or the Northern Territory.

**Jervis Bay Territory** means the Territory referred to in the [Jervis Bay Territory Acceptance Act 1915](#) of the Commonwealth.

**land** includes messuages, tenements and hereditaments, corporeal and incorporeal, of any tenure or description, and whatever may be the estate or interest therein.

**Legislative Assembly** means the Legislative Assembly of New South Wales.

**Legislative Council** means the Legislative Council of New South Wales.

**local council** means a council within the meaning of the [Local Government Act 1993](#).

**Local Court** means a Local Court established under the [Local Courts Act 1982](#).

**Magistrate** means a Magistrate appointed under the [Local Courts Act 1982](#).

**make**, in relation to an instrument, includes issue and grant.

**mentally incapacitated person** means a person who is a temporary patient, a continued treatment patient or a forensic patient within the meaning of the [Mental Health Act 1990](#), or a protected person within the meaning of the [Protected Estates Act 1983](#).

**midnight**, in relation to a particular day, means the point of time at which that day ends.

**minor** means an individual who is under the age of 18 years.

**minor indictable offence** means an indictable offence that is not a serious indictable offence.

**month** means a calendar month.

**named month** means January, February, March, April, May, June, July, August, September, October, November or December.

**National Electricity (NSW) Law** means the provisions applying because of section 6 of the [National Electricity \(New South Wales\) Act 1997](#).

**National Electricity (NSW) Regulations** means the provisions applying because of section 7 of the [National Electricity \(New South Wales\) Act 1997](#).

**Northern Territory** means the Northern Territory of Australia.

**NSW Police** means NSW Police established by the [Police Act 1990](#).

**oath**, in the case of persons for the time being allowed by law to affirm, declare or promise, includes affirmation, declaration and promise.

**office** includes position.

**Parliament** means the Parliament of New South Wales.

**party** includes an individual, a corporation and a body corporate or politic.

**penalty** includes forfeiture and punishment.

**penalty unit** is defined in section 17 of the [Crimes \(Sentencing Procedure\) Act 1999](#).

**person** includes an individual, a corporation and a body corporate or politic.

**Police Force** means that part of NSW Police which is comprised of police officers.

**police officer** means a member of NSW Police who is a police officer within the meaning of the [Police Act 1990](#).

**proclamation** means a proclamation of the Governor published in the Gazette.

**property** means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description, including money, and includes things in action.

**registered chiropractor** and each of the following expressions means a chiropractor registered under the [Chiropractors Act 2001](#):

- (a) chiropractor,
- (b) legally (or duly) qualified chiropractor,
- (c) qualified chiropractor.

**registered dentist** and each of the following expressions means a dentist registered under the [Dental Practice Act 2001](#):

- (a) dentist,
- (b) legally (or duly) qualified dentist,
- (c) qualified dentist.

**registered medical practitioner** and each of the following expressions means a medical practitioner registered under the [Medical Practice Act 1992](#):

- medical practitioner
- legally (or duly) qualified medical practitioner
- qualified medical practitioner.

**registered optometrist** and each of the following expressions means an optometrist registered under the [Optometrists Act 2002](#):

- (a) optometrist,
- (b) legally (or duly) qualified optometrist,
- (c) qualified optometrist.

**registered osteopath** and each of the following expressions means an osteopath registered under the [Osteopaths Act 2001](#):

- (a) osteopath,



(b) legally (or duly) qualified osteopath,

(c) qualified osteopath.

**registered physiotherapist** and each of the following expressions means a physiotherapist registered under the [Physiotherapists Act 2001](#):

(a) physiotherapist,

(b) legally (or duly) qualified physiotherapist,

(c) qualified physiotherapist.

**registered psychologist** and each of the following expressions means a psychologist registered under the [Psychologists Act 2001](#):

(a) psychologist,

(b) legally (or duly) qualified psychologist,

(c) qualified psychologist.

**repeal**, in relation to an instrument, includes revoke and rescind.

**rules of court**, in relation to a court or tribunal, means rules made by the person or body having power to make rules regulating the practice and procedure of the court or tribunal.

**serious indictable offence** means an indictable offence that is punishable by imprisonment for life or for a term of 5 years or more.

**sign** includes the affixing of a seal and the making of a mark.

**Standards Australia** means Standards Australia International Limited (ACN 087 326 690), and includes a reference to the Standards Association of Australia as constituted before 1 July 1999.

**State** means a State of the Commonwealth.

**State industrial instrument** means an industrial instrument within the meaning of the [Industrial Relations Act 1996](#).

**State owned corporation** means a State owned corporation within the meaning of the [State Owned Corporations Act 1989](#).

**statutory declaration** means a declaration made by virtue of any Act authorising a declaration to be made instead of an oath.

**statutory rule** means:

(a) a regulation, by-law, rule or ordinance:

(i) that is made by the Governor, or

(ii) that is made by a person or body other than the Governor, but is required by law to be approved or confirmed by the Governor, or

(b) a rule of court.

**summary offence** means an offence that is not an indictable offence.

**swear**, in the case of persons for the time being allowed by law to affirm, declare or promise, includes affirm, declare and promise.

**Teaching Service** means the Teaching Service of New South Wales referred to in the [Teaching Service Act 1980](#).

**Territory** means a Territory of the Commonwealth.

**the State** means the State of New South Wales.

**United Kingdom** means the United Kingdom of Great Britain and Northern Ireland.

**writing** includes printing, photography, photocopying, lithography, typewriting and any other mode of representing or reproducing words in visible form.

(2) In any Act passed before the commencement of this Act, and in any instrument made under such an Act:

**Colony**, in relation to any part of Australia, means the State or Territory that corresponds to that part of Australia.

**the Colony** means the State of New South Wales.

## **21A Construction of references in relation to the Public Service**

In any Act, in any instrument made under any Act or in any other instrument of any kind (enacted, made or executed whether before or after the commencement of this section):

(a) a reference to the Public Service is to be read as a reference to the Public Service within the meaning of the [Public Sector Employment and Management Act 2002](#), and

(b) a reference to a public servant is to be read as a reference to a member of staff of a Department within the meaning of that Act, and

(c) a reference to a Department Head is to be read as including a reference to a person who has the functions of a Department Head within the meaning of that Act.

## **Part 3 Commencement of Acts and instruments**

### **22 References to enactment etc of Acts**

- (1) In any Act or instrument, a reference to the enactment of an Act or the passing of an Act is a reference to the fact of the Act's having received the Royal Assent.
- (2) The date purporting to be the date of assent to an Act, as appearing on a copy of the Act that has been printed by the Government Printer, is admissible in any legal proceedings as evidence of the date of assent to the Act.

### **23 Commencement of Acts**

- (1) An Act shall commence, or shall be deemed to have commenced:
  - (a) except as provided by paragraphs (b) and (c)—on the day occurring 28 days after the date of assent to the Act,
  - (b) if the Act provides for its commencement, whether by proclamation under the Act or otherwise—on the day or days specified in, or ascertained in accordance with, that provision, or
  - (c) if a day is appointed for its commencement by a proclamation under subsection (2)—on the day so appointed.
- (2) The Governor may, by proclamation, appoint a day for the commencement of an Act that does not provide for its commencement, being a day that occurs:
  - (a) no earlier than the date of assent to the Act, and
  - (b) no later than the day occurring 28 days after the date of assent to the Act.
- (3) A power to appoint by proclamation a day on which an Act shall commence does not include power to appoint a day prior to the day on which the proclamation appointing the day is published in the Gazette.
- (4) A power to appoint by proclamation a day on which an Act shall commence does not include power to appoint different days for different portions of the Act unless express provision is made in the Act for that purpose.
- (5) A proclamation appointing a day on which an Act shall commence does not fail merely because the proclamation is not published in the Gazette until after that day but, in that event, the Act shall not commence on that day but shall commence:
  - (a) except as provided by paragraph (b)—on the day on which the proclamation is published in the Gazette, or
  - (b) in the case of a proclamation under subsection (2):

- (i) on the day on which the proclamation is published in the Gazette, or
  - (ii) on the day on which the Act would have commenced had the proclamation not been made,
- whichever is the earlier.

- (6) An Act may be referred to by its short title (or name) even though the provision that specifies the short title (or name) has not commenced.
- (7) If an Act provides for its commencement, whether by proclamation under the Act or otherwise:
- (a) that provision has effect for the purposes of subsection (1) (b), and
  - (b) in the case of an Act that provides for its commencement by proclamation under the Act—such a proclamation may be made and shall have effect,
- even though that provision has not commenced.

#### **24 Time of commencement of Acts and statutory rules**

If an Act or statutory rule provides that it shall commence, or be deemed to have commenced, on a particular day, it shall commence, or be deemed to have commenced, at the beginning of that day.

#### **25 References to commencement of Acts and instruments**

If an Act or instrument provides that all of its provisions, with specified exceptions, shall commence, or be deemed to have commenced, at the same time, a reference in any other Act or instrument to the commencement of the firstmentioned Act or instrument shall be read as a reference to the commencement of all of its provisions, with those specified exceptions.

#### **26 Exercise of certain powers between enactment and commencement of Acts**

- (1) If an Act (in this section referred to as ***the Act concerned***) that does not commence on its enactment would, had it commenced:
- (a) confer a power, or
  - (b) amend some other Act in such a manner that the other Act, as amended, would confer a power,
- that must or may be exercised by the making of an instrument of a legislative or administrative character, then:
- (c) such an instrument may be made, and
  - (d) any thing may be done for the purpose of enabling such an instrument to be

made or of bringing such an instrument into effect,

before the Act concerned commences, as if the Act concerned had commenced.

(2) A provision of an instrument made by virtue of subsection (1) shall take effect:

(a) on the day on which the Act concerned commences, or

(b) on the day on which the provision would have taken effect had the Act concerned commenced when the instrument was made,

whichever is the later.

(3) If:

(a) this section applies to an Act that would, had it commenced, amend some other Act as referred to in subsection (1) (b), and

(b) the other Act has not commenced,

this section has effect as if the references in subsections (1) and (2) to the commencement of the Act concerned were references to the commencement of the other Act, as amended by the Act concerned.

## **Part 4 Amendments and repeals**

### **27 Acts may be amended etc in the same session of Parliament**

An Act may be amended or repealed in the same session of Parliament as that in which it was passed.

### **28 Repealed Acts and statutory rules not revived**

An Act or statutory rule that has been repealed by some other Act or statutory rule is not revived merely because the other Act or statutory rule is subsequently amended or repealed or subsequently ceases to have effect.

### **29 Repealed Acts and statutory rules continue in force**

If an Act or statutory rule repeals some or all of the provisions of some other Act or statutory rule and enacts new provisions in substitution for the repealed provisions, the repealed provisions continue in force until the new provisions commence.

### **30 Effect of amendment or repeal of Acts and statutory rules**

(1) The amendment or repeal of an Act or statutory rule does not:

(a) revive anything not in force or existing at the time at which the amendment or repeal takes effect, or

- (b) affect the previous operation of the Act or statutory rule or anything duly suffered, done or commenced under the Act or statutory rule, or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the Act or statutory rule, or
- (d) affect any penalty incurred in respect of any offence arising under the Act or statutory rule, or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability or penalty,

and any such penalty may be imposed and enforced, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, as if the Act or statutory rule had not been amended or repealed.

- (2) Without limiting the effect of subsection (1), the amendment or repeal of an Act or statutory rule does not affect:
  - (a) the proof of any past act or thing, or
  - (b) any right, privilege, obligation or liability saved by the operation of the Act or statutory rule, or
  - (c) any amendment or validation made by the Act or statutory rule, or
  - (d) the operation of any savings or transitional provision contained in the Act or statutory rule.
- (3) This section applies to the amendment or repeal of an Act or statutory rule in addition to, and without limiting the effect of, any provision of the Act or statutory rule by which the amendment or repeal is effected.
- (4) In this section, a reference to the amendment or repeal of an Act or statutory rule includes:
  - (a) a reference to the expiration of the Act or statutory rule,
  - (b) a reference to an amendment or repeal of the Act or statutory rule effected by implication,
  - (c) a reference to the abrogation, limitation or extension of the effect of the Act or statutory rule, and
  - (d) a reference to:
    - (i) the exclusion from the application of the Act or statutory rule, or
    - (ii) the inclusion within the application of the Act or statutory rule,

of any person, subject-matter or circumstance.

### **30A Transferred provisions**

- (1) This section applies where a provision is transferred from an Act or statutory rule to another Act and an Act states that the provision is a transferred provision to which this section applies.
- (2) The transfer does not affect the operation (if any) or meaning of the provision, and accordingly the provision is to be construed as if it had not been so transferred.
- (3) This section applies whether or not the provision is modified, but has effect subject to any such modification.

### **30B Effect of amendment of statutory rule by an Act**

The amendment of a statutory rule by an Act does not prevent its later amendment or repeal by another statutory rule.

## **Part 5 Construction of Acts and instruments**

### **31 Acts and instruments to be construed so as not to exceed the legislative power of Parliament**

- (1) An Act or instrument shall be construed as operating to the full extent of, but so as not to exceed, the legislative power of Parliament.
- (2) If any provision of an Act or instrument, or the application of any such provision to any person, subject-matter or circumstance, would, but for this section, be construed as being in excess of the legislative power of Parliament:
  - (a) it shall be a valid provision to the extent to which it is not in excess of that power, and
  - (b) the remainder of the Act or instrument, and the application of the provision to other persons, subject-matters or circumstances, shall not be affected.
- (3) This section applies to an Act or instrument in addition to, and without limiting the effect of, any provision of the Act or instrument.

### **32 Instruments to be construed so as not to exceed the powers conferred by the Acts under which they are made**

- (1) An instrument shall be construed as operating to the full extent of, but so as not to exceed, the power conferred by the Act under which it is made.
- (2) If any provision of an instrument, or the application of any such provision to any person, subject-matter or circumstance, would, but for this section, be construed as being in excess of the power conferred by the Act under which it is made:

- (a) it shall be a valid provision to the extent to which it is not in excess of that power, and
  - (b) the remainder of the instrument, and the application of the provision to other persons, subject-matters or circumstances, shall not be affected.
- (3) This section applies to an instrument in addition to, and without limiting the effect of, any provision of the instrument or of the Act under which it is made.

### **33 Regard to be had to purposes or objects of Acts and statutory rules**

In the interpretation of a provision of an Act or statutory rule, a construction that would promote the purpose or object underlying the Act or statutory rule (whether or not that purpose or object is expressly stated in the Act or statutory rule or, in the case of a statutory rule, in the Act under which the rule was made) shall be preferred to a construction that would not promote that purpose or object.

### **34 Use of extrinsic material in the interpretation of Acts and statutory rules**

- (1) In the interpretation of a provision of an Act or statutory rule, if any material not forming part of the Act or statutory rule is capable of assisting in the ascertainment of the meaning of the provision, consideration may be given to that material:
- (a) to confirm that the meaning of the provision is the ordinary meaning conveyed by the text of the provision (taking into account its context in the Act or statutory rule and the purpose or object underlying the Act or statutory rule and, in the case of a statutory rule, the purpose or object underlying the Act under which the rule was made), or
  - (b) to determine the meaning of the provision:
    - (i) if the provision is ambiguous or obscure, or
    - (ii) if the ordinary meaning conveyed by the text of the provision (taking into account its context in the Act or statutory rule and the purpose or object underlying the Act or statutory rule and, in the case of a statutory rule, the purpose or object underlying the Act under which the rule was made) leads to a result that is manifestly absurd or is unreasonable.
- (2) Without limiting the effect of subsection (1), the material that may be considered in the interpretation of a provision of an Act, or a statutory rule made under the Act, includes:
- (a) all matters not forming part of the Act that are set out in the document containing the text of the Act as printed by the Government Printer,
  - (b) any relevant report of a Royal Commission, Law Reform Commission, committee of inquiry or other similar body that was laid before either House of Parliament



before the provision was enacted or made,

- (c) any relevant report of a committee of Parliament or of either House of Parliament before the provision was enacted or made,
  - (d) any treaty or other international agreement that is referred to in the Act,
  - (e) any explanatory note or memorandum relating to the Bill for the Act, or any other relevant document, that was laid before, or furnished to the members of, either House of Parliament by a Minister or other member of Parliament introducing the Bill before the provision was enacted or made,
  - (f) the speech made to a House of Parliament by a Minister or other member of Parliament on the occasion of the moving by that Minister or member of a motion that the Bill for the Act be read a second time in that House,
  - (g) any document (whether or not a document to which a preceding paragraph applies) that is declared by the Act to be a relevant document for the purposes of this section, and
  - (h) any relevant material in the Minutes of Proceedings or the Votes and Proceedings of either House of Parliament or in any official record of debates in Parliament or either House of Parliament.
- (3) In determining whether consideration should be given to any material, or in considering the weight to be given to any material, regard shall be had, in addition to any other relevant matters, to:
- (a) the desirability of persons being able to rely on the ordinary meaning conveyed by the text of the provision (taking into account its context in the Act or statutory rule and the purpose or object underlying the Act or statutory rule and, in the case of a statutory rule, the purpose or object underlying the Act under which the rule was made), and
  - (b) the need to avoid prolonging legal or other proceedings without compensating advantage.

### **34A Declaration of validity of certain laws**

Each provision of an Act or statutory rule enacted or made, or purporting to have been enacted or made, before the commencement of the Australia Acts:

- (a) has the same effect as it would have had, and
- (b) is as valid as it would have been,

if the Australia Acts had been in operation at the time of its enactment or making, or purported enactment or making.

### 35 Headings etc

- (1) Headings to provisions of an Act or instrument, being headings to:
  - (a) Parts, Divisions or Subdivisions into which the Act or instrument is divided, or
  - (b) Schedules to the Act or instrument,shall be taken to be part of the Act or instrument.
- (2) Except as provided by subsections (3) and (4):
  - (a) a heading to a provision of an Act or instrument (not being a heading referred to in subsection (1)),
  - (b) matter within a provision of an Act or instrument (being matter in parentheses that merely sets out a heading to or describes the effect of some other provision of the Act or instrument or of some other Act or instrument), or
  - (c) a marginal note, footnote or endnote in an Act or instrument,shall be taken not to be part of the Act or instrument.
- (3) A heading to a provision of an Act or instrument (not being a heading referred to in subsection (1)) shall be taken to be part of the Act or instrument if, immediately before 1 February 1981 (being the date on which section 3 of the *Interpretation (Amendment) Act 1980* commenced), it was part of the Act or instrument.
- (4) A heading to a provision of an Act or instrument (not being a heading referred to in subsection (1)), or a marginal note, footnote or endnote in an Act or instrument, shall be taken to be part of the Act or instrument if:
  - (a) it is referred to expressly, otherwise than by means of matter within some other provision of the Act or instrument (being matter in parentheses that merely sets out a heading to or describes the effect of the firstmentioned provision) or by means of a symbol, in some other part of the Act or instrument, or
  - (b) not being so referred to, it is a heading, marginal note, footnote or endnote to a table or form in the Act or instrument.
- (4A) The number of a section, subsection, clause or subclause of an Act or instrument is taken to be part of the Act or instrument even though it appears in a heading to the section, subsection, clause or subclause.
- (5) This section does not limit the application of section 34 in relation to the use of any heading, marginal note, footnote or endnote in the interpretation of the provision to which the heading, marginal note, footnote or endnote relates.

### **36 Reckoning of time**

- (1) If in any Act or instrument a period of time, dating from a given day, act or event, is prescribed or allowed for any purpose, the time shall be reckoned exclusive of that day or of the day of that act or event.
- (2) If the last day of a period of time prescribed or allowed by an Act or instrument for the doing of any thing falls:
  - (a) on a Saturday or Sunday, or
  - (b) on a day that is a public holiday or bank holiday in the place in which the thing is to be or may be done,the thing may be done on the first day following that is not a Saturday or Sunday, or a public holiday or bank holiday in that place, as the case may be.
- (3) If in any Act or instrument a period of time is prescribed or allowed for the doing of any thing and a power is conferred on any person or body to extend the period of time:
  - (a) that power may be exercised, and
  - (b) if the exercise of that power depends on the making of an application for an extension of the period of time—such an application may be made,after the period of time has expired.

### **37 Age**

For the purposes of any Act or instrument, a person attains an age in years at the beginning of the person's birthday for that age.

### **38 Measurement of distance**

In the measurement of any distance:

- (a) for the purposes of any Act passed before the commencement of this Act, or any instrument made under such an Act, the distance shall be measured according to the nearest route ordinarily used in travelling, and
- (b) for the purposes of any Act passed after the commencement of this Act, or any instrument made under such an Act, the distance shall be measured in a straight line on a horizontal plane.

## **Part 6 Statutory rules and certain other instruments**

### **39 The making of statutory rules**

- (1) A statutory rule:

- (a) shall be published in the Gazette, and
  - (b) shall take effect on the day on which it is so published or, if a later day is specified in the rule for that purpose, on the later day so specified.
- (2) Subsection (1) does not prevent a statutory rule from specifying different days for the commencement of different portions of the rule.
- (2A) Neither the whole nor any part of a statutory rule is invalid merely because (without statutory authority) the statutory rule is published in the Gazette after the day on which one or more of its provisions is or are expressed to take effect. In that case, that or those provisions take effect from the day the statutory rule is published in the Gazette, instead of from the earlier day.
- (3) If an Act provides for the making of a statutory rule by a person or body other than the Governor, but the rule is required by law to be approved or confirmed by the Governor, subsections (1) and (2A) do not apply to the rule unless it has been approved or confirmed as so required.
- (4) The Governor may, by order published in the Gazette, exclude any specified class of statutory rules from the application of this section, but may do so only:
- (a) in respect of statutory rules made under Acts passed before the commencement of this Act, and
  - (b) if, immediately before the commencement of this Act, section 41 of the *Interpretation Act 1897* did not apply to statutory rules of that class.
- (5) This section does not apply to the Standing Rules and Orders of the Legislative Council and Legislative Assembly.

#### **40 Notice of statutory rules to be tabled**

- (1) Written notice of the making of a statutory rule shall be laid before each House of Parliament:
- (a) in the case of a rule that has been published in the Gazette—within 14 sitting days of that House after the day on which it is so published, or
  - (b) in any other case—within 14 sitting days of that House after it is made.
- (2) A written notice shall identify the statutory rule to which it relates and:
- (a) in the case of a rule that has been published in the Gazette—specify the number, date and page or pages of the Gazette in which it was published, or
  - (b) in any other case—be accompanied by a copy of the rule.
- (3) A written notice shall identify a statutory rule by reference to:

(a) the Act under which it is made, and

(b) its citation (if any),

but need not refer to this Act merely because of the operation of section 26 or 43 in relation to the making of the statutory rule.

(3A) A written notice may be laid before a House of Parliament by a Minister or by the Clerk of that House.

(4) Failure to lay a written notice before each House of Parliament in accordance with this section does not affect the validity of a statutory rule, but such a notice must nevertheless be laid before each House.

(5) Any provision of an Act that relates to the laying before each House of Parliament of statutory rules made under the Act is of no effect.

(6) This section does not apply to the Standing Rules and Orders of the Legislative Council and Legislative Assembly.

#### **41 Disallowance of statutory rules**

(1) Either House of Parliament may pass a resolution disallowing a statutory rule:

(a) at any time before the relevant written notice is laid before the House, or

(b) at any time after the relevant written notice is laid before the House, but only if notice of the resolution was given within 15 sitting days of the House after the relevant written notice was so laid.

(2) On the passing of a resolution disallowing a statutory rule, the rule shall cease to have effect.

(3) The disallowance of a statutory rule has the same effect as a repeal of the rule.

(4) If:

(a) a statutory rule ceases to have effect by virtue of its disallowance, and

(b) the rule amended or repealed some other Act or statutory rule that was in force immediately before the rule took effect,

the disallowance of the rule has the effect of restoring or reviving the other Act or statutory rule, as it was immediately before it was amended or repealed, as if the rule had not been made.

(5) The restoration or revival of an Act or statutory rule pursuant to subsection (4) takes effect on the day on which the statutory rule by which it was amended or repealed ceases to have effect.

- (6) This section applies to a portion of a statutory rule in the same way as it applies to the whole of a statutory rule.
- (7) Any provision of an Act that relates to the disallowance of statutory rules made under the Act is of no effect.
- (8) This section does not apply to the Standing Rules and Orders of the Legislative Council and Legislative Assembly.
- (9) This section does not limit any provision of an Act (for example, section 14A (6) of the [Constitution Act 1902](#)) that provides that a statutory rule shall not cease to have effect upon its disallowance by either House of Parliament unless it has previously been disallowed by the other House of Parliament.

#### **42 Matters for which statutory rules may make provision**

- (1) If an Act authorises or requires provision to be made for or with respect to any matter by a statutory rule, such a rule may make provision for or with respect to that matter by applying, adopting or incorporating, with or without modification, the provisions of any Act or statutory rule or of any other publication, whether of the same or of a different kind.
- (2) A statutory rule may:
  - (a) apply generally or be limited in its application by reference to specified exceptions or factors,
  - (b) apply differently according to different factors of a specified kind, or
  - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,or may do any combination of those things.
- (3) This section applies to a statutory rule in addition to, and without limiting the effect of, any provision of the Act under which the rule is made.
- (4) The Governor may, by order published in the Gazette, exclude any specified class of statutory rules from the application of subsection (1) or (2), but may do so only in respect of statutory rules made under Acts passed before the commencement of this Act.

#### **43 Implied power to amend or repeal statutory rules and orders**

- (1) If an Act confers a power on any person or body to make a statutory rule, the power includes power to amend or repeal any statutory rule made in the exercise of that power.
- (2) If an Act or statutory rule confers a power on any person or body to make an order

(whether or not the order must be in writing), the power includes power to amend or repeal any order made in the exercise of that power.

- (3) If the power of a person or body to make a statutory rule or order is exercisable only on the recommendation, or with the approval or consent, of some other person or body, the power to amend or repeal a statutory rule or order made in the exercise of that power is exercisable only on the recommendation, or with the approval or consent, of that other person or body.

#### **44 (Repealed)**

#### **45 Presumption of validity of certain instruments**

- (1) It shall be presumed, in the absence of evidence to the contrary, that all conditions and preliminary steps precedent to the making of an instrument have been complied with and performed.

- (2) In this section:

***instrument*** means:

- (a) an instrument:

(i) that is made by the Governor, or

(ii) that is made by a person or body other than the Governor, but is required by law to be approved or confirmed by the Governor, or

- (b) a rule of court,

being an instrument or rule of court that is required by law to be published in the Gazette.

#### **45A Tabling of instruments**

An instrument that, under any other Act, may or must be tabled in a House of Parliament (without any indication as to who is authorised or required to table it) may be laid before the House by a Minister or the Clerk of the House. This section does not affect any other way in which the instrument can be laid before the House.

### **Part 7 Exercise of statutory functions**

#### **46 Appointments may be made by name or by office**

- (1) If an Act or instrument confers a power on any person or body:
- (a) to appoint a person to an office,
- (b) to appoint a person or body to exercise a function, or

(c) to appoint a person or body to do any other thing,

the person or body may make the appointment by appointing a person or body by name or by appointing a particular officer or the holder of a particular office by reference to the title of the office concerned.

(2) Any appointment of a particular officer or the holder of a particular office shall be taken to be the appointment of the person for the time being occupying or acting in the office concerned.

#### **47 Powers of appointment imply certain incidental powers**

(1) If an Act or instrument confers a power on any person or body to appoint a person to an office:

(a) the power may be exercised from time to time, as occasion requires, and

(b) the power includes:

(i) power to remove or suspend, at any time, a person so appointed,

(ii) power to appoint some other person to act in the office of a person so removed or suspended,

(iii) power to appoint a person to act in a vacant office, whether or not the office has ever been filled, and

(iv) power to appoint a person to act in the office of a person who is absent from that office, whether because of illness or otherwise.

(2) The power to remove or suspend a person under subsection (1) (b) may be exercised even if the Act or instrument under which the person was appointed provides that a holder of the office to which the person was appointed shall hold office for a specified period of time.

(3) The power to make an appointment under subsection (1) (b) may be exercised:

(a) as occasion requires,

(b) in anticipation of a particular event, so as to provide that the appointment shall take effect when that event occurs, or

(c) in anticipation of a particular state of affairs, so as to provide that the appointment shall have effect while that state of affairs exists.

#### **48 Exercise of statutory functions**

(1) If an Act or instrument confers or imposes a function on any person or body, the function may be exercised (or, in the case of a duty, shall be performed) from time to



time as occasion requires.

- (2) If an Act or instrument confers or imposes a function on a particular officer or the holder of a particular office, the function may be exercised (or, in the case of a duty, shall be performed) by the person for the time being occupying or acting in the office concerned.

#### **49 Delegation of functions**

- (1) If an Act or instrument confers a power on any person or body to delegate a function, the person or body may, in accordance with the Act or instrument, delegate the function to a person or body by name or to a particular officer or the holder of a particular office by reference to the title of the office concerned.
- (2) A delegation:
  - (a) may be general or limited,
  - (b) shall be in, or be evidenced by, writing signed by the delegator or, if the delegator is a body, by a person authorised by the body for that purpose, and
  - (c) may be revoked, wholly or partly, by the delegator.
- (3) A delegated function may be exercised only in accordance with any conditions to which the delegation is subject.
- (4) A delegate may, in the exercise of a delegated function, exercise any other function that is incidental to the delegated function.
- (5) A delegated function that purports to have been exercised by a delegate shall, until the contrary is proved, be taken to have been duly exercised by the delegate.
- (6) A delegated function that is duly exercised by a delegate shall be taken to have been exercised by the delegator.
- (7) If:
  - (a) the exercise of a function by a person or body is, by virtue of an Act or instrument, dependent on the opinion, belief or state of mind of the person or body in relation to any matter, and
  - (b) the person or body has delegated the function to some other person or body, the function may be exercised by the delegate on the opinion, belief or state of mind of the delegate in relation to any such matter.
- (8) If a function is delegated to a particular officer or the holder of a particular office:
  - (a) the delegation does not cease to have effect merely because the person who was

the particular officer or the holder of the particular office when the function was delegated ceases to be that officer or the holder of that office, and

(b) the function may be exercised (or, in the case of a duty, shall be performed) by the person for the time being occupying or acting in the office concerned.

(9) A function that has been delegated may, notwithstanding the delegation, be exercised by the delegator.

(10) This section applies to a sub-delegation of a function in the same way as it applies to a delegation of a function, but only in so far as the Act or instrument that authorises the delegation of the function also authorises the sub-delegation of the function.

## **Part 8 Statutory bodies**

### **50 Statutory corporations**

(1) A statutory corporation:

(a) has perpetual succession,

(b) shall have a seal,

(c) may take proceedings and be proceeded against in its corporate name,

(d) may, for the purpose of enabling it to exercise its functions, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property, and

(e) may do and suffer all other things that bodies corporate may, by law, do and suffer and that are necessary for, or incidental to, the exercise of its functions.

(2) The seal of a statutory corporation (being a corporation that has 2 or more members) shall be kept by the president, chairperson or other principal officer of the corporation and shall be affixed to a document only:

(a) in the presence of at least 2 members of the corporation, and

(b) with an attestation by the signatures of those members of the fact of the affixing of the seal.

(3) Every document requiring authentication by a statutory corporation may be sufficiently authenticated without the seal of the corporation:

(a) in the case of a corporation that has 2 or more members—if it is signed by the president, chairperson or other principal officer of the corporation or by any member of the staff of the corporation authorised to do so by the president, chairperson or other principal officer,

(b) in the case of a corporation sole—if it is signed by the person by whom the

corporation is constituted or by any member of the staff of the corporation authorised to do so by that person, or

(c) in the case of a corporation that has no members—if it is signed by the person for the time being managing the affairs of the corporation or by any member of the staff of the corporation authorised to do so by that person.

(4) This section applies to a statutory corporation in addition to, and without limiting the effect of, any provision of the Act by or under which the corporation is constituted.

## **51 (Repealed)**

## **52 Proceedings of statutory bodies**

(1) Any act or proceeding of a statutory body shall not be called into question merely because of:

- (a) any vacancies in the membership of the body,
- (b) any defects in the appointment of any members of the body,
- (c) any disqualifications of any members of the body,
- (d) any minor irregularities in the manner in which any meetings of the body have been convened or conducted, or
- (e) the presence or participation at any meetings of the body of any persons not entitled to be present or to participate at those meetings.

(2) This section applies to a statutory body in addition to, and without limiting the effect of, any provision of the Act by or under which the body is constituted.

## **53 Alterations of names and constitutions**

(1) If an Act or statutory rule alters the name of a body or office:

- (a) the body or office continues in existence under its new name so that its identity is not affected, and
- (b) a reference in any Act or instrument, or in any other document, to the body or office under its former name shall, except in relation to matters that occurred before the alteration took place, be read as a reference to the body or office under its new name.

(2) If an Act or statutory rule alters the constitution of a body:

- (a) the body continues in existence as newly constituted so that its identity is not affected,
- (b) the alteration does not affect any functions of the body,

- (c) the alteration does not affect any legal or other proceedings instituted or to be instituted by or against the body and any legal or other proceedings that might have been continued or commenced by or against the body as previously constituted may be continued or commenced by or against the body as newly constituted, and
- (d) the alteration does not affect any investigation or inquiry being or proposed to be undertaken by any other person or body into any action taken or practice engaged in by the body before the alteration took place and any investigation or inquiry that might have been continued or commenced into any such action or practice may be continued or commenced as if the action had been taken or the practice had been engaged in by the body as newly constituted.

### **53A Extension of age limit for part-time members of statutory bodies**

(1) If:

- (a) a person is or has, within the last 3 months, been the holder of a part-time office as a member of a statutory body,
- (b) the person cannot be re-appointed to the office because a provision of an Act or statutory rule imposes an age limit,
- (c) a Minister certifies to the Governor that that Minister is of the opinion that it is in the public interest that the person should be able to continue to hold the office after reaching the age limit, and
- (d) the person has reached the age limit or is within 3 months of reaching it,

the Governor may extend the age limit for the person, but not beyond the age of 72 years.

- (2) While under the extended age limit, the person (if otherwise qualified) may be re-appointed to the office.
- (3) An office held by a person re-appointed under this section becomes vacant if the person reaches the extended age limit, instead of the former age limit.
- (4) This section prevails over any Act or statutory rule relating to the constitution of the statutory body concerned, unless any such Act or statutory rule expressly excludes this section.
- (5) A notification in the Gazette by a Minister to the effect that the age limit has been extended for the person is evidence of the extension.
- (6) The age limit for a person may be extended under this section on more than one occasion, but so that the age limit is not extended beyond the age of 72 years.

(7) In this section, **part-time office** means an office other than:

- (a) an office required to be held on a full-time basis, or
- (b) an office specified in any of the Schedules to the *Statutory and Other Offices Remuneration Act 1975*.

## Part 9

### 54-57 (Repealed)

## Part 10 Application of State laws to coastal waters

### 58 Definitions

In this Part:

**adjacent area in respect of the State** means the area the boundary of which is described under the heading referring to the State in Schedule 2 to the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth, as in force immediately before the commencement of the *Coastal Waters (State Powers) Act 1980* of the Commonwealth.

**coastal waters of the State** means:

- (a) the part or parts of the territorial sea of Australia that is or are within the adjacent area in respect of the State, other than any part referred to in section 4 (2) of the *Coastal Waters (State Powers) Act 1980* of the Commonwealth, or
- (b) any sea that is on the landward side of any part of the territorial sea of Australia and is within the adjacent area in respect of the State, but is not within the limits of the State.

**laws of the State** means the laws (whether written or unwritten and whether substantive or procedural) that are from time to time in force in the State, but does not include laws of the Commonwealth.

**territorial sea of Australia** means the territorial sea of Australia within the limits referred to in section 4 (1) of the *Coastal Waters (State Powers) Act 1980* of the Commonwealth.

### 59 Application of laws of the State to coastal waters

The laws of the State apply in and in relation to:

- (a) the coastal waters of the State, and
- (b) the sea-bed and subsoil beneath, and the airspace above, the coastal waters of the State,

as if the coastal waters of the State, as extending from time to time, were within the limits

of the State.

#### **60 Laws with specific application not to apply**

- (1) Nothing in this Part renders a provision of the laws of the State applicable in a particular place:
  - (a) in so far as the provision is incapable of applying in or in relation to that place,
  - (b) if those laws expressly provide that the provision does not extend or apply in or in relation to that place, or
  - (c) if those laws expressly provide that the provision applies only in a specified locality in the State that does not include that place.
- (2) A provision of the laws of the State shall not be taken to be a provision to which subsection (1) applies merely because it is limited in its application to acts, matters and things within the territorial or adjacent waters (however described) of the State.

#### **61 Extent of jurisdiction in relation to coastal waters**

- (1) All persons who have functions conferred or imposed on them by law for the purposes of or in connection with a provision of the laws of the State shall have and may exercise all or any of those functions for the purposes of or in connection with that provision, as applying by virtue of this Part, as if the coastal waters of the State, as extending from time to time, were within the limits of the State.
- (2) The several courts of the State are invested with jurisdiction in all matters arising under the provisions of the laws of the State, as applying by virtue of this Part, as if the coastal waters of the State, as extending from time to time, were within the limits of the State.

#### **62 Constitutional basis**

In addition to any other power under which the provisions of this Part may be enacted, the provisions of this Part are enacted under the legislative power of Parliament as extended by section 5 of the *Coastal Waters (State Powers) Act 1980* of the Commonwealth.

#### **63 Saving**

Nothing in this Part limits any other law that provides for the application of the laws of the State, or any part of those laws, beyond the limits of the State.

### **Part 11 Miscellaneous**

#### **64 Every section of an Act a substantive enactment**

Every section of an Act has effect as a substantive enactment without introductory words.

## **65 References to Acts generally**

An Act passed by Parliament, or by any earlier legislature of New South Wales, may be referred to by the word “Act” alone.

## **66 Citation of particular Acts**

(1) An Act may be cited:

(a) by its short title (or name), or

(b) by reference to:

(i) the year in which it was passed or, in the case of an Act passed before 1897, by reference to the regnal year in which it was passed, and

(ii) its number.

(2) A Commonwealth Act may be cited:

(a) by its short title (or name), or

(b) in such other manner as is sufficient in a Commonwealth Act, together with a reference to the Commonwealth.

(3) An Act or Ordinance of some other State or Territory may be cited:

(a) by its short title (or name), or

(b) in such other manner as is sufficient in an Act or Ordinance of that other State or Territory,

together with a reference to that other State or Territory.

(4) A British Act may be cited:

(a) by its short title (or name), or

(b) in such other manner as is sufficient in a British Act, together with a reference to the United Kingdom.

## **67 Citation of instruments etc**

(1) An instrument may be referred to:

(a) by its citation (or name), or

(b) by reference to:

(i) in the case of an instrument that has been published in the Gazette—the

- number, date and page or pages of the Gazette in which it was published, or
- (ii) in any other case—the date on which it was made,
- together with a reference to the Act under which it was made.
- (2) An instrument made under a Commonwealth Act may be referred to:
- (a) by its citation (or name), or
- (b) in such other manner as is sufficient in a Commonwealth Act,
- together with a reference to the Commonwealth.
- (3) An instrument made under an Act or Ordinance of some other State or Territory may be referred to:
- (a) by its citation (or name), or
- (b) in such other manner as is sufficient in an Act or Ordinance of that other State or Territory,
- together with a reference to that other State or Territory.
- (4) An instrument made under a British Act may be referred to:
- (a) by its citation (or name), or
- (b) in such other manner as is sufficient in a British Act,
- together with a reference to the United Kingdom.

## **68 References to amended Acts and instruments**

- (1) In any Act or instrument, a reference to some other Act or instrument extends to the other Act or instrument, as in force for the time being.
- (2) Subsection (1) applies to a reference to an Act or instrument:
- (a) whether or not the reference includes a reference to subsequent amendments of the Act or instrument, and
- (b) whether or not the reference is to a mode of citation that includes 2 calendar years.
- (3) Notwithstanding subsection (1), in any Act or instrument:
- (a) a reference to an Act that has been repealed and re-enacted, with or without modification, extends to the re-enacted Act, as in force for the time being, and
- (b) a reference to an instrument that has been repealed and re-made, with or without



modification, extends to the re-made instrument, as in force for the time being, and a reference to a provision of the repealed Act or instrument extends to the corresponding provision of the re-enacted Act or the re-made instrument, as the case may be.

(3A) Nothing in subsection (3) affects the operation of sections 11 and 12 of the *Corporations (Ancillary Provisions) Act 2001*.

(4) In this section:

(a) a reference to an Act includes a reference to:

(i) a Commonwealth Act, and

(ii) an Act or Ordinance of some other State or Territory, and

(iii) a British Act, and

(iv) the *Companies (New South Wales) Code*, the *Companies (Acquisition of Shares) (New South Wales) Code*, the *Securities Industry (New South Wales) Code*, the *Futures Industry (New South Wales) Code* and the *Companies and Securities (Interpretation and Miscellaneous Provisions) (New South Wales) Code*, and

(v) the *ASIC Law* of New South Wales, and

(vi) the *Corporations Law* of New South Wales, and

(vii) the *AFIC (NSW) Code* and the *Financial Institutions (NSW) Code*, and

(viiia) the *National Electricity (NSW) Law*,

(viii) the *Friendly Societies (NSW) Code*, and

(ix) the *Gas Pipelines Access (New South Wales) Law*,

(b) a reference to an instrument includes a reference to an instrument made under such an Act or Ordinance.

## **69 References to publications other than Acts or instruments**

(1) In any Act or instrument, a reference to a publication other than an Act or instrument is a reference to the publication:

(a) if a particular day is specified for that purpose in the Act or instrument—as in force or current on that particular day, or

(b) in any other case—as in force or current on the day on which the provision containing the reference took effect.

- (2) Notwithstanding subsection (1), a reference in any Act or instrument to a publication extends to the publication, as in force for the time being:
- (a) if that intention appears in the Act or instrument, and
  - (b) where that intention appears in the instrument—if the Act under which the instrument is made provides that such instruments may apply, adopt or incorporate publications, as in force for the time being.

**69A Evidence of publication of Australian standards or other publications**

If an Act or statutory rule applies, adopts or incorporates by way of reference any publication, or any provision of a publication, of Standards Australia, any other body or any person expressly or impliedly identified in the Act or statutory rule, evidence of the publication or provision may be given in any proceedings:

- (a) by the production of a document purporting to be a copy of it and purporting to be published by or on behalf of Standards Australia or the other body or person concerned, or
- (b) by the production of a document purporting to be a copy of it and purporting to be printed by the Government Printer or by the authority of the Government of the Commonwealth, a State or a Territory.

**69B References to Standards Association of Australia**

In any other Act or instrument, a reference to the Standards Association of Australia is a reference to Standards Australia (as defined in section 21).

**70 References to changed short titles, names and citations**

If the short title, name or citation of an Act or instrument is changed, a reference to the short title, name or citation in any other Act or instrument or in a document of any kind shall be read as a reference to the short title, name or citation as changed.

**71 Time of expiry of temporary Acts and instruments**

If an Act or instrument is expressed to expire, lapse or otherwise cease to have effect on a particular day, or to remain in force until a particular day, the Act or instrument shall continue in operation until the end of that day.

**72 Retrospective commencement of continuing Acts**

- (1) If a Bill for an Act to continue a temporary Act has been introduced into Parliament and is still pending at the expiration of the temporary Act, the Act shall, on the date of its assent, be deemed to have taken effect in continuing the temporary Act on the expiration of the temporary Act.
- (2) This section does not make any person liable to any penalty for or in respect of a

contravention of the temporary Act that occurs after the expiration of the temporary Act and before the date of assent to the Act by which the temporary Act is continued.

### **73 Private Acts not to affect rights of the Crown etc**

- (1) A Private Act that is passed after the commencement of this Act shall not be construed so as:
- (a) to affect, in a manner prejudicial to the Crown or any other person (other than a person at whose instance or for whose special benefit the Act is passed or some other person claiming by, through or under such a person), the rights of the Crown or any such other person existing before the passing of the Act, or
  - (b) to impose liabilities on the Crown or any other person (other than a person at whose instance or for whose special benefit the Act is passed or some other person claiming by, through or under such a person) in respect of any thing done or omitted to be done before the passing of the Act.
- (2) Without limiting the effect of section 30:
- (a) the provisions of section 17 of the Act 16 Victoria No 1 (the *Acts Shortening Act of 1852*) continue to apply in relation to the rights of the Crown and any other person, being rights that would, but for those provisions, be affected by the passing of Private Acts to which that Act applied before the commencement of this Act, and
  - (b) the provisions of section 14 of the [Interpretation Act 1897](#) continue to apply in relation to the rights of the Crown and any other person, being rights that would, but for those provisions, be affected by the passing of Private Acts to which that Act applied before the commencement of this Act,
- notwithstanding the repeal of those Acts by this Act.

### **74 Private Acts amended by Public Acts do not thereby become Public Acts**

A Private Act does not become a Public Act merely because it has been amended by or under a Public Act.

### **75 Publication of statutory notices**

If an Act or statutory rule requires a notice or advertisement to be published in the Gazette and in one or more newspapers or journals, it is sufficient compliance with the requirement if:

- (a) the notice or advertisement is published in the Gazette, and
- (b) there is published in each newspaper or journal:
  - (i) a summary of the notice or advertisement, or

(ii) a statement to the effect that the notice or advertisement has been published in the Gazette,

together with a reference to the number, date and page or pages of the Gazette in which the notice or advertisement has been published.

## **76 Service by post**

- (1) If an Act or instrument authorises or requires any document to be served by post (whether the word “serve”, “give” or “send” or any other word is used), service of the document:
- (a) may be effected by properly addressing, prepaying and posting a letter containing the document, and
  - (b) in Australia or in an external Territory—is, unless evidence sufficient to raise doubt is adduced to the contrary, taken to have been effected on the fourth working day after the letter was posted, and
  - (c) in another place—is, unless evidence sufficient to raise doubt is adduced to the contrary, taken to have been effected at the time when the letter would have been delivered in the ordinary course of post.

(2) In this section:

**working day** means a day that is not:

- (a) a Saturday or Sunday, or
- (b) a public holiday or a bank holiday in the place to which the letter was addressed.

## **77 Registered post etc not necessary in the case of Acts and statutory rules passed etc before 24.4.1969**

- (1) Any Act or statutory rule under which a document (other than a summons) may be or is required to be served on a person by registered mail, registered post, certified mail or certified post (whether the word “serve”, “give” or “send” or any other word is used) shall be taken to authorise the service of the document by post (other than registered mail, registered post, certified mail or certified post) in addition to any other means by which the Act or statutory rule authorises the document to be served.
- (2) Subsection (1):
- (a) applies only to Acts and statutory rules enacted or made before 24 April 1969 (being the day on which the *Interpretation (Amendment) Act 1969* commenced), and
  - (b) so applies notwithstanding any provision of any such Act or statutory rule.

- (3) The Governor may, by order published in the Gazette, declare that subsection (1) does not apply to any specified Act or statutory rule or to any specified provision of any specified Act or statutory rule.
- (4) An order in force under subsection (3) does not affect the operation of subsection (1) in relation to the service of a document that was posted before the order was made.

## **78 Rules of court**

- (1) The power of a person or body to make rules of court includes power to make rules of court for the purposes of any Act or statutory rule that permits or requires any thing to be done by or in accordance with rules of court.
- (2) If an Act or statutory rule:
  - (a) confers any jurisdiction on a court or tribunal, or
  - (b) extends or varies the jurisdiction of a court or tribunal,the person or body having power to make rules or orders regulating the practice and procedure of the court or tribunal may make rules or orders (including rules or orders with respect to costs) regulating the practice and procedure of the court or tribunal in the exercise of the jurisdiction so conferred, extended or varied.

## **79 Authority to administer oaths**

Any person or body authorised by law, or by consent of parties, to conduct a hearing for the purpose of the determination (by that or any other person or body) of any matter or thing shall have authority:

- (a) to receive evidence, and
- (b) to examine witnesses, and to administer oaths to witnesses, who have been lawfully called before that person or body.

## **80 Compliance with forms**

- (1) If a form is prescribed by, or approved under, an Act or statutory rule, strict compliance with the form is not necessary but substantial compliance is sufficient.
- (2) If a form prescribed by, or approved under, an Act or instrument requires the form to be completed in a specified manner, or requires specified information to be included in, attached to or furnished with the form, the form is not duly completed unless it is completed in that manner and unless it includes, or has attached to or furnished with it, that information.
- (3) Without limiting the generality of subsections (1) and (2), in any form in, or approved under, an Act or statutory rule, a reference to a date that is presumed to be in the nineteenth or twentieth century may be construed as a reference to a date in the

twenty-first century and the form may be altered accordingly.

- (4) If an Act or statutory rule requires anything to be in a form prescribed by rules of court (whether generally or in relation to a particular court or tribunal), any such rules of court may instead provide for the thing to be in a form approved under or in accordance with those rules.

### **80A Maximum monetary penalty Local Courts may impose in certain circumstances**

If an Act:

- (a) provides that an offence under the Act may be dealt with summarily by a Local Court or, in the alternative, by another court, and
- (b) imposes a limit by reference solely to an amount of money (however expressed) on the penalty that a Local Court may impose when dealing with such an offence,

that limit, unless otherwise expressly provided by the Act, does not affect any non-monetary penalty that may be imposed by a Local Court for the offence.

### **81 (Repealed)**

### **82 Repeals**

Each Act specified in Schedule 2 is, to the extent indicated in that Schedule, repealed.

### **83 Savings and transitional provisions**

Schedule 3 has effect.

## **Schedule 1 (Repealed)**

## **Schedule 2 Repeals**

(Section 82)

*Acts Shortening Act of 1852* 16 Vic No 1—the unrepealed portion

*Acts Shortening Act of 1858* 22 Vic No 12—the unrepealed portion

*Interpretation Act 1897 No 4*—the whole Act

*Crimes Act 1900 No 40*—so much of the First Schedule as amends Act 16 Vic No 1 and Act 22 Vic No 12

*Fines and Penalties Act 1901 No 16*—so much of the Schedule as amends Act 16 Vic No 1

*Justices Act 1902 No 27*—so much of the First Schedule as amends Act 16 Vic No 1

*Local Government Act 1919 No 41*—sections 577 and 579 and the words “by proclamation” in section 575

*Publication of Statutory Advertisements and Notices Act 1920 No 32*—the whole Act

*Minors (Property and Contracts) Act 1970 No 60*—so much of the First Schedule as amends Act No 4, 1897

*Miscellaneous Acts (Local Courts) Amendment Act 1982 No 168*—so much of Schedule 1 as amends Act No 4, 1897

*Statute Law (Miscellaneous Amendments) Act 1984 No 153*—Schedule 7

*Statute Law (Miscellaneous Provisions) Act 1985 No 231*—Schedule 11

## Schedule 3 Savings and transitional provisions

(Section 83)

### 1 Commencement of certain Acts

(1) Section 3 (II) of the *Interpretation Act 1897* continues to apply to an Act enacted before the appointed day as if this Act had not been enacted.

(2) In this clause:

***the appointed day*** means the day appointed and notified under section 2 (3).

### 2 Orders under sec 27 (III) of the *Interpretation Act 1897*

An order in force immediately before the commencement of this Act under section 27 (III) of the *Interpretation Act 1897* shall be deemed to be an order made under section 77 (3) of this Act.

### 3 Instruments under sec 37 of the *Interpretation Act 1897*

Section 37 of the *Interpretation Act 1897* continues to apply to an instrument made by virtue of section 37 (I) of that Act before the commencement of this Act as if this Act had not been enacted.

### 4 Regulations under sec 41 of the *Interpretation Act 1897*

Section 41 of the *Interpretation Act 1897* continues to apply to a regulation (within the meaning of that section) published in the Gazette before the commencement of this Act as if this Act had not been enacted.

### 5 References to the tabling of statutory rules

A reference in any Act to the laying of a statutory rule before either or both Houses of Parliament includes a reference to the laying before either or both Houses of Parliament of a written notice of the making of the statutory rule, as referred to in section 40.

### 6 Ordinances under sec 577 of the *Local Government Act 1919*

Section 577 of the *Local Government Act 1919* continues to apply to an ordinance (within the meaning of that Act) published in the Gazette before the commencement of this Act as if this Act had not been enacted.